

## SENATE FINANCE COMMITTEE

### Hearing to Consider the Pending Nomination of Sarah Bianchi, of Virginia, to be Deputy United States Trade Representative (Asia, Africa, Investment, Services, Textiles, and Industrial Competitiveness), with the rank of Ambassador

Hearing Date: June 24, 2021

#### Questions for the Record

#### Chairman Wyden

##### Question 1:

Ms. Bianchi, your portfolio includes Africa, and to the extent the administration chooses to continue the negotiations with Kenya, you may be charged with leading those negotiations. This is the first bilateral trade deal being negotiated with a sub-Saharan African country, so it is important that any agreement we reach be ambitious and enforceable, with high standards on issues like the environment, labor, the rule of law and digital trade.

*Kenya has a unique labor environment, including a sizable informal labor market. How would you ensure that we could achieve high-standard and enforceable labor obligations with Kenya?*

*How do you view an agreement with Kenya fitting into the United States' overall engagement with African nations, including through AGOA?*

**Answer: I understand that the Biden-Harris Administration is currently reviewing the proposed U.S.-Kenya agreement that the previous Administration initiated. If confirmed, I would review the model of USMCA in order to understand how labor, environment, and human rights would be core elements of our trading relationship with Kenya and how the United States could support the newly formed African Continental Free Trade Area (AfCFTA), which began in January 2021.**

##### Question 2:

Ms. Bianchi, if you are confirmed, your portfolio will include competition policy. That could cover a broad variety of issues, many of them directly connected to China. In our recent bipartisan competition and innovation bill, Ranking Member Crapo and I approached this issue from two sides -- both addressing ways to support U.S. innovators, workers, and businesses, and taking action to level the playing field with China and other countries that engage in unfair trade practices.

*When you think about competition policy, what does that encompass, and what could USTR be doing — or doing better — to ensure American workers can compete fairly with their counterparts abroad?*

**Answer: I agree with the approach taken in the bipartisan competition and innovation bill, of thinking about both the actions we can take domestically to enhance the competitiveness of key sectors important to U.S. jobs and economic growth as well as taking strong action to ensure those sectors can compete fairly with China and other practices. USTR can and does work to ensure that trade policies support and reinforce those domestic actions. If confirmed, I will work to further those efforts.**

## **Senator Crapo**

### **Question 1 – Engagement with TPP Countries**

The Administration has said that the Trans-Pacific Partnership (TPP) Agreement needs to be reevaluated “since much has changed in the world since TPP was originally signed in 2016.” Meanwhile, China stands poised to have better market access than the United States in the region because its Regional Comprehensive Economic Partnership Agreement—or RCEP—is advancing toward entry into force.

*What, if any, are the specific developments since 2016 that you think have made TPP outdated—and what could be done to update TPP disciplines in response to those developments?*

**Answer: The Biden-Harris Administration has taken critical steps to improve U.S. supply chain resiliency after COVID-19 revealed significant gaps in our supply chains that make us more vulnerable to crises. We realize that we cannot make or mine everything. Trade must be a component of strengthening our supply chains – and our economy. If confirmed as Deputy USTR, I will work to advance a high-standard, worker-centered trade policy that represents a viable alternative to China, reflects American values, supports U.S. manufacturing, and reduces vulnerabilities in our supply chains.**

### **Question 2 – China Market and Censorship**

China’s market access restrictions and its censorship policies often run in parallel. For example, China imposes a quota of 34 foreign films a year, and often places pressure on our creative industries to censor the content of their works in order to secure a seat at this limited table. This hurts American employment—and undermines our values.

*What measures do you believe the Administration should consider deploying in response to this problem?*

**Answer: The Chinese government’s censorship policies are an affront to democratic, open societies. They are deeply problematic for the Chinese people, and others around the world as the government extends its censorship extraterritorially. The denial of market access is an important commercial facet of this much larger concern. We have seen that, to date, China has a record of nominal compliance with many core trade obligations, and securing**

**Chinese compliance with its trade commitments is an ongoing problem. President Biden has pledged to work with allies to address the adverse consequences of non-market authoritarian behavior.**

### **Senator Cantwell**

#### **Question 1 – Trade with Asia-Pacific:**

- *What is your view on multilateral trade agreements in the Asia-Pacific region?*
- *How does USTR plan to utilize the Asia-Pacific Economic Cooperation forum (APEC) to make progress on the U.S. economic agenda and bolster the United States' position in the region?*
- *How does USTR now intend to approach Japan? Will USTR continue bi-lateral trade talks or will it take a multilateral approach on agriculture and other market access issues?*
- *How will USTR approach South Korea? How USTR help us work with allies like South Korea to ensure supply chain resiliency for critical industries?*

**Answer: The Biden-Harris Administration is committed to investing in our multilateral relationships. If confirmed, I will make it a priority to engage with our trading partners in APEC, ASEAN, and other multilateral settings. By collaborating with our allies in the Asia-Pacific including Korea and Japan, we can advance a worker-centered trade policy and improve U.S. supply chain resiliency, while also addressing bilateral trade priorities.**

