

THE PRESIDENT'S 2021 TRADE POLICY AGENDA

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

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MAY 12, 2021
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THE PRESIDENT'S 2021 TRADE POLICY AGENDA

WEDNESDAY, MAY 12, 2021

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 9:30 a.m., via Webex, in the Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Stabenow, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Whitehouse, Hassan, Cortez Masto, Warren, Crapo, Grassley, Cornyn, Thune, Portman, Toomey, Cassidy, Lankford, Daines, and Barrasso.

Also present: Democratic staff: Sally Laing, Senior International Trade Counsel; and Joshua Sheinkman, Staff Director. Republican staff: Gregg Richard, Staff Director; Mayur Patel, Chief International Trade Counsel; and John O'Hara, Trade Policy Director and Counsel.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Finance Committee will come to order. This morning the Finance Committee is pleased to welcome United States Trade Representative Tai for our annual hearing on the President's trade agenda. In 2021, just about every major trade policy needs to be based on a straightforward proposition: out-competing China for jobs and economic growth. The reality is, too often, the Chinese Government has feasted on weaknesses in the global trading system to the disadvantage of American workers.

The Finance Committee examined many of the key issues in a hearing last month. American factories and plants have shut down because of unfair subsidies and overproduction in China. American websites and digital service providers are blocked by the Great Firewall, and they watch as homegrown Chinese firms rip off their ideas and grow into tech giants intolerant of free speech. American workers cannot and must not ever have to compete against forced labor, which is an atrocity on its own, regardless of what it means for international trade.

The bottom line is, our country has been playing catch-up ball in the competition with China for too long. It is going to take higher standards and stronger enforcement policies as a key component to move faster, to have more American jobs and growth, particularly in our smallest businesses. The older, slower approach—the one

that responds to China's rip-offs long after the damage is done—clearly has not worked.

The committee is working now on bipartisan legislation to address these challenges directly. We are going to have progress to announce on that bill in the days ahead, and I am looking forward to discussing these issues with Ambassador Tai today.

Now, apropos of showing what tough, quick-moving trade enforcement looks like in practice, there are two brand new examples that have been making some news this week. The AFL–CIO announced Monday that it was bringing forward the first major complaint dealing with labor rights under the new USMCA rapid response mechanism. And as Ambassador Tai is going to tell us shortly, USTR announced just this morning that it has self-initiated the first rapid response action to protect workers' rights to organize and collectively bargain. Senator Brown of Ohio and I proposed this new system some time ago because the Trump administration's version of the new NAFTA deal simply was not strong enough to ensure enforcement to protect American jobs.

The new petition and action announced this week are taking on what really are classic labor violations in Mexico, such as firing or harassing workers who try to organize, and failing to ensure a legitimate vote on bargaining agreements. That sort of abuse is a threat to workers everywhere, including in my home State of Oregon and across the country, because it is part of the race to the bottom on worker's rights.

The committee is going to have questions, as I know the Ambassador expects today, and there will be questions on other areas of trade enforcement implementation.

Finally, USTR is also going to be leading negotiations dealing with intellectual property and the COVID–19 vaccine. Entering negotiations on the IP waiver was the right decision. The Biden administration is working hard to get shots in arms across the country, and COVID–19 cases are dropping in many areas. However, new coronavirus variants still clearly pose a danger to Americans as long as there are terrible outbreaks around the world.

My view is, our system ought to include IP protections and exceptions that promote the common good, and it is unquestionably in the common good to squash the virus as quickly as possible around the world.

The waiver negotiations are an important step, but as the Ambassador and I have talked about, the waiver alone does not unlock a vaccination miracle; there is more to do. That includes manufacturing capacity, it includes building out supply chains; it could also include making sure other countries are actually going to be able to afford the vaccine.

So we have a lot to talk about today. We want to welcome you again, Ambassador Tai. We are going to have, first your testimony, then questions and answers.

And now we will hear from our friend Senator Crapo.

[The prepared statement of Chairman Wyden appears in the appendix.]

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

Senator CRAPO. Thank you very much, Mr. Chairman. And welcome, Ambassador Tai. Senator Wyden and I are in strong agreement about how critical it is for us to step up our game in trade, particularly in terms of dealing with China. And I appreciate the opportunity for us to visit with you about that here today, Ambassador.

The President's 2021 trade policy agenda opens with two objectives: one, ending the COVID-19 pandemic; and two, strengthening the economy.

Significant progress is being made on the first, with record vaccine development thanks to Operation Warp Speed and continued efforts by the Biden administration to get shots in the arms.

Unfortunately, with regard to the second objective, progress is disappointing. Last month the United States added only 266,000 jobs—far less than the 1 million jobs that economists predicted.

President Biden's response is that we have a long way to go. Yes, we do. In fact, more Americans are out of work at the moment than during the worst point in the Great Recession.

Of course, Americans have crossed unimaginable distances before—and they will do so again. But why counsel Americans to be patient? It is not in their nature. What we need to do right now is to speed up the journey for everyone by fully reopening our economy and executing an ambitious and sound trade policy.

According to President Biden's trade agenda, exports facilitate greater productivity and wages. In fact, President Obama's White House determined that every billion dollars in increased annual exports supports between 5,300 and 7,300 jobs.

If the Biden administration wants a worker-centered trade policy, then the logical—and only sensible course—is to adopt a trade policy that creates as many high-paying jobs as possible.

That kind of successful trade policy requires at least three components. First, enforcement must be a priority. The trade agenda notes there will be comprehensive enforcement of the labor and environmental obligations in our free trade agreements. I support that, because America's businesses, workers, and farmers need to compete on a level playing field.

We can do that, and also stand up for them by challenging other market access barriers at the same time. Enforcement in these areas is complementary, not exclusive.

Make no mistake, there is a great deal to enforce. For example, the United States-Mexico-Canada Agreement, the USMCA, contains groundbreaking market access commitments. These commitments are particularly important to our farmers, who have faced a decline in demand from restaurants, school systems, and hotel customers.

We must make sure American farmers get the access to our trading partners to which they are entitled. But the story on enforcement must become better.

An important U.S. tariff-rate quotas case against Canada remains stalled in the USMCA process. It is time to see progress on it, or the United States must proceed with a dispute settlement

panel so that American farmers, ranchers, and businesses can enjoy the benefits they bargained for under the agreement.

Mexico is adopting a host of measures that undermine our agricultural rights, including restrictions on biotech crops, glyphosate, and unreasonable food packaging labels.

Ambassador Tai, I encourage you to press for action on these barriers at the meeting of the USMCA Free Trade Commission later this month. If our partners should refuse, you must use the enforcement tools at your disposal.

The second component of an effective trade policy is negotiating new rules and market access opportunities. To that end, I support the Biden administration's call to work with allies. Yet, the President's trade agenda is silent on whether we will continue to negotiate with the United Kingdom and Kenya.

I encourage you to work with the United Kingdom—one of the United States' oldest allies—and with Kenya, which can serve as a replicable model for future trade deals in a country where China has failed to get an FTA, and that will also establish our commitment, over China's, to the people of Africa.

Furthermore, we must deepen our engagement in the Asia-Pacific, or risk losing U.S. allies there to China's predation.

While I understand you believe the Trans-Pacific Partnership is dated, I see value in an agreement with new disciplines, including on digital trade. However, that means we must start thinking about how to modernize the TPP, or what other structures we can use for U.S. engagement in the Asia-Pacific. We cannot simply take a "time-out" from the region.

Last month, Japan ratified the Regional Comprehensive Economic Partnership, which is China's model for what trading relationships in the region should look like. In the absence of U.S. leadership in the region, our allies will have to look elsewhere. If the United States is to pursue a worker-centered trade policy, we need to be mindful that American workers lose when China writes the rules.

The final but most important component of a successful trade policy is consultation. The Supreme Court noted 60 years ago that the President is strongest when he acts pursuant to an authorization of Congress—and is potentially powerless when he acts in defiance.

The administration must be strong when it comes to trade policy, and that requires a close partnership between Congress and the U.S. Trade Representative. We recently had a test of that partnership: the administration's decision to support a waiver to the intellectual property protections in the WTO TRIPS Agreement.

The WTO TRIPS Agreement was approved by Congress. The law says Congress's approval can only be withdrawn, quote "if and only if" Congress enacts a joint resolution to that effect. Last summer, during the height of the pandemic, both houses of Congress declined to act on such a resolution. Yet without any consultation with this committee, you announced via a tweet that the administration unilaterally supports waiving the patent obligations of the TRIPS Agreement.

Chancellor Merkel of Germany asserts the problem with vaccine distribution is not patents, but manufacturing capacity and produc-

tion standards. Albert Bourla, the CEO of Pfizer, said the decision will “categorically create more problems for vaccine distribution.” He added that it will “disincentivize anyone else in the future from taking a big risk” like Pfizer did, laying the groundwork for classic moral hazard.

Iconic American innovators, like Bill Gates, have also said the decision will not advance vaccine distribution. In short, these observers assert a TRIPS waiver will undermine the very objective on which I said the administration showed some progress; ending the pandemic.

Conversely, Vladimir Putin, in fact, supports this decision to pursue a waiver. Neither did it surprise me that a bureau chief for one of China’s propaganda outlets replied to your tweet by asserting that “global pressure works.”

You may, of course, have your own good reasons, but to date you have not offered an adequate explanation. You will hear more on this subject from me and my colleagues.

Ambassador Tai, I know that you like the expression that “USTR can walk, chew gum, and play chess at the same time.” But what we need is a USTR that can enforce, negotiate, and consult at the same time. The American people and members of Congress, including myself, are counting on you to prove that is the case.

Thank you, Mr. Chairman. I look forward to the testimony from our witness.

[The prepared statement of Senator Crapo appears in the appendix.]

The CHAIRMAN. Thank you, Senator Crapo; and I look forward to working with you.

Ambassador Tai, welcome. Please go ahead.

STATEMENT OF HON. KATHERINE C. TAI, UNITED STATES TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Ambassador TAI. Thank you, Chairman Wyden, Ranking Member Crapo, members of the committee, for inviting me to testify on the President’s trade agenda.

Our worker-centric trade policy is a key part of the Biden-Harris administration’s effort to Build Back Better. We are making real strides towards ending the pandemic. There are pockets of progress and hope, but we still have a lot of work ahead.

I want to thank Congress for passing the American Rescue Plan, which has already helped gets shots in arms and money in the pockets of millions of Americans. We are seeing the economic benefits of that quick action here in the United States; we are on track for a full economic recovery. More needs to be done.

The American Jobs Plan and the American Family Plan would combine to make the United States a healthier, safer, more prosperous, fairer, and a more competitive nation. They would make full investments that build a better foundation for decades of economic growth.

These extraordinary times demand extraordinary leadership and creativity to defeat COVID–19. The announcement last week that the United States will not let intellectual property rights get in the

way of saving lives is just one part of the administration's global effort.

We will pursue text-based negotiations at the WTO, which may take time, but I am encouraged that other countries have already announced that they will roll up their sleeves and join us.

We will also continue to ramp up our efforts working with the private sector and other partners to expand vaccine manufacturing and distribution around the world. This comprehensive effort will not only save lives but also help heal the economy.

And as we reengage the world from a position of strength, support from Congress gives us more authority and opportunity to deliver results for the American people. We want a fair international trading system that promotes inclusive growth and reflects America's universal values. For too long, we have overlooked the effect of our trade policies on individual workers, who are human beings living in a community trying to survive and to thrive.

