

## SENATE FINANCE COMMITTEE

### Hearing to Consider the Nomination of Katherine C. Tai, of the District of Columbia, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary

Hearing Date: February 25, 2021

#### Questions for the Record

##### Chairman Wyden

##### Question 1- Worker-Focused Trade Agenda:

It is critical that we make trade policy work for American families. Workers here at home must see the benefits of our trade deals.

President Biden has said he wants to reorient trade policy to better serve American workers. This will include advancing a rules-based trading system that serves the interests of American workers and promotes high standards on labor, the environment, human rights, and the rule of law.

*How do you intend to promote a trade agenda that will better serve American workers—whether in our domestic policies, in our free trade agreements (FTAs), or at the WTO?*

**Answer: A worker-centered trade policy starts by ensuring workers have a seat at the table when crafting trade policy. In addition to consulting with workers and worker advocates, if confirmed, I will seek to determine the impact of trade policies on workers' wages and economic security and take that impact into account as we develop new policy. Finally, if confirmed, I will pursue a trade policy that is consistent with President Biden's Build Back Better agenda, and invests in American workers by promoting American innovation, incentivizes domestic manufacturing, and strengthens U.S. supply chain resilience.**

##### Question 2 - Boeing/Airbus Dispute:

As a longtime trade professional, you're well aware of the history of the Boeing/Airbus dispute, a case that has spanned well over a decade. At the end of the WTO process, American businesses continue to be in an untenable position. The Europeans are continuing to subsidize Airbus to the detriment of U.S. competitors, while small American businesses—already suffering from COVID-related challenges—are facing extra tariffs on a variety of European products.

The Boeing/Airbus dispute is just one “trade irritant” between the United States and Europe. There are numerous others—including digital services taxes, biotech authorization processes that aren't based on science, and protectionist policies in standards development.

*What's going to change under the Biden Administration - and a USTR Tai - to ensure that Washington and Brussels can bring this dispute to a meaningful and timely conclusion? And ultimately, what would a positive outcome look like?*

**Answer: The Boeing/Airbus WTO litigation has been ongoing for more than 15 years. If confirmed, I will make it a priority to resolve this long-running dispute in a way that ensures Boeing and its workers can compete on a level playing field.**

Question 3 - WTO Reform:

It was not always clear that the previous administration saw the value in the WTO. In contrast, the Biden Administration has pledged to work with our allies and re-engage in multilateral institutions like the WTO.

That said, there has been bipartisan agreement that the WTO is in need of reform. There are numerous issues with the institution—from the lack of meaningful negotiations, to failure to comply with notification and transparency requirements, to ongoing concerns regarding the Appellate Body.

*Where do you recommend the United States start in restoring the WTO to a functioning and useful institution?*

**Answer: If confirmed, I will work to re-engage with like-minded partners who similarly recognize the importance and necessity of WTO reform. Since the founding of the General Agreement on Tariffs and Trade (GATT) in 1947, U.S. leadership has been critical at every juncture when the global trade system has required a major update. This will be difficult work that may take some time, but I remain hopeful that with proper U.S. leadership, we can achieve the necessary reforms.**

*How can the United States support the incoming Director General, Dr. Okonjo-Iweala, in building consensus and ultimately ensuring that the WTO makes the needed reforms?*

**Answer: If confirmed, I will work closely with Dr. Okonjo-Iweala, following her own historic appointment, to tackle these challenges in a practical and constructive manner. Dr. Okonjo-Iweala brings a wealth of knowledge from her 25 years of experience at the World Bank and her two terms as Nigeria’s Finance Minister. She is widely respected for her leadership and management skills. The U.S. stands ready to assist her in building the consensus required to achieve the much-needed reforms.**

**Ranking Member Crapo**

Question 1:

USMCA includes a number of groundbreaking commitments for a U.S. trade agreement. Unfortunately, it appears Mexico is taking a number of steps in the wrong direction. In agriculture, Mexico is maintaining or enacting new restrictions on U.S. agriculture that lack any scientific justification, including on potatoes, biotech crops, and glyphosate. In the energy industry, Mexico seems to be discriminating against U.S. businesses to favor state-owned PEMEX.

*If confirmed, would you use all the tools available under USMCA, including dispute settlement, if we do not see progress on these issues in the next few months?*

**Answer: If confirmed, I will review the reports of discriminatory action against U.S. agriculture and in Mexico’s energy sector that you have highlighted, and I will consult with stakeholders and Congress on these issues. I commit to quickly engage the Mexican government if it violates the agreement and to use all dispute settlement tools to fully enforce USMCA whenever necessary.**

Question 2:

America’s innovative industries are second to none. From creative content to digital commerce to pharmaceutical research, America’s innovators are what have gotten us through the pandemic—and will get us out of it. We need to preserve our leadership in this field. To that end, I want to ask two specific questions:

The USTR Special 301 report is anticipated to be released in April. This congressionally mandated report is intended to assess whether trading partners provide effective IP protection.

*Do you agree that the focus of the report must to be call out countries and practices that injure Americans interests rather than more abstractly address what IP measures may benefit the interests of our trading partners.*

**Answer: The Special 301 process is among the critical tools in USTR’s toolbox to monitor our trading partners’ intellectual property practices. If confirmed, I will focus on leveraging Special 301 to resolve practices that harm America’s innovators.**

*Would you support the appointment of a Chief Innovation and Intellectual Property Negotiator at USTR?*

**Answer: If confirmed, I will consult with this Committee and Congress on its intentions when it created that position, and more broadly, your views on how USTR can best accomplish our shared goal of ensuring that our trade agreements benefit American innovators.**

Question 3:

USMCA curtailed the ability of American citizens to have recourse to investor-state dispute settlement. The Senate Finance Committee’s report on the USMCA Implementation Act raised serious concerns about that curtailment.

With respect to ISDS, it provides recourse in a particularly challenging situation: when a U.S. citizen has been wronged by a foreign government, and would like to be heard in a forum other than courts controlled by that government. In this respect, ISDS has often been claimed to further the rule of law by removing incentives for corruption and politicization of courts. Finally, TPA 2015 contained a negotiating objective related to investment that, among other things, required the Administration to seek “to improve mechanisms used to resolve disputes between an investor and a government.” Accordingly, the Committee is of the view that the approach to ISDS in USMCA raises concerns.

*If confirmed, would you be willing to:*

- a. be a champion for these Americans by undertaking state to state dispute settlement on their behalf; and*
- b. follow TPA's instruction to improve mechanisms to resolve disputes between an investor and government?*

**Answer: President Biden has stated that he does not believe corporations should get special tribunals in trade agreements that are not available to other organizations. He opposes the ability of private corporations to attack labor, health, and environmental policies through investor-state dispute settlement. If confirmed, I will pursue a trade agenda consistent with the Biden-Harris Administration's Build Back Better agenda.**

Question 4:

I have concerns about the power of technology companies. However, I am concerned that the EU is using such concerns as fig-leaf for discriminatory measures against U.S. businesses, including unreasonable digital services taxes or through measures that appear to target American companies in particular, like the Digital Services Act.

*Are you willing to aggressively challenge these types of measures whether through use of Section 301 or through WTO dispute settlement?*

**Answer: The previous Administration started Section 301 investigations in response to the digital service taxes introduced by a number of countries, but it then suspended the introduction or implementation of specific remedies to allow time for negotiations. If confirmed, I will review the status of those actions and will work with my colleagues at the Treasury Department to address digital services taxes as part of the multilateral effort to address base erosion and profit shifting through the OECD/G20 process.**

Question 5:

I am deeply concerned about the impact of subsidized and dumped Canadian lumber imports on American businesses and jobs. Canada has been engaged in a total war style of litigation to force us to settle.

*Can you commit me to me that if confirmed, you will aggressive defend our trade remedy measures on Canadian lumber, including by allocating whatever resources are necessary to mount a successful defense?*

**Answer: The Department of Commerce and U.S. International Trade Commission have repeatedly found that the U.S. lumber industry is harmed by Canadian subsidies and unfair trade practices. If confirmed, I commit to working with other agencies and departments to ensure that U.S. trade laws and remedies are employed to counter unfair trade practices and to aggressively defending those laws.**

Question 6:

A number of exclusions from Section 301 tariffs expire soon, including on personal protective equipment. The need for such equipment is not going away anytime soon. Moreover, the pandemic has made it more difficult for many companies to relocate supply chains.

*Considering that one of the criteria for granting an exclusion was severe economic harm, are you willing to support:*

- a. extending exclusions currently in force until the end of the year;*
- b. restoring exclusions that have expired, with retroactive relief for import duties the recipients have had to pay since the exclusion expired; and*
- c. reopen the process for companies to apply again for exclusions based on unanticipated challenges they are facing as a result of the pandemic?*

**Answer: China's track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. During the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974, and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices; account for their impact on U.S. businesses, workers and consumers; and support the U.S. response to the COVID-19 pandemic.**

Question 7:

*What is the status of negotiations with Mexico to:*

- a. improve access for U.S. potatoes;*
- b. ensure timely approval of biotech crops;*
- c. avoid implementation of a ban on glyphosate; and*
- d. stop discrimination of U.S. firms participating in Mexico's energy sector.*

*If negotiations do not result in progress soon, are you willing to undertake dispute settlement?*

**Answer: If confirmed, I will review Mexico's compliance with its USMCA obligations with respect to U.S. agricultural imports and in the energy sector and the status of any discussions to obtain that compliance. I commit to fully enforcing the USMCA.**

Question 8:

*What is the status of the USMCA dispute with Canada concerning dairy tariff-rate quotas? Will you continue the dispute?*

**Answer: I understand the important gains that were secured in the USMCA for U.S. dairy producers. At the end of last year, the previous administration requested consultations with Canada regarding its allocation of tariff-rate quotas. If confirmed, I will review the status of this dispute and will use the tools available to USTR to ensure that our dairy producers benefit from the USMCA.**

Question 9:

*Please provide a breakdown of how the Trade Enforcement Trust Fund was utilized in the last fiscal year, including by reference to particular enforcement action.*

**Answer: If confirmed, I will work to provide you with the requested information about the Trade Enforcement Trust Fund.**

Question 10:

WTO reform is of great interest to many Members of this Committee. In particular, there are bipartisan concerns about overreach by the WTO Appellate Body. While I see some utility in second-level review, we need to ensure reforms that stop activism by the Appellate Body, including through rulings that have undercut our trade remedy laws and environmental conservation measures.

*What are some concrete reforms that you think are necessary to ensure the Appellate Body operates as intended?*

**Answer: Over the years, the Appellate Body has overstepped its authority and erred in interpreting WTO agreements in a number of cases, to the detriment of the United States and other WTO members. In addition, the Appellate Body has failed to follow existing rules created to ensure that disputes are resolved in a timely manner. Reforms are needed to ensure that the underlying causes of such problems do not resurface and that the Appellate Body does not diminish the rights and obligations of WTO members.**

Question 11:

I am deeply concerned by various statements suggesting European Union officials are adopting a set of discriminatory measures targeting successful U.S. technology firms. For example, EU officials have been reported as stating that they are targeting a “hit list” of U.S. technology companies. The French finance minister states that he is building a “new empire” of European industrial powerhouses to resist American rivals. Other officials indicate that EU digital sovereignty “is as much about the United States as it is about China.” This discriminatory rhetoric is reflected in the proposed Digital Markets Act and other new regulations that target U.S. tech companies while intentionally shielding EU digital and non-digital competitors from scope.

*As USTR, how will you fight back against EU efforts to set the regulatory playbook for the world and to discriminate against US tech exports?*

**Answer: If confirmed, I will use a wide range of trade tools to address discriminatory practices that hinder U.S. workers and firms, including practices that discriminate against U.S. digital and technology exports.**

Question 12:

I am deeply concerned about data localization requirements. The European Union attempts to be invoking privacy concerns in the WTO E-commerce negotiations as an excuse to allow it to engage in protectionist practices with respect to data.

*Do you agree that that United States should not accept the EU's proposed exception to allow countries to engage in data localization?*

**Answer: To participate in today's global economy, U.S. companies need the ability to access networks, transfer data and use secure data centers of their choice. If confirmed, I commit to using the tools at my disposal to ensure that American workers and innovators are able to compete effectively abroad.**

Question 13:

The innovation of American pharmaceutical firms is what may ultimately lead us out of the pandemic. Accordingly, many are dismayed that the provision to provide regulatory data protection for biologic drugs was stripped from USMCA—especially since the term of regulatory data protection in U.S. law passed with overwhelming support.

*Do you agree that our trade agreements need to include provisions to ensure the innovations of America's pharmaceutical firms are properly protected?*

**Answer: America's world-class pharmaceutical industry plays an important role in ensuring our health security. Proper protection of American pharmaceutical innovation is absolutely vital for ensuring the competitiveness of the industry. If confirmed, I commit to examining what provisions are appropriate and necessary to safeguard American innovation in each trade agreement.**

Question 14:

One of your responsibilities will be overseeing the public interest review process for Section 337 orders issued by the U.S. International Trade Commission (“ITC”)—an agency noted for both its objectiveness and thoroughness. The ability to restrict infringing imports through Section 337 is a key cornerstone of U.S. intellectual property rights (IPR) protection. Given the bipartisan concerns regarding theft of U.S. intellectual property, this is no time to weaken Section 337 and no time to send a signal to our trading partners that we are weak on IPR protections.

*Can you confirm whether you agree that disapproval of Section 337 orders should only occur in exceedingly rare circumstances?”*

**Answer: Under Section 337, the President is required to engage in a policy evaluation of the ITC's determination to issue exclusion and cease and desist orders. This authority is assigned to the USTR. If confirmed, I commit to reviewing ITC orders in line with the relevant policy considerations as envisioned by Congress and as outlined in the legislative history of Section 337.**

Question 15:

The Trump Administration was right to confront China's rampant theft of U.S. intellectual property, and its failure to provide adequate market access to American businesses.

*Do you believe the United States should continue to address these concerns by pursuing a Phase 2 deal with China?*

**Answer: The Biden-Harris Administration is engaged in a review of the policies in place to respond to China’s coercive and unfair trade practices, including the problems that you have noted. I understand that a comprehensive strategy to confront the China challenge will be formulated based on that review. If confirmed, I intend to explore every possible option available to address our longstanding concerns with China’s intellectual property theft and inadequate market access.**

Question 16:

China is moving forward with enhanced market access in the Asia Pacific region through the Regional Comprehensive Economic Partnership. It is vital that we engage with this part of the world so America writes the rules rather than China.

*How do you plan to strengthen our economic relations with countries in the Asia-Pacific region, including those that are members of the Comprehensive and Progressive Trans-Pacific Partnership?*

**Answer: America’s economic and national security is strongest when we work with our allies. It is critical that the United States engage in various regional initiatives to forge rules and norms that reflect our values, particularly in the fast-growing Asia-Pacific region. If confirmed, I will make engagement with the Asia-Pacific region a priority.**

Question 17:

The USTR Chief Agricultural Negotiator in my view should be someone who has experience with negotiations for agricultural market access, including a strong understanding of sanitary and phytosanitary (SPS) issues.

*Do you agree?*

**Answer: Yes.**

Question 18:

I am concerned about including the type of platform immunity reflected in Section 230 of the Communications Decency Act (“CDA 230”) in our trade agreements. The Internet today is very different from when Congress passed CDA 230, and accordingly a number of bills have been introduced on both sides of the aisle to reform CDA 230. I have concerns that Congress’s hands will be tied if we include this type of commitment in our trade agreements.

*Please provide your views on whether we should include provisions that reflect CDA 230 type immunity in our trade agreements.*

**Answer: There are a wide variety of views on this issue, and I commit to consulting with the relevant stakeholders, including Congress, on this and other provisions of our trade agreements.**



Question 19:

The Miscellaneous Tariff Bill (MTB) was not reauthorized last year. This hurts our manufacturers who rely on various inputs covered by the tariff relief in the bill.

*Do you agree that:*

- a. we need to provide the type of tariff relief provided for in the MTB;*
- b. the process for determining which goods should be covered by the MTB should be objective and transparent; and*
- c. that the process for the International Trade Commission to evaluate petitions for inclusion in the MTB has been a major improvement in developing the MTB?*

**Answer: If confirmed, I commit to working closely with Congress on renewal of the Miscellaneous Tariff Bill.**

Question 20:

*What thoughts do you have on the U.S.-Israel economic relationship and potential avenues to expand this crucial partnership? I would be particularly interested in your views concerning a successor Agreement on Trade in Agricultural Products.*

**Answer: The U.S.- Israel economic relationship is one of our nation's strongest. If confirmed, I look forward to working with your office to identify agricultural products that could benefit from expanded trade between the two countries.**

Question 21:

Article 1, section 8 of the U.S. Constitution vests authority over trade with Congress.

*Do you agree that the U.S. Trade Representative should not table any potential text for a trade agreement without providing it to this Committee first, even if the Administration does not intend to submit the agreement for congressional approval?*

**Answer: If confirmed, I commit to close consultations with the Senate Finance Committee on trade negotiations. I will work closely with the Committee to identify ways to improve the flow of information in the development of trade policy.**

Question 22:

Not only does the U.S. Constitution provide Congress authority over trade, the treaty clause provides that all treaties must be approved by the U.S. Senate. I am concerned by rumors that the Administration may try to indirectly bind the United States to treaties the Senate has not confirmed by amending existing trade agreements to mandate the parties abide by various international agreements that never secured Senate approval.

*Can you confirm that you will not support such efforts?*

**Answer: If confirmed, I will work closely with Congress to ensure U.S. trade policy reflects existing statutory and international obligations and will implement it consistent with the treaty clause of the U.S. Constitution.**

Question 23:

*As you saw during the Finance Committee hearing, there is bipartisan interest in the UK and Kenya negotiations. Please provide your view on whether we should try to conclude the UK and Kenya trade agreement negotiations this year.*

**Answer: In 2020, the United States officially launched negotiations to establish free trade agreements with Kenya and the United Kingdom. Since announcing the negotiations, the United States completed two rounds of negotiations with Kenya and four rounds of negotiations with the United Kingdom. If confirmed, I plan to review the state of the negotiations with the United Kingdom and Kenya, and, in consultation with Congress, chart a path forward that reflects the Biden-Harris Administration’s commitment to a trade policy that prioritizes the interest of America’s working families.**

Question 24:

*Do you agree that Trade Promotion Authority (TPA)—particularly the provision reflected in 19 U.S.C. § 4203—requires that USTR provide the Committee access to any proposals or negotiating text proffered by our trading partners in any negotiation taking place under the auspices of TPA, regardless of how they are characterized, including as a “non-paper?”*

**Answer: If confirmed, I commit to consult with the Senate Finance Committee on trade negotiations. I will work closely with the Committee to identify ways to improve the flow of information in the development of trade policy.**

**Senator Stabenow**

Question 1:

If confirmed, you will have a major role in how the U.S. confronts and combats China’s unfair trade practices.

*Is the United States prepared and positioned to confront China’s unfair trade practices and competitive ambitions?*

**Answer: The Biden-Harris Administration is engaged in a review of the policies in place to respond to China’s coercive and unfair trade practices. I understand that a comprehensive strategy to confront the China challenge will be formulated based on that review.**

*What kind of bi-lateral and multi-lateral approaches will this Administration establish regarding trade policy in Asia?*

**Answer: The Biden Administration recognizes that America is stronger when it works with allies to address the unfair trade practices that distort the playing field in the Asia-Pacific region and disadvantage America’s exporters and workers. If confirmed, I will be prepared to use a variety of approaches, including bilateral and multilateral ones, to tackle these challenges.**

Question 2:

China is also a critical market for many Michigan farmers. From apples and cherries, to soybeans and dairy products, exports help drive the agricultural economy. China's purchases have surged recently, but are still below the short-term commitments in the "Phase One" deal, and China's opaque regulatory system poses many problems like years-long delays in approving new biotechnology traits.

*What opportunities do you see for U.S. producers in China going forward?*

**Answer: America's farmers depend on stable access to the Chinese market. If confirmed, I commit to working with you to ensure that China's market is open and stays open to U.S. agricultural products.**

*What is your strategy to rebuild and expand this and other critical export markets for food and agricultural products?*

**Answer: If confirmed, I look forward to working with your office to identify new export markets for U.S. agriculture products.**

Question 3:

We know that years of Chinese IP theft has given China a competitive advantage in global technology space.

*What types of export controls or other restrictions do you think the U.S. should place on China to address this?*

**Answer: China's illicit practices with regard to intellectual property theft have harmed American innovators, manufacturers, and workers. Export controls and other restrictions can play an important role in counteracting these harms. If confirmed, I will work actively with other federal agencies to determine the export controls and other restrictions necessary to respond to China's illicit practices.**

Question 4:

As you know, polysilicon is the foundational material necessary to produce solar cells and modules, semiconductors, and next generation batteries. For several years, an array of Chinese unfair trade and industrial policies has targeted and threatened the US polysilicon industry and resulted in China capturing nearly the entire global solar supply chain. This puts at risk US national security and clean energy interests, as well as critical US manufacturing jobs in Michigan. The Chinese Government committed to open its market to US polysilicon exports as part of "Phase 1", but so far it has broken that commitment.

*How will you prioritize a resolution to this issue?*

**Answer: If confirmed, I will make resolving this issue, as well as other unfulfilled commitments of the Phase One Agreement, an important part of my engagement with Chinese trade officials.**

Question 5:

Last year Senator Thune and I led a letter with 61 bipartisan Senators urging USDA and USTR asking them to prioritize market access assurances for common food names that our food manufacturers, exporters, and producers use in their products. Many countries outside of North America exploit protections meant for valid geographical indications to limit competition and block imports.

*Will you commit to working with USDA on this issue in future U.S. trade negotiations and agreements to ensure the continued use of common food names?*

**Answer: The United States secured historic protections for common food names in the USMCA. If confirmed, I commit to working with USDA on this issue to build on that success, and to prioritize the use of common food names during future trade negotiations.**

Senator Grassley

Question 1:

*If confirmed, how will you use the tremendous leverage the United States has to revitalize the WTO's negotiating function so that the rules reflect the modern economy, including e-commerce?*

**Answer: The WTO negotiating function has failed to keep pace with changes in the global economy. WTO rules need to be updated to reflect developments that have unfolded over the past quarter-century, particularly in the digital economy. If confirmed, I commit to work with like-minded partners to ensure that any new rules are high-standard ones that reflect the Build Back Better agenda.**

*What reforms would the Biden Administration be interested in pursuing to WTO's Appellate Body?*

**Answer: Over the years, the Appellate Body has overstepped its authority and erred in interpreting WTO agreements in a number of cases, to the detriment of the United States and other WTO members. In addition, the Appellate Body has failed to follow existing rules created to ensure that disputes are resolved in a timely manner. If confirmed, I commit to seeking a comprehensive range of reforms to address these shortcomings.**

*Do you think China should be accorded developing country status at the WTO?*

**Answer: If the WTO is going to succeed in promoting equitable economic development, it is critical that the institution rethink the ability of countries to self-select developing country status. The rules for special and differential treatment should be reserved for those countries whose development indicators and global competitiveness actually warrant such flexibilities; they should not be abused by countries that are already major trading powers.**

Question 2:

Mexican President Lopez Obrador recently issued a decree that would ban glyphosate, a widely-used U.S. crop protection tool, and would ban GMO corn in Mexican diets- both by 2024. These actions have the potential for major trade disruption and could put Iowa corn farmers in the position where they must choose between access to the Mexican market or access to critical production tools that have enabled them to farm more sustainably and efficiently.

*If confirmed, would you support enforcement action against Mexico for its violations of USMCA with respect to agricultural biotech approvals?*

**Answer: Mexico is a critical export market for American agriculture, with nearly \$3 billion of corn exports each year. If confirmed, I will work with USDA to promote U.S. corn exports to Mexico, and commit to fully enforcing the USMCA.**

Mexico had recently approved and started moving to a ten percent ethanol blend, but litigation and stalled regulatory action have caused market uncertainty and stifled the growth of ethanol demand. Moving to a ten percent ethanol blend in Mexico holds the potential of 1.2 billion gallons of additional ethanol demand in North America.