#### **Question 2 – 301 Exclusions Process:**

- *Where does the review of the 301 tariff exclusion process stand? How long will U.S. companies have to wait for answers about whether and when the 301 tariff exclusion process might be re-instated?*

**Answer: The Administration is currently reviewing its strategy with respect to China, in light of its Build Back Better agenda to create good-paying jobs and support American families. Similarly, USTR is reviewing the China trade policy, including the Section 301 tariffs and exclusions. If confirmed, I will ensure that the approach to an exclusion process and its reinstatement is consistent with the Administration's goals and a worker-centered trade policy.**

- *Will USTR consider reinstating 301 tariff exclusions as quickly as possible for companies that previously received them?*

**Answer: If confirmed, I will consider the question of past tariff exclusions, and a future exclusion process in the context of the Administration's goals and furthering a worker-centered trade policy.**

**Senator Menendez**

Question 1:

A number of my colleagues and I have been urging the administration to accelerate our trade talks with Taiwan toward the objective of negotiating a full trade agreement. Taiwan is a vibrant democracy and the right type of partner with whom the US can develop the high-standard, progressive trade policy this administration is looking for. Any final agreement should also incorporate strong rules of origin and other safeguards to ensure that the PRC cannot use a US-Taiwan trade agreement as a backdoor into the US market.

*How do you think we can best strengthen our trade ties with Taiwan?*

**Answer: Taiwan is an important economic and strategic partner for the United States. USTR recently concluded a round of TIFA negotiations with Taiwan, and, if confirmed as Deputy USTR, I look forward to building off of that progress to strengthen this critical relationship by collaborating on our shared interests, such as resilient supply chains.**

Question 2:

*Will you commit to consulting with my office on any trade negotiations with Taiwan, if confirmed?*

**Answer: If confirmed, I commit to consulting closely with Congress on trade engagement with Taiwan.**

Question 3:

Ambassador Tai said during her confirmation hearing that she would commit to “close consultations with the Senate Finance Committee on trade negotiations” and would work closely with the committee to identify ways to “improve the flow of information in the development of trade policy.”

*Do you likewise make this commitment?*

**Answer: Yes.**

Question 4:

*Since USTR has committed to follow the 2015 Guidelines for Consultation and Engagement, will you commit to seek input from the Committees on Finance and Ways and Means on U.S. text*

*proposals before sharing them with other governments and commit to provide an oral update to this Committee on the status of negotiations both before and after each negotiating session?*

**Answer: If I am confirmed, I will follow the 2015 Guidelines for Consultation and Engagement.**

### **Senator Carper**

#### **Question 1 – Multilateral Trade Agreements:**

On June 22, 2021 the Finance Subcommittee on International Trade, Customs, and Global Competitiveness held a hearing to review the benefits of a multilateral approach to trade policy in the Asia-Pacific region. We heard from experts who advised us on how the United States can get its seat back at the table and actively work with our allies to form new agreements to boost jobs and economic growth in our country.

- *Could you please share your perspective on the merits of a multilateral approach to trade policy in the Asia-Pacific region?*
- *Would you agree that the United States needs a strategy for re-engaging our allies in the Asia-Pacific region on trade? If yes, what are the essential elements that must be addressed to ensure that the United States can successfully re-engage in the region?*

**Answer: If confirmed, I will work with Ambassador Tai to deepen trade engagement in the Asia-Pacific region. The Biden-Harris Administration is committed to investing in our multilateral relationships. As Deputy USTR, I will make it a priority to engage with our trading partners in APEC, ASEAN, and other multilateral settings. By collaborating with our allies in the Asia-Pacific, we can advance a worker-centered trade policy and create a high-standard alternative to China's influence in the region.**

#### **Question 2 – Digital Trade:**

Today, Americans rely on the internet for a variety of uses, including work, education, health care, commerce, and much, much more. The internet has also inspired innovation and spurred economic development. Many of our trade agreements were written before the development and widespread use of the internet or have not kept up with recent developments in the digital world.

*What can be done to position the United States to be a leader on digital trade matters?*

**Answer: The responsible use of technology provides innumerable benefits to citizens all over the world. Digital trade policies can harness those benefits and, if crafted correctly, promote shared prosperity. I am also mindful, however, that irresponsible use of technology has destabilizing effects, including of democracy itself, and otherwise**

**undermines trust in both the digital economy and in trade itself. Moreover, existing digital trade agreements fail to acknowledge the critical role of workers in the digital economy. If confirmed, I look forward to working with members of this committee to ensure the United States can become a leader on digital trade.**

### **Senator Whitehouse**

#### **Question 1**

The U.S. textiles industry employs over half a million workers nationwide, including many in Rhode Island, and is the second largest exporter of textile products in the world. The industry has played a critical role in supplying Personal Protective Equipment throughout the COVID-19 pandemic. China's "Made in China 2025" initiative includes textiles among the advanced materials it hopes to target.