The worker-centered trade policy outlined in the President's trade report will foster broad-based equitable growth, increase innovation, and give workers a seat at the table.

Last week, I announced our transparency principles and the appointment of our Chief Transparency Officer, whom Chairman Wyden knows well. Together they show our commitment to comprehensive public participation, and they are just the starting point.

For the first time, the President's trade agenda included the goal of racial equity. Our thoughtful, sustained engagement will help us better understand how our proposed policies affect all communities, and we will consider those effects before making policy decisions.

Trade policy must also help protect the environment and fight climate change. For too long, we have seen a race to the bottom, but we can use trade tools to incentivize a race to the top and build a cleaner and brighter future with high-paying, quality jobs.

Our farmers, ranchers, fishers, and food processors will also benefit from our new approach. We are turning the page on erratic trade policies and looking to expand global market opportunity while enforcing global trade standards and ensuring that trade partners live up to their commitments.

Sustained American leadership and reengagement with our allies, trading partners, and economic competitors will be key. The Leaders Climate Summit in April showed that we can rally the world to tackle big challenges. We will work with the World Trade Organization's new Director General, Dr. Ngozi Okonjo-Iweala, and like-minded countries to reform the WTO's rules and procedures so they can be a relevant force for good in the 21st century.

We are also working to resolve the ongoing Boeing/Airbus dispute and addressing the real problem of overcapacity in the steel and aluminum sectors coming primarily from China.

These talks will take time, but I believe a resolution is possible. We will not hesitate to call out China's coercive and unfair trade practices that harm American workers, undermine the multilateral system, or violate basic human rights. And we are working towards a strong strategic approach to our trade and economic relationship with China.

We welcome fair competition, and if China cannot or will not adapt to international rules and norms, we must take steps to level the playing field.

Closer to home, we are using every tool available to make sure our existing agreements work and have a positive impact on real people. The USMCA gives me confidence that this approach is worthwhile.

USMCA is a starting point for future efforts in the region that will explicitly acknowledge climate change, aggressively address global forced labor issues, and expand the benefits of trade to women and historically underserved communities.

I will enforce the new standards, follow through on our commitments, and use the agreement to ensure that Canada and Mexico do too. This week you have seen that we are committed to using these tools. The innovative rapid response mechanism will allow us to address longstanding labor issues in Mexico. Today I am proud to announce the inaugural use of this mechanism in our request that Mexico review whether workers at a General Motors facility are being denied the right of free association and collective bargaining. I commend the Government of Mexico for stepping in when it became aware of voting irregularities earlier this year.

I am proud to partner on this shared goal of helping both Mexican and American workers prevent a race to the bottom.

As you can see, we have our work cut out for us, but I am confident that we can walk, chew gum, and play chess at the same time. The professional and dedicated public servants at USTR are working hard to implement the President's trade agenda, and I am proud to carry the strength and creativity of our small but mighty agency into the room today.

Thank you for your time, and I look forward to your questions.

[The prepared statement of Ambassador Tai appears in the appendix.]

The CHAIRMAN. Thank you, Ambassador. And when we think about you, we think particularly about your mighty role in particular.

Thank you also for the good news with respect to the stepped-up effort on transparency, on trade enforcement in particular, where Senator Brown and I have put a lot of sweat equity into doing that. So that is good news.

What I would like to start with—you heard Senator Crapo and I talk about our joint efforts with respect to China. The bottom line here is, we've got to out-compete them, and we can do that on a level playing field.

Now China has not exactly been secretive about its aspirations; they have all these plans: 5-year plans, 10-year plans, this plan, that plan. The fact, however, is that their bottom line is, they are targeting industries today that we care deeply about—that Senator Crapo and I care deeply about in the Pacific Northwest—semi-conductors, the question of solar. These are hugely important to our part of the country and the United States.

My first question to you is, are there tools that you need this committee to give you now so that you can better ensure that we have that level playing field for American companies, both at home and abroad?

Ambassador TAI. As I turn on my microphone here, this is one of the most important questions that we face, which is how we make use of the tools that we have; and as we survey the landscape in 2021 in terms of the economic challenges that we have and the competitive challenges, what tools do we still need? I appreciate the spirit of this question tremendously.

Let me just offer one example. We do need new tools, in my opinion, and I think that this is an area where the administration and this committee and the Congress can really make strides towards strengthening our trade enforcement, our leveling of the playing field.

The steel and aluminum tariffs that have really roiled our economy but were necessary to address a global overcapacity program, driven largely but not solely by China—one of the awkward aspects of the use of these carrots is the section 232 authority that I know so many members of this committee have really been studying and focused on reforming over the past several years. What I would like to offer is this thought, that for my predecessor and the Trump administration, they did the best that they could, given the tools that we have existing on the books.

Section 232 is a statute from 1962, I believe it was, created at a very different time, certainly created long before the WTO was founded. And what I would observe is that part of the tensions that have arisen over this important trade remedy is the discordance between the authority provided and the nature of the problem we are dealing with now.

What I would propose is that we need 2021 tools for addressing the 2021 challenges we have, rather than relying on 1962 tools and retrofitting them for the challenges we have now. So I think that there is a lot of opportunity here for us to look at the problems and challenges that we are facing and to devise tools here in the United States, but also to work with our allies and our partners on tools that we can coordinate using, to address really what should be shared interests on our part.

The CHAIRMAN. I very much appreciate your interest in updating that particular area of trade policy. I can tell you, and I think my colleagues would agree—I think colleagues on both sides—not a day goes by when I do not have a Senator talk to me about 232, and particularly this idea of modernizing the statute. That is what trade is all about: having a tool box that we can use to deal with our challenges. So we will look forward to working with you on that.

Let me, in my remaining time, just touch on a question with respect to the TRIPS waiver and the situation with the vaccines.

I like your point about multitasking, where you are saying, “Hey, look, we can walk and chew gum, we can do all of this simultaneously.” We are going to need some guiding principles with respect to the full issue, and let me submit three and kind of get your reaction.

First, we have to have a balanced vaccine IP waiver that spurs timely manufacturing safely and ensures deployment. Second, we need to deal with any kind of potential restrictions, questions with export restrictions, non-tariff barriers, regulatory hurdles, tariffs; the kinds of things that slow down manufacturing would be the

second kind of principle. And third, we have to engage with other countries in the WTO to understand what obstacles we may see in the WTO process.

That would be my take of how USTR—and our conversation is going to be working with other agencies and other officials. These are all areas where it seems to me your office can lead, and with your expertise, strike me as a solid set of principles we can begin with.

What is your take on that?

Ambassador TAI. Chairman Wyden, I had prepared a slightly different set of words, but they essentially track your three principles, and so let me just reflect to you the way I have been thinking about it, but I think that they match up quite nicely.

The first one is to educate, really, around the waiver proposal and the way the WTO works. Our expression of support for the waiver is an endorsement and an exercise of U.S. leadership at the WTO to begin a process, and to encourage all 164 members of the WTO to roll up their sleeves and come together. It is a process, and if we are going to succeed at the WTO in making the WTO relevant here in responding to the needs of our people worldwide and our economy, it will necessarily be something that has to be supported by all 164 members of the WTO. We see our role as critical to facilitating that conversation and process.

The second point I wanted to make was that there is precedent of a temporary waiver of intellectual property rights at the WTO, and the earlier incident happened in the early 2000s around the HIV/AIDS epidemic. And what happened was effective in addressing the needs, especially on the African continent.

The third point I wanted to make was the need for partnership. That is across the administration—certainly with Congress—I am here today to consult. I will consult, and I always have; I have made that commitment. We will need a partnership at the WTO and here in the United States to be able to make the kind of difference that will allow us to have the ability to get through the pandemic to an economic recovery.

The CHAIRMAN. I am well over my time.

Senator Crapo?

Senator CRAPO. Thank you very much, Mr. Chairman.

And I would like to follow up on that very same line of questioning with regard to TRIPS.

Ambassador Tai, are you saying that there is authority, there is precedent for waiving the TRIPS process without approval of Congress? As I indicated in my opening statement, the law says that that can be waived only if Congress agrees.

Do you disagree with that?

Ambassador TAI. So, Senator Crapo, I think it is incredibly instructive to look at the early 2000s, the leadership of President George W. Bush, working with the Congress across the board. The TRIPS piece was just one piece of what has become PEPFAR. I believe it stands for the President's Emergency Program For AIDS Relief.

I think that was really a remarkable model of bipartisanship and leadership by the United States to address a problem that had really become untenable in terms of the ability of those suffering

most acutely from HIV–AIDS to get access to the life-saving medicines that were—

Senator CRAPO. Well, I understand that, but because of time, I want to get right to the question.

Do you believe that you have the authority to waive the WTO TRIPS provisions without congressional approval?

Ambassador TAI. Senator Crapo, let us put it this way: I believe I have the authority to negotiate at the WTO, and I think that what I would say is, the provision that you cited earlier really has more to do with withdrawing the United States from the WTO as opposed to the authority of the United States to participate at the WTO as a full member.

Senator CRAPO. Well then, I do not agree with that, but given that, will you commit that in these negotiations in Geneva to discuss the waiver—will you commit to this committee that you will oppose allowing any waiver to be extended to China and Russia?

Ambassador TAI. Senator Crapo, I think that what I want to make clear right now is, in terms of the objective of the waiver, it is to remove intellectual property restrictions as an obstacle to the ability to get the world vaccinated.

And what I would draw your attention to is that the proponent, the main proponents are India and South Africa. And if you look at where vaccine inequity is most striking, it is on the African continent.

So let me just say this, that I am committed to a full, good faith effort at the WTO, but the focus really is on promoting vaccine equity. And we will have to address the concerns of all parties involved, and those whose partnership we require in order to come to a kind of resolution at the WTO.

Senator CRAPO. Now, if I understand what you are saying, let me ask you this. At a minimum, can you confirm that this committee will see the text of any proposal you are dealing with or negotiating well in advance of you tabling it to the other trading partners?

Ambassador TAI. Senator Crapo, I commit to consulting with this committee; that is why I am here, that is why I will be here when you ask me to come; that is why I will pick up the phone and pick up any call that is ever made to me.

Let me put it this way in terms of the process that we are embarking on: it will require engagement in groups collectively and on a bilateral case basis with WTO members. I commit to keeping this committee fully informed of how those conversations develop.

Senator CRAPO. Finally, on this issue, I would just note to you, I think that this all shows that it is really important for the administration to promptly name nominees for the Chief IP Negotiator and for Ambassador to the WTO.

Do you agree with that?

Ambassador TAI. Senator Crapo, I take staffing at USTR very seriously. Right now, I am the leader at USTR. Having USTR staff up is going to be incredibly helpful to me, and obviously those positions that you just identified are ones that will have to come through this committee, and we are working on those issues right now.

Senator CRAPO. Well, I encourage you to try to press for that quickly.

I see I only have a few seconds left, so let me get my last question in, and it is going to relate to the UK and Kenya.

Your experience allows you to make sure that trade is not on the back burner; you have great experience. And to me it is imperative that we reengage with the UK and Kenya. I mentioned in my opening remarks why that is so important in both places.

Where is the USTR in its review of these negotiations, and when do you reasonably expect them to conclude?