*What steps are you prepared to take with your Mexican counterparts to ensure that they move forward expeditiously with ten percent ethanol blending?*

**Answer: If confirmed, I will work with USDA and the Department of Energy to protect market access for American ethanol producers in Mexico.**

Question 3:

While I understand the rationale for China Section 301 tariffs, some of those tariffs are hurting U.S. renewable energy producers and job creation, and impeding the introduction of clean energy technologies in the United States, I believe we should be prepared to grant tariff exclusions where appropriate.

*With virtually all of the initial China 301 tariff exclusions now having expired, would you be prepared to stand up a new Section 301 tariff exclusion process for parts used in renewable energy products made in the U.S.?*

**Answer: China's track record of using unfair practices to acquire U.S. technology – to the detriment of U.S. innovators and workers – is well-established. During the last administration, USTR conducted an investigation into China's unfair trade practices under Section 301 of the Trade Act of 1974, and it found that China engages in unfair trade act policies and practices related to intellectual property, innovation and technology transfer. The United States imposed tariffs on products from China to address those findings. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices and consider the impact on U.S. businesses, workers and consumers.**

Question 4:

In the Phase One deal, China agreed to “implement a transparent, predictable, efficient, science- and risk-based regulatory process for safety evaluation and authorization of products of agricultural biotechnology.” However, we have seen no domestic movement in Beijing to move towards reforms.

*If confirmed, what steps will you take to ensure that China approves agricultural biotechnology products that are science-based?*

**Answer: U.S. farmers are harmed when our trading partners, particularly China, undertake non-science-based regulatory processes to create barriers against our agricultural exports. If confirmed, I commit to utilizing the tools at my disposal in the Phase One Agreement to ensure that China lives up to the obligations in the agreement.**

Question 5:

Iowa is a leading hub for amino acid innovation and production for use in animal agriculture throughout the United States. I am concerned that unfair Chinese subsidies to its amino acid industry have resulted in unfair increases in imports of Chinese amino acids such as Lysine and Threonine. These unfair trade practices jeopardize the vitality of U.S. amino acid producers, the U.S. amino acid supply chain, and American corn growers.

*If confirmed, will you include the issue of potential Chinese unfair practices in the amino acid space as part of the Biden Administration’s international trade agenda with China? Will you also commit to briefing my office and the relevant Capitol Hill committees on this issue on a biannual basis?*

**Answer: Chinese subsidies have harmed American producers and jeopardized the resiliency of American supply chains in a number of sectors, including amino acids. If confirmed, I will make it a priority to address the full range of unfair Chinese trade practices that disadvantage our farmers and workers and to consult Congress in those efforts.**

Question 6:

The EU is targeting companies through its digital services taxes, competition proposals, and is threatening transatlantic commerce through the invalidation of the Privacy Shield. This is protectionism plain and simple. Equally concerning is the rapid proliferation of many of these policies globally. Unfortunately, rather than working together with the US to set global standards and address shared concerns like China, the EU is moving forward on their own. I did not always agree with the previous administration, but I was a strong supporter of using Section 301 to defend American interests from discrimination abroad.

*If confirmed, what will your strategy be to stem the growing tide of protectionisms in Europe?*

**Answer: I am aware of the concerns U.S. companies have raised about digital services taxes (DSTs) and the continued free flow of data. Many DSTs were designed by our trading partners in a way that unfairly singles out large U.S. digital platform companies. As you**

**know, the previous Administration started Section 301 investigations against the DSTs introduced by a number of countries but then suspended the introduction or implementation of specific remedies to allow time for negotiations. If confirmed, I will review the status of those actions and will work with my colleagues at the Treasury Department to resolve the digital taxation disputes, and I will use the trade tools available to support the Department of Commerce’s effort to conclude an Enhanced Privacy Shield Framework.**

Question 7:

The European Union is in the process of implementing legislation that will impose new EU antibiotic use restrictions on producers of animal products that export to the EU, a move that could cause serious disruptions. EU regulators are refusing to take into account relevant data from countries outside the EU or to consider use restrictions already in place in the U.S. and elsewhere, as required under WTO rules.

*How do you intend to deal with this type of EU regulatory protectionism?*

**Answer: I understand the importance of this issue. If confirmed, I commit to holding our trading partners to their WTO commitments with respect to sanitary and phytosanitary measures, the application of standards and other obligations that impact our agricultural exporters.**

Question 8:

*President Biden has said he would like to renegotiate aspects of the CPTPP if the U.S. were to sign the agreement. If confirmed, what aspects of the agreement would you change?*

**Answer: Much has changed in the world since the original TPP was signed in 2016. If confirmed, I will review the CPTPP to evaluate its consistency with the Build Back Better agenda. I commit to consulting closely with Congress on trade agreement negotiations.**

Question 9:

In the past year both Presidential candidates supported an outright repeal of “CDA 230,” the Department of Justice proposed significant reforms, and over a dozen bills were introduced in Congress reflecting bipartisan concerns about 230 as it currently stands. Prior to USMCA, CDA 230 was not in any U.S. trade agreements. Advocates of including 230 have been clear that they favor putting it in trade agreements to “protect it domestically” – i.e., to prevent congressional reforms.

*Given that context, would you agree that Section 230 does not belong in future trade agreements?*

**Answer: There are a wide variety of views on this issue, and I commit to consulting with the relevant stakeholders, including Congress, on this and other provisions of our trade agreements.**

## **Senator Cantwell**

### **Question 1 - Cost of Trade Wars / Growing U.S. Trade and Market Access:**

From our ports, to our farmers, to aerospace workers – U.S. exports mean U.S. jobs. About one in four jobs in Washington state is tied to trade. Ninety-six percent of the world's customers live outside of the United States.

Prior to the COVID pandemic, half of the world's population had reached the middle class – almost 4 billion people. U.S. exporters need to be able to reach those markets to continue to grow the U.S. economy and U.S. jobs.

The Trump bilateral, tariff-first approach to China has severely damaged our businesses' and farmers' ability to compete on the global marketplace.

Moody's Analytics estimates that the Trump administration's trade war with China caused nearly 300,000 Americans to lose their jobs. U.S. companies have lost at least \$1.7 trillion in the price of their stocks as a result of the Trump tariffs on Chinese goods. JPMorgan estimates that the trade war cost the average American household between \$600 and \$1,000 per year.

While this trade war was being waged by Trump administration, China dropped its tariffs on the rest of the world by 25 percent, putting U.S. companies and farmers at an even greater competitive disadvantage. U.S. companies lost shelf space and market share.

In 2017, prior to the tariffs, the value of Washington apples shipped to the People's Republic of China and Hong Kong was \$49 million. Today it is \$16 million. Pacific Northwest cherry exports to China and Hong Kong have dropped 69 percent since retaliatory tariffs were implemented. Sweet cherry shipments to China and Hong Kong in 2017 were valued at \$141 million. Last year, 2020 sales were \$70 million.

Now, after the end of the Trump administration, U.S. tariffs of up to 25 percent remain on roughly \$335 billion of Chinese imports and retaliatory Chinese tariffs of up to 30 percent remain on approximately \$90 billion of U.S. goods, which is more than half of all US-China trade flows. China has not implemented structural changes to stop forced tech transfer or to provide long-term market access.

We need to work with U.S. allies like Europe and Japan to meet the real challenges we face from China. We also need to expand U.S. access in other fast growing markets in Asia like Vietnam, which was Asia's top performing economy in 2020, growing by nearly 3 percent in the midst of the COVID pandemic. Vietnam's economy is projected to grow another 7 percent this year.

The Trump administration focused on the threat and use of punitive tariffs on U.S. trading partners as well as against competitors.

*Will the Biden administration continue this practice of imposing unilateral punitive tariffs? If not, how will the Biden administration work with our allies on China?*



**Answer: China is both a major market for U.S. exporters and a major trading partner whose practices have harmed U.S. workers, farmers, ranchers, manufacturers, and innovators. The Biden-Harris Administration is engaged in a comprehensive review of existing U.S. policies to determine what action we must take to meet the China challenge. We will be stronger in meeting that challenge if we work with our allies. If confirmed, I will utilize a wide range of tools to ensure that we develop a strategic and coherent plan to address the challenges and opportunities before us.**

*What specific and concrete actions does the Biden administration want to see before it lifts the remaining Trump tariffs on China?*

**Answer: The Biden-Harris Administration is engaged in a comprehensive review of existing U.S. policies to determine what action we must take to meet the China challenge. I understand that the Administration will pursue a whole-of-government strategy based on that review that addresses China’s unfair trade practices, invests in U.S. manufacturing and innovation, prioritizes supply chain resilience, and increases American competitiveness.**

*If confirmed, which countries will be priorities for trade negotiations? What will you do to grow market access for U.S. exporters in other fast growing markets in the Asia?*

**Answer: If confirmed, I will prioritize trade negotiations with partners that are willing to sign trade agreements that benefit all Americans. In addition, I will work to ensure that Americans are not unfairly disadvantaged by trade barriers, actionable subsidies, lax enforcement of labor rights, poor environmental regulations, failure to enforce intellectual property rights, or other unfair trade practices.**

Question 2 – Apples / Market Access in India:

India is a very important market for Washington state apples.

The value of the market for Washington apples was \$120 million prior to India imposing tariffs of up to 70 percent because of the Trump administration’s unilateral steel tariffs in 2018. Today the market for Washington apples is \$4.9 million.

India will now be requiring certification that export shipments are free of genetically engineered crops. Apples are included under this requirement, and no genetically engineered apples are exported from the United States.

Furthermore, there are no genetically engineered red delicious – the variety that accounts for most of all the apple exports to India.

Additionally, India will close its market for U.S. apples on March 1 if no agreement is reached with the United States.

The Trump administration terminated India's preferential trade status under the Generalized System of Trade Preferences (GSP) program in 2019 over concerns about market access for U.S. goods and services. However, India is still moving to restrict market access.

*What will you do to ensure India keeps its market open to U.S. apples and reduces its tariffs?*

**Answer: I understand the detrimental effects that India's tariffs have had on Washington apple exports. If confirmed, I look forward to working closely with your office to support the Washington apple industry.**

*When would the Biden administration consider restoring India's GSP status and will access for apples and other U.S. exports be a factor?*

**Answer: If confirmed, I look forward to working with Congress to update and reauthorize the GSP program. If Congress passes an extension of the GSP program, I will review our trading partners' eligibility for the program based on their compliance with the program's criteria. I commit to working with Congress on GSP eligibility reviews.**

### Question 3 - Wheat / Growing Exports in China/Southeast Asia:

When China joined the World Trade Organization (WTO) in 2001, it agreed to a tariff rate quota. China committed to allow imports of up to 9.64 million metric tons of wheat from all sources each year at a 1 percent tariff. However, it never lived up to its commitment and the Obama administration brought a case to the WTO that it won.

Last year, China finally took important steps toward meeting their WTO commitments to import wheat. Beijing also made commitments to purchase U.S. wheat and other agricultural products as part of the Phase One deal with the Trump administration. As a result, China has bought 878,500 metric tons of Pacific Northwest soft white wheat this year.

Other foreign markets in South East Asia like Vietnam and Indonesia also have great potential. Markets in Central and South America like Chile and Guatemala are also important opportunities.

Soft White Wheat sales are up 10-30% in each of these regions. Our competitors in Canada and Australia aggressively pursue foreign sales in these markets.

*How will the Biden administration make sure U.S. wheat exports to China continue to grow?*

**Answer: America's wheat farmers depend on stable access to the Chinese market. If confirmed, I will work with you to ensure that China's market is open and remain open to U.S. wheat and other agricultural products.**

*Will the Biden administration pursue negotiations to open markets in South East Asia that have great potential for wheat and other U.S. exports? What will you do to make sure that our wheat growers do not lose market share to their aggressive foreign competitors?*

**Answer: If confirmed, I look forward to working to identify new markets for U.S. agricultural products such as wheat.**

Question 4 - Boeing-Airbus Dispute/Europe:

Aerospace has been a leading U.S. export for many years. The future of aerospace matters to U.S. jobs. There are more than 100,000 aerospace jobs in Washington state and before the pandemic there were even more.

In 2006, the United States brought a case at the World Trade Organization (WTO) because Europe provided \$22 billion in illegal subsidies for the development of Airbus commercial aircraft (A350 and A380).

The Europeans countered with a case against the United States. The WTO ruled for the United States in 2012 and 2016 and for the EU in 2019. As a result of the WTO cases, the United States imposed WTO-approved tariffs of up to 25% on a range of products including European aircraft, wine and spirits, and dairy. The European Union still imposed tariffs of up to 25% on U.S. aircraft and a range of agricultural products including Pacific salmon, wine, wheat, and berries.

The EU has kept sanctions in place even though in March 2020 Washington State repealed the tax provision that the WTO found to be out of compliance. Last year, the Trump administration failed to reach an agreement with the Europeans on commercial aircraft subsidies that would finally end the dispute and the tariffs.

As it seeks to rebuild the transatlantic alliance, the Biden administration has a real opportunity to resolve this dispute, finally end harmful Airbus subsidies, and establish a level playing field for America's aerospace industry.

*Will you prioritize reaching an agreement on commercial aircraft subsidies to end European and U.S. tariffs and finally end the Boeing Airbus dispute?*

**Answer: The Boeing/Airbus WTO litigation has been ongoing for more than 15 years. If confirmed, I will make it a priority to resolve this long-running dispute in a way that ensures Boeing and its workers can compete on a level playing field.**

*Do you anticipate reaching separate agreements with the United Kingdom and the European Union?*

**Answer: The United Kingdom left the European Union on January 31, 2020. If confirmed, I look forward to working with the United Kingdom on a range of trade issues, including the disputes regarding Boeing and Airbus.**

*Will you commit to resolving the Boeing-Airbus dispute and tariffs prior to finalizing any U.S. – EU Trade Agreement or U.S. – United Kingdom Trade Agreement?*

**Answer: If confirmed, I will make it a priority to resolve this long-running dispute in a way that ensures Boeing and its workers can compete on a level playing field. I commit to**

**working with Members of Congress on trade priorities with the European Union and the United Kingdom.**

Question 5 - Digital Trade/Europe:

Digital trade and the free flow of data across borders is critical to all U.S. exporters and importers, as well as the 5,000+ tech companies in Washington and our state's more than \$2.8 billion digital export economy.

Some European officials are pushing for "European digital sovereignty" and to enact new laws and regulations on tech that could advantage European companies at the expense of U.S. companies. It may amount to drifting towards protectionism.

Instead, the U.S. and Europe should increase constructive dialogue and cooperation on digital trade and tech policies, setting global standards, and confronting China on intellectual property theft.

The U.S. and EU also need to finalize a new Privacy Shield agreement to allow for the continued cross broader flow of data consistent with EU legal data protection and privacy requirements.

*If confirmed, will you closely monitor new European laws and regulations on tech that amount to non-tariff trade barriers and defend U.S. companies against any targeted and discriminatory measures?*

**Answer: I recognize the vital importance of the digital economy and digital trade to the state of Washington, and to the broader U.S. economy. If confirmed, I commit to work closely with Congress to respond to the introduction of laws and regulations that would unfairly discriminate against U.S. companies.**

*Will you prioritize strong digital trade rules in any U.S. – EU Trade Agreement and work to keep growing the free flow of data across borders that is so important to the 21<sup>st</sup> Century economy?*

**Answer: If confirmed, I will work with my colleagues at the Department of Commerce to find a path forward that allows for the continued cross-border flow of data.**

*What steps will you take to cooperate with Europe on addressing intellectual property and market access challenges in China?*

**Answer: While there are differences between the U.S. and the EU on some important issues, the U.S. and the EU share broad concerns about China's unfair practices, including policies that in practice condition market access on technology transfer. It is a priority of the Biden Administration to work with our allies, including our European allies, to address the many challenges posed by China.**

*Will you re-engage on the WTO negotiations on e-commerce and will you make it a priority?*

**Answer: The WTO negotiating function has failed to keep pace with changes in the global economy. WTO rules need to be updated to reflect developments that have unfolded over the past quarter-century, particularly in the digital economy. If confirmed, I commit to work with like-minded partners to ensure that any new rules reflect the values of the Build Back Better agenda.**

Question 6 – Environmental Goods:

Climate Change is a global challenge that no nation can solve on their own. For this reason, I appreciate President Biden rejoining the Paris Agreement so the U.S. can resume its role as a leader in reducing the world's dangerous levels of carbon pollution.

Being part of the global solution on climate will also help ensure the U.S. has access to a rapidly growing trillion-dollar annual market that could create thousands of high-wage trade and manufacturing jobs in Washington state.

But that market opportunity is currently constrained by a variety of tariffs that make environmental goods and services more expensive and less accessible than they should be, especially in the developing world where most future carbon pollution will come from.

That's why I think it's imperative that we work to make it easier for all countries to adopt lower carbon technologies. Examples include goods and services that address air pollution control, renewable energy, water and waste management, environmental monitoring, and carbon capture and storage technologies.

Ideally with America being the ones manufacturing and selling those technologies to the rest of the world.

In 2001, the Doha Ministerial Declaration directed WTO members to negotiate the elimination of tariffs on environmental goods. In 2014 the U.S. and its global trading partners began negotiations on an Environmental Goods Agreement (EGA) under the WTO with the goal of eliminating tariffs on environmental products and services. That was a big deal, because the 46 WTO members negotiating that Agreement account for 90% of environmental goods traded worldwide. Unfortunately, discussions stalled in 2016 and were not pursued by the last Administration.

*Ms. Tai, do you support the goals of the Environmental Goods Agreement?*

**Answer: Combatting climate change and developing green enterprises and jobs are key priorities for the Biden-Harris Administration. In July 2014, the United States and 13 additional Members of the World Trade Organization (WTO) officially launched negotiations on the proposed Environmental Goods Agreement (EGA) to eliminate tariffs on green technologies. If confirmed, I will pursue a trade agenda that supports the Biden Administration's comprehensive vision of reducing greenhouse gas emissions and achieving net-zero global emissions by 2050, or before, by fostering U.S. innovation and production of climate-related technology and promoting resilient renewable energy supply chains.**

*As U.S. Trade Representative, will you seek to restart negotiations on this vital pact that could make the products we need to combat climate change cheaper and more accessible worldwide?*

**Answer: If confirmed, I will seek stakeholder input on the EGA and evaluate the agreement for its consistency with the Build Back Better agenda and its potential contribution to the Biden-Harris Administration's goal of achieving net-zero global emissions by 2050.**

*Will you commit to looking into existing tariff levels with other WTO members to determine which countries have tariffs on environmental goods that differ or exceed corresponding US tariffs? And will you share that analysis with the members of this Committee?*

**Answer: If confirmed, I commit to working closely with you to identify barriers to reciprocal market access for U.S. producers of environmental goods.**

Question 7 – Fresh Potatoes/Mexico:

Mexico has again delayed granting full access for U.S. fresh potatoes. It has refused to provide market access despite more than 20 years of U.S. advocacy and its obligations under the WTO, NAFTA, and the USMCA. As a result, Mexico continues to significantly damage the Washington state potato industry and the jobs it supports.

*What specific steps will you take to finally gain durable market access for U.S. fresh potatoes to Mexico?*

**Answer: I understand the historical issues concerning full access to the Mexican market for U.S. fresh potatoes. If confirmed, I will work to address unfair trade practices that hurt our producers.**

Question 8 – Section 301 Tariff Exclusion Process:

Last December, many U.S. importers across a variety of non-healthcare industries have had their 301 China tariff exclusions expire and are now facing tariffs of up to 25 percent.

These are U.S. businesses that were previously approved for exclusions by USTR and are in significant need of tariff relief as we continue to fight the COVID pandemic.

For example, tariff relief expired at the end of last year on seafood products originally caught by Seattle-based fishing companies that undergo secondary processing in China before returning to the U.S. We are now paying tariffs of 25 percent on these U.S. caught seafood products.

In another case, a small business called Rad Power Bikes in Ballard, Washington, which imports electric-powered bikes, recently lost their tariff exclusion and now faces an additional \$20 million in estimated costs due to tariffs in 2021 unless they get their exclusion back.

*Will you commit to conducting an internal review of USTR's current 301 tariff exclusion process?*

*As the Biden administration develops its strategy on China, will the administration consider extending previously-approved 301 tariff exclusions that expired in December 2020?*

**Answer: If confirmed, I commit to assessing the Section 301 tariffs and exclusion process as part of President Biden’s comprehensive approach to confronting the China challenge.**

My office has also heard from Washington-based companies that were denied 301 tariff exclusions under the Trump administration with little to no explanation as to why.

For example, a paper mill called the North Pacific Paper Company in Longview, Washington – which has over 400 high-skilled manufacturing jobs – had their tariff exclusion request denied by the previous administration without a clear explanation, even though another company was granted an exclusion for the exact same product.

*Can you commit to reviewing the previous administration’s arbitrary decisions to grant or reject 301 tariff exclusions?*

*Moving forward, will the administration consider re-opening the 301 tariff exclusion process and grant new exclusions?*

*Will you ensure that any new rules for the tariff exclusion process are clear and consistent, and prioritize granting exclusions that will benefit U.S. companies in need of tariff relief?*

**Answer: If confirmed, I commit to assessing the Section 301 tariffs and exclusion process as part of President Biden’s whole-of-government approach to confronting the China challenge. I also commit to ensuring that any tariff exclusion process – and any similar, USTR-led process– is transparent, fair, and objective.**

### **Senator Cornyn**

#### **Question 1:**

Since June 2018, certain American spirits exports to the EU and UK have faced a 25% tariff in response to the U.S. imposition of tariffs on steel and aluminum, and in connection with the WTO dispute concerning Boeing. Absent a resolution to the steel tariffs, the EU’s tariff on American Whiskey will automatically double to 50% in June. The U.S. has imposed a 25% tariff on certain EU and UK wines and spirits imports since October 2019 in connection with the WTO Airbus dispute. The negative impact of these tariffs are being felt across the U.S. from farmers, to suppliers, retailers, and the hospitality sector.

*Will you commit to taking these views into account?*

*What is the Administration’s plan to negotiate resolutions to the various trade disputes with the EU and UK to ensure that these tariffs are quickly removed?*

**Answer: The purpose of WTO dispute resolution process is to ensure that other countries play by the rules so that our businesses, workers, farmers and ranchers can compete on a**

**level playing field. Tariffs may be a tool to achieve these ends, but they are not the goal. The Boeing/Airbus WTO litigation has been ongoing for more than 15 years. If confirmed, I will make it a priority to resolve this long-running dispute in a way that ensures Boeing and its workers can compete on a level playing field and that takes into account all affected stakeholders.**

Question 2:

The USMCA is a critical agreement that promotes stability across our borders, delivers important wins for businesses, workers, and communities, and demonstrates to the American public the importance and value of trade. Yet even with the July 1 implementation of the USMCA, manufacturers continue to face new and proposed trade barriers in Mexico and Canada, as well as broader challenges for companies with operations in Mexico, such as concerns about a lack of independence and autonomy of Mexican regulators, pharmaceutical procurement processes that lack transparency, and preferential treatment for Mexican state-run entities such as in the energy industry at the expense of U.S. companies.

*How will you make sure that the USMCA is implemented and enforced in a manner that will support the recovery and renewal of our economies?*

*How will you use binding enforcement of commercial provisions to make sure that Mexico and Canada follow through on their commitments?*

**Answer: If confirmed, I will review Mexico's and Canada's compliance with their obligations in the USMCA and the necessary actions to obtain that compliance. I commit to fully enforcing the USMCA.**

Question 3:

Free trade agreements have been very good for our farmers and food manufacturers that make safe, high-quality products here in the U.S. That's true for my state's beef and dairy sectors, as well as other agricultural industries in Texas. To stay competitive though, we need to be pursuing agreements to expand exports of those products further and engage on trade agreements such as the Trans-Pacific Partnership (TPP). These agreements are especially with key agriculture importing countries in Asia.