*What will you do to ensure our trade policies address unfair advantages enjoyed by foreign textiles manufacturers?*

**Answer: The Biden-Harris Administration is committed to taking on unfair Chinese trade policies in all sectors, including textiles. The COVID-19 pandemic has shown just how important a modern textiles industry can be and, if confirmed, I look forward to working with you on this important issue.**

### **Senator Warren**

#### **Question 1**

I appreciate the commitment you expressed in the hearing to elevating labor and environmental issues across your portfolio at USTR, if confirmed. One key relevant issue is rules of origin (ROO) in trade agreements. ROO can ensure that preferential treatment is granted only to imports from countries subject to the trade agreement's rules, which should include strong, enforceable labor and environmental standards. Weak ROO, however, can force the U.S. to grant preferential treatment to products that are by value largely from countries outside of trade agreement and therefore subject to none of its commitments. The Trans-Pacific Partnership, for example, not only lacked adequate labor and environmental rules, its ROO would have applied preferential treatment to cars with components from non-TPP countries comprising more than half the vehicle's value.

*Do you agree that trade agreements must include strong, enforceable labor and environmental standards, as well as robust rules of origin, so that preferential treatment is not extended to countries with poor labor and environmental practices?*

**Answer: Yes.**

## Senator Grassley

### Question 1:

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: China's nonmarket economy and industrial policies disadvantage U.S. companies and workers in numerous sectors. If confirmed as Deputy USTR, I commit to making it a priority to combat China's unfair trade practices, including those that harm U.S. amino acid producers. I will consult closely with Congress on these efforts.**

## Senator Cornyn

### Question 1:

When nominee Tai appeared before us, now three months ago, many Senators raised questions about the 25% Section 301 China tariffs the last administration had reimposed in January, and many of us expressed our hope that USTR would act quickly to retroactively extend the exclusions and set up a new round for applications for exclusions. In her answers, she "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."

She appeared again five weeks ago, and Senators pressed her on when we could expect USTR to act. She answered "As soon as we can, and ensure that what we are doing has been thought through and is strategic and has a clear objective."

Last week, the Senate expressed its growing frustration with USTR's inaction by adding provisions to the Innovation and Competition Act that would compel USTR to retroactively renew exclusions and establish a new process to apply for exclusions. This legislative action comes after impacted companies and consumers have payed billions of dollars in reimposed tariffs, a full five months since the President was inaugurated, and three months after Katherine Tai was confirmed.

One specific area of complaint where an exclusion was previously granted and was raised by my constituents is the import of art to museums and exhibits here in the U.S.

*If confirmed, can you commit to making the reestablishment of an exclusion process for the Section 301 tariffs an immediate priority?*

**Answer: The Administration is currently reviewing its strategy with respect to China, in light of its Build Back Better agenda to create good-paying jobs and support American families. Similarly, USTR is reviewing the China trade policy, including the Section 301 tariffs and exclusions. If confirmed, I will ensure that the approach to an exclusion process and its reinstatement is consistent with the Administration's goals and a worker-centered trade policy.**

Question 2:

In May, USTR announced that it would support the waiving of intellectual property for COVID-19 vaccines and support text-based negotiations on a broader anti-innovation proposal from India and South Africa – longtime opponents of intellectual property protections. This was a dramatic shift from our historic and longstanding support for stronger IP protections and enforcement globally. In other words, we are usually in the business of supporting American innovation and creativity, not supporting giving it away to our competitors.

*Since such a waiver of WTO/TRIPS agreement is likely to undermine – not expand – existing manufacturing capacity issues and will come months after the US has already donated its excess supply for the rest of the world, as Deputy USTR will you recommit this administration to this country's long-standing and bipartisan support for American intellectual property?*

**Answer: The Biden-Harris Administration believes strongly in intellectual property protections. The COVID-19 pandemic presented an extraordinary circumstance that required extraordinary measures. The Administration therefore supported a TRIPS waiver for COVID-19 vaccines in service of ending this terrible global pandemic. The Administration's aim is to get as many safe and effective vaccines to as many people as fast as possible. As our vaccine supply for the American people is secured, the Administration will continue to ramp up its efforts – working with the private sector and all possible partners – to expand vaccine manufacturing and distribution.**

Question 3:

One week from today will mark the one year anniversary from entry into force of the USMCA. Over the last year, however, Mexico has moved backwards here – and is now either non-compliant or threatening to take action that would make them non-compliant with the agreement in a wide range of issues that includes preferential treatment for state-run energy companies, regulatory delays for U.S. ag biotech and biopharmaceutical products, and local content quotas for film and television programming, among other issues.



*If this kind of disregard for the USMCA persists, will you support USTR taking enforcement action to protect America's commercial interests in the agreement?*

**Answer: If confirmed, I plan to use all of the tools available to fully implement and uphold the promises and aims of the USMCA Agreement to protect U.S. commercial interests and U.S. workers.**

Question 4:

Farmers across Texas depend on export markets to maintain farm income levels. The door has been cracked open in several emerging markets, such as Southeast Asia where U.S. nonfat dry milk/skim milk product exports have increased nearly 66 percent since 2018. With trade agreements in place with countries like Vietnam and Malaysia to reduce both tariff and nontariff barriers, there would likely be exponential growth in U.S. agricultural exports to these markets. Strong exports are of course great in terms of supporting the milk prices the dairymen and dairywomen in Texas receive.