Ambassador TAI. Well, Ranking Member Crapo, I think that, given the level of intensity and the conversations I expect to have today, that it should be clear that trade is not on the back burner.

For your question specifically on the UK and Kenya, I think it was in my first 2 weeks on the job that I had conversations with my counterparts in both countries, and we at USTR are working through the process of assessing the progress and thinking through how these engagements will support goals on both sides, including on our side to support the Build Back Better agenda.

So we are very much engaged in a review, and I look forward to coming back to you and to our trading partners on next steps.

Senator CRAPO. Can you commit to any timeline there?

Ambassador TAI. Senator Crapo, I understand that—let me say this: in terms of Building Back Better, first we have to get through the pandemic. Second of all, we need to be engaging on all fronts. I want to convey to you the degree to which all engines and all thrusters are on go at USTR right now.

Senator CRAPO. All right; thank you.

The CHAIRMAN. We are going to go now to Senator Stabenow and then to Senator Grassley.

Senator Stabenow is on the web.

Senator STABENOW. Well, thank you very much, Mr. Chairman. Really important hearing. And welcome back, Ambassador Tai. It is wonderful to have you with us, and obviously there are so many issues on your plate that are critical to all of us.

From my perspective in Michigan—we are an exporting State. We also are very concerned about having a level playing field when it comes to trade, and making sure that we also have that supply chain that the President is talking about all the time, here in the United States.

And I want to follow up with part of what the chairman was talking about in terms of a level playing field, but ask you specifically relating to something that is a really serious issue for us right now in Michigan and in the country, and that is the fact that we have such a serious global shortage of semiconductor chips and wafers. And this has had a cascading effect on, not only the auto industry, but other industries as well. We have idled plants and we do shifts; we have laid off workers right now. We are working to make significant investments in semiconductor chip fabrication facilities now at home, to stop the overreliance on overseas fabrication in the long run. And frankly, if we are investing significant taxpayer dollars in R&D, in production, then we need to ensure these investments are going to our key industries: auto and aerospace and defense and so on.

But could you talk about any tools right now that the USTR has to address this semiconductor supply chain issue in the short run

as well as the long term? What are ways that you can help us get through this right now?

Ambassador TAI. Senator Stabenow, the chips issue is very much on our mind, both for itself and the industries most directly impacted by the shortage, but also in the bigger picture, as you highlighted: the short-term and the long-term question.

I want to emphasize the importance on our side in terms of the whole government approach to this particular issue. I know how very much semiconductors strategically are on the minds of you and your colleagues on this committee.

There is currently a supply chain review that is going on, that is focused on four areas; semiconductor chips is one of them. I want to indicate to you that the Department of Commerce is a lead agency on the chips issue, and that I speak to Secretary Raimondo quite often on this. I would reinforce her comment on the short-term issue, which is: there is no silver bullet that will solve this problem in the short term.

But in terms of the longer term, strategically thinking about chips and harnessing the policy power of the U.S. Government, I actually have a lot of confidence in this area, because I know how much leadership there is in the Congress, on this very committee, and how much motivation there is on our side to look at resilience in supply in this area.

Senator STABENOW. Thank you. Another key piece of this is the whole clean energy economy and how we move, again, to compete internationally, particularly with China, which is heavily invested in using massive subsidies, frankly, and predatory practices also.

And so we know for example, China holds almost three-fourths of the world's manufacturing capacity for lithium ion battery cells, which are a critical component for a lot of things, including our capacity to move forward on electric vehicles.

So we are all working on the committee, the chairman, myself, on a bipartisan basis on a number of different issues, tax policy issues, other ways to be able to again have American competitiveness put us and keep us at the front of the line on that.

So what is the USTR doing to help our manufacturers better compete in the clean energy markets that are so integral to the future? What kind of a role do you see USTR playing?

Ambassador TAI. Well, Senator Stabenow, thank you for raising the issue of batteries, which are critical to the supply chain for clean energy and critical, frankly, to the clean energy economy, new industry jobs that we need and that we have such great potential for building here in the United States.

I wanted to reference—I think this is now maybe a month, month and a half ago—the resolution of a section 337 International Trade Commission dilemma that pitted intellectual property enforcement against investments that have been made here in some of our important southern States that are part of the auto industry supply chain. And in that instance, I am very happy to report that there really truly was a classic win-win solution that came out of that exercise at the end of the 337 process that is going to make the U.S. footprint in battery production even stronger.

To your question about USTR's role, let me say this. I was very proud to make the topic of my first trade policy speech one about

harnessing trade tools to support environmental protection, but even more importantly, the building of a clean energy economy here in the United States. And I think it is all about designing our trade rules to push that race to the top as opposed to the race to the bottom, where countries try to compete with each other to lower their standards in order to attract investment and to promote their economies.

What we really need at USTR is the promotion of trade policies that will create a race to the top.

Senator STABENOW. Absolutely: I could not agree more. And final question, let me turn to agriculture. With my agriculture hat on, frankly, I do not think we have an economy unless we make things and grow things; that is what we do in Michigan as well as across the country.

But when we look at—you know, Michigan is second in diversity of agricultural products, second only to California. So we have some 300 different commodities, and exports are a serious, important driver for all of us, and I share Senator Crapo's comments about the importance of agriculture.

So our producers, a lot of them particularly in specialty crops, are concerned that these crops are increasingly facing unscientific sanitary and phytosanitary and other technical barriers to trade; SPS, as you know. And I am wondering about how you intend to focus in support on these export markets when we are looking at these barriers that we continue to see.

Ambassador TAI. Well, the plan is that you address these concerns by engaging; and I know that there are concerns about these types of barriers, and a lot of different economies will depend on them. And whether or not we are using free trade agreement tools, regional trade agreement tools, or WTO tools, that is what the game is about. It is about engaging in order to resolve problems, in order to create the policies and the policy solutions that will empower the U.S. economy and our growers and our workers.

Senator STABENOW. Thank you. I look for the Chief Agricultural Negotiator coming on board soon, so we can work with them on these issues as well as with you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Stabenow.

Senator Grassley?

Senator GRASSLEY. I have so many questions, I am going to have to submit some for you to answer in writing. I am going to start with the fact that we try to keep countries from stealing our intellectual property, and lately this movement towards giving some of it away bothers me, particularly when it comes to how we were able to have Pfizer and other companies through the platform mRNA develop quickly these pharmaceuticals; and then they are going to have a broader application than just to COVID.

So other countries have long tried to steal these innovations and undermine our competitive edge. How are you going to limit the forced transfer of these advanced technologies just to COVID, and have you evaluated how forced technology transfers under the proposed waiver would affect U.S. competitiveness in advanced life sciences?

Ambassador TAI. Yes. Senator Grassley, you raise very important issues, and they are ones that are very much on our mind. The waiver that has been proposed at the WTO is a temporary waiver that is seeking to ensure that intellectual property protections, these IP rights, do not obstruct our ability to save lives, to have more vaccines produced, to have the vaccines equitably distributed so that there can be a global economic recovery.

Let me try to take apart some of the main components of your question as I have heard them. Let me also try to distinguish what I think the proposal is intending to do at the WTO. I think this is less about stealing technology; it is more about the impact of our trade policies on intellectual property protections on regular people.

Right now there is nothing more directly impactful on the hope of regular people to be able to resume their lives, to become active members of their economies, than their ability to get a vaccine. And that is what I understand to be driving the proponents of the waiver proposal at the WTO.

So you know, in terms of weighing the balance of rights to intellectual property, the need to have incentives for innovation—absolutely, those are critical. But I think that in terms of this particular proposal and this question that has been posed at the WTO, it is about how we get through this moment in our global economic history so that there will be still a world and people here to innovate and to enjoy those innovations.

Senator GRASSLEY. Yesterday I met with the Iowa Association of Home Builders. They told me lumber prices have skyrocketed tremendously. They gave me a figure of 300 percent since April 2020. I heard in Iowa last week so many times, big percentage increases, not quite that bad, but increasing the price of a home by about \$36,000.

Have you had conversations within the administration on what can be done to lower the 9-percent tariff on Canadian lumber?

Ambassador TAI. Senator Grassley, this is not just something we have been talking about within the administration but something that I have raised directly with my Canadian counterpart. And I have certainly heard a lot from members of Congress about this as well.

I want to assure you that I will be raising this again with my Canadian counterpart at the Free Trade Commission meeting of the USMCA, and I will continue to push for solutions to the lumber pricing issues that we are experiencing.

Senator GRASSLEY. This will have to be my last question in person. Mexico was the top market for U.S. corn exports, valued at \$3 billion last year. Iowa farmers have been some of the strongest advocates for the USMCA; however, they are concerned that Mexico is erecting non-tariff trade barriers, like rejecting imports of glyphosates and stopping the approval process for biotech products. In December, the Mexican President issued a decree banning glyphosates and GMO corn in Mexican diets by 2024.

What do you think of that? Will you raise these concerns at the upcoming USMCA meeting and pursue enforcement actions if these issues remain unresolved?

Ambassador TAI. Yes.

Senator GRASSLEY. Okay.

The CHAIRMAN. Thank you, Senator Grassley.
Senator Cornyn is next.

Senator CORNYN. I want to start by thanking the chairman and ranking member for their work on this hearing, and also the bipartisan negotiations on the Finance Committee trade title that I hope will be included in the larger Senate package that we are dealing with, the so-called China package. And I hope this package will include important provisions and priorities that, first, identify foreign censorship as a trade barrier, especially in digital trade. It prevents foreign governments from restricting free speech in the United States, which follows on my work with Senator Casey on the subcommittee last year and the ITC investigation to quantify the effects of this practice on U.S. businesses.

I also hope it will include review of critical supply chains—which has been a very constant theme here recently, particularly post-pandemic—through the creation of a committee to examine trade in essential supplies and also to codify the tariff exclusion process for those experiencing severe economic harm, and keep our States open for business while not letting up on China’s unfair trade practices.

And also to extend the Generalized System of Preferences to incentivize job creators for moving their supply chains away from China, especially to the Western Hemisphere.

Also to provide additional tariff relief through inclusion and authorization of the Miscellaneous Tariff Bill, expressing support for reform and not removal of the World Trade Organization, and finally to create an Inspector General for the USTR—the only Ambassador in the Cabinet not covered—as trade policy increasingly plays an important role in the life of everyday Americans, and as the USTR gains more responsibility.

Additionally, I hope to continue to work with our colleagues on creation of an ex parte national security critical hold order under a new section of the Tariff Act of 1930; and I want to ask the Ambassador about that in a moment.

I look forward to continuing to work on reengagement on a regional trade agreement with our Asia-Pacific trading partners, which I am working on with Trade Subcommittee chair Carper, as well as the larger committee.

A number of us have talked about the TPP, whether in some revised and updated form, but the geopolitics of that seem very obvious, as well as the economic benefits. The one thing that we have in the United States that China does not have is friends; and I think it will do nothing but enhance our national security and our economic security by banding together with like-minded countries in the region.

I also look forward to reforming the authority for the imposition of national security tariffs with Senator Toomey, which the Ambassador has talked about, and to continue working on a whole-of-government targeted review of outgoing investment to China, again with Senator Casey.

And finally, coordination with our allies over the rare earth minerals critical supply chain issue, working with Senator Lankford on that.