*When will the Administration begin work on such agreements and will Southeast Asia be a priority region for pursuing them?*

**Much has changed in the world since the original TPP was signed in 2016. If confirmed, I will review the CPTPP to evaluate its consistency with the Build Back Better agenda. I commit to consulting closely with Congress on trade agreement negotiations.**

Question 4:

As a Co-Chair of the Senate India Caucus, I'm concerned about India's recent wave of digital protectionist policies. Just in the past year, the Indian Government has moved to restrict foreign investment in e-commerce while increasing requirements for localization of data and threatening to mandate the sharing of American companies' data with Indian authorities and competitors. There is also a USTR Section 301 report criticizing India's discriminatory digital tax, which



targets U.S. companies. India's direction appears eerily similar to China's playbook, where the government has opened the market just enough to take what it wants from U.S. companies and then closes the door behind them in order to protect and grow its own national champions. Any consideration to restore India's GSP benefits should include a commitment to address these growing barriers to digital trade, which I worry may inspire copycat actions throughout the world.

*If confirmed, will you commit to making digital trade and services commitments a priority for any bilateral economic engagement or deal with India, including by leveraging the Section 301 report to address discrimination against U.S. companies in India?*

**Answer: The previous Administration initiated Section 301 investigations against the digital service taxes (DSTs) introduced by a number of countries, including India, but has not introduced specific remedies. I also have taken note of the proposed changes to India's digital levy that would expand the scope of that tax. If confirmed, I will work with my colleagues at the Treasury Department to address the digital services taxes in the context of the multilateral effort to limit tax competition and address base erosion and profit shifting through the OECD/G20 process.**

Question 5:

It is no secret that China continues to protect its domestic market from international investment and U.S. companies at-large. The United States leads the world in the technology services industry, including many of the most secure and innovative companies in cloud computing. Unfortunately, due to multiple discriminatory barriers in China – from licensing to joint venture requirements – U.S. cloud providers cannot sell their services directly to other American companies operating in China, or anyone else. This is all while Chinese cloud providers, with far less secure technologies, can and do sell their cloud services here in the United States without restrictions. These are the same Chinese cloud companies that undercut our American cloud providers around the world due to Beijing's generous subsidies and their sanctuary, domestic market.

*Will you assure me that you will fight for American cloud service providers so that they can bring secure cloud computing to China on equal footing with their Chinese competitors, and remove the harmful tariffs that further disadvantage them?*

**Answer: If confirmed, I will fight to ensure that America's cloud service providers are not disadvantaged in China.**

Question 6:

As you know, USTR is required to collect information for and publish the Special 301 Report, which focuses on identifying and improving the protection and enforcement of intellectual property rights by our trading partners. Congress hoped that this report would be used as a jumping off point for effective negotiation and, where necessary, enforcement. Yet, identified trade irritants appear year after year in the Special 301 Report. Some would like to see USTR respond more aggressively to this call to Congressional action.

*Under your leadership, how will USTR improve the Special 301 process to not only identify problems, but also to resolve them?*

*How will USTR use its trade enforcement tools to ensure our trading partners protect U.S. intellectual property?*

**Answer: The Special 301 process is among the critical tools in USTR’s toolbox to monitor our trading partners’ intellectual property practices. If confirmed, I will focus on leveraging Special 301 to resolve practices that harm America’s innovators.**

Question 7:

The Biden Administration has stated its intention to make robust Buy America policies a key plank of its economic policy. The aim of such policies is to ensure that U.S. manufacturers and workers benefit from taxpayer-funded projects. This is generally a sound policy goal. Some are advocating that any infrastructure package contain “Buy North American” requirements instead of “Buy American” requirements.

*Is this the case and what are your thoughts on such a concept?*

**Answer: I understand that President Biden’s Executive Order on Made in America is intended to ensure that when the federal government spends taxpayer dollars, it spends them on goods made by American workers with American-made component parts. If confirmed, I will work closely with the President and other federal agencies to ensure our trade policies support the objectives of this Executive Order, while recognizing the strategic and economic importance of our partnerships with Canada and Mexico.**

Question 8:

The Biden Administration has announced its intention to increase government procurement of domestically manufactured goods and services. At the same time, the United States is a party to the WTO Government Procurement Agreement (GPA), which limits the United States’ ability to apply robust Buy America requirements to government procurement. Some have proposed suspending U.S. obligations under the GPA on a temporary, emergency basis to shore up critical domestic supply chains and spur economic recovery in the wake of the COVID pandemic.

*What are your thoughts on such a concept?*

**Answer: It is the policy of the Biden-Harris Administration that the United States should seek to maximize the use of goods made in the United States for federal procurement and financial assistance awards, consistent with applicable law. If confirmed, I will work to ensure that our trade policy supports this goal.**

*Should the U.S. renegotiate any of its U.S. GPA commitments to ensure that the Administration can achieve its “Buy America” objectives?*

**Answer: As a part of its review of the implementation and efficacy of laws, regulations, and policies related to federal procurement, the United States should also examine**

**procurements made under our trade agreement obligations to ensure that they serve the interests of the United States, its businesses and workers. If confirmed, I commit to undertake this review.**

Question 9:

Both the Obama and Trump Administrations recognized the existence of serious deficiencies in the WTO dispute settlement process. WTO members have used the dispute settlement process to achieve what they could not achieve in negotiations, including the severe weakening of antidumping and countervailing duty laws. In addition, the Appellate Body has repeatedly failed to address China's dangerous combination of government subsidies, state-owned enterprises and distortive non-market behavior. The United States needs to engage in serious and meaningful negotiations to resolve these issues prior to considering any reestablishment of the Appellate Body.

*What are your plans for addressing the serious deficiencies in the WTO's dispute settlement process?*

*Do you agree that the Appellate Body should not be revived until these problems are fully addressed?*

**Answer: If confirmed, I will re-engage like-minded partners who similarly recognize the importance and necessity of reform of the WTO, including its dispute settlement process. This will be difficult work, but I remain hopeful that with proper U.S. leadership, we can achieve the necessary reform that resolves our long-standing, bipartisan concerns.**

Question 10:

Domestically produced steel is among the cleanest in the world.

*How do you plan to ensure that the WTO cannot block or weaken the administration's efforts to promote and expand markets for domestically produced steel?*

**Answer: If confirmed, I commit to examining any potential barriers to the expanding the exportation of domestically produced steel, including at the WTO, and working with Congress to address those barriers.**

Question 11:

Some believe the Obama administration recognized that there is a massive global overcapacity issue affecting the steel industry, involving not just China, but many other countries as well. The Global Forum on Steel Excess Capacity and the earlier OECD Steel Subsidy negotiations, have simply not reached consensus on the matter.

*What are your thoughts on the claims that there is an overcapacity affecting the domestic steel industry?*

*Do you believe existing actions under Section 232 are effective?*

**Answer: State-owned enterprises (SOEs) that do not operate based on market principles disadvantage U.S. businesses and their workers and have contributed significantly to global market distortions, notably in the steel industry. If confirmed, I will work with our allies to collectively address market distortions caused by SOEs, subsidies and other unfair trade practices in the steel sector. In addition, I will pursue trade enforcement actions against trading partners that use SOEs and unfair trade practices to disadvantage U.S. businesses and their workers, and I will pursue disciplines in trade agreement negotiations aimed at addressing SOEs and such unfair practices.**

Question 12:

The USTR implemented a tariff exclusion process for each list of products on the Section 301 tariffs for products exported to China. For the products that were excluded from the tariffs the exclusion relief expired on Dec. 31, 2020.

The absence of the previously approved exclusions increases uncertainty for U.S. businesses during the pandemic. The Biden Administration has suggested that they will review all trade policy in place.

*While the Section 301 tariffs are under review, will you consider reinstating the process for product exclusions and those that had previously received such exclusions?*

**Answer: China's track record of using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. In the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices and consider the impact on U.S. businesses, workers and consumers.**

Question 13:

The natural gas and oil industry has experienced significant regulatory challenges in Mexico by Mexican regulators attempting to complicate and delay investor operations in Mexico to the advantage of PEMEX, Mexico's state-owned oil company.

*Given recent claims by the Mexican government that Mexico's hydrocarbons resources are not covered under USMCA, can you state your position regarding how hydrocarbons should be treated with regard to USMCA?*

*Can you detail how you would ensure that American and other foreign investors in Mexico are treated fairly and ensure the USCMA provisions on fair treatment will be enforced?*

**Answer: If confirmed, I will review the reports of discriminatory action in the energy sector that you have highlighted, and I will consult with stakeholders and Congress on these issues. I commit to quickly engaging the Mexican government if it violates the**

**agreement and to using all dispute settlement tools to fully enforce USMCA whenever necessary.**

Question 14:

Investor State Dispute Settlements, or ISDS, are an integral part of USMCA and many other FTA's that the US has around the world.

*Can you please state how you and USTR would prioritize the enforcement of ISDS under USMCA and the inclusion of strong ISDS provisions in other FTA's the US may pursue?*

**Answer: President Biden has stated that he does not believe corporations should get special tribunals in trade agreements that are not available to other organizations and that he opposes the ability of private corporations to attack labor, health, and environmental policies through the investor-state dispute settlement. If confirmed, I will pursue a trade agenda consistent with the Biden-Harris Administration's Build Back Better agenda.**

Question 15:

*Can you please state your view on how the current tariffs on imported goods from Mexico and Sec. 232 tariffs on steel and aluminum will be handled under your leadership at USTR?*

**Answer: If confirmed, I will carefully review tariffs on imported goods from Mexico. In addition, I will work closely with the Department of Commerce on any review and implementation of the Section 232 tariffs on steel and aluminum.**

Question 16:

Natural gas and Liquid Natural Gas (LNG) exports have served as a strong enticement to help the US achieve policy goals and partnerships with other countries. That advantage and U.S. exports should only be strengthened in coming years to maintain and grow US leadership abroad. *Can you please elaborate on how USTR under your leadership will support and encourage growing US energy exports, particularly that of liquefied natural gas (LNG) around the world?*

**Answer: If confirmed I will work with the Department of Energy to promote market access for American energy exports.**

Question 17:

The trade war with China continues, and the structural reform commitments the United States was expecting to see from China have not yet materialized. The imposition of punitive tariffs on imports from China has not yet addressed the areas of forced technology transfer and intellectual property theft. Meanwhile, we in Congress need to begin thinking about how to provide incentives for those willing to restore supply chains back home and with our allies.

*Do you foresee being actively engaged in bilateral talks with China?*

**Answer: I am open to exploring a wide range of options to address our longstanding problems with China's unfair trade practices, including bilateral talks. However, I will not hesitate to act if those talks prove ineffective.**

Question 18:

Two critical trade preference programs -- the Generalized System of Preferences (GSP) and the Miscellaneous Tariff Bill (MTB) -- lapsed at the end of 2020 imposing a tax increase on American workers, American consumers, and American businesses at a time when they can least afford it. Both the GSP and MTB programs have been supported for decades by overwhelming bipartisan majorities. The COVID-19 pandemic has caused great uncertainty for American companies and their U.S. workers. This is not the time to impose new costs on U.S. supply chains, particularly on American job creators who are still recovering from the impacts of the COVID-19 pandemic.

*Can you confirm the Administration's support for retroactive renewal of GSP and MTB in short order?*

**Answer: If confirmed, I commit to working closely with Congress on renewal of GSP and MTB.**

Question 19:

Trade Promotion Authority (TPA) is authorized through July 1, 2021. TPA is a delegated, constitutional authority created in 1974. I have previously supported TPA passage and continue to support it in principle. However, I have concerns over the integrity of the process recently used. Each FTA passed through TPA until 2020 received an opportunity for congressional input via a "mock mark-up".

USMCA was the first agreement to ever skip this process. S.Rpt.114-2, which accompanied the 2015 TPA bill, states that when considering the 1974 TPA act:

*"This Committee took the position that Congress should have an active role in drafting the legislation to implement the agreement. The result was that the Committee considered a draft of the implementing bill through a "mock" legislative process, with committee consideration, amendments, and conference committee. The President then submitted final legislation to Congress based on the results of the "mock" legislative process. Although not formally outlined in any document, the executive and legislative branches thus agreed on a process that allowed congressional involvement in crafting legislation that would eventually be formally considered under expedited procedures. The so-called "mock-markup" process continues to this day."*

Unfortunately, the process no longer continues. This "mock-markup", while trivial to some, is a bedrock practice for allowing members of Congress and those serving on the Senate Finance Committee to indicate their intent upon receipt of the implementing bill. USTR still has the final say in what goes in or out of the implementing bill. When omissions were discovered as a result of the rushed USMCA process, a "technical corrections" package was proposed to correct them.

One such omission was the NAFTA-era, U.S. law restriction on products produced in Foreign Trade Zones (FTZ) (19 U.S.C. 3332(a)(2)(A)) for products, that otherwise meet the rules-of-origin under NAFTA and now USMCA, could not also receive the same reduced tariff benefits. Canada and Mexico do not have similar restrictions in place on their FTZ equivalents, creating disparity between the two. USTR, at the time, claimed its "intent" was to include the restriction following the release of a May 2020 article highlighting the issue.

USTR expected Congress to take this at face value and not recognize the fact that many in Congress, myself included, believed the restriction deserved further debate in the public square. CBO projected that the reinstatement of the restriction would result in a \$2 billion increase in tariffs without the provision in place.

More importantly, members of the Senate Finance Committee did not have their opportunity to indicate their “intent” as to what should be included in the implementing bill. To my disdain, this NAFTA-era restriction on FTZs was included in a larger “technical corrections” package.

*What are your views on the re-authorization of TPA?*

*Will you seek renewal of TPA given the ongoing negotiation of the U.K. and Kenya FTAs?*

*What is your opinion on the mock mark-up process? Should this continue and should it be a codified practice instead of a committee report issue?*

*Do you commit to a full mock mark-up process on any future FTAs or other legislation considered under the TPA process?*

**Answer: If confirmed, I will consult closely with Congress on trade negotiations and trade legislation advanced by the Senate Finance Committee. As U.S. Trade Representative, I will work to pursue trade policies that receive bipartisan support in Congress.**

*What is your view on the restriction mentioned?*

*Do you believe this restriction was put in place to meet treaty obligations under NAFTA and USMCA?*

*Can you discuss your views on the FTZ program in general and where you see it fitting into the larger conversation on critical supply chains and the high tariff environment?*

*If confirmed as USTR, would you support and initiate a study that examines the restriction in the context of parity with FTZ counterparts in Canada and Mexico?*

**Answer: The Biden Administration is already undertaking a comprehensive review of supply chain risks, pursuant to the President’s Executive Order issued on February 24. If confirmed, I will study this issue as part of the review as well as its consistency with the broader Build Back Better agenda. I will also work to ensure that American workers and businesses aren’t unfairly disadvantaged by our trading partners’ policies.**

Question 20:

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has entered into force without the United States. The agreement represents approximately half a billion people and 14 percent of the global economy. American companies were negatively impacted when the U.S. withdrew from the TPP agreement in 2017. Joining the CPTPP would be

a good opportunity for the U.S. to reclaim global leadership and write the rules of the road with regard to trade, intellectual property, environmental and labor standards.

*Do you support the U.S. joining the CPTPP and what needs to be updated with regards to the agreement to reflect the changed conversation around China since 2015?*

**Answer: Much has changed in the world since the original TPP was signed in 2016. If confirmed, I will review the CPTPP to evaluate its consistency with the Build Back Better agenda. I commit to consulting closely with Congress on trade agreement negotiations.**

Question 21:

The launch of USTR's Section 301 investigations on Vietnam's currency valuation and timber are ongoing. Stakeholders across the United States in various sectors remain concerned that USTR will react take action against Vietnam including imposing punitive tariffs.

*How do you foresee engaging in bilateral talks with Vietnam to find a solution to this issue?*

**Answer: President Biden has committed to opposing efforts by America's trading partners to artificially manipulate their currencies to gain a trade advantage and to combatting trade in goods made with illegally harvested timber. If confirmed, I will work with the Treasury Department, the Department of Commerce, Customs and Border Protection and other agencies to bring effective pressure to bear on countries that engage in such unfair practices. The goal of a Section 301 investigation is always to provide an incentive to encourage a negotiated solution that addresses the underlying unfair trade practices.**

Question 22:

U.S. investment in the Africa already faces mounting uncertainty. Companies are poised to diversify out of China, and Africa is a logical place for many of them. The U.S.- Kenya FTA negotiation is critical for countering this influence. Many sectors, such as the apparel and footwear industry, draw upon this region and benefits in other U.S. laws to conduct business. Moreover, AGOA countries must still be able to partner with Kenya.

*Can you provide an update on the U.S.-Kenya trade agreement and work to include flexibilities that continue recent wins on U.S.-Africa trade?*

**Answer: In 2020, the United States and Kenya officially launched and completed two rounds of negotiations to pursue a free trade agreement. Since announcing the negotiations, the United States completed two rounds of negotiations with Kenya. If confirmed, I will review the U.S.- Kenya bilateral relationship, and the African Growth and Opportunity Act (AGOA) program. The United States' economic relationship with the African continent will be a priority if I am USTR.**

Question 23:

The creative community supports hundreds of thousands of Texas jobs and adds billions to our GDP.



*Will you ensure strong intellectual property protections for the American creative sector in future trade agreements?*

**Answer: If confirmed, I commit to seeking provisions in trade agreements that benefit America’s innovators, who play a critical role in enhancing our economic competitiveness and supporting the creation of high-quality jobs.**

Question 24:

U.S. exporting industries like the U.S. chemical manufacturing sector can grow high-paying, high skilled jobs when the U.S. government opens new markets, keeps them open, and aligns regulations. One avenue to achieve these ends is international regulatory cooperation, which creates greater efficiencies and cost savings for governments and businesses while protecting human health, safety, and the environment. The USMCA includes state of the art sectoral annexes (e.g., Chapter 12.A on chemical substances) that could inform future U.S. regulatory cooperation activities with trading partners. While U.S. government regulatory agencies must prioritize achieving their domestic objectives, they also are essential to the conduct and success of these activities.

*Will you work with Congress and the Office of Management of Budget to provide more resources to U.S. regulators to engage in regulatory cooperation activities and negotiate regulatory cooperation provisions in U.S. free trade agreements?*

**Answer: If confirmed, I will work with Congress, the Office of Management of Budget and other agencies to ensure that the United States fully and effectively implements and enforces the provisions of the USMCA to the benefit of U.S. industries and workers.**

*What is your opinion of Executive Order 13609 on International Regulatory Cooperation to be responsive to today’s global trade and supply chain dynamics?*

**Answer: Executive Order 13609, issued on May 1, 2012, stated that the U.S. regulatory system must protect public health, welfare, safety and the environment while promoting economic growth, innovation, competitiveness and job creation. It also noted the role of international regulatory cooperation and challenges of regulatory divergence. If confirmed, I will work with Congress and through the interagency process to ensure we achieve the right balance in promoting the goals of regulation in the United States and evaluating the challenges of international regulatory divergence.**

Question 25:

The Miscellaneous Tariff Bill (MTB) provides important relief for U.S. chemical manufacturers who cannot get certain inputs or intermediate goods here in the United States. But the most recent MTB expired at the end of last year – in the middle of a pandemic and economic recession. Programs like the MTB are generally supported by my colleagues and quickly renewed by Congress.

*Do you support tariff relief measures like the MTB that help strengthen U.S. manufacturing and*

**Answer: If confirmed, I commit to working closely with Congress on all trade legislation, including the Miscellaneous Tariff Bill.**

Question 26:

Both you and the President have spoken about the importance of a worker-centric trade policy. The copyright industries employ 5.7 million workers. These jobs pay have a compensation premium of 43 percent over the average U.S. annual wage and rely on exports.

*If confirmed to become the U.S. Trade Representative, how will you ensure the role of copyright industries and the interests of the 5.7 million workers employed in the copyright industries are promoted in U.S. trade policy?*

**Answer: If confirmed, I commit to supporting America’s copyright industries and the workers employed in such industries by ensuring that our trading partners open their markets to copyrighted exports produced by America’s innovators and enforce the IP laws necessary to protect such work from piracy.**

Question 27:

The U.S. has for nearly two decades shifted our critical supply chain production overseas to what President Biden’s nominee for CIA director described as an “authoritarian adversary”, China. COVID-19 has only accelerated this vulnerability. Yesterday, the President detailed his Executive Order to identify and support these supply chains. A large part of what is missing however is the resources to put behind them.

I was happy to hear that the President intends to work with Members of Congress during the budget and appropriations process to address this challenge. We do not have the ability to write checks by fiat as China does- Congress holds the power of the purse. To that end, I am interested in exploring the creation of a new bipartisan budget category that combines both targeted domestic and defense resources to Counter China and Re-shore Critical Supply Chains. As an example, our current budget framework is unprepared to make these significant investments into areas like the semiconductor space through the CHIPS for America Act with nearly thirty-six billion dollars or roughly 3% of our total discretionary budget. Investments like these should not take away from existing priorities but complement them.

*Can you explain your views on how you would address critical supply chains as whole, the semiconductor sector, and the CHIPS for America program specifically, if confirmed?*

**Answer: Semiconductors are one of the priority sectors identified in the recent Executive Order on America’s Supply Chains. If confirmed, I will work to effectively implement the recommendations that emerge from the supply chain review to strengthen the resilience of America’s supply chains and support increased domestic semiconductor production.**

*Can you provide your view on how tariffs have served as a punitive measure in diverting supply chains away from China and steps you would take as USTR to support incentives to bring them home?*

**Answer: I understand that the Biden-Harris Administration is engaged in a comprehensive review of existing U.S. policies, including the use and impact of tariffs, to determine what action the United States must take to meet the China challenge.**

Question 28:

*What data will USTR use to determine Section 301 exclusions, and what steps will you take to ensure that the exclusion process is transparent?*

*If an exclusion is granted, would USTR provide the exclusion for a year or more?*

*Would you support granting exclusions that are effective from the start of 2021 as well as refunding the tariffs that companies have already paid?*

**Answer: If confirmed, I will work with Congress to ensure that the tariffs under Section 301 are appropriately responsive to China’s practices and consider the impact on U.S. businesses, workers and consumers. I will also ensure that any exclusion – or other similar process undertaken by USTR – is transparent, objective, and fair.**

Question 29:

Complex supply chains take years to establish, and it is very difficult, if not impossible, to quickly shift procurement to other countries or facilities without compromising contracts, compliance, quality, food safety, and value for the consumer.

*How would you factor in disruptions to supply chains when implementing tariffs and/or granting exclusions to tariffs?*

**Answer: If confirmed, I will work with Congress to ensure that tariffs, including those imposed under Section 301, are appropriately responsive to the unfair trade practices they are meant to address and consider the impact on U.S. businesses and their supply chains, as well as workers and consumers.**

Question 30:

Our trade debate often focuses on manufactured goods, but America’s massive “business services” sector is not only a cornerstone of the U.S. middle class — it’s also a huge trade opportunity. Business services employ more than 20 million Americans, and these sectors pays wages that are 20% higher on average than those in manufacturing. Business services are also increasingly tradeable. According to the U.S. International Trade Commission, new digital technologies mean that 63% of all U.S. services exports can now be delivered to customers abroad digitally. This helps explain why trade in services is growing 60% more rapidly than trade in goods.

However, rising digital protectionism abroad could sap growth in middle class jobs in the business services industries widely recognized as an American strength. As governments worldwide seek to put their own imprint on digital trade rules, some may close markets and disadvantage U.S. firms.

*Should U.S. trade policy prioritize an area such as this with growth potential?*

**Answer: To participate in today’s global economy, U.S. companies need to access networks, transfer data, and use secure data centers of their choice. The Biden-Harris Administration is committed to using a wide range of trade tools to help make sure that American workers and digital innovators are able to compete effectively abroad.**

Question 31:

The growth in the digital economy—and the importance of data-driven innovation in an increasing number of industry sectors—raises questions about whether trade rules need to be updated. Unfortunately, our partners in the European Union have used legitimate public policy debates—in taxation, competition policy, and data privacy—to write policies that discriminate against American companies in the name of advancing Europe’s supposed “technological sovereignty.”

*If confirmed as USTR, do you pledge to hold the European Union accountable when it enacts policies that discriminate against U.S. digital exporters?*

**Answer: If confirmed, I will use the United States’ wide range of trade tools to address discriminatory practices that hurt U.S. workers and firms, including practices that discriminate against U.S. digital and technology exports.**

*What is your opinion of addressing concerns over the proliferation of DSTs by using a negotiated outcome at the OECD?*

**Answer: If confirmed, I support the Treasury Department’s efforts to resolve the digital services taxes in the context of the multilateral effort to limit tax competition and address base erosion and profit shifting through the OECD/G20 process.**

Question 32:

India is a crucial democratic partner in the Indo-Pacific and a potential alternative to China as a destination for U.S. exports. Unfortunately, in recent years, the Government of India seems to have embraced a strategy of digital protectionism. This includes a discriminatory digital tax, sweeping requirements to localize data, and proposals to expropriate proprietary information from U.S. companies.