*Ms. Bianchi-- Could you please touch on the Biden Administration's plans to engage Southeast Asian countries in future trade negotiations?*

*Would you support some type of a multilateral, regional agreement that accomplishes this goal such as the CPTPP?*

**Answer: The President is focused on making domestic investments that will boost American competitiveness. These investments will provide a solid foundation for ensuring that American goods, including dairy products as well as manufactured goods, are globally competitive. Inadequate infrastructure itself inhibits American competitiveness. The President has indicated that he will not enter into any new agreements until these investments have been made. However, it is my expectation that, if confirmed, I will be in close contact with our allies in Southeast Asia to ensure that we are cooperating on a wide range of trade matters, and to ensure that we are maximizing market access opportunities already provided under the trade agreements we have in the region.**

Question 5:

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 regarding trade, intellectual property, environmental and labor standards. It would also serve as an important foothold into key markets and help the U.S. compete against China.

*Do you support the U.S. joining the CPTPP or an equivalent agreement in the Asia-Pacific region?*

*If not, can you explain why and what alternative you propose to help the U.S. counter China's rising influence and ensure that American exporters do not continue losing market share to their competitors?*

**Answer: Ambassador Tai noted in her confirmation hearing that the Trans-Pacific Partnership was a good idea in concept. I agree with that view, and I agree that it is important for the United States to engage in the region. However, Ambassador Tai also noted that we have learned many important lessons over the past decade, including during the pandemic. The pandemic in particular highlighted the problems with concentrated supply chains in China. Any U.S. engagement in the region must ensure that we do not adopt policies that unintentionally exacerbate those supply chain concerns, or otherwise do not reflect a contemporary understanding of the challenges in the region.**

Question 6:

This month I, along with Senators Coons and Young, introduced the Stopping and Excluding Chinese Ripoffs and Exports with U.S Trade Secrets or SECRETS act. This bill creates an Interagency Committee on Trade Secrets to recommend the U.S. International Trade Commission (ITC) institute a National Security Exclusion Order (NSEO) to block those products containing or produced by those stolen trade secrets. It only applies in the case of trade secrets stolen by a foreign agent or instrumentality as defined in the Economic Espionage Act. The ITC can issue the NSEO within 30 days if it is more likely that not that the imports meet the criteria. This provides the U.S. government a rapid response, deterrent mechanism for IP theft by a foreign, sovereign power while providing due process through the ITC.

*Can you tell me your thoughts on this bill (S. 2067)?*

*If confirmed, can you commit to working with me and my staff to provide technical assistance and feedback as it moves through the legislative process?*

**Answer: I support strong enforcement with respect to trade secret theft that disadvantages U.S. innovators and workers. Such theft is particularly concerning when sponsored or conducted by a state actor. I support the goal of this bill of deterring and countering the impact of such theft.**

**If confirmed, I will work with you to provide technical assistance on aspects of the bill relevant to the equities and responsibilities of USTR.**

**Senator Thune**

Question 1:

*What trade initiatives, or potential trade agreements, should the U.S. take to strengthen our economic relations in the Asia-Pacific? Please provide at least three examples.*

**Answer: If confirmed, I will work with Ambassador Tai to deepen trade engagement in the Asia-Pacific region. Specifically, I will work with our trading partners in multilateral settings, such as APEC, as well as in bilateral settings, to advance a worker-centered trade policy that represents a high-standard alternative to China. If confirmed, I will work with Ambassador Tai to craft a trade policy in partnership with our allies that protects workers' rights and human rights.**

Question 2:

What are your views on the U.S. leading a digital trade agreement with countries in the Asia-Pacific? If confirmed, which countries would you prioritize for such an agreement and how would you work to advance those initiatives?

**Answer: If confirmed, I am committed to working with the Biden-Harris Administration to craft a trade policy that strengthens our economic relationships in the Asia-Pacific region.**

Question 3:

*If the administration does not actively lead in trade in the Asia-Pacific, what type of message will it send in terms of American interest – and willpower – to remain a leader in the global economy?*

**Answer: The Biden-Harris Administration is already demonstrating that the United States is back on the global stage. If confirmed, I am committed to working with the Biden-Harris Administration to craft a trade policy that strengthens our economic relationships in the Asia-Pacific region and benefits American workers, farmers and ranchers, and businesses.**

Question 4:

At the hearing you suggested that the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was outdated.

*What specific areas of the CPTPP are outdated? Do you believe the U.S. should enter the CPTPP or some version of the agreement? What are your thoughts on China's interest in joining the CPTPP?*

**Answer: If confirmed as Deputy USTR, I will work to advance a high-standard, worker-centered trade policy that reflects American values, supports U.S. manufacturing, and reduces vulnerabilities in our supply chains. Any trade agreement must be good for U.S. workers. It must have strong labor standards and effective labor enforcement mechanisms.**

**China's commitment to its nonmarket economic model and unwillingness to change its industrial policies are well known. I will work to ensure U.S. trade policy represents a viable, effective alternative to China's industrial policies.**

Question 5:

I recently introduced a bipartisan resolution to call on the WTO to reform its special and differential treatment rules so that globally competitive countries such as China, with the world's second largest economy, can no longer self-designate as a developing country to gain unfair trade advantages. China declaring as a developing country at the WTO misidentifies its economic standing, undermines countries that are truly developing, and corrodes trust in the WTO itself.