Finally, before I ask the question, I also want to join with Senator Crapo and Senator Grassley in expressing concerns about the waiver of intellectual property rights, not just in an effort to provide additional vaccines to nations that do not have enough, or because of logistics are not getting it in the arms of the people who need it the most; but this has broad implications, including the use of U.S. Government funds to develop a vaccine, and obviously the detriment to the taxpayer and intellectual property rights in general.

It is because of strong intellectual property rights in America that we see huge investment into cutting-edge, innovative life-saving therapeutics and vaccines, so I am very concerned about that.

So finally, let me get to the question, Madam Ambassador. I have been exploring the creation of an authority to put in place a temporary restraining order, or a national security critical hold order under a new section of the Tariff Act of 1930, that would block the importation of goods on an ex parte basis—importation of goods, ex parte, created through secret theft by a foreign government or state-owned enterprise.

This would provide a quick action or response mechanism that would create a deterrent and a chilling effect on future trade secret theft by foreign states.

Can you briefly, because I know my time is running out, could you briefly talk about, are there any existing mechanisms in trade statutes that allow for that sort of ex parte preemptive injunction of imports that contain theft of intellectual property rights? Are there any existing protections?

Ambassador TAI. Senator Cornyn, I am not aware of any, but obviously I would be happy to go and do our research on this. I suspect that you and your staff have looked at this. I would be very interested in talking to you more about this.

The CHAIRMAN. Okay.

I want to say to colleagues, we are seeing a particularly hectic morning in the Senate. We are going to try to be fair to everybody, and we have people coming shortly.

And Senator Portman, you are next.

Senator PORTMAN. Thank you, Mr. Chairman. And, Ambassador Tai, it is good to see you again, as always.

Your opening statement focused a lot on China, saying, “We welcome competition, but competition needs to be fair.” And a level playing field is not there with China now. I want to focus on how we can get tough on China by encouraging trade, and I do not think that those two are countering one another. In fact, I think that they are complementary. I think the ideal trade policy is one that is pro-trade and yet anti-cheating.

In our WTO resolution, Senator Cardin and I proposed the United States pursue centrist Pacific trade agreements with like-minded countries; in other words, plurilateral agreements. The best example of that would be the WTO agreement on procurement, the GPA, Government Procurement Agreement.

And basically what you do is, you ensure the benefits only flow to those parties to the agreement rather than the typical Most Favored Nation approach. My concern is that right now China is able

to get a free ride, often; and they are getting a free ride on the global trading system, and they are often a spoiler as to the negotiating progress at the WTO. And the WTO is constrained right now; since negotiation is not successful, they are turning to judicial activism, which typically hurts America's interests.

So I do believe that we have an opportunity here to change our approach and focus on these plurilateral agreements. You have spoken possibly about that; we have talked about it, in fact, in response to some questions I asked after the last hearing.

Let me ask you today, are you ready to pursue those kinds of agreements? Do you agree that specific plurilateral agreements without MFN are an effective way to work with allies, but also to put pressure on China?

Ambassador TAI. Senator Portman, I think that this is a very promising set of parameters in terms of how to support the WTO as a negotiating forum, to spur the kind of strategic trade that we want to have.

To your example about the Government Procurement Agreement, I think that one of the things that is really special about that plurilateral that addresses the free riding concern that you have is that our market is inherently closed to competition here, and it requires opening, and that you can do that opening on a country-by-country basis.

That is something we should think about, and I would be very interested in talking through with you whether or not that framework holds for other types of policies and where we do have a natural fit for that kind of agreement.

Senator PORTMAN. Great. I think we have some other ideas in addition to government procurement that I think could be quite effective. But I appreciate your openness to it and your willingness to commit to exploring other types of agreements.

On the UK agreement, as you know, I am disappointed it was not noticed last month so we could have gotten it under current TPA. But I think it is a really important agreement for us to complete. Senator Coons and I, as you know, cochair the UK trade caucus. I think it would put us on track toward not just getting back into trade agreements and expanding trade, but also put pressure on China.

Can you tell us where you are on the UK negotiations? And given the fact that we were not able to get it under the current TPA because we did not notice it by April, are you prepared to extend TPA authority, to ask us here in Congress to extend it, to be able to include at least the UK agreement, which is so close to being completed?

Ambassador TAI. Senator Portman, I am glad you asked me about the UK agreement and the UK in general. I know how important this topic is to you, and this partnership.

Let me say this. In terms of the agreement not being noticed already, I will share with you that, in my review of the progress made in the negotiations, there have been five rounds. The very critical issue areas are still open in terms of those negotiations. So there is still quite a road to go there.

There are so many ways in which we are engaging with the United Kingdom right now. On the agreement itself, let me say

this. From my perspective, it is really important for us to think through the objectives for this agreement now that we have some of the issues settled with the UK's exit from the European Union. I will note that I hear a lot of concerns from members of Congress around the situation in Northern Ireland; that is something that we are keeping our eye on in terms of steps forward with the UK on an agreement.

But most importantly I think—and I will get to the end here so you can follow up—we want to think through how we devise this agreement so that it supports the significant domestic investments that this administration wants to make with Congress so that we have an agreement that is supporting the competitiveness and the growth of the U.S. economy, and will also serve the UK's interests.

Senator PORTMAN. Can we look forward to the exclusion process going forward, as we talked about in our letter from Senator Carper and myself?

Ambassador TAI. So I am really glad you asked this question. I am sorry that—I am running out of time here.

Per your request and your recommendation at my confirmation hearing, we are undertaking—

Senator PORTMAN. Setting up a new exclusion process?

Ambassador TAI [continuing]. A top-to-bottom review on China at USTR. And the tariffs and the exclusion process will be a critical component of that review, through which we will be soliciting robust feedback from the public, from Congress, and from everyone who is affected by these.

Senator PORTMAN. Thank you, Ambassador.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Menendez is next, and then Senator Lankford.

Senator MENENDEZ. Thank you, Mr. Chairman.

Ambassador Tai, good to see you. Thank you for your work in addressing the large civil aircraft dispute, and New Jersey's food and wine importers certainly appreciate the 4-month pause in the tariffs. But since we are now about halfway through that suspension, I want to get a better understanding of the status of the path forward.

How are negotiations with the EU and UK progressing on this issue?

Ambassador TAI. They are progressing, and I—

Senator MENENDEZ. The question is, how are they progressing?

Ambassador TAI. I understand. I understand.

I am encouraged. I have made clear that we are interested in resolving these disputes in this 4-month period. And I would very much like for us to make the kind of progress between now and July that will bring us to that resolution.

Senator MENENDEZ. So would you expect that you will get it—July; let us see, it is May—in the next 2 months or so?

Ambassador TAI. We are halfway through the 4-month period.

Senator MENENDEZ. If not, do you expect the tariffs to go back into place, or will the pause be extended until an agreement can be reached?

Ambassador TAI. What I have told my counterparts is that we are very serious about this 4-month deadline. So let me put that

out there—we would like to have, we really need to have these disputes resolved.

Senator MENENDEZ. Well, I really hope you get an agreement, too; but if you do not, I would urge you to avoid hitting restaurants and food and wine importers again with tariffs. They were not particularly successful in bringing a resolution to the dispute. I know you need leverage, but I just call that to your attention. Hopefully you can be successful.

As you know, I have a longstanding concern with the current lack of oversight over U.S. trade policy, which precedes this administration. And the announcement last week that the United States would back a TRIPS waiver negotiation highlights to me how important better oversight is to ensuring that we have transparent trade policy with appropriate congressional consultation.

During your confirmation hearing you said you would commit to, quote, “close negotiations with the Senate Finance Committee on trade negotiations,” and would work closely with the committee to identify ways to, quote, “improve the flow of information and development of trade policy.”

Yet, at least from my perspective, we were not closely consulted on this announcement, which is a good example of why we think it is critical that we establish an Inspector General for USTR to provide independent oversight, transparency, and accountability—and ultimately help USTR develop better trade policy.

I appreciate that the chairman at this point has that in the bill, and I strongly support it, and we are working with the administration on refining it to make sure that it ultimately can be agreeable.

So can you commit to briefing the committee on the status of the negotiations, both before and after each negotiating session?

Ambassador TAI. Senator Menendez, the negotiations just in general, or are you talking about TRIPS specifically?

Senator MENENDEZ. TRIPS, specifically.

Ambassador TAI. Sure; yes.

Senator MENENDEZ. Okay. Now let me ask you: it is clear that if the United States is going to successfully diversify away from China, we need to deepen our trading relationships with our neighbors in the Western Hemisphere.

Last week you said you wanted to reexamine the CAFTA-DR agreement and find out why it has not stimulated economic development in the region, and to the extent that many people expected. I certainly appreciate your taking a look at it.

What are your initial thoughts on why the agreement has not panned out the way we would have hoped for? And what is your timeline for your review?

Ambassador TAI. Senator Menendez, my initial thoughts are that, you know, there is often a disconnect between all of the energy that we have in getting an agreement across the finish line and then giving the agreement the care and attention and maintenance that it requires over the years.

In terms of the timeline, I do not have a particular timeline. I would be very interested in the views of this committee, certainly Congress. I know that there is a certain member of this committee who probably knows more about this agreement than I ever will, and that would be Senator Portman, who was the U.S. Trade Rep-

representative who got the CAFTA-DR over the finish line. And I think that we all want our trade agreements to succeed.

But let us give all of them, not just the USMCA, the care and attention that they require.

Senator MENENDEZ. Well, I appreciate that. I would just simply say, obviously when we are facing the challenges with Central America that we are facing right now, in terms of those who are fleeing those countries, it is critically important to look at every leverage of government in order to meet the challenge. Economic development is a critical part of that. If CAFTA-DR is failing for some reason, we should know what its shortcomings are at the end of the day.

And I will submit a question to you about whether you are working on the new softwood lumber agreement with Canada. I keep hearing from housing people that it is incredibly challenging.

Ambassador TAI. Thank you.

The CHAIRMAN. Thank you, Senator Menendez.

Senator Lankford?

Senator LANKFORD. Mr. Chairman, it is incredibly challenging right now, with a lot of supply and demand issues. A lot of our manufacturers here domestically are having a hard time getting labor—and that is a conversation for a different day—but the labor folks in my State say over and over again it is an issue of the additional unemployment benefits that are there. They are having a hard time getting enough labor to provide supply, but that is a different conversation for a different day.

As I read through the 2021 trade agenda, a lot of things in there I like; I am grateful you are engaging in them. Some glaring things are missing that are a big deal in Oklahoma. Oklahomans are always looking for what new markets we are going after to be able to continue to expand our markets. I do not find a lot of conversation there about pursuing new free trade agreements, adding new countries. Is that coming in the 2022 trade agenda, or why is that not in this trade agenda?

Ambassador TAI. Well, Senator Lankford, I think that the trade agenda report—there are two reports that come out. I believe that they were at the very, very beginning of my time or may have even predated my confirmation. Just because they are not in the trade agenda report doesn't mean that issues, certainly ones that you are raising here, are not important. And I think that with respect to agricultural market access, our work is focused on looking at, creating, maintaining reliable, transparent, sustainable market access for our agricultural producers.

Senator LANKFORD. Great. We are always looking for new markets. Obviously, existing markets are facing competition. We want to know there is another market that is out there we can continue to pursue if other markets fall through.