*If confirmed as USTR, how do you intend to tackle India’s growing digital protectionism while also growing U.S.-India commercial ties?*

**Answer: India’s fast-growing economy provides new opportunities for American exporters, including our farmers, manufacturers, and service providers. It is an ongoing challenge to balance the United States’ interest in enhancing our trade relationship with India with the its interest in addressing Indian policies that discriminate against U.S. exports and digital service firms. If confirmed, I will consult closely to ensure our trade policy strikes the right balance.**

Question 33:

We are currently engaged in several trade disputes with both allies and adversaries where tariffs have been used as the remedy of choice. These tariffs have each resulted in retaliatory tariffs against U.S. exporters including manufacturers and agriculture interests.

While we agree that our trading partners must live up to their international trade commitments, we are concerned about the use of tariffs as the primary remedy to address perceived inequities. Tariffs are taxes that are paid by U.S. businesses, raise costs for consumers and manufacturers and have led to markets being lost for our agricultural exporters. The current tariffs have had a negative impact on companies large and small, especially impacting the economic recovery of many U.S. businesses.

*President Biden has talked about the need to reevaluate the trade war and the economic impact caused by the tariffs. Do you commit to conducting an economic review of the tariffs and the impact they have had on the U.S. economy?*

**Answer: If confirmed, I commit to undertaking a review of the use of tariffs as a tool to address unfair trade practices to ensure that they are strategically employed to achieve their means and maximize the benefit, while minimizing the cost, to U.S. industries, workers, and consumers.**

Question 34:

Your predecessor concluded several “mini” trade deals with trading partners like Japan and China that covered only certain disciplines and bypassed congressional approval. And even for other agreements, such as the update to KORUS and USMCA, consultations with Congress were severely lacking.

*What is your view on mini trade deals? Does the Biden Administration plan to pursue them? Will you commit to consulting closely and often with Congress on such deals, as well as on any free trade agreement negotiations?*

**Answer: If confirmed, I will pursue trade policies consistent with the Build Back Better agenda. I will consult closely and often with Congress to negotiate and develop trade policies that advance the interests of all Americans, support American innovation, and enhance our competitiveness. As U.S. Trade Representative, I will work to pursue trade policies that receive bipartisan support in Congress.**

Question 35:

*Do you see ways USTR can be helpful in getting to an agreement with the EU on a new framework for transatlantic data flows, post-Schrems II? We know that Europe has proposed a new Trade and Technology Council – is this the right forum to make progress on these issues?*

**Answer: If confirmed, I will use the trade tools available to support the Department of Commerce’s effort to conclude an Enhanced Privacy Shield Framework that addresses the concerns raised by the European Court of Justice and enables the transfer of data between the European Union and the United States.**

Question 36:

Ms. Tai, the U.S. and India have had a burgeoning relationship over the past 20 years during which bilateral trade has expanded to over \$120 billion per year. While we have had some fits and starts with trade discussions with India in recent years, I believe we have an opportunity expand bilateral trade with India, which will further enhance our strategic partnership with this growing power in Asia.

*Do you share my vision for improved economic and trade relations with India, and, if confirmed as U.S. Trade Representative, will you commit to pursuing negotiations that benefit the bilateral relationship early in your tenure?*

**Answer: India is one of the United States' largest trading partners, and its fast-growing economy represents a tremendous opportunity for American exporters, including our farmers, manufacturers, and service providers. While we have faced occasional trade challenges over time, a strong partnership between the U.S. and India is important for both countries' strategic interests. If confirmed, I commit to engaging with India to find ways to enhance our trade relationship.**

Question 37:

Many are experiencing unprecedented prices in the US lumber market. This in turn is significantly affecting the cost to construct or remodel a home. Texas has both homebuilders and a vibrant forestry sector. The Softwood Lumber Agreement we have with our leading trading partner in wood products – Canada – expired more than five years ago.

*What is your position on this agreement and plans for it in the future?*

**Answer: The Department of Commerce and the U.S. International Trade Commission have repeatedly found that Canadian subsidies and unfair trade practices harm the U.S. lumber industry. If confirmed, I commit to working with other agencies and departments to ensure that U.S. trade laws and remedies are employed to counter unfair trade practices and to pursuing agreements in the interest of the United States.**

Question 38:

We know that China's years of IP theft has given them an advantage in competing with global technology companies.

*What types of export controls or restrictions should the U.S. place on China to ensure the U.S. does not lose its competitive edge in the technology sector?*

**Answer: If confirmed, I commit to engaging actively with my counterparts in the Department of Commerce and other agencies with oversight of U.S. export controls and restrictions to confront the issue of China stealing American technology or obtaining it through other unfair or nefarious practices.**

Question 39:

Last year, the Trade Subcommittee with Sen. Casey held a hearing with a number of policy experts and actor and Chairman of the International Campaign for Tibet, Richard Gere, on Censorship as a Trade Barrier.

We heard about how China uses censorship to bolster its domestic industries while restricting access for U.S. companies. It is clear China pushes the boundaries of the Public Morals and National Security exemptions at the WTO with their censorship practices. WTO rules do not provide an exception for content that is politically unacceptable.

For example, in the technology services industry, U.S. cloud providers cannot sell their services directly to other American companies operating in China, or anyone else. This is all while Chinese cloud providers, with far less secure technologies, can and do sell their cloud services here in the United States without restrictions. These are the same Chinese cloud companies that undercut our American cloud providers around the world due to Beijing's generous subsidies and their sanctuary, domestic market.

Sen. Grassley secured a fact-finding investigation with the International Trade Commission on the economic costs of censorship as a barrier to trade. It is my hope that the private sector will come forward in confidence to participate in this survey to confront China's offensive and defensive censorship. If companies refuse to participate, it is clear that China has already won the battle for self-censorship.

*Will you assure me that you will fight for American free enterprise by raising the issue of censorship and, in context, market access restrictions on American businesses such as cloud computing in your dealing with China, if confirmed?*

*Will you encourage the private sector to participate in the ITC study on the cost of censorship as a trade barrier?*

**Answer: To fully confront the China challenge, we must address the myriad of ways the Chinese government seeks to disadvantage U.S. businesses and their workers including through censorship and market access restrictions in sectors like cloud computing. If confirmed as U.S. Trade Representative, I will work closely with you to develop trade policies that treat censorship as a trade barrier and support the work at the ITC to examine trade issues.**

**Senator Menendez**

Question 1:

Lumber Prices have increased dramatically since last spring. These increases have exacerbated the existing housing affordability crisis, causing the price of an average new single-family home to increase by more than \$24,000 since the middle of last April according to standard estimates of lumber used to build the average home from the National Association of Homebuilders. Meanwhile the Softwood Lumber Agreement we have with Canada, our leading trade partner in wood products, expired in 2015 and has not been renewed since.

*Will you make it a priority to reach a new lumber agreement with Canada in order to address this drag on the housing sector?*

**Answer: The Department of Commerce and the U.S. International Trade Commission have repeatedly found that Canadian subsidies and unfair trade practices hurt the U.S. lumber industry. If confirmed, I commit to working with other agencies to ensure that U.S. trade laws and remedies are employed to counter unfair trade practices and to pursuing agreements in the best interest of the United States.**

Question 2:

Even after the July 1<sup>st</sup> implementation of USMCA, US companies and their workers continue to face new and proposed trade barriers in Mexico and Canada, as well as broader challenges for US companies in Mexico. In particular, there are concerns about the independence of Mexican regulators and their preferential treatment towards Mexican state-run entities at the expense of US Companies.

*How will you ensure that Mexico and Canada follow through on their commitments in USMCA?*

**Answer: If confirmed, I will review Mexico's and Canada's compliance with their obligations in the USMCA and act to address failures in compliance. I commit to fully enforcing the USMCA.**

Question 3:

I am glad to hear that President Biden is planning a review of Section 301 tariffs in order to develop a more cohesive China trade strategy. However, many small businesses in New Jersey are facing expiration of their Section 301 tariff exclusions or have already had their exclusions expire. As you know, the previous administration did not establish a process for extending these exclusions.

*Will you consider granting an extension of Section 301 tariff exclusions while the Administration is conducting its review so that small businesses aren't unnecessarily harmed?*

**Answer: China's track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. In the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices and take in to account the impact on U.S. businesses, workers and consumers.**



## **Senator Thune**

### **Question 1:**

In business, technology, and innovation, the United States is unmatched. But in order to stay ahead of our competitors and continue to lead in global commerce, we must ensure that our communications infrastructure is secure. To reflect these modern realities, the U.S. must prioritize telecommunications and digital infrastructure in our trade policy. The Network Security Trade Act, which I introduced with Democrat members of the Senate Finance Committee, would make the security of our communications networks a negotiating objective in any future trade deal.

*If confirmed, would you support strengthening U.S. communications infrastructure as a key objective in trade negotiations?*

**Answer: The security of the United States' communications infrastructure is vital to our national security. If confirmed, I will use all available trade tools to maintain the security of U.S. communications networks.**

### **Question 2:**

As a result of the U.S.-China Phase One trade deal, the U.S. has seen export gains to China across many agricultural sectors including soybeans, corn, beef, and pork.

*If confirmed, how would you ensure that China follows through on its Phase One commitments, particularly for U.S. agriculture? What steps would you take to build upon these successes and ensure that U.S. farm and ranch exports to China are not unfairly restricted by tariff and nontariff barriers?*

**Answer: The Biden-Harris Administration is engaged in a review of the policies in place to respond to China's coercive and unfair trade practices, including with respect to agricultural products. I understand that a comprehensive strategy to confront the China challenge will be formulated based on that review. If confirmed, as part of that comprehensive review, I will assess China's compliance with the Phase One deal to ensure it is living up to its commitments.**

### **Question 3:**

Last year, Senator Stabenow and I led a letter to Secretary Perdue and Ambassador Lighthizer asking them to establish as a core U.S. policy objective in all trade-related or intellectual property discussions the goal of securing concrete market access assurances for specific common food names. More than 60 senators signed onto this bipartisan letter, which should give you a sense of how critical an issue this is for our folks in the meat, cheese, and wine industries.

*If confirmed, would you prioritize common food names in the trade agreements you negotiate?*

**Answer: The United States secured historic protections for common food names in the USMCA. If confirmed, I commit to build on the success of this agreement and prioritize the use of common food names during future trade negotiations.**

Question 4:

Expanding free and fair access for manufacturers and workers to global markets remains pivotal to U.S. competitiveness, wage growth, and economic dynamism. As you know, millions of American manufacturing jobs depend directly on U.S. exports to foreign markets. Those exports depend on reliable access to foreign markets, and in turn U.S. government efforts to eliminate unfair barriers that prevent exports and harm U.S. jobs.

*If confirmed, how would you work to support and expand U.S. exports to foreign markets, and what specific steps will you take to reduce trade barriers in those markets?*

**Answer: If confirmed, I will seek to expand global market opportunities for American manufacturers, service providers, farmers, ranchers, and fishers by working with allies and like-minded trading partners to promote policies that support U.S. exports. As U.S. Trade Representative, I will pursue trade cases against trading partners that discriminate against American businesses or deny our producers market access.**

Question 5:

If confirmed, one of your responsibilities will be overseeing the public interest review process for Section 337 orders issued by the U.S. International Trade Commission. The ability to restrict infringing imports through Section 337 is a cornerstone of U.S. intellectual property rights protection.

*Can you confirm that Section 337 investigations will remain fair and thorough in the Biden Administration and that strong enforcement of intellectual property rights will remain a top priority?*

**Answer: If confirmed, I intend to oversee the review of ITC exclusion and cease-and-desist orders under Section 337 in line with what was envisioned by Congress, as reflected in the legislative history, which includes considerations of the competitive conditions in the U.S. economy.**

Question 6:

Last year, USTR issued its annual Special 301 report on the adequacy and effectiveness of trading partners' protection of intellectual property (IP) rights. USTR identified 33 countries that present the most significant concerns regarding IP rights. Those countries were placed on USTR's Priority Watch List or Watch List.

*If confirmed, how would you lead USTR to follow-up on each of the action plans from last year's Special 301 Report? As USTR undergoes the 2021 Special 301 report process, how would you ensure that identified countries improve their policies to protect intellectual property rights?*

**Answer: The Special 301 process is among the critical tools in USTR's toolbox to monitor and enforce our trading partners' intellectual property practices. If confirmed, I will focus on leveraging Section 301 to promote the interests and address practices that harm American innovators.**

Question 7:

As U.S. Trade Representative, you would have an important role in expanding our export markets for value-added agriculture products such as ethanol and biodiesel.

*As other nations seek to adopt higher blends of biofuels to lower their emissions, including Mexico and the United Kingdom working to increase their use of ethanol up to ten percent ethanol blends, what steps will you take with your trade counterparts to ensure the U.S has access to these markets to support our trading partners to increase biofuel blending?*

**Answer: If confirmed, I will work with USDA and the Department of Energy to seek new markets for ethanol exports and clear barriers that are currently blocking the export of American ethanol.**

Question 8:

Mexico is a critical trading partner for U.S. agriculture, and the USMCA biotech provisions are a major step forward in trade policy, recognizing the need to build in rules and process to enable greater coordination around current and future biotech innovations. COFEPRIS, Mexico's Food and Drug Administration, stopped approval of agricultural biotechnology products in 2018, and in December 2020, Mexico published a decree calling for the phase out of genetically modified corn by 2024 and stated its intent to revoke and abstain from future approval. Given the importance of Mexico as an export market, this will affect our producers' access to new technologies risking critical tools to take on these global challenges.

*If confirmed, would you support USTR collaborating with USDA to address this issue?*

**Answer: If confirmed, I will review Mexico's agricultural obligations under the USMCA and commit to consulting with USDA on this and other agricultural issues. I will not hesitate to use the tools agreed upon in the USMCA to enforce the agreement with respect to agricultural products.**

Question 9:

The recently signed Regional Comprehensive Economic Partnership (RCEP) represents 15 countries and about 30% of global GDP.

*What steps will the Biden administration take to enhance democratic trade leadership in the Indo-Pacific? If confirmed, what steps would you take to expand market access of U.S. agriculture products in the Indo-Pacific? Would you support an effort to negotiate a high-standard digital trade agreement with countries in the region, such as Japan, Singapore, and Australia?*

**The basic formulation of working closely with like-minded countries in the Asia-Pacific with shared strategic and economic interests is a sound one, but much has changed in the world over the past six years since the TPP was signed in 2016. If confirmed, I commit to working closely with like-minded countries in the Asia-Pacific region to deepen our trade relationship in ways that benefit Americans broadly, including our workers, manufacturers, service providers, farmers, ranchers, and innovators.**

## **Senator Burr**

### **Question 1:**

USTR has been negotiating a free trade agreement with the United Kingdom, which is one of America's greatest allies and one of North Carolina's top trading partners. The 2019 trade surplus with the United Kingdom was \$21.9 billion, and a free trade agreement could help further grow American jobs and expand opportunities.

*If confirmed as United States Trade Representative, will you make continuing these negotiations and concluding a trade agreement with the UK a key priority for USTR?*

**Answer: The United Kingdom is an important trading partner and ally of the United States. If confirmed, I plan to carefully review the status of the negotiations with the United Kingdom. In general, and in consultation with Congress, I will craft a trade policy consistent with the Build Back Better agenda that prioritizes the interest of America's workers and supports a strong recovery for our economy.**

### **Question 2:**

USTR leads an all-of-government approach to ensure that our trading partners respect the patents, copyrights, trademarks, trade secrets and other intellectual property rights of American innovators. The Commerce Department is a major partner in this effort, and Governor Raimondo noted in her responses her commitment to "maintaining high standards for protection in any future trade agreements... and defending U.S. intellectual property interests in international forums."

*Can you outline for us key opportunities you see for USTR to promote and protect U.S. intellectual property rights abroad? What tools would you use to promote and preserve robust copyright and IP protection systems, as well as effective enforcement?*

**Answer: Innovation plays a key role in ensuring high-quality jobs and growth for the American economy, and robust protection of intellectual property rights is critical for ensuring our continued economic vitality. If confirmed, I will work to deploy a wide range of tools at USTR's disposal to combat piracy and counterfeiting, both in physical and online markets. In addition, I will work with our allies to take collective action to more effectively address these concerns.**

### **Question 3:**

North Carolina has seen significant growth in the solar industry, with billions of dollars invested in the state. However, because of the Section 201 tariffs on imported solar panels and cells, tens of thousands of workers have been laid off or not hired, and investment has been lost. Furthermore, the October 10, 2020 Presidential Proclamation to Further Facilitate Positive Adjustment to Competition from Imports of Certain Crystalline Silicon Photovoltaic Cells increased tariffs and withdrew the exception for bifacial modules.

*If confirmed, will you commit to rescinding this Presidential Proclamation, and to working to undo harmful policies?*

**Answer: After the U.S. International Trade Commission determined under Section 201 of the Trade Act of 1974 that increased imports of solar cells and modules severely damaged the U.S. domestic industry, the last Administration established a four-year remedy, currently set to expire on February 6, 2022. The Biden Administration has made the increased use of renewable energy, including solar, a core component of its policy to combat climate change. If confirmed, I will examine the safeguard action in light of those goals, the security of our renewable energy supply chain, and the impact on U.S. businesses and jobs.**

Question 4:

USTR has levied tariffs on approximately \$370 billion of U.S. imports from China resulting from the Section 301 investigation. I have heard from numerous constituents who were granted exclusions that expired at the end of 2020.

*If confirmed, will you revisit the exclusion process, and if so, how soon? What actions will you take regarding previously granted exclusions which have expired?*

**Answer: China’s track record of using unfair practices to acquire U.S. technology – to the detriment of U.S. innovators and workers – is well-established. Under the last administration, USTR conducted an investigation into China’s unfair trade practices under Section 301 of the Trade Act of 1974, and it found that China engages in unfair trade act policies and practices related to intellectual property, innovation and technology transfer. The United States imposed tariffs on products from China to address those findings. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China’s practices and consider the impact on U.S. businesses, workers and consumers.**

Question 5:

I have heard from many in my state who have raised issue with Mexico’s upholding its USMCA commitments, in issues ranging from its barriers to agriculture technology to regulatory challenges which advantage PEMEX, Mexico’s state-owned oil company, and more.

*What issues do you see with Mexico upholding its USMCA commitments and what actions will you take to address them?*

**Answer: If confirmed, I will review Mexico’s compliance with its obligations in the USMCA and act to enforce those obligations where necessary. I commit to fully enforcing the USMCA.**

**Senator Portman**

Question 1:

Trade Promotion Authority (TPA) expires in a few months.

*Do you support the renewal of TPA this year?*

**Answer: If confirmed, I will consult closely with Congress on trade negotiations and trade legislation advanced by the Senate Finance Committee. As U.S. Trade Representative, I will work to pursue trade policies that receive bipartisan support in Congress.**

Question 2:

I co-founded and co-chair the UK Trade Caucus. The purpose of the Caucus is to build support in Congress for a trade agreement with the United Kingdom (UK). The UK is similar to the United States in terms of labor and environment protections and they share our desire to work more closely on trade.

*Do you expect to continue the UK trade talks? And do you see path forward on the UK talks, even if the President does not seek a renewal of Trade Promotion Authority (TPA)?*

**Answer: The United Kingdom is an important trading partner and ally of the United States. If confirmed, I plan to carefully review the status of the negotiations with the United Kingdom. In general, and in consultation with Congress, I will craft a trade policy consistent with the Build Back Better agenda that prioritizes the interest of America’s workers and supports a strong recovery for our economy.**

Question 3:

In Choruses from the Rock, T.S. Elliot wrote of creating “a system so perfect that no one will need to be good.” That sentiment might also be applied to the World Trade Organization (WTO), which despite having clear, agreed upon rules has found itself drifting from the obvious meaning of those rules. For systems, or organizations, to be sustainable they need active engagement and not just passive reliance on their underlying institutional architecture. One of the dilemmas facing the WTO reform agenda is the fact that the existing rules are quite clear, and yet the development of new rules may suffer from the same jurisprudential drift as the existing rules have.

*Aside from tacking on a clause that says “and we mean it” to a number of provisions in the WTO agreements, how do you believe new rules should be written to avoid the pitfalls that the United States has seen with respect to Appellate Body activism? And what mechanisms, if any, should be created to ensure that those who interpret such agreements remain faithful to the text of the agreement and neither expand or diminish obligations created by the agreement?*

**Answer: Over the years, the Appellate Body has overstepped its authority and erred in interpreting WTO agreements in a number of cases, to the detriment of the United States and other WTO members. In addition, the Appellate Body has failed to follow existing rules created to ensure that disputes are resolved in a timely manner. Reforms are needed to ensure that the underlying causes of such problems do not resurface and that the Appellate Body does not diminish the rights and obligations of WTO members.**

Question 4:

The previous two administration have, on a bipartisan basis, blocked appointments to the Appellate Body (AB) of the World Trade Organization (WTO) over concerns about AB

activism. Restoring the AB without addressing the underlying issues that sparked U.S. concerns would likely not be a sustainable solution to the problem of AB overreach.

*How do you intend to approach issues related to the stalled AB? Do you believe that resuscitating the AB should come with reforms to guard against future overreach? What might some of those reforms be?*

**Answer: Yes, it is absolutely critical that any solution to the existing impasse be one that seeks to address the underlying problems, including longstanding concerns of overreach and jurisprudential drift. If confirmed, I will seek to work with other countries that share U.S. concerns about WTO dispute settlement to craft reforms to guard against such problems re-emerging in the future.**

Question 5:

Last summer I introduced a bipartisan resolution, which articulated some proposed reforms to the World Trade Organization (WTO). One of those solutions is to pursue more plurilateral agreements without Most Favored Nation (MFN) requirements. This would allow the United States to pursue trade opening opportunities with like-minded nations while preventing those not party to the agreement from benefiting.

*Do you agree about the value of non-MFN plurilaterals? If confirmed, do you intend to explore such arrangements with like-minded countries?*

**Answer: Given the negotiating challenges that the WTO has encountered in recent years, I agree that non-MFN plurilaterals need to be explored as a possible path forward. If confirmed, I commit to exploring the possibility of such arrangements with like-minded countries. Developing countries are hesitant to accept them, however, and getting these arrangements accepted within the WTO will not be easy.**

Question 6:

Monopsony is a market condition where there is a single dominant buyer. In many sectors, China is the largest single purchaser of a particular good. For example, according to the International Trade Administration, China was the top market for semiconductors with 29 percent of the global market in 2015. Such semiconductor consumption is almost entirely import-based; imports constituted 91 percent of China's semiconductor demand, with 56.2 percent of demand coming just from U.S. imports.

*Do you believe that China possesses monopsony power in certain sectors? If so, are you concerned about the impact such monopsony power would have for American exporters? What do you believe should be done to address China's potential monopsony power?*

**Answer: I share your concern that China may possess market power in certain sectors, and I am particularly concerned about those sectors where firms controlled by China's state are the dominant purchasers, including the semiconductor sector. If confirmed, I commit to consult closely with Congress on this important issue.**

Question 7:

The Omnibus Trade and Competitiveness Act of 1988 was a watershed moment for U.S. trade policy. That legislation strengthened trade tools, set a strategic direction for U.S. trade policy, and invested in American workers and industry.

*Do you agree that this is a ripe moment for another trade and competitiveness act? What types of challenges do you believe that such an initiative should confront?*

**Answer: As I stated in my testimony, I agree that we must prioritize U.S. resilience and make the necessary investments in our people and our infrastructure to boost our competitiveness and build a more inclusive prosperity. In addition, we must ensure the rules that guide global commerce reflect our values, and we must enforce those rules vigorously. If confirmed, I commit to working with you and other Members of the Committee to enact legislation and pursue trade policies that enhance U.S. strategic interests and strengthen the competitiveness of American businesses and workers.**

Question 8:

In February 2021, I led a letter to NEC Director Deese about the impacts that the current shortage of semiconductors will have for the domestic auto industry. It is vital that the administration take immediate steps to mitigate the impacts of the shortage, especially on auto manufacturing, and over the long-term consider strategies to produce more semiconductors domestically.