*Do you agree that the WTO should reform its special and differential treatment rules so that major economies can no longer self-designate as a developing country? Would you expand on your thoughts on this issue?*

**Answer: I agree that claiming special and differential treatment allows major global economies to exempt themselves from WTO rules, which weakens the organization's standards and effectiveness. If confirmed as Deputy USTR, I will work with Ambassador Tai and the USTR team in Geneva to reform the WTO in this and other areas.**

Senator Burr

Question 1:

China's violations of trade laws have disadvantaged many U.S. businesses and workers. As you know, however, North Carolina's agricultural exports have been affected by China's retaliatory tariffs, and because of this China's ag purchase commitments in Phase One of the China deal are incredibly significant for farmers in my state.

*If confirmed, what steps will you take to ensure these commitments are fulfilled?*

**Answer: If confirmed, I will work with Ambassador Tai to ensure China lives up to its commitments under the Phase One Agreement, and I will work with the entire USTR team to maximize market opportunities for U.S. agricultural producers, including in China.**

Question 2:

Last month the Senate passed the Trade Act of 2021 as an amendment to the China bill by a vote of 91-4. This amendment includes a process for companies to request exclusions from the

Section 301 tariffs, a process that is necessary to ensure companies are not unfairly penalized while we continue to pursue strong trade actions against China.

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

**Answer: The Administration is currently reviewing its strategy with respect to China, in light of its Build Back Better agenda to create good-paying jobs and support American families. Similarly, USTR is reviewing the China trade policy, including the Section 301 tariffs and exclusions. If confirmed, I will participate in this review and in crafting an approach in line with a worker-centered trade policy.**

### Question 3:

A cornerstone of U.S. free trade agreements such as USMCA and CAFTA-DR is the yarn-forward rule of origin for textile and apparel products. This is critically important to the U.S. cotton, yarn spinning and textile industries, as well as to the entire North American supply chain. This production-based rule ensures that the benefits of the agreements go to manufacturing industries and workers in participatory countries – and not third country parties like China who don't play by the rules.

*With this in mind, will you support a strong yarn-forward rule of origin for all future free trade agreements?*

**Answer: I expect future agreements to build on the yarn-forward rule found in the USMCA.**

### Senator Cassidy

#### Question 1 – Shrimp:

Recently, Congress took action to ensure seafood imports harvested or produced using forced labor do not enter the United States. In doing so, Congress directed USTR to engage with “interested” countries identify best practices, coordinate on data sharing, reduce barriers to trade in fairly grown or harvested fish and end the trade of products that either pose a risk of fraud or that have been harvested or produced using illegal, unregulated or unreported fishing, human trafficking or forced labor.

- *What countries do you believe would be interested in partnering with the United States to address these issues?*

**Answer: I believe there will be many allied countries who will want to actively engage with the U.S. on all facets of halting forced labor including fishing. I hope**

**that all nations will join in supporting a meaningful outcome that will halt these abhorrent practices.**

- *What mechanisms can USTR utilize to bring countries to the table who maybe reluctant to engage on these issues?*

**Answer: The Biden administration firmly believes that there is no place for human trafficking and forced labor in any part of international trade and will do everything in its power to eliminate these elements from being exported to the United States. The administration will not hesitate to coordinate inter-agency efforts to block imports and launch multi-lateral disputes to insure these practices are stopped. If confirmed, I look forward to supporting those efforts.**

Question 2 – Shrimp:

Earlier this month, USTR announced a decision to impose an additional twenty-five (25) percent tariff on imports from India valued at roughly \$119 million, effective November 29, 2021 under its Section 301 authority of the Trade Act of 1974. These are retaliatory tariffs against Indian imports as a result of the digital services tax (DST). I was pleased to see certain shrimp products imported from India were included in the USTR's announcement. However, USTR's announcement refers to coldwater shrimp. Coldwater shrimp are not harvested in India because of its geographical location. Coldwater shrimp—as the name suggests—are cultured and harvested from the ocean floors of the North Atlantic and Arctic Oceans. I raised this issue in May with Ms. Tai: Applying duties to the coldwater shrimp imports would likely be ineffective, because importers would simply switch back to warmwater categories to avoid the 25% tariff.

Stakeholders tell me they believe that the coldwater shrimp entering the US from India is actually warmwater shrimp that is being mislabeled in order to avoid our anti-dumping tariffs. It would be considerably more practicable and effective to instead apply additional duties to warmwater shrimp from India. Warmwater farmed shrimp is India's most important agricultural export, and the United States is India's most important market for warmwater shrimp. Therefore, imposing duties on warmwater shrimp will be a more direct and vigorous means of incentivizing the Indian government to reform the application of its DST to U.S. digital services providers.