One of the folks who deals with steel in my State asked a very interesting question of me. His question is, he has got a lot of capital that he wants to invest into what they are doing, but they have a very hard time planning right now because they do not know what to count on with the 232. Is it still going to be there for another 6 months, 6 years, 60 years? There is no way to be able to plan for the expense for him.

So give us a good idea, give him a good idea of how you are trying to be able to plan for this for the future of what happens with 232.

Ambassador TAI. So I think there are two levels to this question. One is, what is going to happen to 232 as a tool. The other one is whether or not the administration has a commitment to supporting steel production here in the United States.

And let me take that second question. Yes, clearly we have a commitment to being a strong country that produces and is able to produce steel for itself. In terms of the tools and the policies, you know, I am open to improving and perfecting the tools that we have to make them more effective.

Senator LANKFORD. Right. Being more predictable would be helpful in the process, and that is—just people need to know how to plan. They have been there for multiple years; they just want to know how to plan.

Senator Portman brought up the issue about 301 exclusions; that also continues to be a big issue. I know you are in the process of studying it. In reviewing this, can I ask you a simple “when” question? When can we anticipate some kind of response coming out about what the plan is? Because this is obviously not new; this has gone on for several years. Folks are not thinking about the reset of a new administration; they are thinking about what is happening right now and has been happening for months. When can they expect an answer?

Ambassador TAI. As soon as we can, and ensure that what we are doing has been thought through and is strategic and has a clear objective. So there is a push-pull here a little bit. I know that there is a lot of desire for us to act quickly. We definitely feel that pressure. We want to be able to act quickly and to make some of these decisions, but we are also very, very mindful of the need to not just be reactive, to not be chasing our tails, but to have a vision that we are working towards.

And so we are trying to balance that to be as effective as possible.

Senator LANKFORD. Sooner is better than later on that. Is it December that would come out? Is that July that would come out? Is that next July? Give me a ballpark.

Ambassador TAI. Oh, goodness, I think December would be way too late.

Senator LANKFORD. I would hope, yes.

So earlier is better than later on that. We will watch for that. Intellectual property we have already had a conversation on, dealing with the vaccines. I understand we have a worldwide pandemic; I understand trying to be able to get the whole world vaccinated will be very important to be able to help global economic activity.

Here is the challenge: just giving away the intellectual property does not solve the problem. J&J outsourced some of its manufacturing to a location. They had the connection to it, and the manufacturing failed for the vaccine, and they threw out whole batches with millions of doses that are there.

So just giving away intellectual property does not solve the issue if the manufacturing does not have good oversight.

We also have other vaccines that are coming on the market right now, like malaria. That is what we would be talking about if we were not talking about the COVID vaccine, finally a good malaria vaccine coming on the market. That is also a global issue, and the concern is for cancer, for Alzheimer's research, for Parkinson's, for so many issues that are out there. If every pharmaceutical company suddenly gets a pause in investment thinking, "I am going to get a breakthrough, but the intellectual property is going to be given away because it is also a global issue," that becomes a challenge of getting future investment.

So what I am trying to figure out is twofold here. How do we protect the integrity of the vaccine as it goes out? It is typically done with good oversight in the generic market or whatever it may be, rather than just giving away the formula. We lose that ability to have good oversight on it, so we may not have good batches coming out, as we have already seen. Or, how do we make sure that we are still continuing to protect future innovation here for vaccines like malaria that are coming on the market right now? Is there any assurance from the administration they are not going to also give the intellectual property rights away for that?

Ambassador TAI. Oh, Senator Lankford, let me just say that the questions that you are asking are actually critical questions; they are really important questions.

They are ones that I have discussed with the heads of all of the manufacturers who are manufacturing or soon will be manufacturing for the U.S. market. Over the course of April, I think I had over a dozen consultations that I provided transparent read-outs of.

So that is all to say that I know how important this issue is; I know what the stakes are in terms of global economic recovery, and also in terms of these intellectual property protections.

And I look forward to continuing this conversation with you, because it is so important for us to get this right, and it is so important for us to be able to show that the WTO can produce results that are effective and relevant to people's lives.

Senator LANKFORD. Thank you.

The CHAIRMAN. Thank you, Senator Lankford.

Our next two Senators are going to be Senator Cardin, then Senator Toomey.

Senator CARDIN. Thank you, Mr. Chairman. And let me thank the Ambassador for her service.

I understand that you are reviewing the 2021 trade agenda for promoting equitable growth around the world, and secondly to make sure our trading partners live up to their commitments. So first you are reviewing the existing trade programs to evaluate their contributions to equitable economic development; and secondly, enforcing the rules as it relates to labor and environment. I strongly support that formula for the review of our trading agreements and where we need to move forward.

I was disappointed I did not see in the enforcement agenda the enforcement dealing with good governance and anticorruption. We talked about that during your nomination process, and there was a strong commitment by the Biden administration to embrace one of our principal trade objectives of good governance.

Can you reassure me that, in your evaluations, governance and anticorruption could be a similar goal as to what we are trying to accomplish?

Ambassador TAI. Senator Cardin, yes; good governance, addressing corruption, having anticorruption efforts and using trade tools to advance those goals is absolutely critical. Let me just say that some of our programs do have very useful tools in this regard.

There are more tools that we need, and I look forward to working with you and members of this committee to ensure that we are able to build those tools in to make for really comprehensive efforts that we can undertake as the U.S. Government to create that race to the top, in terms of incentives for our trading partners to abide by good governance and to have anticorruption programs that are effective.

Senator CARDIN. I will just caution you that language is very important, so at every opportunity, I would hope that you would reinforce that. We see a significant backsliding in Central America today, and around other of our traditional trading partners.

So I would hope that we would always underscore the importance of good governance as we do on labor and environment.

I want to talk about two areas where I would hope we would expand trade opportunities. One is very close to home, the Caribbean, where we see China expressing a great deal of interest. It does not take too much effort to see a stronger U.S. presence in the Caribbean island states, and it could go a long way to helping us not only with their economies and their stability, but also having closer allies in international organizations or in regional organizations.

The second is Mongolia, which is in a very difficult part of the world. It is the most recent member state of the OSCE, and one which we have developed a pretty strong relationship with, and one that we can nurture through trade to help us with a strategic partner against China.

So I would hope that you would give a careful look to expanding opportunities in these two areas as part of our strategic agenda.

Ambassador TAI. Thank you, Senator Cardin. I hear you loud and clear, and I think that you have raised good points, and good partners for us to be engaging with.

Senator CARDIN. I look forward to working with you on both of those areas. In those circumstances, there is bipartisan interest on our committee to deal with both of those regions. There are obviously complications whenever we open up issues; there was some concern about Kashmir as related to Mongolia, but I would hope that we could work through this and strengthen our ties.

I can tell you, there is a great deal of interest in that region, as you know. Our China policy is one that will be on the floor of the Senate, we hope as early as this month, and the trade issues are also part of dealing with our concerns about China. You heard that in the enforcement discussion by members of our committee.

But it is also important that we expand our trading opportunities with countries in that region. We are not a member of the Trans-Pacific Partnership; we find China extremely engaged.

So what is our strategy to deal with China's influence? Let us start first in the Asian-Pacific area. What is our strategy in order

to try to counter what China is doing, recognizing that we are not part of the Trans-Pacific Partnership?

Ambassador TAI. Well, this is really a critical question, Senator Cardin. I spent a lot of time thinking about this, and I know there is a lot of energy here on the Hill, and that is going to be important for us to work together on these issues.

In terms of our strategy, first of all I think that we need to be engaging with the rest of the world—and certainly in this part of the world—from a position of strength. And so first of all, I think that the investment that our economy needs will be first and foremost, that position of strength that we are looking for.

The second piece is to work with others, and to your point, there are a lot of others, good partners, partners that are very interested in engaging with U.S. leadership again. That will be done.

I think third, from my perspective, is to ensure that, as we are taking steps, that we are thinking through the strategy to make sure that we are effective and that we are pursuing a vision that is well-supported here at home on a very strong and robust bipartisan basis.

So those are some of the components that I am thinking about, but obviously the conversation and partnership with Congress is going to be critical.

The CHAIRMAN. Thank you, Senator Cardin.

Next is Senator Toomey.

Senator TOOMEY. Thank you, Mr. Chairman.

Ambassador, thank you for joining us. Let me start with just a quick point. I would strongly push back on the idea that we should leave the 232 trade policy as the status quo. Look, we know for a fact the previous administration abused this authority and claimed national security when it was not in fact the case; Canadian and Mexican steel is not a threat to American national security. It was used as a way to coerce a more restrictive trade agreement under USMCA. That is what the purpose was.

And the idea that we should leave it around, available for other administrations to similarly abuse this power until such time as some other greater latitude is passed, I think would be a big mistake. This is a responsibility the Constitution assigned to the Congress; we should reclaim that responsibility.

But I really want to talk about the TRIPS waiver. I have to tell you, I was shocked and very disturbed to see that the administration is going to be supporting waiving the intellectual property rights of American companies for COVID-19 vaccines. And let me just tell you, I am aware of no evidence whatsoever that this step is going to enhance vaccine availability in developing countries. In fact, it could quite possibly be the contrary.

Senator Lankford alluded to several of the concerns; there are many safety concerns, for instance, facilities around the world that just do not have the technology to make this properly. There are dangers of access to inputs for this. Frankly, I think it undermines our ability to deal with the next crisis, including the possibility of the next iteration of this crisis.

I mean, I think there would be very broad support in Congress to devoting whatever resources would be necessary to gear up production as much as we can and shift vaccine to countries that need

it. But the idea that we would give away our intellectual property—the White House Chief of Staff himself, Ron Klain, said on May 2nd that, and I quote, “Really, manufacturing is the biggest problem,” end quote. The CEO of Pfizer said, and I quote: “Entities with little or no experience in manufacturing vaccines are likely to chase the very raw materials we require to scale our production, putting the safety and security of all at risk,” end quote.

There are serious logistical and distributive challenges like how you move these sensitive, unstable materials in climate-controlled conditions. It is not at all clear that all these companies have that capability, not to mention whether they have sufficient front-line workers who have the training to get this done.

So there are limiting factors here, but there is no evidence that it is access to American intellectual property. And that we ought to be giving away to foreign countries American intellectual property as a way to solve this is just completely wrong. It is incredible to me that while we are spending so much time and effort trying to figure out how we limit Chinese theft of U.S. intellectual property, here we have an administration proposing “we will just give it to them.” It is unbelievable.

Now it is likely that this will never take place, because, of course, all WTO countries would need to agree. And fortunately for us, it looks like the Germans understand the value of intellectual property better than the American administration does at the moment, and we may be able to count on the Germans to save us from ourselves.

But what message does it send to American companies, especially companies that are in industries that are intensive intellectual property industries, when their government is offering to essentially give away their intellectual property? That is what the Biden administration is proposing here.

This is one of the most important industries we have; the U.S. leads the world in pharmaceuticals and medicines, and it is extremely intellectual property-intensive.

What is the limiting factor here? Are we going to start taking the IP for important medicines? What about basic chemicals? Medical devices? Who knows what other products would be valuable in other parts of the world?

This is shocking to me, and I think a terrible idea. Here is my question for you. All else being equal, on the margin can you actually believe that this policy, the policy of supporting the TRIPS waiver, is going to encourage more investment in U.S. R&D, including in the pharmaceutical industry?