*Will you commit to working with your counterparts at other agencies on these short and long-term goals? Will you commit to working with your counterparts in foreign countries in order to urge the redistribution of some semiconductor production capacity to meet the needs of the domestic auto sector? What role do you believe trade policy can play to increase the production of semiconductors domestically?*

**Answer: I understand that the Biden-Harris Administration shares your concern, and that of Senator Young, about the impact of the current shortage of semiconductors on domestic automobile production and is pursuing all available possibilities to help address the difficulties the domestic auto industry faces. Semiconductors are one of the priority sectors identified in President Biden's Executive Order on America's Supply Chains. If confirmed, I will contribute to the supply chain review and work to effectively strengthen domestic semiconductor production.**

Question 9:

The European Union (EU) and China recently concluded the Comprehensive Agreement on Investment (CAI). This move seems to jeopardize the potential for collaboration with the EU in order to challenge China's non-market techno-nationalism.

*In light of the CAI, what do you believe is possible for US-EU collaboration on China? In what ways, do you believe the United States should collaborate with the EU in this regard? And in what ways do you believe the United States should not (or perhaps cannot) collaborate with the EU?*



**Answer: It is a priority of the Biden-Harris Administration to work with allies to address the many challenges posed by China, including the difficulties created by Chinese non-market techno-nationalism. If confirmed, I will seek to work with the European Union and other allies to find new ways to challenge China's many unfair trade practices.**

Question 10:

In December 2020, I led a letter with Senators Warner, Grassley, and Blumenthal to Ambassador Lighthizer urging the Trump administration to not include Section 230-like liability protection in any trade agreement with the United Kingdom.

*What role do you believe Section 230 plays in U.S. trade policy? Will you commit to refrain from including platform liability language in future trade agreements, especially as Congress actively considers changes to U.S. law in this regard?*

**Answer: There are a wide variety of views on this issue, and I commit to ensuring that stakeholder views, including Congress, are considered on this and other provisions of our trade agreements.**

Question 11:

I have long expressed concerns over the discriminatory nature of other country's digital services taxes. I was pleased to see the previous USTR initiate strong action against these taxes. Unfortunately, even with these actions many countries seem to not have been deterred.

*Will you continue to strongly oppose such taxes, and can you outline what take steps you would take to protect American companies who are disproportionately harmed? As a requirement for any multilateral solution at the OECD on digital taxation, will you insist that existing unilateral digital services taxes be lifted?*

**Answer: The previous Administration started Section 301 investigations against the digital service taxes (DSTs) introduced by a number of countries but then suspended the introduction or implementation of specific remedies to allow time for negotiations. If confirmed, I will work with my colleagues at the Department of the Treasury to address the digital services taxes in the context of the multilateral effort to limit tax competition and address base erosion and profit shifting through the OECD/G20 process.**

Question 12:

Last year, the Court of Justice of the European Union invalidated the EU-U.S. Privacy Shield framework, which American companies have used to ensure compliance with the General Data Protection Regulation (GDPR). This has created uncertainty for the more than 5,000 U.S. companies, which used the Privacy Shield Framework to transfer data across the Atlantic.

*How do you intend to work with other agencies and the European Union to develop a sustainable solution to the problems posed by the invalidation of the Privacy Shield Framework?*

**Answer: If confirmed, I will use the trade tools available to support the Department of Commerce's effort to conclude an Enhanced Privacy Shield Framework that addresses the**

concerns raised by the European Court of Justice and enables the safe transfer of data between the European Union and the United States.

Question 13:

Intellectual property rights and digital issues are an important component of the U.S. trade policy agenda.

*Do you support filling the position of Chief IP Negotiator?*

**Answer: If confirmed, I commit to consult with this Committee and Congress as to what was intended when it created this position, and more broadly, your views on how USTR can best accomplish our shared goals in ensuring that our trade agreements benefit American innovators.**

Question 14:

Artificial Intelligence (AI) has emerged as a technology of great promise and peril. It also requires vast amounts of data. I started the Senate AI Caucus last Congress to bolster the Senate's expertise as it relates to AI.

*What role do you believe AI plays in the United States' trade agenda? What direction do you see agreements going to accommodate potentially transformational AI-based change?*

**Answer: If confirmed, I will consult with Congress and relevant stakeholders to determine how U.S. trade policy should best reflect our priorities on artificial intelligence.**

Question 15:

China has taken a keen interest in the international standards setting process. For example, in 2018, China had 8 of the 39 available leadership positions, the most of any country, at the International Telecommunications Union (ITU) 5G-related bodies. The United States had only a single representative. At the International Standards Organization (ISO), last year China was in third place and the United States was tied for 16<sup>th</sup> place, with Finland, for the most participants.

*Do you agree that China's efforts to "flood the zone" on standards setting reduces American competitiveness and can create future barriers to American exports? Do you believe that the United States government should take a more active role when it comes to U.S. membership on international standards setting bodies? What ways do you believe USTR can be helpful to ensure standards setting bodies are not weaponized by foreign countries seeking to establish new trade barriers?*

**Answer: I agree that standards and standard-setting bodies play an increasingly important role in the technological competition between countries, and that recent actions by China in these international bodies are alarming. I understand that the Biden-Harris Administration is engaging in a comprehensive review of the additional actions needed to tackle the problems posed by the China challenge, including with respect to international standard-setting institutions. If confirmed, I commit to work closely with other agencies, and consult with Congress, on this important issue. I also commit to working with like-**

**minded allies in these institutions to ensure that they are not unfairly utilized by China or others to advantage their technology firms.**

Question 16:

Given the spate of unilateral digital protectionist measures, digital trade issues have emerged as source of concern for U.S. trade policy. Yet, digital trade offers incredible opportunities to move trade openness forward.

*Can you share your vision for digital trade? Do you see the digital trade provisions in the U.S.-Mexico-Canada Agreement as a template for future digital trade negotiations?*

**Answer: I recognize the vital importance of the digital economy and digital trade to the U.S. economy. If confirmed, I commit to work closely with relevant stakeholders and Congress to negotiate digital trade provisions that secure broad support.**

Question 17:

The Global Forum on Steel Excess Capacity is a useful tool to address the global steel glut, but it requires sustained U.S. engagement to be effective at coordinating multilateral responses to China's overproduction.

*Will you commit to maintaining high-level U.S. engagement with the Global Forum?*

**Answer: Overcapacity in the global steel sector has led to global market distortions that have hurt U.S. steel producers and their workers. If confirmed, I will work to address the unfair trade practices that lead to overcapacity, including through high-level engagement with our allies at the Global Forum.**

Question 18:

Last year, the Department of Commerce self-initiated a Section 232 investigation into imports of electrical steel, with a special focus on imports of GOES laminations and cores from Canada and Mexico. This was in response to circumvention of the Section 232 tariffs on electrical steel, which threatens 1,400 jobs at Cleveland-Cliffs' AK Steel facilities in Ohio and Pennsylvania. AK Steel is the last producer of grain oriented electrical steel (GOES) in the United States. Separate from that Section 232 investigation, the U.S. Trade Representative (USTR) worked with Canada and Mexico to address the circumvention but was unable to come to an agreement with Canada and it does not seem likely Mexico will live up to its commitments without further action from the U.S. government.

*What options does USTR have, either through USMCA or other avenues, to address the surge of imports of GOES laminations and cores from Canada and Mexico, in circumvention of the Section 232 tariffs?*

**Answer: Circumvention of trade enforcement measures undermines the effectiveness of the remedy and denies American workers and manufacturers the intended relief. If confirmed, I commit to reviewing the imports of GOES laminations and cores from Canada and Mexico and to consulting closely with Congress and stakeholders.**

Question 19:

As China and many other countries around the world continue to provide subsidies and pursue other trade-distorting policies that fuel global steel overcapacity, it is vital that the United States take steps to avoid another steel crisis. The Section 232 tariffs have been effective at supporting domestic industry amidst global overcapacity.

*Do you believe that the Section 232 tariffs should be continued? What additional steps do you propose to take to support domestic industry and reduce the global steel overcapacity? As part of these additional steps, do you favor strengthening our antidumping and countervailing duty laws?*

**Answer: State-owned enterprises (SOEs) that do not operate based on market principles disadvantage U.S. businesses and their workers and have contributed significantly to global market distortions, notably in the steel industry. If confirmed, I will work with our allies to collectively address market distortions caused by SOEs, subsidies and other unfair trade practices in the steel sector. In addition, I will pursue trade enforcement actions against trading partners that use SOEs and unfair trade practices to disadvantage U.S. businesses and their workers, and I will pursue disciplines in trade agreement negotiations aimed at addressing SOEs and such unfair practices.**

Question 20:

The Department of Commerce (DOC) is currently conducting an investigation in the national security threat posed by imported vanadium. I understand they will make their recommendations to the White House imminently.

*Do you expect to be involved in conversations about the case, and do you believe any unclassified parts of the report should be made publicly available?*

**Answer: If confirmed, I will work with the Department of Commerce to take the necessary steps to address unfair trade practices that are undermining U.S. industries, particularly industries deemed critical to national security. However, as a nominee, I am not in a position to express a view on whether this work product should be made publicly available.**

Question 21:

For roughly the past two and a half years, the European Union (EU) and the United Kingdom (UK) have levied a 25 percent tariff on American whiskey imports in response to the United States' Section 232 tariffs. These tariffs are set to double to 50 percent in June 2021. At the same time, the United States has imposed a 25 percent tariff on certain wine and spirit imports from the EU and UK in connection to the Boeing-Airbus dispute.

*How do you propose to solve the Boeing-Airbus dispute in order to ensure WTO compliance by the EU, while prioritizing the removal of tariffs on products such as American whiskey subject to 232 retaliation?*

**Answer: The purpose of WTO dispute resolution process is to ensure that other countries play by the rules so that our businesses, workers, farmers and ranchers can compete on a level playing field. Tariffs may be a tool to achieve these ends, but they are not the goal. The focus must be on the resolution of the issue that has been found to impact our industry and workers. If confirmed, I will make it a priority to review the status of this long-term dispute and seek a resolution that finally addresses the unfair practices found through the WTO process that disadvantage U.S. industry and workers.**

Question 22:

The United Kingdom (UK) is no longer a member of the European Union. Yet, the UK continues to face Airbus-related tariffs. Since the UK cannot advocate for policy change in Brussels on this issue, and as a gesture of goodwill in the interest of bringing our countries closer together, these tariffs on the UK should be removed.

*Do you believe that these tariffs should be removed from the UK?*

**Answer: The Boeing/Airbus WTO litigation has been ongoing for more than 15 years. If confirmed, I will make it a priority to resolve this long-running dispute in a way that ensures Boeing and its workers can compete on a level playing field.**

Question 23:

Wheels of Jarlsberg cheese are produced in Ireland by a Norwegian company. These wheels are subject to a 25 percent tariff as a result of the Boeing-Airbus dispute. The same company makes loaves of Jarlsberg cheese in Ohio. The tariff on the wheels threatens the entire company and therefore the U.S. production of loaves. The last six-month statutory review of these tariffs did not benefit from public input, therefore did not account for the impacts on Jarlsberg cheese.

*When do you plan to review the items that are subject to Boeing-Airbus tariffs, and will you seek public input? How will you decide what stays on the tariff list and what is removed?*

**Answer: If confirmed, I will work to make sure our trade enforcement actions consider the impact of tariffs on U.S. businesses and workers. When action taken under the Section 301 process leads to the imposition of tariffs on certain imports, USTR requests public input through a notice and comment period. This statutorily required practice will continue if I am confirmed as U.S. Trade Representative.**

Question 24:

The U.S.-China Phase One Agreement requires China to strengthen a number of regulations related to the protection of intellectual property rights. While this is a good step forward, China also degrades intellectual property protection through informal coercion.

*How will you ensure that China complies with the intellectual property requirements in the U.S.-China Phase One Agreement?*

**Answer: The Phase One Agreement provides for regular meetings between officials designated by both sides, including a regular working group on intellectual property**

**issues. Where obligations go unmet, there is a mechanism for consultations and redress. If confirmed, I will closely monitor China’s compliance with the intellectual property obligations in the agreement. I will not hesitate to make use of the agreement’s mechanisms when China falls short of its commitments.**

Question 25:

Many businesses who received exclusions to the Section 301 tariffs on imports from China expressed concern when their exclusions lapsed at the end of 2020.

*Do you intend to renew any of these expired exclusions?*

**Answer: If confirmed, I will work with Congress to ensure the Section 301 tariffs on imports from China are appropriately responsive to China’s unfair trade practices and consider the impact on U.S. businesses, workers and consumers.**

Question 26:

I understand you intend to review the Section 301 tariffs on China.

*When considering the purpose and effectiveness of the Section 301 tariffs, do you draw a distinction between List 1 and 2 for their general focus on imports related to the Made in China 2025 plan, and List 3, which does not have the same focus? Or is there no distinction between the different rounds of tariffs as it relates to the broader approach to challenging China’s acts, policies, and practices that degrade intellectual property rights? Do you intend to keep tariffs on goods if the underlying feedstock for the good can only be produced in China? Do you intend to draw a distinction between imports used to manufacture products in the United States and finished goods manufactured in China when it comes to assessing the potential for tariff relief?*

**Answer: China’s track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. Under the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China’s practices and evaluate the impact on U.S. businesses, workers and consumers.**

Question 27:

Trade enforcement is absolutely vital to ensure a level playing field for American companies and workers. This includes the speedy and faithful implementation of commitments in new agreements, like the U.S.-Mexico-Canada Agreement (USMCA).

*In addition to enforcement of labor and environmental commitments in our trade agreements, how do you propose to enforce commitments related to market access, transparency, and innovation?*

**Answer: If confirmed, I commit to using all enforcement tools under the USMCA to enforce the agreement's commitments. When Mexico or Canada is in violation of the agreement, I will use all available tools to obtain a prompt resolution, including seeking consultations with our trading partners and taking enforcement action when necessary.**

Question 28:

Mexico's government has recently claimed that Mexico's hydrocarbon resources are not covered under the U.S.-Mexico-Canada Agreement (USMCA).

*Do you believe that hydrocarbons are covered by the agreement?*

**Answer: If confirmed, I will review the USMCA and Mexico's energy policies, and I will consult with stakeholders and Congress on these issues. I commit to quickly engaging the Mexican government if it violates USMCA and to using all dispute settlement tools to fully enforce the USMCA when necessary.**

Question 29:

Recently, Mexico decreed a ban on glyphosate and genetically modified corn by 2024.

*Do you believe this ban violates Mexico's commitments under USMCA, and will you commit to including this issue among your USMCA enforcement priorities?*

**Answer: Mexico is a critical export market for American agriculture, with nearly \$20 billion of U.S. agricultural products exported there each year. If confirmed, I will work to make sure these products continue to be exported to Mexico and use the tools agreed upon in the USMCA to do so.**

Question 30:

The United States and Canada continue to have outstanding issues related to trade in softwood lumber. While Canadian subsidization has frequently been addressed by negotiated agreement, recently Canada has not appeared interested in negotiating a new softwood lumber agreement.

*Do you believe that the United States should hold Canada accountable for unfair trade practices in softwood lumber to the extent permitted by U.S. law? Do you believe that such accountability requires a new softwood lumber agreement?*

**Answer: The Department of Commerce and the U.S. International Trade Commission have repeatedly found that the U.S. lumber industry is harmed by Canadian subsidies and unfair trade practices. If confirmed, I commit to working with other agencies to ensure that U.S. trade laws and remedies counter unfair trade practices and to pursue agreements in the interest of the United States.**

Question 31:

The World Trade Organization's Government Procurement Agreement (GPA) opens up parts of the U.S. procurement market to other countries. Yet, the GPA is also a uniquely helpful model

for bringing like-minded allies together on a plurilateral basis. In this way, the GPA can be both a limiting and empowering factor when it comes to restoring the resiliency of our supply chains.

*To what extent do you intend to pursue changes to U.S. GPA commitments as part of the administration's broader Buy American agenda?*

**Answer: It is the policy of the Biden-Harris Administration that the United States should seek to maximize the use of goods made in the United States for federal procurement and financial assistance awards, consistent with applicable law. As a part of its review of the implementation and efficacy of laws, regulations, and policies related to federal procurement, the United States should also examine procurements made under our trade agreement obligations to ensure that they serve the interests of the United States, its businesses and workers. If confirmed, I commit to undertaking this review.**

Question 32:

In May 2020, President Trump signed an Executive Order directing the Food and Drug Administration (FDA) to identify essential medical countermeasures and require the U.S. Trade Representative (USTR) to withdraw coverage under U.S. trade agreements for these products. USTR has since notified the Government Procurement Agreement (GPA) Committee and our trade agreement partners of the intent to withdraw coverage for these medical countermeasures. This drew objections from some of our trading partners.

*Do you intend to pursue this withdrawal of coverage?*

**Answer: As part of a review of whether our trade agreement obligations serve the interests of the United States, if confirmed, I will review the action taken to withdraw coverage of certain essential medical countermeasures from the Government Procurement Agreement and our trade agreements.**

Question 33:

One way to reduce our dependence on China is to expand opportunities with other countries in the region. I continue to have concerns about the Trans Pacific Partnership (TPP) as the solution to that desired trade expansion.

*Will you commit to opposing efforts to rejoin TPP? As an alternative, will you commit to pursuing a Phase Two Agreement with Japan?*

**Answer: If confirmed, I will engage trading partners in the Asia-Pacific region that share our strategic and economic interests to counter the unfair trade practices that distort trade and harm workers. If confirmed, I will review the CPTPP to evaluate its consistency with the Build Back Better agenda and whether it would advance the interests of all American workers. I commit to consulting closely with Congress on any trade agreement negotiations.**

Question 34:

In March 2020, the USTR notified Congress of intent to negotiate a trade agreement with Kenya.



*Do you intend to continue to pursue these negotiations with Kenya?*

**Answer: Since announcing the negotiations, the United States completed two rounds of negotiations with Kenya. If confirmed, I plan to review the state of the negotiations with and Kenya, and, in consultation with the Congress, chart a path forward that reflects the Biden-Harris Administration’s commitment to a trade policy that prioritizes the interest of America’s working families. If confirmed, I will also study the progress of the African Continental Free Trade Area (AfCFTA) to determine-how the United States may support African integration efforts.**

Question 35:

As chair of the Senate Swiss Caucus, I believe a U.S.-Switzerland trade agreement would open up new agricultural markets and help “test drive” what a broader agreement with the European Union (EU) might look like.

*Do you agree that a U.S.-Switzerland trade agreement should be a priority? What steps will you take to strengthen the U.S.-Switzerland trade relationship?*

**Answer: The Biden-Harris Administration’s current priority is securing the investments in the United States needed to support a strong recovery. Such investments would strengthen the United States’ hand in all future trade negotiations. If confirmed, I will evaluate potential trade agreements on their ability to advance the interests of all American workers.**

Question 36:

While many companies have been squeezed as a result the pandemic-related economic downturn, the year ended without renewal of the Miscellaneous Tariff Bill (MTB).

*What role do you believe tariff relief plays in the economic recovery? Do you support renewing the MTB?*

**Answer: If confirmed, I commit to working closely with Congress to renew the Miscellaneous Tariff Bill.**

Question 37:

In 2018, China began to indulge protectionist impulses with respect to imports of certain waste and scrap paper. Just the other month, China banned imports of recovered paper. As you know, the United States has raised with China the inconsistency of China’s import restrictions on recyclable materials with World Trade Organization (WTO) rules. These new restrictions seem to likely to further constitute a violation of those rules.

*Will you commit to looking into these new import restrictions on recycled paper, and work with domestic industry who has been affected by these restrictions? Do you see an opportunity to include these import restrictions on paper within the scope of any future negotiations with China?*

**Answer: If confirmed, I commit to engaging in a review of how trade policy can advance the development of the circular economy. As part of that process, I will engage in close consultations with domestic industry and Congress. Given the importance of China to these discussions at the global level, I would hope that China would be interested in active discussions with the U.S. on this matter.**

Question 38:

Ohio is home to the largest domestic manufacturer of solar panels and washing machines. The Section 201 safeguards on these products have helped level the playing field for domestic manufacturing.

*Do you agree with those who have called for rolling back these tariffs? Will you commit to taking steps to support these domestic industries against unfair foreign competition?*

**Answer: The U.S. International Trade Commission determined that the U.S. domestic industry was seriously injured by increased imports of large residential washing machines. As a result, under Section 201 of the Trade Act of 1974, the last Administration put a remedy in place to counter those imports and the impact on domestic industry. If confirmed, I will ensure that U.S. trade laws are employed to ensure that American industries and jobs are protected from unfair trade practices and resulting market distortions.**

Question 39:

Strong intellectual property requires are vital for the success of Made in America manufacturing. For example, in Lordstown, Ohio, General Motors and LG Energy Solutions (LGES) have a joint venture to produce batteries for electric vehicles. Recently, the International Trade Commission (ITC) found that intellectual property violations had occurred with respect to LG's battery technology. As U.S. Trade Representative (USTR), you will be tasked with overseeing the public interest review of Section 337 orders.

*Can you describe how you intend to protect U.S. intellectual property in ways that maximize the ability of companies to manufacture in the United States?*

**Answer: If confirmed, I intend to oversee the review of ITC exclusion and cease-and-desist orders under Section 337 in line with what was envisioned by Congress, as reflected in the legislative history, which includes considerations of the competitive conditions in the U.S. economy.**

Question 40:

The International Trade Commission (ITC) currently has a Republican vacancy. A full ITC is vital to the effective enforcement of our trade remedy laws.

*Will you be supportive of efforts to quickly fill that seat?*

**Answer: The U.S. International Trade Commission (ITC) plays a key role in implementing U.S. trade laws, including proceedings concerning imports claimed to injure domestic**

**industry and investigations under Section 201 of the Trade Act of 1974 and Section 337 of the Trade Act of 1930. It also provides high-quality non-partisan analysis of trade issues to Congress and the Executive Branch. I support a fully functioning ITC.**

Question 41:

Invacare is an Ohio company that manufactures medical equipment for patients needing oxygen. Invacare is one of the many companies who have been impacted by the strain that COVID-19 has put on supply chains. Specifically, there are tremendous delays at major U.S. ports to offload shipping containers, which are filled with needed medical supplies and materials.

*Do you believe that the government should consider prioritizing the unloading and processing of shipping containers containing supplies used to manufacture U.S. medical equipment? If confirmed, will you work with other agencies and foreign counterparts to address the shipping container backlog, especially as it relates to medical supplies?*

**Answer: The unloading and processing of shipping containers is primarily the responsibility of Customs and Border Protection (CBP). The response to the COVID-19 pandemic and the disruptions it has created in the U.S. supply chain of critical supplies requires a whole-of-government response. If confirmed, I commit to working with other agencies to address all aspects of the challenges we face to getting medical supplies where they are needed.**

**Senator Brown**

Question 1 - Taking Action:

As you know, Ohio is home to state-of-the-art manufacturing and produces of a wide range of products, from electrical steel to mattress components to textiles. Thousands of hardworking Ohioans rely on the federal government to stand up for them and fight back against unfair trade practices that disadvantage Ohio workers and the communities they live in.

*As the Department of Commerce conducts investigations into unfair trade practices and makes recommendations to the President regarding remedies to defend domestic industries or address potential threats to national security, will you commit to fully reviewing Commerce's recommendations, and – where appropriate – supporting transparency on these reports and acting on Commerce's recommendations?*

**Answer: If confirmed, I commit to working closely with the Department of Commerce to combat unfair trade practices and enforce U.S. trade agreements and laws.**

Question 2 - Semiconductor Shortage:

There was a lot of discussion during the hearing on the ongoing semiconductor shortage and the urgent need to respond. Semiconductors are an essential component in the auto supply chain; they also play a critical role in other industries. For example, Whirlpool in Ohio uses semiconductors to build their washers, dryers, and dishwashers.

Director Deese has already committed to working with Congress to strengthen the semiconductor manufacturing supply chain and institutionalize a supply chain review.