- *First, how can we fix this issue so that we are imposing tariffs on shrimp actually raised or harvested from India?*

**Answer: In crafting a potential action under Section 301 of the Trade Act of 1974, the U.S Trade Representative must determine what is appropriate in light of the findings that, in this case, India's Digital Services Tax is unreasonable and discriminatory and burdens or restricts U.S commerce. USTR adopted an action with respect to 26 tariff subheadings, with an estimated trade value for calendar year 2019 of approximately \$119 million. If, in fact, these tariffs cover a product that is mislabeled, originating from a country other than India, USTR should work**

with Customs and Border Protection to ensure that the products covered by the 301 action enter under the correct country of origin, and if appropriate, modify the action to ensure it continues to apply to the identified level of trade.

- *What are your thoughts on how we ensure the U.S. takes appropriate action to protect Americans from consuming shrimp farmed by an industry that has faced disease outbreaks, chemical overuse, and illegal, unreported and unregulated (“IUU”) practices?*

**Answer: In March, the U.S. International Trade Commission published a report about the challenge of illegal, unreported, and unregulated fishing in U.S. seafood imports and the impact on the U.S. fisheries industry. For 20 years, the Members of the World Trade Organization (WTO) have long sought to negotiate an agreement to combat harmful fisheries subsidies. The United States has been a consistent leader in this process and recently submitted a thoughtful proposal to address the connection between forced labor and subsidies in the fishing industry and the necessity of supply chain transparency and responsibility. The WTO trade ministers are meeting this month to discuss progress on this important matter. If confirmed, I will support progress towards a meaningful agreement.**

Question 3 - TRIPS Waiver:

In May, USTR announced that it would support the waiving of intellectual property for COVID-19 vaccines and support text-based negotiations on a broader anti-innovation proposal from India and South Africa – longtime opponents of intellectual property protections. This was a dramatic shift from our historic and longstanding support for stronger IP protections and enforcement globally. In other words, we are usually in the business of supporting American innovation and creativity, not supporting giving it away to our competitors. Since such a waiver of WTO/TRIPS agreement is likely to undermine – not expand – existing manufacturing capacity issues and will come months after the US has already donated its excess supply for the rest of the world.

*As Deputy USTR can you please share your position on this issue, and please explain your thoughts on how you will protect property rights going forward.*

**Answer: The Biden-Harris Administration believes strongly in intellectual property protections. The COVID-19 pandemic presented an extraordinary circumstance that required extraordinary measures. The Administration therefore supported a TRIPS waiver for COVID-19 vaccines in service of ending this terrible global pandemic. The Administration’s aim is to get as many safe and effective vaccines to as many people as fast as possible. As our vaccine supply for the American people is secured, the Administration will continue to ramp up its efforts – working with the private sector and all possible partners – to expand vaccine manufacturing and distribution.**

Senator Young

### Question 1

I know the Administration is focused on assessing and mitigating issues with our supply chain, evident by the recent report on supply chain resiliency. The report included a specific section on biopharmaceuticals and called out innovation as a key component in spurring the research and development that was needed for the COVID-19 response. Innovators must have strong intellectual property protections to increase efficiency, maintain quality, and most importantly, save lives. Without these safeguards, research and development will no doubt plummet and hinder advancements needed to reach those in need.

- *Do you believe that IP protections are a critical part of creating an environment conducive to innovation?*
- *If confirmed, how will you ensure that innovators can boost their supply chain resiliency and meet the recommendations set forth in the Administration's supply chain report?*

**Answer: As part of the 100-day review of critical supply chains conducted in response to President Biden's Executive Order 14017, USTR will lead a Trade Strike Force that will propose unilateral and multilateral enforcement actions against unfair foreign trade practices that have eroded critical supply chains. The trade strike force will also identify opportunities to use trade agreements to strengthen collective approaches to supply chain resilience with U.S. partners and allies.**

### Question 2

Recently, the White House announced a new joint initiative with the EU, the Trade and Technology Council (TTC). Among its various goals, ensuring fair competition and establishing global trade standards for emerging technologies are among the issues the TTC will focus on. Yet, the EU has taken several unilateral actions that would significantly impact American companies' ability to compete in Europe; one example is the proposed Digital Markets Act, which would prevent market dominance by forbidding "gatekeeper" companies from undertaking certain actions. If this proposal were to become law in Europe, it is highly anticipated that this would subject major U.S. digital companies to various restrictions.

*How do you propose the U.S. should use the new TTC partnership as a strategic transatlantic response toward China's efforts to gain supply chain and technology dominance?*

**Answer: President Biden has often emphasized that market democracies, not China, should write global rules governing trade and technology. Transatlantic cooperation on trade in emerging technology products through the Trade and Technology Council is of particular importance for sectors that both the U.S. and the EU have identified as critical for our respective efforts to strengthen our supply chain resilience in the face of Chinese industrial**



**policies, such as clean energy and semiconductors. If confirmed, I would work to make sure these efforts are effective.**

### Question 3

In late May, the Senate voted to include the Trade Act of 2021 to the United States Innovation and Competition Act, which would allow importers to obtain relief from Section 301 tariffs imposed on certain products from China, including renewing and extending expired Section 301 exclusions through December 31, 2022.