Ambassador TAI. Senator Toomey, you have given 20 seconds to reply, and there is so much that I want to say.

Senator TOOMEY. I hope the chairman will indulge you and give you a little bit more time.

Ambassador TAI. I hope that too. I hope that too.

First, on 232, I just want to say I am not quite sure if you are reacting to something you thought I said, but I want you to know that your views on the 232 statute and its use are very, very clear.

You have also made very clear your position on the TRIPS waiver. Thank you for allowing me the opportunity to reply on this. You

know I respect you a very, very great deal, and so I look forward to continuing this conversation.

But let me just be clear. I think, in terms of the message to American companies, we collectively have an obligation to help to save the world right now, and these companies have done incredible work in coming up with these vaccines that are effective and are safe. The issue is, the message I want to give to them is, “you can be a hero here.”

And I also want to be clear about this, that what we are trying to accomplish is the saving of lives. That is going to be the first step to any longer-term trade policies and the opening of markets that we are going to work on. Unless we are able effectively to bring the rest of the world’s economy back on line, there is not a lot of upside for us in what we are going to be doing.

The CHAIRMAN. The time of my colleague has expired.

Just so we are clear about the record, my colleague said that the Ambassador was for the status quo on 232. I think the transcript will show that she made it clear she was for an updated policy and she wanted to modernize trade tools. So I just wanted to make that clear.

Next will be Senator Cassidy, and then Senator Brown. I believe they are both on the web.

[Pause.]

The CHAIRMAN. Is Senator Cassidy out there in cyberspace?

Senator CASSIDY. Yes; can you hear me?

The CHAIRMAN. Senator Brown?

Senator CASSIDY. Can you hear me?

The CHAIRMAN. Is that Senator Cassidy? We cannot hear you.

Senator BROWN. I can hear Senator Cassidy, and I am on too.

The CHAIRMAN. Okay; we will go with Senator Cassidy next, and then Senator Brown.

Senator CASSIDY. Madam Ambassador, I will echo what all my colleagues have said about the TRIPS waiver, but you did not answer his question as regards what would be the perspective of a future venture capitalist as to whether or not they would fund research to find a cure rapidly for the next pandemic. Of course the answer is, they will not. Nor will they do it for Alzheimer’s, because the same excuse will be given then; it is about saving lives.

Why don’t you just pay Pfizer a lot of money to expand their production capacity and let them produce the vaccine that then can be shipped around the world? This is a march-in of intellectual property, something that folks from the left have been advocating on various other things, and this is a way to excuse a march-in of intellectual property.

You do not have to respond to that because you have been kind of responding to that already, but I will just say that for the record.

Let me ask you about something which is important for Louisiana. USTR has published a list of potential retaliatory tariffs against Indian imports of shrimp. One of the categories listed is cold water shrimp, but cold water shrimp are not harvested in India because of its geography. Cold water shrimp are harvested from the ocean floors of the North Atlantic and the Arctic.

Putting duties on cold water shrimp would be ineffective; they would just flip their shrimp back to the warm water and avoid the

tariff. So stakeholders tell me that they believe that the cold water shrimp entering the U.S. from India are actually warm water, mislabeled to avoid antidumping tariffs.

So what are your thoughts? How do we ensure that the U.S. has taken appropriate action to protect Americans from consuming shrimp farmed by an industry overseas which has faced disease outbreaks, chemical overuse, illegal and unreported, unregulated activities, phytosanitary, et cetera; how do we more effectively address that?

Ambassador TAI. Senator Cassidy, on your question on shrimp, thank you for raising this. As you may know, those digital services tax, section 301 actions are still open, and these types of comments are very helpful in our work to refine the list that will come out from this process.

I think the other part of your question really has to do with Customs enforcement, to catch the kind of avoidance that you were talking about, and that is something that we are always interested in working on and improving. And it is an area where USTR traditionally and will in this administration work closely on with the CBP at the Homeland Security Department.

Senator CASSIDY. Thank you. At the outset, I heard you mention how the U.S. is asking Mexico to enforce labor protection. I fully agree with that; that is an appropriate thing to do.

One thing you have heard me say before, though—and I think I have somewhat of agreement—the fact that China does not enforce such labor protections allows them to effectively subsidize the cost of production, lower the cost of production of a given product in China vis-à-vis other countries.

I am concerned about CAFTA. Clearly, we need our Central American countries to be doing better economically so that folks are more likely to stay in Central America as opposed to migrating and attempting to enter the United States illegally.

I understand Senator Menendez asked you about this. But as we consider near-shoring products out of China for national security purposes, CAFTA is a logical place to go; Central America is a logical place to go because their cost of labor is so much less.

There are some things that we just cannot compete with, given our cost of labor. Tell me again what we are doing to kind of address the fact that China effectively subsidizes, by having lax or slave labor, for example—the ultimate example—that undermines the ability of these countries to prosper, and what can we do to increase their ability to prosper as a way to address our immigration crisis?

Ambassador TAI. So you have two questions: one on China, one on Central America. Let me take the China question first. Obviously, when it comes to forced labor, we have an incredibly powerful tool, a United States statute that bars the importation of products that are produced using forced labor.

Senator CASSIDY. If I may say, there are other lax labor standards aside from forced labor.

Ambassador TAI. That is right. And on that piece, let me say to you, Senator Cassidy, I know what your views are on this, and I look forward to working with you on other tools that we can use, potentially new tools that we can devise.

So I hear you loud and clear; it is a very, very critical concern. It has been an unfair competitive advantage that we need to level the playing field for.

On Central America, we are engaging in an administration-wide effort here, and USTR has tools within the CAFTA-DR as it is structured; but I also want to reinforce that, in the executive order that was issued on this administration-wide effort, USTR specifically has been charged with making sure that efforts that we take do not undermine labor protections in those regions and in those countries.

And on this as well, I am very interested in working with you on how we can do more to raise the standards for workers and their protections in this region.

The CHAIRMAN. Thank you, Senator Cassidy.

Senator Brown is next.

Senator BROWN. Thank you, Mr. Chairman. And, Ambassador, welcome back; good to see you. Thanks for all your team has done in the first—there has not been a Trade Rep in American history who has come out doing the smart, engaging things you have done so quickly. Thank you on what you did with TRIPS; you are going to put shots in people's arms around the world. It is an opportunity, it is our duty; you have support on this committee for that. At least a couple of us on this committee have written letters to you asking you to step in there.

So please call on me and my staff—and I know the chairman is engaged in this, and many of the rest of us—for what we can do to support your efforts at the WTO in this.

Let me talk about what you would expect we would ask about: the Brown-Wyden rapid response mechanism. During your confirmation hearing, you committed to fully enforcing the USMCA agreement with Brown-Wyden. Today under your leadership, for the first time, USTR self-initiated an enforcement case under that mechanism. Thank you for that. We have now two Brown-Wyden cases, as you know.

I would like to ask you two or three questions. I will ask them together, just get you talking a little more about Brown-Wyden, to explain it to people, how it is working, a sense of how many cases we might expect under this mechanism, some sort of ballpark estimate. Talk to me about how the hotline works, if you would, how do workers file complaints; do you take tips that come in through the hotline seriously; and tell me what this full use of the Brown-Wyden mechanism will look like to you in the months and years ahead.

Ambassador TAI. Thank you very much, Senator Brown, for your kind words.

On the Brown-Wyden rapid response labor enforcement mechanism, let me just distinguish a little bit between the two announcements this week. The first one was a petition that was filed by the AFL-CIO in partnership with several other labor organizations. That is the very, very beginning of a petition process, and as constructed, there is a 30-day period during which USTR, working with the Department of Labor, will review that petition for whether follow-up is needed and whether USTR should then request Mexico to review whether a denial of rights has happened.

In the second case that has been initiated today, that was self-initiated; and as you have noted, that is USTR initiating the request to Mexico today that will start the next timeline under the mechanism that has been created.

In terms of the tips and the hotline, and taking in information from people with experience of what is happening on the ground at some of these facilities, absolutely we take that information extremely seriously.

And, Senator Brown, if there are other questions that you asked that I have not responded to specifically, I ask you to remind me of them.

Senator BROWN. Well, we will follow up with the latter, because I want to get to something else. But thank you for just, in such a fulsome way if you will, approaching this and doing what you need to do.

There are a number of us on this committee—I see most prominently Senator Casey and I—whose States have been victimized by bad trade policies for decades, and I would like you to come to Ohio, if you would be willing to, once the pandemic is over—so you can travel safely—and get you with some people to talk about Brown-Wyden and what is next, and how we enforce trade policies that actually work for our manufacturers.

So I guess I would ask you publicly now: would you at some point be willing to come to my State to do that?

Ambassador TAI. Absolutely, Senator Brown. It would be my honor, and I would be delighted to do it. It will be so important for us in formulating our trade policies to be talking to people, regular Americans who are impacted by our policy.

Senator BROWN. Thank you. And if you come to northeast Ohio, maybe you can spend 12 minutes in Pittsburgh or something too. But do not overdo that part of it. [Laughter.]

One last question. We see now corporations that prioritize profit maximization over accountability are leading a race to the bottom that has resulted in that hollowing out of economic security for families all over this country. Brown-Wyden is intended to make sure corporations cannot violate worker rights in Mexico to make a profit. But, in addition to putting workers back at the center of our policies, we need to do more to ensure corporate accountability.

We are looking at ways—and I look to the chairman of this committee for this, and his leadership—in conjunction with my committee to do that across the financial industry as part of my work on the Senate Banking and Housing Committee. Senator Cortez Masto is on that committee; Senator Warner is also on Banking and Housing.

Would you work with us on corporate accountability, trade policies that help prevent the race to the bottom, and financial services also?

Ambassador TAI. Absolutely, Senator Brown.

Senator BROWN. Okay; thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Brown.

And I also want to note for colleagues that, obviously, there are tremendous differences between the State of Ohio and the State of Oregon in terms of economics, and it was a pleasure to work with

Senator Brown to try to bring the Congress together around enforcement issues. And I just really appreciate all of the leadership.

Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman. And thank you, Ambassador Tai, for your service and for being here today.

If our experience with 5G has taught us anything, it is that we cannot afford to play catch-up on technologies that are critical, fundamental, foundational to our economic security and our national security. For years the Chinese Government subsidized companies like Huawei and ZTE to achieve a dominant market share for 5G internationally, and we have been struggling to catch up ever since; we are still struggling to catch up.

And it is a similar story, as you said earlier, for semiconductors and many other critical supply chains, and I think we all want to make sure that we are not letting what happened to 5G happen again. And I just wonder, in your mind, what do you see as the next 5G—in other words, a technology or technologies that experts tell us are going to make an enormous difference for our security and our competitiveness? And feel free, if there is more than one, to give a sense of what that landscape looks like.

Ambassador TAI. Certainly. Thank you, Senator Bennet, for the question. I think it is absolutely critical to be thinking ahead in so many areas in terms of technology, and also in terms of manufacturing as well.

But your question is focused on the technology. And I would say you just look at the Chinese planning documents and they have talked about AI, quantum computing—you know, the new technologies, new energy technologies. These are all about cornering the market of the future economy, and we absolutely have to be lighting the fires underneath ourselves, making the investments that are going to capitalize on the strength that we have in terms of innovation, in terms of workforce, in terms of speed and agility, to allow us to compete and compete effectively, because we can. But we need to focus our energies there.