*If confirmed, how will you work as USTR to help in this response and engage our international partners to encourage proactive steps to address the ongoing shortage?*

**Answer: If confirmed, I will pursue a trade policy that supports domestic manufacturing, and I will work closely with other federal agencies to invest in critical supply chains, including semiconductor manufacturing. In addition, I will leverage trusted trade relationships to achieve supply chain resilience with our allies when appropriate.**

Question 3 - Global Access to Medicines:

In the same way that so many of our past trade deals have prioritized multinational corporations over American workers, these deals have also prioritized big pharma over patients. The COVID-19 pandemic has magnified the importance of global access to medicines. Diseases do not recognize borders – the health of Americans is intrinsically tied to the health of those around the world, and our trade policy must reflect this reality.

*If confirmed, will you commit to engaging with stakeholders to prioritize public health and global access to medicines in U.S. trade policy?*

**Answer: As reflected by the President’s recent pledge to COVAX, the Biden-Harris Administration is committed to working with international partners to end the devastating public health and economic effects of this pandemic. The United States is working with partners to identify practical ways to catalyze the needed capacity to end this pandemic and respond to the next one. If confirmed, I will consult with stakeholders, including those that prioritize public health and global access to medicines, to advance the goal of collectively increasing access to and facilitating equitable distribution of COVID-19 vaccines.**

Question 4 - World Trade Organization:

As was discussed during Thursday’s hearing, many agree that it is past time for World Trade Organization (WTO) reform to ensure that both dispute settlement panels and the Appellate Body are not used as a venue for foreign governments and competitors to subvert the will of Congress and perpetuate unfair trade practices.

*If confirmed, how will you approach WTO reform and how will you ensure that U.S. trade laws remain effective and are not weakened as a result of WTO dispute settlement proceedings?*

**Answer: If confirmed, I will work to re-engage with like-minded partners who similarly recognize the importance and necessity of reform of the WTO. Since the founding of the General Agreement on Tariffs and Trade (GATT) in 1947, U.S. leadership has been critical at every juncture when the global trade system has required a major updating. This will be difficult work that may take some time, but I remain hopeful that with proper U.S. leadership, we can achieve the necessary reforms. This includes reforming WTO dispute**

**settlement to prevent diminishing the rights and obligations of countries to use their trade remedy laws to counteract unfair trade practices.**

Question 5 - Buy America:

I have worked for years to support federal investment in and procurement of domestically manufactured goods and services. I was pleased to see President Biden's Executive Order on Made in America, and I support the Administration's work to increase government procurement of domestically manufactured goods and services.

*If confirmed, will you commit to supporting President Biden's Buy America objectives and, in your role as USTR, work to eliminate barriers to the federal government's ability to apply robust Buy America requirements across government procurement?*

**Answer: President Biden's Executive Order on Made in America is intended to ensure that when the federal government spends taxpayer dollars it is on goods made by American workers and with American-made components. President Biden has committed to make Buy American requirements real and close loopholes that allow companies to offshore production and jobs while still qualifying for domestic preferences. If confirmed, I will work closely with the President and other federal agencies to ensure our trade policies support the objectives of this Executive Order.**

Senator Toomey

Question 1:

In your hearing, I asked whether you agreed that, from a legal perspective, the President cannot unilaterally withdraw from a Congressionally-passed trade deal without the consent of Congress. During your time as Chief Trade Counsel at the House Ways & Means Committee, President Trump frequently threatened to withdraw from Congressionally-passed trade deals, and Chairman Neal in 2017 stated that if the President "even suggests that the United States should leave NAFTA, to undo that relationship, you would have to go back to Congress."

Free trade agreements are "congressional-executive agreements", which are different from treaties in that they are statutory. Both entering and withdrawing from trade agreements requires changes to statute, and only Congress is vested with legislative powers.

*Do you believe that a President can unilaterally withdraw from a Congressionally-passed trade deal without the consent of Congress?*

**Answer: If confirmed, I will consult closely with the Senate Finance Committee and Congress on trade negotiations and agreements.**

Question 2:

Trade Promotion Authority (TPA) is authorized through July 1, 2021. TPA provides the guidelines through which the Executive Branch and Congress can work together to negotiate new trade agreements, and includes important transparency and oversight commitments.

*As USTR, will you support the renewal of TPA in 2021?*

*Does the Administration plan to continue negotiating comprehensive FTAs with the UK and Kenya? What timeline can we expect for these negotiations?*

**Answer: If confirmed, I will consult closely with Congress on any trade legislation advanced by the Senate Finance Committee. As U.S. Trade Representative, I will work to pursue trade policies that receive bipartisan support in Congress.**

**In 2020, the United States officially launched negotiations to establish free trade agreements with Kenya and the United Kingdom. Since announcing the negotiations, the United States completed two rounds of negotiations with Kenya and four rounds of negotiations with the United Kingdom. If confirmed, I plan to review the state of the negotiations with the United Kingdom and Kenya, and, in consultation with the Congress, chart a path forward that reflects the Biden-Harris Administration's commitment to a trade policy that prioritizes the interest of America's working families.**

Question 3:

The Trump Administration declined to renew the exclusion process for Section 301 tariffs, further hurting American businesses and consumers in the midst of a pandemic. Supply chains take years to establish, and many businesses are unable to quickly shift production to other countries or facilities without compromising their procurement process or product quality.

*If confirmed as USTR, can you commit to renewing the Section 301 exclusion process, or at minimum temporarily extending the exclusions until the Administration makes a decision on how to best address China's unfair trade practices?*

*The product exclusion process lacked consistency and placed significant burdens on those wishing to apply for exclusions. What data or measures will USTR use to determine when to approve or disapprove an exclusion request?*

*What steps will you take to ensure that the exclusion process is transparent?*

*How would you factor in disruptions to supply chains when granting exclusions to tariffs?*

**Answer: China's track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. Under the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices and assess the impact on U.S. businesses, workers and consumers. Further, I will ensure that any tariff exclusion process is transparent, fair and objective.**

Question 4:

The previous Administration did temporarily extend the Section 301 exclusions on COVID-related medical products. However, this short-term extension is slated to expire at the end of March. I introduced legislation last Congress to extend tariff-free treatment on these products through 2022, in order to make sure that Americans have access to the supplies they need to fight COVID.

*As USTR, will you extend Section 301 exclusions on medical supplies needed for the COVID-19 response until the end of the pandemic?*

*Will you consider granting exclusions for medical supplies that are COVID-related but never received an exclusion?*

**Answer: The United States imposed tariffs on products from China as a result of an investigation conducted under Section 301 of the Trade Act of 1974 that found China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. If confirmed, I will review the existing exclusions with respect to COVID-19 related medical products to ensure that the application of the 301 tariffs supports the U.S. response to the pandemic.**

Question 5:

I have introduced a Resolution in the Senate expressing the sense of the Senate that the United States should begin negotiations to enter into a comprehensive trade agreement with Taiwan. I believe that this is a clear opportunity for a mutually-beneficial agreement, and would both expand US access to foreign markets and strengthen our position in the Indo-pacific region. *If the United States wants to encourage a free and open Indo-Pacific and counter Chinese influence in the region, do you agree that accomplishing that task will include working with like-minded countries in the region, like Taiwan, to liberalize trade?*

*Would you support beginning negotiations on a trade agreement with Taiwan?*

*Would you support the US joining a TPP-style multilateral agreement to further strengthen our position in the region?*

**Answer: Taiwan is an important democratic partner of the United States, and we have had a Trade and Investment Framework Agreement dating back to 1994. Much has changed in the world since the original TPP was signed in 2016. If confirmed, I will review the CPTPP to evaluate its consistency with the Build Back Better agenda. I commit to consulting closely with Congress on trade agreement negotiations.**

Question 6:

Investor State Dispute Settlements or ISDS, is an integral part of many of our trade agreements. USMCA severely restricted the scope of the Investor-State Dispute Settlement System with Mexico, a move I criticized as against US interests.

*As USTR, can you commit to prioritizing the enforcement of ISDS under USMCA?*

*Do you support the inclusion of strong ISDS provisions in forthcoming FTA's that the US may pursue?*

*Do you believe that ISDS provisions encourage offshoring?*

**Answer: President Biden has stated that he does not believe corporations should get special tribunals in trade agreements that are not available to other organizations and that he opposes the ability of private corporations to attack labor, health, and environmental policies through the investor-state dispute settlement system. If confirmed, I will pursue a trade agenda consistent with the Biden-Harris Administration's Build Back Better agenda.**

Question 7:

USMCA contains an unprecedented provision that would cause the agreement to automatically expire, or "sunset", after 16 years, unless all party countries agree to affirmatively "opt-in" every 6 years. I have significant concerns about this provision, in particular its tendency to create uncertainty and diminish investment.

*Do you believe that our future trade agreements should automatically expire?*

**Answer: If confirmed, I will work to advance trade policies that address the climate crisis, bolster sustainable renewable energy supply chains, end unfair trade practices, discourage regulatory arbitrage, and foster innovation and creativity. In addition, I am committed to ensuring these trade policies are crafted to accommodate future changes in the economy and to prevent the obligations from becoming outdated or obsolete.**

Question 8:

USMCA, at the last minute, also removed provisions designed to secure strong intellectual property protections for U.S. companies.

*Do you support the inclusion of IP protection for biologics in upcoming trade agreements?*

*More broadly, how do you plan to support US-based IP-intensive industries through trade policy and ensure they are treated fairly by our trading partners?*

**Answer: Innovators play a critical role in America's economy, including by ensuring that the U.S. maintains its leading edge in technology and producing high-quality jobs for workers. USTR supports American innovators in overseas markets through its Special 301 review, bilateral engagements with trading partners, and its efforts in various multilateral institutions, including the WTO. I am aware that there are a variety of views on whether protection for biologics should be included. If confirmed, I commit to engaging with stakeholders and Members of Congress on this issue.**

Question 9:

USTR is not the agency responsible for conducting Section 232 investigations or writing up the investigation report. However, USTR is still frequently involved in the decision on whether to impose tariffs, based on the findings of the 232 investigation report. The previous Administration



failed to release several of their 232 investigation reports, despite being statutorily-mandated to do so. The previous Administration additionally took a very broad interpretation of the term “national security” in the 232 statute, interpreting this guidance to explicitly include goods “beyond those necessary to satisfy national defense requirements” in its scope.

*As USTR, can you commit to in your advisory capacity encouraging the President to release these overdue 232 reports?*

*Do you believe that the Executive Branch should be obligated to release its Congressionally-mandated 232 report prior to the imposition of tariffs?*

*As the President Biden’s top trade advisor, would you recommend that he adopt an expansive definition of “national security” under Section 232, or do you feel that Section 232 investigations should be limited to investigating goods with clear applications in military equipment, energy resources, and/or critical infrastructure?*

*Do you think foreign automobiles are a threat to national security?*

*Do you think carbon emissions are a threat to national security?*

**Answer: If confirmed, I commit to working closely with the Department of Commerce on combatting unfair trade practices and enforcing U.S. trade agreements and laws and ensuring that our trade laws and policies are employed to support the Build Back Better agenda and creating and retaining good high-paying jobs in the United States.**

Question 10:

Many of my constituents have been directly impacted by the previous Administration’s Section 232 tariffs on steel and aluminum. These policies have added complexity and greatly increased costs for American importers, and this approach must be carefully examined to determine the downstream economic costs.

*Will you as USTR recommend to President Biden that the United States remove our current Section 232 tariffs on steel and aluminum?*

*In your hearing, when asked about Section 232 steel tariffs, you noted the issues of Chinese overcapacity in the steel industry. However, there are other remedies – safeguards, anti-dumping, and countervailing duties –that are designed to address problems of dumping and overcapacity. Why are national security tariffs needed?*

**Answer: State-owned enterprises (SOEs) that do not operate based on market principles, subsidies, and other unfair trade practices have contributed significantly to global market distortions, notably in the steel and aluminum industries. If confirmed, I will work with our allies to collectively address market distortions caused by SOEs, subsidies, and other unfair trade practices in the steel and aluminum sectors. In addition, I will pursue trade enforcement actions against trading partners that use SOEs and other practices to**

**disadvantage U.S. businesses and their workers, and I will pursue disciplines in trade agreement negotiations aimed at addressing SOEs and such unfair practices.**

Question 11:

President Trump's trade war with China has now extended several years, yet China has still taken few steps to reform their unfair trade practices. Instead, these tariffs have primarily had the effect of causing retaliatory tariffs against U.S. exporters, including many of Pennsylvania's manufacturers and agriculture industries. While it is important to ensure that our trading partners live up to their international trade commitments, I am concerned about the use of tariffs as a primary remedy.

*President Biden has previously discussed the need to carefully evaluate the economic impact caused by the tariffs. Do you believe that tariffs are the best mechanism to address the issues of forced technology transfer and intellectual property theft?*

*Will you recommend the elimination of any of the punitive Section 301 tariffs that harm American businesses and families, and encourage the pursuit of an alternative, effective, strategy?*

**Answer: China's track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. Under the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices and assess the impact on U.S. businesses, workers and consumers. Further, I will ensure that any tariff exclusion process is transparent, fair and objective.**

**Senator Bennet**

Question 1:

Food and agricultural exporters in my state are facing significant challenges exporting their products from western ports because of container availability, excessive charges, and general shipping and transit delays.

*Will you work with others in the Administration to address these current problems and ensure producers are able to reliably export their products without excessive charges or delays?*

**Answer: If confirmed, I will consult closely with Congress and will work with other federal agencies to address food and agricultural transportation issues.**

Question 2:

The trade war with China created immense uncertainty throughout Colorado's economy. Not only were the tariffs devastating, but the process through which the Trump Administration

conducted the trade war exacerbated the unknown and made it hard for Colorado constituents to make important business decisions.

*If the USTR decides to seek future tariff actions, how will you conduct the tariff exclusion process with more transparency and clarity?*

*Will you work with Congress on the tariff exclusion process and provide updates that we can share with our constituents?*

*Will you consider temporarily extending all previously approved exclusions?*

*You and Secretary Yellen have indicated the tariffs will undergo a review process. What is the timeline for this review process?*

**Answer: China's track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. Under the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices and assess the impact on U.S. businesses, workers and consumers. Further, I will ensure that any tariff exclusion process is transparent, fair and objective.**

Question 3:

As you know, in 2018, the Trump Administration placed tariffs on imported solar cells and modules for four years under Section 201 authorities. A last minute executive order in 2020 further disrupted our country's vibrant solar industry. We need to expand our country's clean energy supply chain, but there are far better tools that don't come at the expense of climate progress or domestic jobs.

*Given the Biden Administration's emphasis on climate change, how will you approach the solar tariffs and ensure our trade policy supports renewable energy investment.*

**Answer: After the U.S. International Trade Commission determined under Section 201 of the Trade Act of 1974 that increased imports of solar cells and modules severely damaged the U.S. domestic industry, the last Administration established a four-year remedy, currently set to expire on February 6, 2022. The Biden Administration has made the increased use of renewable energy, including solar, a core component of its policy to combat climate change. If confirmed, I will examine the safeguard action in light of those goals, the security of our renewable energy supply chain, and the impact on U.S. businesses and jobs.**

Question 4:

Section 230 of the Communications Decency Act has provided the largest tech companies broad immunity for the content on their platforms and made it harder to hold them accountable. Until we implement much-needed reforms, Section 230 as written is not a model we should export.

*Do you agree that the United States should not seek to export provisions similar to Section 230, as written today, in international trade agreements?*

**Answer: I know that there are a wide variety of views on this issue, and I commit to ensuring that stakeholders, including Congress, are considered on this and other provisions of our trade agreements.**

Question 5:

As you know, the Trade Promote Authority (TPA) allows the US to pursue new trade agreements in a timely manner, helping our agriculture exporters compete internationally.

*Will you commit to working with Congress to pass new TPA legislation in a timely manner?*

**Answer: If confirmed, I will consult closely with Congress on trade negotiations and trade legislation advanced by the Senate Finance Committee. I will work to pursue trade policies that receive bipartisan support in Congress.**

Question 6:

Non-tariff trade barriers, such as common food names, can create uneven playing fields and make it harder for producers to reliably compete.

*What steps will you take to address non-tariff barriers and ensure producers have fair access to markets?*

**Answer: U.S. farmers and ranchers deserve fair access to the global agricultural marketplace. If confirmed, I commit to aggressively fighting against unfair and discriminatory non-tariff barriers our farmers and ranchers face.**

*In negotiating trade agreements, how will you consider common food name use and other non-tariff trade barriers?*

**Answer: If confirmed, I commit to prioritizing the use of common food names during future trade negotiations and seeking to remove other non-tariff barriers that are inconsistent with advancing U.S. agricultural interests.**

Question 7:

Since 1996, Mexico has limited US fresh potato imports to 26 kilometers from the US-Mexico border. This week, the Mexican Supreme Court was supposed to release a final ruling on the trade restriction, but that decision was delayed.

*Will you work with me to ensure Colorado potato growers have fair access to the entire Mexico market?*

**Answer: I appreciate the long-standing difficulties that U.S. fresh potato growers in Colorado have faced in gaining full access to the Mexican market. If confirmed, I look forward to working to solve unfair trade practices that harm our producers.**

Question 8:

The Airbus/Boeing dispute tariffs are significantly affecting the Colorado small businesses. Restaurants in particular, which are already struggling due to the pandemic, are facing substantial costs on European food, wine, and spirits.

*If nominated, what will be your first steps regarding the EU Airbus/Boeing dispute?*

**Answer: If confirmed, I will make it a priority to review the status of these long-term disputes and seek a resolution that finally addresses the unfair practices found through the WTO process that disadvantage U.S. industry and workers.**

*Will you work with a wide range of interests to understand the tariffs' impacts on their industries, including restaurants?*

**Answer: The purpose of the dispute resolution process is to ensure that other countries play by the rules so that our businesses, workers, farmers and ranchers can compete on a level playing field. Tariffs may be a tool to achieve these ends, but they are not the goal. The focus must be on the resolution of the issue that has been found to impact our industry and workers. If confirmed, I will ensure that our trade enforcement actions consider the impact of tariffs on U.S. businesses and workers.**

**Senator Cassidy**

Question 1 - Duty Drawback:

Duty drawback allows for the refund of Customs duties, federal taxes, and fees paid on imported goods that are used as inputs in the production of manufactured products that are later exported, or where the imported good is substituted for the same or a similar good manufactured in the U.S. that is later exported. The drawback program allows U.S. manufacturers and exporters to reduce the cost of inputs, and thus reduce manufacturing costs to remain competitive in pricing their exported goods. In today's environment, duty drawback continues to level the playing field for U.S. producers who export to compete in the global market. Congress expanded drawback in 2016 with the passage of the Trade Facilitation and Enforcement Act (TFTEA) by expanding substitution drawback for all U.S. manufacturers to 8-digit Harmonized Tariff Schedule numbers.

*If you are confirmed as U.S. Trade Representative, what policies will you and USTR put in place for the drawback program, and do you support the reforms made under TFTEA?*

**Answer: Customs and Border Protection (CBP) is responsible for the implementation and administration of the duty drawback rules and regulations, including the amendments enacted in the Trade Facilitation and Enforcement Act of 2015. If confirmed, I will work with the Department of Homeland Security, CBP and other federal agencies to ensure that the Biden-Harris Administration's trade policies support the Build Back Better agenda and the recovery of the U.S. economy.**

*Will you work to ensure that USTR continues to work to include full duty drawback rights in free trade agreements?*

**Answer: If confirmed, I will work with Congress and relevant stakeholders to ensure our trade agreements include provisions that support the economic investments we make to recover from the COVID-19 pandemic and retain and create high-wage, secure jobs in the United States.**

Question 2 - Chart Industries and Section 232 Tariffs:

Our tariff and trade policy has inconsistencies that must be fixed so that our domestic manufacturers and workers are not harmed. The system is broken when the Commerce Department grants a U.S. manufacturer an exclusion from the application of Section 232 tariffs on raw materials because they are not available in the U.S., but then allows U.S. producers to include the same raw materials in the scope of antidumping order.

For example, Chart Industries, Inc., a U.S. headquartered company, has manufacturing and distribution operations in Louisiana, Wisconsin and Texas. Chart employs several hundred U.S. workers while supporting U.S. fin stock aluminum producers in Pennsylvania, among many other vendors and suppliers in the U.S. transportation and packaging industries. Chart is the sole domestic manufacturer of brazed aluminum heat exchangers (BHAX) for processing liquefied natural gas (LNG). Because the clad sheet used by Chart is not made in the U.S., Commerce has now twice excluded imports of the clad sheet from the Section 232 tariffs. Yet, this same clad sheet is allowed to be included in a current antidumping case, which could result in the application of antidumping duties against Chart's clad sheet imports.

If action is not taken to reconcile the trade laws, this inconsistency in the trade laws may negatively impact our U.S. manufacturers' production costs and competitiveness by unnecessarily increasing raw material inputs. My concern is the adverse long term impact that it may have not only on our U.S. mills, BAHX producers and their workers, but also any adverse effects on our LNG producers who are investing billions of dollars in the U.S. on LNG production and export terminals that require these specialty heat exchangers in order to get their product to market.

*Though I understand much of this falls within the jurisdiction of the Commerce Department, what thoughts do you have on how the USTR can work in collaboration with other agencies to address such inconsistencies?*

**Answer: Robust interagency collaboration strengthens policy outcomes. If confirmed, I commit to working closely with the Department of Commerce and other agencies to combat unfair trade practices and enforce U.S. trade agreements and laws.**

Question 3 - Sugar – Brazil:

Brazil has long sought to link expanded access to the U.S. market for its sugar to the U.S. goal of securing preferential access to Brazil's market for ethanol. Certain actions were taken toward the end of the last Administration that created the unfortunate perception that sugar access to the U.S. market was being traded for ethanol access to Brazil. Specifically, USTR and Brazil announced on September 11 a 90-day consultation initiative to "conduct results-oriented discussions on an arrangement to improve market access for ethanol and sugar in Brazil and the United States." At that time Brazil granted a 90-day pro-rated extension of its TRQ for U.S. ethanol, while USTR announced on September 22 an additional FY2020 raw cane sugar TRQ allocation of 80,000 metric tons raw value for Brazil (and 10,718 MTRV for Australia). Brazil's ethanol TRQ extension expired on December 14, and all U.S. ethanol now entering Brazil faces a 20 percent applied Common External Tariff.

*Given Brazil's track record as a heavy subsidizer of its sugar and ethanol industries, would you agree that the legitimate pursuit of improved access for U.S. ethanol to Brazil should not come at the expense of U.S. sugar farmers?*

**Answer: In my testimony, I emphasized that no U.S. stakeholder should be prioritized over another during trade negotiations. If confirmed, I commit to ensuring that no new agricultural market access comes at the expense of other agricultural stakeholders.**

Question 4 - Sugar - WTO Quota Allocation Methodology:

There have been indications over the past year or so that USTR and USDA are considering revising the methodology used by the United States to allocate our WTO sugar quota. This quota has traditionally been allocated in varying amounts to 40 countries based on a longstanding formula, with reallocations being carried out later in the fiscal year to account for nonperformance. While it is understood there may be some inefficiencies built into the current methodology, there are also elements to the arrangement that benefit the overall operation of existing sugar policy.

*Can you provide your assurance that USTR will engage in thorough consultations with both USDA program managers and industry stakeholders regarding potential changes to the existing allocation process before any such changes are instituted?*

**Answer: If confirmed, I commit to consulting with USDA program managers and industry stakeholders before any changes to the current allocation process take place.**

Question 5 - Spirits:

Since June 2018, certain American spirits exports to the EU and UK have faced a 25% tariff in response to the U.S. imposition of tariffs on steel and aluminum, and in connection with the WTO dispute concerning Boeing. Absent a resolution to the steel tariffs, the EU's tariff on American Whiskey will automatically double to 50% in June. The U.S. has imposed a 25%

tariff on certain EU and UK wines and spirits imports since October 2019 in connection with the WTO Airbus dispute. The negative impact of these tariffs are being felt across the U.S. from farmers, to suppliers, retailers, and the hospitality sector.