*If confirmed, will you commit to working with U.S. stakeholders, in coordination with Ambassador Tai, to reform the exclusion process and renew expired Section 301 tariff exclusions with retroactive extension and/or another opportunity for applications?*

**Answer:**

**The Administration is currently reviewing its strategy with respect to China, in light of its Build Back Better agenda to create good-paying jobs and support American families. Similarly, USTR is reviewing the China trade policy, including the Section 301 tariffs and exclusions. If confirmed, I will ensure that the approach to an exclusion process and its reinstatement is consistent with the Administration's goals and a worker-centered trade policy.**

### Senator Sasse

#### Question 1

If confirmed, Asia will be a part of your portfolio as Deputy United States Trade Representative (DUSTR). Given the CCP's growing influence in the region, we must continue to pursue creative economic solutions in order address this challenge. I have previously discussed with Ambassador Tai the possibility of creating a tech alliance among democracies with shared values.

- *Can you describe the strategic challenges for the United States posed by continued economic and technological independence with the CCP?*
- *How do you plan to 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?*
- *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: I believe digital trade provides the United States with an opportunity to advance shared goals among the United States and other democracies with shared values, particular to fight techno-authoritarianism. Digital trade policies that reflect**

**the entire digital ecosystem, from infrastructure, to workers, to market access, to consumers, will allow the United States to address the threat of digital authoritarianism more holistically. If confirmed, I would welcome the opportunity to present the Committee with a strategy to achieve these goals.**

#### Question 2

The ratification process for Regional Comprehensive Economic Partnership (RCEP) is steadily advancing and includes several large economies such as China, Australia and South Korea.

*Is RCEP a threat to U.S. economic and security interest? Why or why not?*

**Answer: RCEP is an agreement that may prove to be more symbolic than substantive. While it does not include labor and environmental standards, it does not prohibit the parties from committing to those standards elsewhere and thus does not undermine broader U.S. goals of ensuring that trade agreements facilitate shared prosperity. As the experience of the United States and others at the World Trade Organization indicates, while China is often willing to make commitments in trade agreements, its adherence to those commitments falls well short. Notably, India chose not to sign RCEP, even after having participated in the negotiation.**

#### Question 3

Following U.S. withdrawal from the Transpacific Partnership (TPP), the remaining member countries moved on to form the Comprehensive and Progressive Agreement for Transpacific Partnership (CPTPP) in 2018. The current configuration of CPTPP, as well as RCEP, will likely stimulate intra-East Asian integration.

*Should the U.S. consider joining the CPTPP or another TPP-like multilateral agreement? Please explain why or why not.*

**Answer: The promise of CPTPP is that it will stimulate intra-East Asian integration. However, the rules of CPTPP itself do not necessarily align with the premise. The industrial supply chain rules, for example, permit significant content to come from non-parties. Ambassador Tai indicated during her confirmation hearing that TPP was a good idea in concept. However, she also noted that we have learned many important lessons over the past decade, including during the pandemic. The pandemic in particular highlighted the problems with concentrated supply chains in China. Any U.S. engagement in the region must ensure that we do not adopt policies that unintentionally exacerbate those supply chain concerns, or otherwise do not reflect a contemporary understanding of the challenges in the region.**

#### Question 4

I was pleased to hear Ambassador Tai and Taiwan Minister-Without-Portfolio John Deng's joint commitment to reconvene the Trade and Investment Framework (TIFA) talks. Taiwan has proven to be a strong U.S. economic and strategic partner.

- *Do you view a trade agreement with Taiwan to be an important national security approach in counteracting China?*
- *How will you approach an FTA with Taiwan now that Taiwan has granted greater access for U.S. pork and beef?*
- *Where does an FTA with Taiwan fall on your priority list and where do you see hurdles to an agreement?*

**Answer: I believe the United States and Taiwan have significant opportunities to cooperate on trade, including with respect to supply chain security and resilience. In addition to supply chains, Taiwan and the United States have agreed to cooperate on ensuring that trade promote shared prosperity, setting up a Labor Working Group, and will also cooperate on environmental issues, including climate change.**

## **Senator Barrasso**

### **Question 1**

In Wyoming, we have a lot to offer the Asian-Pacific region. We produce some of the highest quality beef in the world. Wyoming wants to export our beef, our soda ash, our coal/oil/natural gas to this critical region.

Japan and Taiwan, among others continue to be major growth markets for Wyoming exports. In fact, Wyoming opened its only international trade office in Taipei, Taiwan in September 2018.