Senator BENNET. I hope you are hearing—I think it is interesting—almost unanimity, I think, from this committee today, saying that if you look back over the last 30 years or so, in many ways our approach has really been an abject failure. And it is not just—as you say, it is not just about trade; it is a question of our investment in our own critical technologies in this country, and if we continue to do that for the next 5 years, I think we are going to be in real trouble.

So the committee is going to want to know how the administration is working together—not just with its trade policy, but all of its policies—to make sure that we turn the corner here with respect to China.

I think that when you and I were speaking about your nomination, one of the things you said to me—and I hope you do not mind—was that it is wrong to think of China as taking over the world; they are pursuing a China-first policy. The question is, do we want to be collateral damage? And we do not want to be collateral damage. Which means, I think, we have to have a much more robust diplomatic and trading relationship with other folks around

the world who have similar equities with respect to the Chinese Government's mercantilist, authoritarian approach to the world.

And I wonder, in the remaining moments—in the 20th century, American trade policy was a powerful lever for free markets and competition and the rule of law around the world as a counter to Soviet communism. How should we think about an American trade policy in the 21st century that promotes those values as well as democratic values like privacy and free speech, especially when compared to the Chinese regime?

Ambassador TAI. Certainly. I think that we were guided for a very long time by the principle that more trade is better, and more trade would lead to a better world, and in some ways it has gotten us very far. The world today is very different from the one 70 years ago. But I think that what these policies have also shown us is that we need to also be trading smart; we need to be trading strategically, knowing the challenges and the competition that we are up against.

We have to have more effective and thoughtful policies that get us beyond just “more is better,” but we also need to be asking, “How do we do this smartly?”

Senator BENNET. Thank you, Mr. Chairman. With the last 5 seconds I have, I just wanted to call your attention to a recent Mexican Supreme Court decision on potatoes. Finally, finally, finally, after all these years we have the opportunity to open access for the potato farmers in the San Luis Valley in Colorado, and I just hope that you are aware of that decision and that we are working hard with Mexico to achieve that access.

Ambassador TAI. I am very aware of it, Senator, and I am a little surprised that Senator Crapo has not mentioned it also.

Senator BENNET. Well, I mention it on his behalf.

Senator CRAPO. I appreciate you covering me on that. That is a very important point.

The CHAIRMAN. We all care about potatoes up here.

Next is Senator Casey.

Senator CASEY. Thank you, Mr. Chairman. And, Ambassador Tai, great to be with you. And again, I want to congratulate you on an overwhelming confirmation, I guess now about 2 months ago, but we are grateful for your continuing commitment to public service at a time when public service can be pretty difficult.

I also want to thank you as well for some of the work you have already begun. I know it is early in your tenure, but I want to thank you for the work you have done, continuing to work on issues that relate to steel and aluminum overcapacity, as well as the ongoing issues and concerns that I have and I know many have regarding electrical steel. And I hope you will continue to support efforts to protect our last domestic electrical steel manufacturer, which is AK Steel, recently acquired by Cleveland-Cliffs.

I just have two questions; one is on climate and trade, and the other is about our supply chains. I am breaking new ground talking about climate, but maybe we do not talk enough about the impact that climate has on trade.

We know that climate change is a threat to human life; it is a challenge we have to confront. I think we are just beginning to get to that, but as urgent as it is, we also have to remember that work-

ers can be both left behind and exploited if we do not pay attention to their concerns as we address climate change.

For a long time we have had this fixation, across the world, on cheap goods, and that ignores conditions under which those very cheap goods are produced—whether it is distorted markets or poor labor conditions or a disregard for the environment.

So if democracies ignore how goods and commodities are produced, we perpetuate these authoritarian regimes that thrive on repressing their own citizens as well as workers around the world.

So can you discuss how your office, your team, will ensure that workers and labor rights are central to your efforts to combat climate change?

Ambassador TAI. Absolutely. Senator Casey, you have put your finger on it completely, which is that for a very, very long time our trade policies have driven protections and standards for workers and for the environment lower and lower to facilitate the attraction of trade and investment opportunities.

And what we need to do right now—knowing that our goals are to work towards a robust, clean energy jobs economy and just a cleaner environment for us to have an economic future—is that we are going to need to really focus on trading harder and ensuring that the trading rules that we put in place and that we agree to with other countries, and especially our fellow democracies, as you say, are going to be driving incentives that put a premium on standards and protections for the environment and workers, as we stimulate our own competitive position in this world and the industries of the future.

Senator CASEY. Well, I appreciate that.

And I wanted to raise one additional issue in the remaining time I have. I do not think you need to be an expert on the pandemic or PPE to realize how dependent we were on non-market economies like China for something as simple as PPE, protective equipment that folks needed. And at the same time we are dependent, we have very little visibility on the vulnerabilities that exist right now with respect to production dependencies that we have in other sectors.

I have worked in a bipartisan way with Senator Cornyn and Senator Stabenow to try to focus on providing more visibility on these vulnerable supply chains and to review outbound investment, just like we reviewed for the last 40-some years inbound investment with regard to critical capabilities that foreign adversaries and non-market economies are connected to.

So I hope we can continue to engage with you and your team as we work to both secure and diversify these supply chains.

Ambassador TAI. Absolutely, and this is an issue of concern across the administration, and you will have good partners in other parts of the administration to work on this as well.

Senator CASEY. Well, thanks very much. And just to rebut Senator Brown, Pennsylvania is on the way to Ohio, so you can spend a lot more time in our State; we would love to have you. Thanks.

Ambassador TAI. Thank you.

The CHAIRMAN. They are friends, even though we are having this sparring between Ohio and Pennsylvania.

Senator Carper?

Senator CARPER. Thanks, Mr. Chairman. I cannot pass this up. Before William Penn arrived in Pennsylvania, he stopped off in Delaware. Later he was asked why; he said, "Because it is the home of tax-free shopping." And he had a wonderful 2 days there.

Ambassador Tai, Lucy Xiao sends her best. Some of you heard me say before—Lucy is a member of our staff, and now she is our Legislative Director. She was good enough to say to me before President-elect Biden had nominated anyone for the Trade Rep, "You know, there is a great person who works over there for Richie Neal, Congressman Neal in Ways and Means, who helped us a lot on the environmental provisions of USMCA. Her name is Katherine Tai, and you should take a look at her." And we did, and I was pleased to, as you know, suggest that you be considered for the position. Thrilled that they nominated you and thrilled that you are sitting before us today.

I want to thank you and welcome you again to the hearing before this committee, and thank you for testifying before us as well and for the leadership you are now providing.

I would like to quote an old African proverb that goes something like this: "If you want to go fast, travel alone. If you want to go far, travel together."

Many of my colleagues today have expressed their concerns about China's growing influence. I believe that one of the best ways to counter China's rise and their anti-competitive trade practices is to work together with our allies, to work together with our trading partners, to constructively write and, in some cases, rewrite the global rules of trade.

Recently, I had the privilege of leading a letter with one of our colleagues, Senator Cornyn of Texas, emphasizing the need for strategic engagement in the Asia-Pacific region, similar to what the Trans-Pacific Partnership sought to achieve.

I wonder if you might take a couple of minutes, if you will this morning, to share with us your thoughts on the benefits of taking a multilateral approach to trade in order to remain competitive with China. Please.

Ambassador TAI. Well, Senator Carper, I just want to offer my response to that question, which is: yes, I think we should work in multilateral ways, in multilateral forums, to compete with China and to compete with China effectively.

Senator CARPER. All right. In your view, is there a possibility that negotiations can resume on TPP in some form?

Ambassador TAI. I know this is a question on a lot of people's minds, especially those who were around during the negotiation of TPP. So I thank you for this opportunity to talk a little bit about this.

What I would say is this. In advancing a worker-centric trade policy on behalf of the Biden-Harris administration, really a focus of this is to examine our trade policies and put the worker at the center of our policy formulation, and to create a discipline so that we think through what the impacts of our policies are going to be on individual human beings and their communities.

So that translates into a desire to formulate trade policies that enjoy really broad bipartisan support. And in terms of your question on the TPP, I think that we have seen through our recent his-

tory that, while there was bipartisan support for TPP, there was also bipartisan opposition for TPP. And really what we are looking for are trade policies, multilateral ones, looking at China competition, that are going to have the kind of broad bipartisan support that we need.

Senator CARPER. Yes. I will go to my grave wondering why in the world we walked away from a trade agreement that allowed us and 11 other nations, in this hemisphere and across the globe, that together create about 40 percent of the trade that is going on on our planet, why we would walk away from that agreement that would leave China on the outside because of their bad behavior. Why we would walk away from that agreement is beyond me. And I will continue to raise this issue.

Ambassador Tai, if you could, one last quick question. I was happy to hear about your speech last month where you elevated the importance of combating climate change in U.S. trade policy. The Finance Committee is working on legislation that will bolster U.S. competitiveness and ensure that we are able to compete with China, as you know.

As part of this legislation, we are working to reauthorize the Generalized System of Preferences program, GSP, for developing nations. I understand that we have a key opportunity to include environmental criteria in GSP, giving this administration another tool in its toolbox to combat climate change through trade.

Would you be supportive of including environmental criteria in GSP, and what additional opportunities exist for advancing environmental enforcement measures in future trade deals? Please.

Ambassador TAI. Absolutely. Yes.

Senator CARPER. That was the kind of answer I was hoping for; crisp and to the point. Thank you so much.

The CHAIRMAN. A one-word win. Thank you.

Senator CARPER. My time has expired.

The CHAIRMAN. All right.

Senator Barrasso?

Senator BARRASSO. Thank you very much, Mr. Chairman and Ranking Member Crapo, and thank you, Ambassador Tai; nice to see you again.

The President has called for waiving intellectual property rights for vaccines. He has called for that, he said, because we have a global health crisis. I disagree with that decision by the President; I want to be very clear on that.

At the same time, he has made it very clear that this administration believes that we are facing a world climate crisis. As a matter of fact, on April 22nd, the President called on countries to step up, take further action on climate change in order to, quote, "overcome" what he described as "the existential crisis of our time."

He did not say that coronavirus was the existential crisis of our time; he said climate change is the existential crisis of our time. But the President is willing to waive intellectual property rights on something that is less than the existential crisis of our time.

So how do you square that? Do you think we should waive intellectual property rights on green energy technology to combat climate change? Where is this administration going, and you as the

Trade Rep? I do not see how you can support the one without the other, and is all of it out the window?

Ambassador TAI. Well, Senator Barrasso, I respect your opinion and where you are on the waiver issue.

Let me say this. I do not think we think about our challenges in a kind of a totem poll hierarchy. But with respect to the COVID-19 pandemic, all you need to do is open a newspaper or turn on the TV and see the scenes in India and appreciate the reality that we are not through this pandemic, and that even for those countries that think that they are in a good spot, things can really turn on a dime if you are not careful.

So with respect to COVID-19, I would say that for the people of India, for all of the people who live in countries where there is less than 2 percent access to vaccines as of today, that that is an existential crisis today.

Once we are through this pandemic—God willing, knock on wood that it will be sooner rather than later—the climate crisis will still be with us. And so let me just say that; let me put in context or acknowledge that we can have more than one crisis at a time, but also really put a point on the issue around the vaccine and how it impacts individual people and their access to hope that they will be able to have a future, and that their kids will be able to have a future.