*What are your thoughts on how this situation can be improved?*

**Answer: The purpose of the WTO dispute resolution process is to ensure that other countries play by the rules so that our businesses, workers, farmers and ranchers can compete on a level playing field. Tariffs may be a tool to achieve these ends, but they are not the goal. The focus must be on resolving the issue that has harmed has our industry and workers. If confirmed, I will make it a priority to review the status of these long-term disputes and evaluate the use of tariffs, including their impact on unrelated industries, to ensure U.S. trade tools maximize the benefit and minimize the cost for U.S. industries, workers, and consumers.**

Question 6 - Mexico - petroleum exports:

Mexico is the largest export market for U.S. petroleum products and is a growing market for natural gas exports. U.S. exports of refined products to Mexico have tripled over the past decade. An integrated North American energy market benefits U.S. fuel manufacturers, workers, and ultimately Mexican consumers. Following Mexico's 2014 constitutional reforms allowing private participation in the Mexican energy sector, U.S. companies invested billions of dollars to develop energy infrastructure in Mexico and in the United States to import fuel from our refineries to satisfy Mexican demand, resulting in infrastructure development and increased employment in both countries.

Despite this progress, recent reports indicate that the Mexican government is providing preferential regulatory treatment for Petróleos Mexicanos (PEMEX) and delaying or cancelling permits for U.S. energy companies. These anecdotal experiences seem to give the credence by President of Mexico, Andres Manuel Lopez Obrador, to re-establish state control over energy markets. Additionally, members of the governing party, MORENA, have presented constitutional initiatives that would roll back the historic 2014 Energy Reform and seek to relinquish all contracts currently in force.

All these actions by the President of Mexico go against the spirit of the historical agreement between our countries under the USMCA.

*While we respect Mexico's sovereign right to decide its energy policy, how will you hold the Mexican Government accountable in living up to the commitments of the USMCA?*

**Answer: If confirmed, I will review the reports of discriminatory action in Mexico's energy sector that you highlighted, and I will consult with stakeholders and Congress on these issues. I commit to quickly engaging the Mexican government when there are USMCA violations and using all dispute settlement tools to fully enforce the USMCA when necessary.**



Question 7 - Counterfeits:

Amidst the COVID-10 pandemic, it is critical that we protect citizens against fake and counterfeit products that damage our economy and put consumer health and safety at risk. Businesses and consumers in recent years have seen an explosion of fake and counterfeit goods sold via online and e-commerce platforms, putting the health and safety, and the competitiveness of businesses and workers, at risk. I understand USTR puts together an annual Special 301 report on global IP issues, including counterfeiting works to develop action plans to address these and other issues with key trading partners.

I also note that my office has introduced legislation to combat the spread of counterfeits - the SANTA Act and the INFORM Consumers Act, and we would be happy to discuss this legislation with you or your staff at any time.

*How can USTR act to combat the rising tide of online counterfeits?*

*Is there any way our office can partner with you in working to combat the sale of dangerous, counterfeit products?*

**Answer: USTR has a variety of tools at its disposal to combat the production and distribution of fake and counterfeit goods that threaten American workers, innovators, and consumers. Besides the Special 301 report, USTR also undertakes an annual process to identify notorious markets for counterfeiting and piracy, which highlights online and physical markets. USTR also engages in regular consultations with our trading partners over their laws, regulations, enforcement, and other policies to enhance their efficacy in combatting online counterfeiting. Strong support from Congress is vital on all of these fronts. If confirmed, I look forward to working with your office and this Committee to find ways to bolster USTR's capabilities to undertake this important work.**

**Senator Warner**

Question 1:

For several years now USTR's digital trade agenda has simply not reflected reality. A large number of our closest trading partners and security allies are increasingly turning to regulate digital services – whether in terms of promoting competition, preventing consumer harms, combatting disinformation, or making technology firms pay their fair share of taxes.

It's imperative that we work on a digital trade strategy that can garner the support of our allies and close trading partners. And a key part of that is going to entail jettisoning some of the more laissez-faire approaches the U.S. has tried to impose upon trading partners – despite ample indications that the U.S. is the global outlier when it comes to privacy, digital taxation, intermediary liability, and competition policy.

That's not only not realistic but it's not a good use of U.S. political capital, as we try to collaborate with these same trading partners and close security allies to address China's unfair trade practices and security risks.

*Will you commit to a comprehensive reevaluation of USTR’s digital trade efforts over the last four years, including working to ensure that the U.S. digital trade agenda is better harmonized with key allies and trading partners like the UK, Australia, France, and Canada?*

*Will you reverse USTR’s efforts to bully Australia – a vital regional security ally – as it seeks to pursue digital competition efforts similar to those being prosed in the UK and US?*

**Answer: It is a priority of the Biden-Harris Administration to work closely with America’s allies to more effectively address the many challenges posed by China. If confirmed, I will work with my colleagues at the Treasury Department to address the digital services tax as part of the multilateral effort to address base erosion and profit shifting through the OECD/G20 process. I will also work with the Department of Commerce as it seeks to conclude an Enhanced Privacy Shield Framework that addresses the concerns raised by the European Court of Justice and enables the safe transfer of data between the European Union and the United States. I will consult closely with Congress on a broader digital trade agenda.**

**Australia’s “News Media and Digital Platforms Bargaining Code” Bill 2020 and initiatives in other countries are designed to address certain outcomes in the digital marketplace. I am aware that there are a wide variety of views on the novel approaches that Australia and others are taking with respect to competition in advertising in the digital age. If confirmed, I commit to reviewing USTR’s position and engaging with stakeholders and Congress on this issue.**

Question 2:

I have made no secret of my strong opposition to the inclusion of intermediary liability safe harbors modeled on Section 230 in new trade agreements.

Until USMCA, this provision had not been included in a single free trade agreement in the over 23 years since Section 230 was originally enacted. And I am not alone – as Members of Congress become more aware of how devastating Section 230 has been in the U.S. as it pertains to civil rights violations, harassment and abuse campaigns, and online fraud, the chorus of opponents of inclusion of this provision has only grown, as has support for reforming this badly outdated law.

In December, I wrote to your predecessor with Senator Portman, Senator Grassley, and Senator Blumenthal urging USTR to refrain from including these provisions in the US-UK trade agreement that was under negotiation.

*Will you commit to refraining from including this provision in any new executive agreements, free trade agreements, or the negotiating objectives of the U.S. in the E-Commerce negotiations?*

**Answer: There are a wide variety of views on this issue, and I commit to consulting with relevant stakeholders, including Congress, on this and other provisions of our trade agreements.**

Question 3:

We have seen public reports that Russia and other nefarious state actors may be attempting to steal intellectual property from American companies and the U.S. Government as our country has labored to develop successful vaccines.

*Under your leadership, how will USTR combat against intellectual property theft and work to uphold respect for Rule of Law globally?*

**Answer: If confirmed, I will prioritize the enforcement of intellectual property protections included in our trade agreements. As I said in my testimony, good governance, rule of law, and anti-corruption are fundamental values that we must work to hold our trading partners to.**

Question 4:

*A key pattern we see repeatedly from China involves its massive subsidies provided to targeted industries, creating immense excess capacity, which get dumped in the US and global markets. Current remedies have been insufficient to deal with this threat. How do you plan to address this? Are there new disciplines or tools that could be developed to effectively address this challenge?*

**Answer: State-owned enterprises (SOEs) that do not operate based on market principles, subsidies and other unfair trade practices disadvantage U.S. businesses and their workers and have contributed significantly to global market distortions, in the steel industry and many other sectors. If confirmed, I will work with our allies to collectively address market distortions caused by SOEs and other unfair trade practices. In addition, I will pursue trade enforcement actions against trading partners that use SOEs and unfair trade practices to disadvantage U.S. businesses and their workers, and I will pursue disciplines on SOEs and such practices in trade agreement negotiations.**

Question 5:

Deepening our relationship with India is a key part of any effort to counter China's growing influence – both regionally and internationally.

However, it's clear that India needs to make a range of market access and liberalization reforms before we can move forward on any meaningful FTA negotiations.

Yet recent protests by farmers in India – involving millions of farmers engaged in protests and organized boycotts – indicate that even modest reforms in areas like agriculture could be a major undertaking.

*What is your view on the prospect for Indian market reforms?*

*What are realistic trade objectives for the U.S. to pursue with respect to India?*

**Answer: India's fast-growing economy provides new opportunity for America's exporters, including our farmers, manufacturers, and service providers. It is an ongoing challenge to**

**balance the United States' interest in enhancing our trade relationship with India the need to address Indian policies that discriminate against U.S. exports and digital service firms. If confirmed, I will consult closely with Congress to ensure our trade policy strikes the right balance.**

Question 6:

As you know, I have been an outspoken critic of China and the national security threat posed by its industrial espionage and the links between Chinese industries and their military.

That being said, I believe the haphazard and unilateral approach of the Trump Administration, including the use of Sec. 301 tariffs on goods imported into the U.S., has not been effective in addressing these issues. These actions have raised costs for U.S. consumers, and in too many cases undercut the ability of U.S. companies to compete with Chinese and other non-U.S. competitors.

Many US-headquartered companies have been taking steps to shift their manufacturing and supply chains out of China, but have been hampered by the global pandemic and resultant travel restrictions all across the globe, delaying the timelines for their transitions well into 2021. While USTR did grant many exclusions and extensions to these companies, all of the exclusions expired at the end of 2020 without USTR providing an opportunity to petition for extensions.

*Are you considering reinstating the tariff exclusions that had been granted in the past, or establishing a process that allows companies to reapply for exclusions for some period of time while the Administration works on a more comprehensive policy to address trade with China?*

**Answer: If confirmed, I commit to assessing the Section 301 tariffs and exclusion process as part of President Biden's comprehensive approach to confronting the China challenge.**

Question 7:

The solar industry employs thousands of workers in Virginia. We currently have 1.3 gigawatts of installed solar capacity, and many more expected to be installed in the coming years. I believe our trade policy should not artificially stymie this growth in the clean energy sector.

Unfortunately, the previous administration imposed Section 201 tariffs on imported solar panels and cells. As a result, thousands of workers nationally have been laid-off or not hired; \$19 billion in private sector investment has been lost and U.S. solar module prices are among the highest in the world.

In October 2020, the Trump administration issued a proclamation that would increase the tariffs for 2021. This will be highly disruptive for businesses that made investment decisions based on the original tariff schedule.

*What steps are you considering to alleviate uncertainty on solar companies and create a sustainable path forward for this industry?*

**Answer: After the U.S. International Trade Commission determined under Section 201 of the Trade Act of 1974 that increased imports of solar cells and modules severely damaged the U.S. domestic industry, the last Administration established a four-year remedy, currently set to expire on February 6, 2022. The Biden-Harris Administration has made the increased use of renewable energy, including solar, a core component of its policy to combat climate change. If confirmed, I will examine the safeguard action in light of those goals, the security of our renewable energy supply chain, and the impact on U.S. businesses and jobs.**

### **Senator Whitehouse**

#### **Question 1:**

As you know, the previous Administration took many actions to hurt the clean energy industry. One notable move was imposing tariffs on solar panel imports. Before Trump left office he increased these tariffs through a Presidential Proclamation. In my view, this was unnecessary.

As you help chart a path forward for the Administration on solar trade issues, will you consider the important role imports play in helping to address climate change while we grow manufacturing here at home?

*Will you support revocation of this Presidential Proclamation and revisit the existing tariffs?*

**Answer: After the U.S. International Trade Commission determined under Section 201 of the Trade Act of 1974 that increased imports of solar cells and modules severely damaged the U.S. domestic industry, the last Administration established a four-year remedy, currently set to expire on February 6, 2022. The Biden-Harris Administration has made the increased use of renewable energy, including solar, a core component of its policy to combat climate change. If confirmed, I will examine the safeguard action in light of those goals, the security of our renewable energy supply chain, and the impact on U.S. businesses and jobs.**

### **Senator Daines**

#### **Question 1:**

It is clear China has not been transparent in how it is meeting intellectual property commitments in the Phase One agreement.

*Do you support the inclusion and enforcement of high standard intellectual property protections in future trade negotiations, whether with China or other trading partners?*

**Answer: Yes, if confirmed, I will pursue the inclusion and enforcement of high standard intellectual property protections in future trade negotiations in all instances where doing so will deliver meaningful outcomes that serve the interests of American innovators and workers.**

Question 2:

As you know, the softwood lumber dispute with Canada is long-standing and unfairly subsidized Canadian softwood lumber imports have had a significant impact on Montana jobs.

*What will be your priorities regarding the softwood lumber dispute with Canada?*

*Will you commit to working with the Department of Commerce to ensure that U.S. trade laws are fully enforced to support U.S. jobs from subsidized Canadian imports?*

*What assurances can you provide that the Administration will not implement WTO Panel decisions in a way that would undermine the effectiveness of U.S. trade laws?*

**Answer: The Department of Commerce and U.S. International Trade Commission have repeatedly found that the U.S. lumber industry is harmed by Canadian subsidies and unfair trade practices. If confirmed, I commit to working with other agencies and departments to ensure that U.S. trade laws and remedies are employed to counter unfair trade practices, and to vigorously defending those laws when challenged. The United States has a process for implementing WTO determinations with respect to trade remedy laws set out under Section 129 of the Uruguay Round Agreements Act, and I will ensure that the Biden-Harris Administration follows the process established by Congress.**

Question 3:

*If confirmed, will you work to address non-tariff barriers on crop protection tools, biotechnology, and ensuring sanitary and phytosanitary standards are based on sound science and risk-based regulatory systems?*

**Answer: The United States is the global leader in cutting edge biotechnology, and U.S. farmers and ranchers deserve fair access to the global agricultural marketplace. If confirmed, I commit to aggressively fighting against non-tariff barriers that are not based on science and risk and limit our producers' access to foreign markets.**

Question 4:

As you know, many agricultural commodities have been targeted by the European Union with retaliatory tariffs due to disputes over Boeing/Airbus and other issues. In particular, Hard Red Spring wheat has been harmed by WTO sanctioned punitive tariffs on U.S. grown non-durum wheat. Until the Airbus/Boeing dispute is resolved, or the tariffs are lifted in negotiations, U.S. wheat growers will be at a disadvantage in the marketplace relative to competitors in Canada and elsewhere.

*What steps can be taken to find a negotiated solution and put the respective tariffs on hold?*

*Other agriculture commodities have been impacted as well. Will you commit to working to lift these retaliatory tariffs?*

**Answer: The purpose of WTO dispute resolution process is to ensure that other countries play by the rules so that our businesses, workers, farmers and ranchers can compete on a**

**level playing field. Tariffs may be a tool to achieve these ends, but they are not the goal. The Boeing/Airbus WTO litigation has been ongoing for more than 15 years. If confirmed, I will make it a priority to resolve this long-running dispute in a way that ensures Boeing and its workers can compete on a level playing field and that takes into account all affected stakeholders.**

Question 5:

China made several commitments in the Phase One deal to open its market and reduce interventions related to financial services.

*Will you commit to holding China accountable to enforcing those commitments and prioritize ensuring that U.S. financial services companies are able to operate in China?*

**Answer: If confirmed, I will hold China accountable for the full range of commitments that have been made to the United States, including those relating to U.S. financial companies.**

Question 6:

President Biden recently spoke to Prime Minister Trudeau in their first official meeting. The Keystone XL Pipeline has long been supported by Canada and ensures safe and reliable importation of Canadian crude into the U.S. to be refined, consumed and traded. Without the pipeline this oil continues to come into the U.S. but instead is transported by rail or truck which increases emissions and decreases the safety of its transportation. President Biden's decision to halt the pipeline has strained our trade relationship with Canada and its provinces. In fact, the Premier of Alberta called it a 'gut-punch' to U.S.-Canada's trade relationship.

*What will you do to mend this relationship, and how will you represent the U.S. in any trade disputes that may arise due to the cancelation of the Keystone XL Pipeline?*

**Answer: The trade and economic relationship with Canada is of vital importance to the United States. On February 23, 2021, President Biden held his first bilateral meeting since taking office with Prime Minister Trudeau. Together, they announced the Roadmap for a renewed U.S.-Canada Partnership. If confirmed, I look forward to strengthening the U.S.-Canada economic relationship in areas where there is mutual agreement on shared priorities, such as climate change and livable wage job creation on both sides of the border.**

Question 7:

The U.S. relies heavily on foreign countries to source raw materials for electric vehicle batteries, renewable energy, healthcare, and emerging technologies.

*Do you have any concerns with critical mineral supply chain vulnerabilities?*

*Do you think the U.S. should expand and improve domestic supply chains in order to reduce any vulnerabilities?*

*What will USTR do to ensure that U.S. manufacturing isn't cut off from the raw materials and critical minerals they require to produce electric vehicle batteries, renewable energy and more?*

**Answer: The President’s recent Executive Order on America’s Supply Chains seeks to review the vulnerabilities in critical supply chains, including those associated with the need for critical minerals to power the green economy and other vital sectors. If confirmed, I will work to implement the policies identified by the Executive Order in this and other sectors. I commit to using a wide range of available trade policy tools to take effective action against any country that cuts the U.S. off from the supply of the critical raw materials our economy needs.**

Question 8:

*If confirmed, will you pursue further negotiations to expand upon the U.S.-Japan Trade Agreement?*

**Answer: Japan is one of America’s most important trading partners and allies. If confirmed, I commit to undertaking a detailed assessment of the current state of the U.S.-Japan trade relationship in light of the recent U.S.-Japan Trade Agreement to determine the best path forward. Our strategic and economic relationship must remain strong in the face of growing regional challenges**

*If confirmed, what will be your priorities related to India and will you pursue comprehensive trade negotiations to address significant trade barriers in the Indian market related to agriculture, digital trade, and other important issues?*

**Answer: India is one of America’s largest trading partners, and its fast-growing economy represents a tremendous opportunity for American farmers, manufacturers, and service providers. At the same time, the Indian government has erected a number of trade barriers that unfairly disadvantage American exporters. If confirmed, I commit to engaging with India to find ways to resolve these issues. Strengthening our trade and economic relationship serves the interest of both countries.**

**Senator Young**

Question 1:

For nearly 50 years, the United States has played a key role in combatting unfair trade practices against our ally Israel. From the Arab League Boycott of Israel in the 70s, to the Boycott Divestment and Sanction (BDS) campaign today, these efforts seek to weaken, isolate and delegitimize the Jewish state

*If confirmed, are you committed to fighting efforts to boycott, divest or sanction our ally Israel?*

*As part of our trade negotiations, the U.S. has often required countries to commit not to engage in unfair trading practices against our ally Israel and U.S. firms that conduct business with Israel. If confirmed, will you ensure anti-boycott provisions are included, as appropriate, in any trade agreement you negotiate?*

**Answer: President Biden has led efforts to oppose the delegitimization of Israel, whether in**



**international organizations or by the boycott, divestment and sanctions (BDS) movement in the United States. I commit to fully enforcing all U.S. anti-boycott laws and will always prioritize protecting American companies and American workers.**

Question 2:

President Biden has stated that the U.S. should be setting global trade policies rather than sitting on the sidelines; and I wholeheartedly agree with this sentiment. President Biden has also said repeatedly during his campaign that he would not sign new trade agreements unless they increased investments in the U.S.

With other countries still signing new agreements, there are concerns that trade rivals will use this time to restructure the global markets – especially if the U.S. shelves important trade initiatives. Currently, existing trade talks with India seem to be in limbo for the foreseeable future as the Administration is solely focused on the domestic economy, though President Biden has expressed interest in cooperating with Prime Minister Modi on global challenges.

*Is the Administration open to improving our trading relationship with India?*

*What trade issues should the United States and India prioritize in any future talks?*

*Do you believe there is potential for broader trade agreement negotiations?*

*What aspects of bilateral trade relations would change or remain the same from the Trump Administration?*

**Answer: India is one of America’s largest trading partners, and its fast-growing economy represents a tremendous opportunity for American farmers, manufacturers, and service providers. At the same time, the Indian government has erected a number of trade barriers that unfairly disadvantage American exporters. If confirmed, I commit to engaging with India to find ways to resolve these issues. Strengthening our trade and economic relationship serves the interest of both countries.**

Question 3:

USMCA’s entry-into-force date resulted in an unexpected tariff on imported used heavy-duty commercial trucks from Canada. Under NAFTA, new commercial trucks were exported to Canada. In order for Canadian motor carriers to afford new North American manufactured trucks, which mostly originate from the U.S., they need to sell their used trucks. Often those trucks are exported used back to the U.S. where we have a much larger used truck market. Unfortunately, under USMCA, U.S. Customs and Border Protection (CBP) now is applying a tariff to most used commercial vehicles, as well as used passenger cars, that are exported back into the U.S. This is in spite of the fact that USMCA’s rules of origin were designed to apply to only newly manufactured vehicles. This oversight and CBP enforcement could hurt U.S. commercial truck manufacturing.

*As the United States Trade Representative, would you work with Canadian officials, and to the extent needed Mexican officials, to rectify this unanticipated duty in the trade agreement that was meant to strength U.S. and North American manufacturing, not hurt it?*

**Answer: If confirmed, I commit to looking into this issue and consulting closely with you, CBP, and affected stakeholders.**

Question 4:

Biotechnology and agricultural innovation is pivotal for our farmers who rely on the latest technology to increase yields and improve efficiency. Many of these efficiencies lead to conservation of resources and result in less use of pesticides and herbicides. I have been following the recent actions in Mexico that appear to unfairly target and punish the vast majority of those who use biotechnology as a part of their farm management. The President of Mexico issued a decree in December announcing intent to revoke existing biotechnology approvals, block future approvals, and phase out biotech corn in Mexico by 2024. These measures violate USMCA commitments made by Mexico, and if implemented will have detrimental effects on farmers and producers.

*If confirmed, will you confront Mexico about the dangerous tone of these actions?*

**Answer: If confirmed, I will confront issues that prove harmful to U.S. agricultural exports and make sure our trading partners do not violate their obligations under our trade agreements.**

*What enforcement actions will you consider should the Mexican government subvert the approval of agricultural biotechnology?*

**Answer: If confirmed, I will review Mexico’s agricultural obligations under the USMCA. If barriers to trade are presented, I will use the tools agreed upon in the USMCA to enforce the agreement.**

Question 5:

Since lithium-ion batteries were first commercialized in the 1990s, global market growth has increased exponentially due to the battery’s inherent advantages. Moreover, current trends signal that lithium-ion batteries will continue to displace lead-acid batteries in various sectors – including heavy equipment – for years to come.

Alarmingly, the U.S. lags behind China with respect to global lithium cell manufacturing capacity. With the advantage of cheap labor, large control of critical minerals, and more lithium reserves, China will continue to dominate the lithium-ion battery supply chain, providing more than 60% of the world’s component manufacturing for batteries.

*With Asia’s current capacity and Europe’s initiative to capture more raw materials, are you concerned about the United States’ slow reaction?*

*Given the recent executive order to review U.S. supply chains – including semiconductors, high-capacity batteries, and rare earth minerals – how do you plan to attract and preserve downstream investments, like battery manufacturing?*

**Answer: I understand that the Biden-Harris Administration shares your concerns about China’s strong position in the production of advanced batteries. If confirmed, I will work to effectively implement the recommendations that emerge from the supply chain review mandated by President Biden’s Executive Order on America’s Supply Chains, which identified advanced battery manufacturing as a priority sector.**

Question 6:

The E.U.’s reciprocal 232 tariffs on American Whiskey and other U.S. agricultural products are set to double from 25 percent to 50 percent in June 2021.

*If confirmed, will you commit to working with Congress and affected U.S. stakeholders to ensure American businesses avoid further harm as we seek to recover the COVID-19 pandemic?*

**Answer: I recognize that absent a negotiated resolution, the E.U.’s retaliation for the United States section 232 tariffs on steel and aluminum will increase substantially in June. I also recognize that the maintenance of a strong U.S. steel industry will require effective action to address global steel overcapacity. If confirmed, I commit to consulting closely with Congress as the Biden-Harris Administration proceeds with its review of the use of Section 232 steel and aluminum tariffs.**

Question 7:

China’s unfair trade actions have devastated American businesses and manufacturers. For reference, Indiana is the country’s largest manufacturing state and Hoosiers have felt the impact of China’s illegal practices first-hand. As with previous administrations, President Biden will have to utilize his executive authority to impose or remove tariffs. I support holding China accountable in a way that does not hinder the growth of American businesses.