*How does a multilateral approach vs. a bilateral approach help Wyoming access these export opportunities in the region?*

**Answer: If confirmed, I will work with Ambassador Tai to deepen trade engagement in the Asia-Pacific region, which is critical to countering China's influence in the region. I understand how important market access opportunities are for U.S. producers, and I am committed to working with the Biden-Harris Administration to craft a trade policy that benefits American workers, farmers and ranchers, and businesses.**

### **Question 2**

We are in a critical moment in the U.S.-China relations. Given China's rapid rise as an economic powerhouse and their aggressive behavior in the region and across the globe,

- *Can you discuss the importance of the strengthening U.S. trade relations with Taiwan?*
- *If the U.S. re-engages on the Comprehensive Progressive Agreement for Trans-Pacific Partnership (CPTPP), which I believe is in our best interest, how likely is it that we can integrate Taiwan into this multilateral framework?*
- *If we can't integrate Taiwan into a larger multilateral deal, should the U.S. pursue a bilateral deal instead?*

**Answer: Taiwan is an important economic and strategic partner for the United States. USTR recently concluded a round of TIFA negotiations with Taiwan that covered a variety of issues, and, if confirmed as Deputy USTR, I look forward to building off of that progress to strengthen this critical relationship by collaborating on our shared interests, such as resilient supply chains.**

### Question 3

The Trump Administration used tariffs to bring China to the negotiating table.

I believe they were effective in that regard. However, I also believe tariffs have a shelf-life and there comes a point when they do more harm than good.

*Can you share your thoughts about how the Section 301 tariffs have impacted American companies, workers and consumers?*

**Answer: In some circumstances, the tariffs imposed on imports from China under Section 301 have likely impacted U.S. companies, workers and consumers. However, analysis varies of the extent and duration of that impact. In addition, we must counterbalance other objectives, including discouraging the theft of China's predatory actions to transfer technology from U.S. companies, which has led to shutting the United States from certain supply chains. When we think of tariffs overall, we should also consider how shifting and diversifying supply chains may ultimately be a positive externality for the security and economic well-being of the United States.**

### Question 4

As the global economy begins to recover from the damage inflicted over the past year, many of our competitors are actively pursuing trade agreements to improve market access and secure a competitive advantage in key markets, especially in Asia.

The United States, however, is taking a very conservative approach to trade negotiations. I believe this is a mistake and one we should correct quickly.

- *Is it possible for the U.S. government to successfully negotiate free trade agreements without Trade Promotion Authority?*

**Answer: If an agreement has a sufficient base of support, then it may be possible for the agreement to pass both Chambers without the procedural safeguards of Trade Promotion Authority. The recent passage of USMCA suggests that such an outcome is possible.**

- *Is there any good reason why the Senate Finance Committee should not prioritize reauthorization of TPA?*

**Answer: I defer to the Committee on whether it should prioritize reauthorization of Trade Promotion Authority.**

- *Can the United States afford to fall behind our competitors by not securing free trade agreements?*

**Answer: U.S. competitiveness is a priority for the Administration. Competitiveness encompasses a number of factors, including whether our domestic policies do enough to support American workers. Market access under free trade agreements is reciprocal. If we do not support American competitiveness, through infrastructure and critical investments in our people, then we will not be in a position to take advantage of any market access provisions we might negotiate through trade agreements.**

#### Question 5

I believe we need to move quickly to reassert American influence in Asia and strengthen our economic and national security ties with our allies. While the Administration continues to reassess the way we make trade deals, China running circles around us. They are signing trade deals as quickly as they can. They are expanding their influence and trying to assert economic influence in all corners of the globe.

- *When can we expect the Administration to push for new trade deals?*
- *And should we seek strengthen bilateral relations while pursuing a multi-lateral agreement in the region?*

**Answer: President Biden has made it clear that he is committed to pursuing investments here at home before signing new trade agreements. Investing in our infrastructure, communities, and workers will help to make the United States more competitive. If confirmed as Deputy USTR, I look forward to supporting the Biden-Harris Administration's efforts to make critical domestic investments and working with Ambassador Tai to craft the trade policies to support them.**

### Question 6

Strong intellectual property (IP) 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.

The President has called for waiving Intellectual Property Rights (IPRs) for vaccines because of the global health crisis. I strongly disagree.

At the same time, he has made it very clear that this Administration believes the world is facing a "climate crisis." On April 22nd, the President called on countries to "step up" and take further action on climate change in order to "overcome the existential crisis of our time."

- *Do you think the COVID-19 pandemic is a crisis?*
- *Do you agree with the President that because of this crisis vaccine IPRs should be waived?*
- *Do you agree with the President that there is a climate crisis?*
- *Do you think we should waive American Intellectual Property Rights on green technology to combat the climate crisis?*
- *What's the difference?*

**Answer: Within the first full week of taking office, President Biden issued Executive Orders on both the COVID-19 pandemic and the climate crisis. I agree with the President on the critical nature of both issues and was glad, in particular, that Ambassador Tai joined the President's Leaders Summit on April 22nd to discuss the potential benefits of green jobs and technology to workers and the jobs of a sustainable, more equitable, and prosperous future.**

### Question 7

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 and other industrial policies of nonmarket economies undermine U.S. companies and their workers. The President's Trade Agenda makes clear that combating unfair trade practices is a top priority of the Administration. If confirmed as Deputy USTR, I will work with Ambassador Tai to fully enforce existing trade agreements and negotiate new trade rules to better combat global market distortions caused by nonmarket economies. In addition, I will seek to build support for these initiatives with like-minded U.S. trading partners. I look forward to working with Congress on these efforts.**

#### Question 8

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