Unfortunately, it is not practical for the U.S. to manufacture every product or every component. For some market sectors, the ability to import encourages competitive pressures, which ultimately supports local productivity. As we focus on economic recovery, protecting jobs and U.S. manufacturers must be reflected in trade policies and negotiations.

*If confirmed, how will you ensure trade tools – such as Section 301 duties – are applied in a manner that does not unfairly penalize U.S. manufacturers who depend on components from global sources?*

**Answer: China’s track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. Under the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from**

**China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China’s practices and assess the impact on U.S. businesses, workers and consumers. Further, I will ensure that any tariff exclusion process is transparent, fair and objective.**

Question 8:

Under the Phase One Agreement, total U.S. exports of agricultural and related products - including soybeans, corn, beef, and pork – increased roughly 30 percent or \$6.5 billion over 2017 levels. While the Phase One Agreement only covered certain disciplines, it has clearly been beneficial to many of Indiana’s agriculture interests.

*Given that the Phase One Agreement bypassed congressional approval, how does the Biden Administration plan on pursuing future trade deals with China?*

*If confirmed, how will you begin reviewing the Phase One Agreement? Will you commit to advocating for U.S. agriculture with respect to U.S.-China trade negotiations? What elements do you foresee building upon for future U.S.-China negotiations?*

**The Biden-Harris Administration is engaged in a review of the policies in place to respond to China’s coercive and unfair trade practices, including with respect to trade in agricultural products. I understand that a comprehensive strategy to confront the China challenge will be formulated based on that review. U.S. farmers are harmed when our trading partners, particularly China, undertake non science-based regulatory processes to create barriers against our agricultural exports. If confirmed, I commit to working with Member of Congress to identify priorities in advocating for U.S. agricultural interests with respect to China.**

Question 9:

The previous administration launched several Section 301 investigations into Digital Services Taxes (DSTs) being considered or adopted by numerous countries – including France, India, Spain, Italy, and the U.K. Before the end of President Trump’s term, USTR concluded that most of these taxes are discriminatory against U.S. commerce. While USTR has threatened to impose retaliatory tariffs, it was recently announced that additional tariffs will be suspended due to ongoing investigations.

Meanwhile, members of the Organization for Economic Cooperation and Development have continued to negotiate on multilateral solutions on DSTs; however, they await full participation from the new Biden Administration. If multilateral negotiations fail, how do you believe the U.S. should respond to unilateral implementation of DSTs by other nations on U.S.-based companies?

Just recently, Secretary Yellen announced that the U.S. would be dropping its demand for a DST “safe harbor” that would have allowed some of the tax elements to be optional. *Given that the U.S. is home to a majority of key global tech companies, how will you ensure future DSTs do not unfairly target U.S.-based businesses compared to foreign companies?*

**Answer: While the details of digital services taxes differ across jurisdictions, many were designed in a way that unfairly singles out a few large U.S. digital platform companies. If confirmed, I will work with my colleagues at the Treasury Department to address digital services taxes in the context of the multilateral effort to limit tax competition and address base erosion and profit shifting through the OECD/G20 process.**

Question 10:

The global semiconductor shortage is of concern for the automotive industry, as you are acutely aware. I have been engaged with my Senate colleagues to alert the Administration to the gravity of this problem that affects companies in Indiana. In the short term, an increase in overall chip production would help alleviate this strain; another option is considering reallocation of chip production to the motor vehicle type. In the long term, the United States must increase domestic production and fairly allocate chip production to all sectors.

*How will the Administration support the automotive industry in addressing the global semiconductor shortage?*

*What strategies will be considered to re-shore domestic production, especially for semiconductors?*

**Answer: The Biden-Harris Administration is pursuing all available possibilities to help address the difficulties the automobile industry has faced in securing access to semiconductors vital to the production of American automobiles. Semiconductors are one of the priority sectors identified in the recent Executive Order on America's Supply Chains. If confirmed, I will work to effectively implement the recommendations that emerge from the review mandated by the Executive Order, and strengthen domestic semiconductor production.**

Senator Sasse

Question 1 - Tech Competition Between US/Allies and China:

Over 59% of global GDP is held by the United States and our formal treaty allies. When you add other democracies to the mix, our share of global GDP goes up to around 75%. Given growing concerns about the implications of continued economic interdependence with Xi Jinping's genocidal regime, it seems like the freedom-loving world is actually very well placed to craft creative and consequential economic solutions to our shared trade problems with China. You and I discussed growing calls for the creation of a tech alliance among the world's democracies or establishment of some sort of digital or critical technology trade agreement with countries that share our values.

*Can you please describe the strategic challenges for the United States posed by continued economic and technological interdependence with the CCP?*

*How will you as the United States Trade Representative think creatively about crafting trade agreements in the tech and digital spaces with countries that share our values to jointly push back on China's techno-authoritarianism?*

**Answer: If confirmed, I will work with like-minded allies to ensure that we forge stronger ties and more resilient linkages in our supply chains and trade patterns in order to not become dependent or susceptible to technology overseen by authoritarian regimes.**

*Will you commit to presenting this Committee with a strategy for establishing critical technology and digital trade agreements with our likeminded allies and partners?*

**Answer: If confirmed, I commit to consulting with this Committee on matters concerning trade and critical technologies, including how we can enhance our cooperation with like-minded allies.**

*Given the extensive conversations we are having with our allies and partners about the national security concerns surrounding Chinese inputs into the supply chains of telecommunications and general technological goods, how do you think USTR is positioned, staffed, and resourced to be able to navigate negotiating agreements that include goods that may carry national security concerns? What should coordination with the Intelligence Community and other national security agencies look like when negotiating agreements?*

**Answer: As technology, supply chains, and national security concerns grow in importance and relevance for trade, USTR will need to navigate the trade-related challenges in these areas. If confirmed, I look forward to working with Congress to ensure USTR has sufficient resources to pursue these tasks.**

Question 2 - Trans-Pacific Partnership:

In Asia trade is diplomacy. That is why the US withdrawal from the TPP and China's establishment of the RCEP is so consequential regardless of the substantive differences between the agreements. When the US withdrew, the region moved on. Asian countries are increasingly looking to each other for economic and financial engagement and support. I have stated before that I believe the Trans-Pacific Partnership would be a way to reduce China's influence in the Asia-Pacific region. Recent news reports state the United Kingdom submitted an application to join the now Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). This would be the first new country to join Japan, Vietnam, Australia, and 8 other nations.

*Should the US join CPTPP? If not, how are you thinking about building a positive trade agenda in the Indo-Pacific and engaging with TPP11 countries (now CPTPP) in light of China's growing economic dominance in the region?*

**Answer: The basic formulation of working closely with like-minded countries in the Asia-Pacific with shared strategic and economic interests is a sound one, but much has changed in the world since the TPP was signed in 2016. If confirmed, I commit to working closely with like-minded countries in the Asia-Pacific region to deepen our trade relationship in ways that benefit American broadly, including our workers, manufacturers, service providers, farmers, ranchers, and innovators.**

Question 3 – China:

A lot has changed in the U.S.-China relationship since your previous executive branch service. You have seen the U.S. and China come together through the development of the Phase-One Agreement. Yet, there remain areas that continue to require attention.

*As you reflect on the previous Administrations action with regard to China, what are your plans to address the CCP's malign economic statecraft?*

**Answer: The Biden Administration is engaged in a comprehensive review of what is required to meet the China challenge, including pushing back against Chinese economic statecraft that runs counter to our economic interests and democratic values. If confirmed, I commit to work, ideally with our allies, to address important areas that are not yet covered by the Phase One Agreement such as industrial subsidies and excess capacity.**

*The previous administration completed a comprehensive 301 Investigation on China. Did you read that investigative report? Did you have any disagreements with the findings or methodology in that report? In your opinion, were the imposition of tariffs the best policy response to China's serial theft of intellectual property and forced tech transfer? As an economic advisor to the President, what would you have proposed as a more effective response?*

**Answer: China's track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. I am aware that during the last administration, USTR's Section 301 investigation into China found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China's practices and to account for their impact on U.S. businesses, workers and consumers.**

**Concerns over China's actions and practices related to technology transfer, intellectual property, and innovation are long-standing. Effectively addressing these difficult concerns, however, requires a coordinated whole-of-government strategy. If confirmed, I look forward to working with other agencies and with Congress to shape a more integrated strategy.**

*With China and 15 Asia-Pacific nations joining the Regional Comprehensive Economic Partnership (RCEP), what are your thoughts on the United States joining a multilateral trade agreement framework?*

**Answer: America is stronger when it works together with its allies, but cooperation can take many different forms. Whether a multilateral trade agreement framework is effective or not will depend on the precise details of that agreement.**

China's non-market approach has placed American companies at a disadvantage. China has long made promises that are unfulfilled.

*Do you agree that a persistent approach to resolve the many concerns that have arisen in our trading relationship with China deserve the highest attention within USTR and other federal agencies?*

**Answer: Yes, absolutely. The Biden-Harris Administration is engaged in a comprehensive review of existing U.S. policies to determine what action we must take to meet the China challenge. I understand that the Administration will pursue a whole-of-government strategy based on that review that addresses China's unfair trade practices, invests in U.S. manufacturing and innovation, prioritizes supply chain resilience, and increases American competitiveness.**

**If confirmed, I will make these concerns a top priority within USTR and engage in vigorous efforts to coordinate our response to the China challenge across the federal government.**

The China Phase One Agreement sought to bring structural reforms and changes to the state-led, market-distorting approach from China in areas of intellectual property, technology transfer, agriculture, financial services and currency exchange, with substantial purchase requirements of U.S. goods. Evidence seems to show China has been moving forward under this Phase One agreement in good faith. This Phase One agreement did not address all the concerns identified, and a phase two agreement is hopeful to bring further structural changes to China's regime.

I would like to see USTR engage with China through a process focused on critical issues such as excess capacity, state-owned enterprises, state-sponsored cyber-enabled theft of intellectual property, restrictions on cross-border data transfers, and regulatory transparency that were not fully addressed or accomplished in Phase One. In doing so, I also support USTR being aggressive in these negotiations to use all available tools to bring comprehensive and tangible reform.

*Can I have your commitment you will work with members of this committee on this process so that together we can identify the critical issues and a cohesive approach to tackling this issue with an outcome that is fair, reciprocal and balanced?*

**Answer: Yes, if confirmed, I will consult with this Committee on these difficult and challenging issues.**

Question 4 – Taiwan:

Given your family ties to Taiwan you know even better than I do how strong of a democratic partner the Taiwanese are. Taiwan has proven to be a strong U.S. economic partner and in 2019 was the U.S. 14<sup>th</sup> largest export market.

*Do you view a trade agreement with Taiwan to be an important national security approach in counteracting China?*

**Answer: Taiwan is a valuable democratic partner of the United States, and the two sides have had a Trade and Investment Framework Agreement dating back to 1994. Deepening trade and economic ties can be a valuable means to address the strategic rivalry with**



**China. However, whether a trade agreement actually does so will turn on the precise provisions of the agreement itself and the supply chain patterns in the Asia-Pacific region.**

*How will you approach an FTA with Taiwan now that Taiwan has granted greater access for U.S. pork and beef?*

**Answer: If confirmed, I will commit to engaging in a comprehensive review of our trade relationship with Taiwan to determine how to address remaining trade issues and the best path forward.**

*Where does an FTA with Taiwan fall on your priority list and where do you see hurdles to an agreement?*

**Answer: As noted above, I will engage in a comprehensive review, which will inform my priorities for near-term engagement with Taiwan.**

Question 5 - Overall Trade Priorities:

*The Biden Administration has publically said the first focuses will be on a domestic agenda. On day one of your role as Ambassador, how will you outline the United States position with our trading partners?*

**Answer: Trade policy will be an essential component of the fight against COVID-19, the economic recovery, and the Build Back Better agenda. President Biden seeks a fair international trading system that promotes inclusive economic growth and reflects America's universal values. If confirmed, starting on Day One I will engage our trading partners in pursuit of a trade agenda that will restore U.S. global leadership on critical matters like combatting forced labor and exploitative labor conditions, corruption, and discrimination against women and minorities around the world.**

*With multiple issues before the office of the United States Trade Representative, have you thought about your first 100-days at USTR and can you share your views on how you will prioritize these issues?*

**Answer: If confirmed, I will engage with our trading partners on ways to address the climate crisis, bolster sustainable renewable energy supply chains, and end unfair trade practices. In addition, in my first 100 days I will review existing trade policies and agreements and pursue enforcement actions when warranted.**

Question 6 - Beef Exports and Trade with Japan:

I would like to bring your attention to beef exports to Japan. Japan is the largest market for U.S. beef. From January to November 2020, the U.S. exported over 280,000 metric tons of beef to Japan, valued around \$1.8 billion. The U.S. is approaching a safeguard threshold tariff trigger.

I would like to see more attention by USTR negotiators to engage with Japan and monitor the tariff rate quota.

*Can I have your commitment that your team will worked with Japan to reevaluate the trigger and perhaps move forward with a formal free trade agreement?*

**Answer: If confirmed, I commit to monitoring the tariff rate quota on U.S. beef. As U.S. Trade Representative, I will review the agreement with Japan reached by the previous Administration. If confirmed, I look forward to working with your office on the issue of additional exports of U.S. beef to Japan.**

Question 7 - United States Mexico Canada Agreement (USMCA):

I have heard from many different stakeholders from agriculture, to biotechnology, pharmaceutical, technology, oil and gas to name just a few regarding the United States-Mexico-Canada (USMCA) trade agreement. These industries are experiencing significant regulatory challenges in Mexico with the implementation of the USMCA. I understand you are aware of many of these issues.

To speak specifically to my home state of Nebraska, Mexico takes on average 54% of the U.S. export of white corn, over which 90% is considered a genetically modified product. Nebraska is also a leading producer of food-grade yellow corn production. The Mexican President Lopez Obrador issued a decree banning glyphosate and GMO corn in Mexican diets by 2024. Furthermore, I am troubled that Mexican officials are adopting Europe's precautionary principle as the basis for rejecting import permits and delaying product approvals. Biotechnology and crop protection products are innovations important to American corn and crop producers that allow more sustainable and efficient use of natural resources to provide a high quality, safe and affordable diet to customers. The United States has had a long standing, mutually beneficial trade relationship with Mexico and this was recently reaffirmed with the ratification of USMCA.

*Can you share your approach to tackle these issues between the Mexican and U.S. government? Please elaborate on how, under your leadership at USTR, you will approach enforcement of the provisions within USMCA and the encourage energy, ethanol, agriculture, and other goods will be treated fairly.*

**Answer: Mexico is a critical export market for Nebraska. Each year close to \$1 billion worth of agricultural goods are exported from Nebraska to Mexico. If confirmed, I will work to defend American businesses' exports of these products and others to Mexico. I commit to quickly engage the Mexican government if it violates the agreement and to use all dispute settlement tools to fully enforce USMCA when necessary.**

*If we are to use the framework of USMCA in future agreements, can I have your commitment to work with members of this committee to review the language and strengthen necessary areas to ensure fair and equal trade relations? Will you further commit to regular engagement with my staff and other members of this committee on enforcement issues under USMCA?*

**Answer: If confirmed, I will work with your staff and other members of the Senate Finance Committee as we look to strengthen and build upon the USMCA framework.**

Question 8 - Trade with Europe:

Following Brexit, the previous administration had been in the process of pursuing a free trade agreement with the United Kingdom.

*If confirmed, how will you approach trade issues with both the U.K. as well as the rest of Europe? Do you agree that a trade agreement needs to address all sectors?*

**Answer: The United States completed four rounds of negotiations since officially launching negotiations to establish a free trade agreement with the United Kingdom. If confirmed, I plan to review the state of the negotiations and, in consultation with Congress, chart a path forward that reflects the Biden-Harris Administration's commitment to a trade policy that prioritizes the interest of America's farmers and workers.**

Senator Warren

Question 1:

The Covid-19 pandemic has been the worst public health crisis facing our nation and the world in over a century. Now that safe and effective vaccines are available, it is vital that all people around the world have access to vaccines and any future treatments for Covid-19. Unfortunately, the Trump administration put the profits of pharmaceutical manufacturers ahead of global public health. Too many people in low- and middle-income countries may have to wait years to get vaccinated because of the high prices being charged for Covid-19 vaccines, and an insufficient supply that is currently being bought up disproportionately by wealthy nations. No one should die because drug company profits are prioritized over the health and wellbeing of human beings.

Countries that can manufacture pharmaceuticals should be given the opportunity to produce Covid-19 vaccines and treatments as quickly as possible in order to bolster global supplies and ensure equitable distribution. In October, South Africa and India proposed a temporary waiver of the WTO's Trade-Related Intellectual Property Rights (TRIPS) agreement, to increase the global supply of COVID vaccines and treatments and save lives throughout the world. That proposal is now supported by a large number of low and middle income countries. Under the Trump administration, the United States was one of the wealthy nations working to block this emergency waiver.

*Will you as United States Trade Representative reverse the Trump-era decision that is putting lives at risk, and instead support the TRIPS waiver so that Covid-19 vaccines and medications can be made widely available in low and middle-income countries?*

**Answer: Responding to the COVID-19 pandemic is the top priority of the Biden Administration. I recognize the critical importance of ensuring widespread access to life-saving vaccines, diagnostics, therapeutics, treatments, and other key products worldwide in order to counter the pandemic and enable global economic recovery. If confirmed, I commit to examining the TRIPS waiver proposal thoroughly to determine its efficacy in enhancing our global health security and saving lives.**

Question 2:

*How will you approach considering whether to allow for extensions of previously granted China tariff exclusions, or providing an opportunity for impacted companies to reapply?*

**Answer: China’s track record on using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers, is well-established. Under the last administration, USTR conducted an investigation against unfair trade practices in China under Section 301 of the Trade Act of 1974 and found that China engages in unfair trade acts policies and practices related to intellectual property, innovation and technology transfer. To address those findings, the United States imposed tariffs on products from China. If confirmed, I will work with Congress to ensure that those tariffs are appropriately responsive to China’s practices and assess the impact on U.S. businesses, workers and consumers. Further, I will ensure that any tariff exclusion process is transparent, fair and objective.**

**Senator Barrasso**

Question 1 - Intellectual Property Protection:

Strong intellectual property protections in the United States are critical for the invention and manufacturing of innovative medicines and medical technologies. It is not a coincidence, therefore, that the United States leads the world both in terms of inventing and manufacturing these products and providing intellectual property protections that incentivize innovation.

*How does USTR intend to pursue a trade agenda that protects American intellectual property abroad and ensures that our trading partners value the important contributions of America’s innovative industries?*

**Answer: If confirmed, I commit to using the trade tools at my disposal to ensure that American workers and innovators are able to reap the benefits of their innovation, including overseas. Strong, effective protection of intellectual property in markets worldwide benefits not only American exporters and innovators, but also workers in IP-intensive industries. As U.S. Trade Representative, I will continue to undertake rigorous enforcement efforts to ensure that our trading partners adhere to their existing IP obligations. I will work with other federal agencies to prevent counterfeit and pirated goods from being sold in the U.S. and elsewhere.**

Question 2 - Supply Chains – Critical Minerals:

The COVID-19 pandemic has shed much-needed light on vulnerabilities in our supply chains.

By any measure, the U.S. has become too reliant on countries like China for medicine, medical supplies, and the materials needed to manufacture a wide variety of consumer and commercial products. The President recently issued an Executive Order on America’s supply chains that is partly focused on critical minerals.

Critical minerals are key manufacturing inputs for electronics, medical equipment, semi-conductors, electric vehicles, advanced weapons systems and much more. Today, we are

dangerously reliant on imports from China and other foreign countries where, in some cases, they are mined and produced with child and slave labor.

How can USTR work with our allies to strengthen and secure critical mineral supply chain and

**Answer: I understand that the Biden-Harris Administration is undertaking a comprehensive review of supply chain risks, pursuant to the President's Executive Order issued on February 24. USTR is actively engaged with other federal agencies to identify risks in the supply chain for critical minerals and other identified strategic materials, including rare earth elements. If confirmed, I commit to engaging allies to ensure that America's supply chains for critical minerals are resilient, secure, and diverse.**

*What are the benefits of safely producing these minerals at home where possible instead of relying on foreign imports?*

**Answer: Resilient American supply chains are critical to strengthening and rebuilding America's domestic manufacturing sector and creating the well-paying jobs for our workers. They are also critical for bolstering our innovation capacity and maintaining America's competitive edge in other industries that depend on these minerals.**

Question 3 - U.S. Beef:

In Wyoming, we produce some of the highest quality beef in the world. Our farmers and ranchers need certainty when it comes to trade. Wyoming wants fair, unfettered access to international markets for our beef, lamb, wool, and other agricultural products. Our livestock industry is a vital piece of our economy and critical to the wellbeing of our communities.

*What is USTR's strategy for gaining market share for U.S. beef?*

**Answer: If confirmed, I will work to find new markets for U.S. beef. I look forward to working with your office on strategies to open up new markets for U.S. beef.**

Question 4 - Sugar:

The current world sugar market is highly dysfunctional, driven by production and trade distorting practices employed by nearly all sugar-producing countries.

It is more important than ever that the United States maintain its current no-cost sugar policy which provides a stable and predictable economic environment for U.S. producers, an environment necessary for capital investments and long-run sustainability.

*How would you envision taking on a multilateral challenge like the reform of the global sugar market, and*

**Answer: If confirmed, any reforms I pursue regarding the global sugar market will be consistent with maintaining the current no-cost U.S. sugar policy.**

*Do you think the World Trade Organization (WTO) is equipped now, or can be made equipped going forward, to effectively address the underlying issues among all members?*

**Answer: WTO rules need to be updated to reflect long-standing agricultural issues that have not been rectified under the WTO's current construction. If confirmed, I will work with like-minded partners to ensure that any new rules are consistent with U.S. domestic sugar goals.**

Question 5 - Supply Chains – Food Supply:

The Covid-19 pandemic has starkly demonstrated – through trade restrictions, supply chain breakdowns, and other unpredictable actions by countries around the world – the importance of food security.

*Do you believe it is important that the United States pursue a trade policy that has, as a central pillar, the objective of ensuring a safe and secure domestically produced food supply for America's consumers and food manufacturers?*

**Answer: U.S. trade policy must benefit domestic agricultural producers and provide consumers and food manufacturers with a safe and secure domestic food supply. If confirmed, I will make this a central pillar of any agricultural trade policy I pursue.**

Question 6 - SOEs and Uranium:

U.S. businesses are often at a disadvantage vis-à-vis state-owned enterprises (SOEs) that are not guided by market principles. Such SOEs benefit from environmental, health and labor standards below that of publicly-traded companies. The uranium miners in Wyoming know this only too well, as U.S. mining has come to a standstill at the hands of increased imports from places like Russia, Uzbekistan and other countries where the Chinese have significant mining investments. U.S. trade policy needs a clear strategy for addressing the SOE imbalance.

*Can you describe in detail how you would approach the challenges facing U.S. companies with respect to SOEs?*

*Is USTR adequately equipped to address the SOE issue to ensure American workers and businesses have level playing field in the international marketplace?*

*If not, can you explain where you think existing USTR authority falls short in this area?*

**Answer: State-owned enterprises that do not operate based on market principles disadvantage U.S. businesses and their workers and have contributed significantly to global market distortions. If confirmed, I will work with our allies to collectively address market distortions caused by SOEs. In addition, I will pursue trade enforcement actions against SOEs that disadvantage U.S. businesses and their workers, and I will pursue disciplines on SOEs in trade agreement negotiations. USTR leads the U.S. government in the monitoring and enforcement of trade agreements. If confirmed, I will work closely with other relevant federal agencies to address the global market distortions caused by state-owned enterprises.**

Question 7 - Trade Promotion Authority (TPA):

Trade Promotion Authority was first enacted in 1974 and has been renewed on four separate occasions. TPA is set to expire on July 1, 2021.

*Do you believe Congress should extend TPA?*

*What changes, if any, should Congress consider during upcoming discussions over TPA renewal?*

**Answer: If confirmed, I will consult closely with Congress on trade negotiations and trade legislation advanced by the Senate Finance Committee. As U.S. Trade Representative, I will work to pursue trade policies that receive bipartisan support in Congress.**