Senator BARRASSO. So we can have more than one crisis at a time; does that mean this administration has really very little respect for intellectual property rights? And as long as the administration can describe four or five or six crises, that anyone who has done work, to spend time, effort, research, has no protection?

I am just going to go with what you had said during your confirmation process. I asked you the following question: “How does the U.S. Trade Rep 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?”

You said: “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.”

So that was my question to you and your answer. So I just ask, how and why has your position with respect to U.S. intellectual property protection evolved since that hearing and the vote on your confirmation?

Ambassador TAI. I guess the answer is, it really has not, Senator Barrasso, and I would direct your attention to the statement that we put out. By the way, we put that statement out through an e-mail; we also tweeted it out—just referring to an earlier comment by Senator Crapo that it was just a tweet.

But that statement really was carefully crafted as a statement of our values: that saving lives is absolutely important and that intellectual property protections, as long as there are partners at the WTO who feel so strongly that intellectual property protections are getting in the way of their ability to access vaccines and to save their populations—that is absolutely worth our engaging with.

Senator BARRASSO. So I guess the question is, why would we expect American innovators to make massive new investments in

medical research, in carbon capture, in clean energy, in advanced technologies, if they risk losing intellectual property during the next thing that is truly a global crisis?

Ambassador TAI. Well, I guess I would just say in terms of the acute nature of what we are experiencing right now, the entire health infrastructure of India, for example, being overcome—that that is distinguishable from the kind of crisis that we are facing with respect to the climate.

And so I would just say I disagree with your analogy that one necessarily leads to the other, that there is a slippery slope here.

Senator BARRASSO. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Next is Senator Warner. Is he out in cyberspace?

Senator WARNER. Ambassador Tai, first of all, it is great to see you.

Can you hear me?

The CHAIRMAN. Senator Warner, I can hear you, I believe.

Senator WARNER. Ron, can you hear me, see me?

The CHAIRMAN. Gotcha; go.

Senator WARNER. Thanks so much.

Let me first of all just say, having just heard the last exchange, I spent a whole career in venture capital and valuing American intellectual property. I think it is a very close call, what the administration has done.

But I also want to give—Ambassador Tai, I think, acknowledged that this is a moment in a global pandemic, and as I think you laid out very clearly, starting something as a WTO process is a long way from coming to some kind of overall consensus, the way the WTO works. And as cochair of the U.S.-India caucus, I think the humanitarian crisis in India requires extraordinary actions.

I also think there is no more significant long-term geopolitical strategy in Asia than building strong ties with India; and I think that taking a once-in-a-century action on a once-in-a-century pandemic is not an indication of some retreat of protecting intellectual property rights in this country. I again differ with some of my colleagues.

I also want to point out—I think somebody else has raised this issue as well, and I wanted to weigh in. Semiconductors, I think most of this panel knows, are the key to virtually any electronic device, and it is absolutely critical that we make sure we have that domestic supply of semiconductors.

Next week, Senator Cornyn and I and a number of others will be introducing a bipartisan amendment to the Endless Frontier Act to commit \$50 billion to both advance where America is ahead on semiconductors and also hopefully lead to the domestic construction of eight to 10 new fabrication facilities, fabrication facilities that will do memory chips, that will do logic chips, that will do cutting-edge chips, that will help ensure manufacturing legacy chips are still in the supply chain.

I hope my colleagues will support this.

Right now, we have no new fabrication facilities being built. Taiwan creates 63 percent of all the chips made in the world. That is a supply chain vulnerability, as well as the fact that we need to continue to make, design the equipment, the packaging, and I ap-

preciate very much the administration's support of this effort, and again I hope it will enable us to get it done.

Let me get to a question. I am concerned—when you think about allies, one of our strongest allies is Australia, particularly as they grapple with the challenges coming from China. They are a front-line nation. It is one of the reasons I have been concerned that some of USTR's practices around digital trade have frankly involved at times siding disproportionately with the platforms in terms of some of the recent debate—internal to Australia—about the news flow, where many American companies actually sided with the Australians.

I just hope, Ambassador Tai, that you can say that, around digital trade efforts, we ought to try to work to be more in concert with allies like Australia, with some of our European allies. And let me just say, the fact that we have seen many of our European friends put on hold some of their ongoing trading relationships with China as they reassessed, particularly, the Chinese treatment of the people of Hong Kong and the Uighurs, this opens up an opportunity, I think, around these digital issues, both in terms of Australia and in terms of our European friends, to find greater levels of cooperation and collaboration. If you could speak to that, I would appreciate it, knowing I have taken up 4 minutes and 30 seconds getting to the question.

Ambassador TAI. Senator Warner, I appreciate your question; it is an important one, especially in terms of thinking about formulating the trade rules that are going to be relevant today and far into the future.

I hear you. I think that we do need to be in concert with our trading partners. And on the types of issues you are talking about, USTR will need to be in concert with Congress over these important issues too.

Senator WARNER. A great short answer. You got me done even within my 5-minute time period.

Back to you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warner. Important issue.

Senator Thune is next, and is he out there in cyberspace?

Okay, I believe Senator Thune is coming in person, which would make Senator Whitehouse next, and he too, I think, is on the web.

Senator WHITEHOUSE. I am here, Mr. Chairman.

The CHAIRMAN. Great.

Senator WHITEHOUSE. Ambassador Tai, welcome. I am delighted that you are here.

There is a famous description of Senators by the Pulitzer Prize-winning author, William S. White: "A Senator of the United States is an ambulance converging point for pressures and counterpressures of high, medium, and low purposes." And if there is anybody who is more of a converging point for such pressures and counterpressures than a U.S. Senator, it is the U.S. Trade Representative. And in the midst of all of that, I would like to focus a little bit on the marine ocean plastic problem, because there is not much of an organized pressure or counter-pressure on ocean plastic.

And the U.S. has had a very unfortunate role recently, despite nominal support from President Trump, Secretary Pompeo, and

Ambassador Lighthizer. We came out of the Nairobi conference with press reports saying that the U.S. had not only been weak, but it actually tried to weaken proposals that everybody else was trying to agree to. In Geneva, we were, I guess, unhelpful with regard to the Basel Convention, which we are not even a part of.

So we do not have a great record on this. But there is bipartisan support for stronger action here in Congress, and I want to recognize Senator Dan Sullivan of Alaska, who has done so much good work in this area.

Our original Save Our Seas bill encourages the Trade Representative to consider in our trade agreements the impact of land-based waste from countries that contribute most to marine debris. That was an encouragement; that was the best we could do the first time.

In our bigger, stronger, better Save Our Seas 2.0 bill, it directs the executive branch, including the Trade Representative, to lead and coordinate efforts to implement U.S. policy on marine debris and support plastic waste mitigation; it directs the U.S. representatives to appropriate international bodies and conferences to push for plastic waste progress; and it directs the President to consider marine debris issues when negotiating new international agreements. And of course you would be in the middle of that chain, between the President and those agreements.

So I am hoping that you can tell me something good about what has happened, how you are staffed up, what is going to be done to implement these congressional directives with regard to ocean plastic waste, when they could easily fall through the cracks of the pressures and counter-pressures you are facing on so many other issues.

Ambassador TAI. Well, I think we do have a good, very good story here—and a lot of it leads back to the USMCA—which is, as part of the USMCA implementing act and its passage, there were supplemental appropriations that were provided. So, between enhanced rules on the environment and also the appropriations, what we have is an infrastructure that we are building out that enhances the integration between USTR and partner agencies within the administration to coordinate and to work on environmental issues, including marine ocean debris.

So that is a very good place to start. We have environmental attachés who have been deployed in Mexico; we have a committee that has been created to enhance our work and cooperation here in Washington; and I would say there is room for us to build out here. And I would certainly be interested in working with you on directions for us to build on how we can strategically expand out our focus on this issue.

Senator WHITEHOUSE. Who is in charge of the ocean plastic waste issue in your office?

Ambassador TAI. Our environmental office leads on this issue, and they work closely with NOAA.

Senator WHITEHOUSE. And who is the person we should be in touch with?

Ambassador TAI. I will have my people send the name to your people, if that is okay with you.

Senator WHITEHOUSE. That is okay; I would have felt better if that name was top of mind for you—

Ambassador TAI. Oh, I am happy to name our staff, absolutely, if that is what you would like.

Jamila Thompson is one of my senior advisers, who leads on environmental issues, and she works closely with—

Senator WHITEHOUSE. She would be the ocean plastic contact?

Ambassador TAI. Absolutely. Absolutely.

Senator WHITEHOUSE. Great. All right. Well, I am going to keep pressing on this, because I know there are, as I said, lots of pressures and counter-pressures on you from a whole variety of industries, and the ocean does not have much of a voice of its own. So I hope you do not mind if I continue to pursue this.

Ambassador TAI. I look forward to it.

The CHAIRMAN. Thank you, Senator Whitehouse.

Next is Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you, Mr. Chairman. And to the Ambassador, thank you for being here today. Thanks for all of your hard work so far.

Let me start with an issue—again, you talked a little bit about this—the 301s and 232s. I am curious about the exclusion process, because I have met just recently, when we were home on recess, with a company that is interested in moving to Nevada. It is Haas Automation, and they are building a new manufacturing facility in Henderson, and they have committed to creating 2,000 new jobs for workers in my home State.

These workers will make machine tools that require cast iron components, which, as you well know, there is a limited domestic supply for. And so I guess my question to you is—based on the conversation that I have heard today around this subject—can you reassure the businesses, not just in my home State but across the country, that you are working towards a viable solution to address the tariffs and reopen a stable and responsive exclusion process once again?

Ambassador TAI. Senator Cortez Masto, I am happy to reiterate my commitment to USTR's top-to-bottom China review that will have as an important component the review of existing tariffs and also the exclusion process. And it will be built around a robust engagement process where companies like the ones that are talking to you will be able to engage and tell us exactly what their concerns are and what their plans are, so that we can take them into account as we are conducting our review.

Senator CORTEZ MASTO. Thank you. And then again, will you work with Secretary Raimondo in your whole-of-government tariff review to address the underlying issues as well that relate to 232?

Ambassador TAI. Absolutely. Secretary Raimondo and I speak quite often, and the section 232 issue is one area where USTR and Commerce have and will continue to work closely together.

Senator CORTEZ MASTO. Thank you, Ambassador. I know you are also familiar with section 201, the solar tariffs. And I support the President's effort to bolster the domestic clean energy manufacturing, but we do not have the domestic solar panel production capacity to meet current demand, and it is going to take time, resources, and the same commitment to build this capacity.

I recognize that you have to balance a variety of concerns, but can you assure me that, as you deal with the section 201 solar tariffs, you will take into account the concerns of domestic solar stakeholders who deploy the solar projects we need to meet our climate and job-creation goals while we ramp up our domestic production capabilities?

Ambassador TAI. Senator Cortez Masto, I appreciate your recognition of the balance that we are trying to create to ensure that there are reliable sources of domestic supplies, but also reliable sources for imports to address the gaps between what our domestic supply can produce right now to respond to our demand.

So yes, absolutely. We hear from both sides, both from the stakeholder community, but also from members of Congress. So absolutely, this is important to get right, and we are cognizant of the interests on both sides of this issue.

Senator CORTEZ MASTO. Thank you.

And then finally—you mentioned this in your opening statement—as Congress and the administration engage in revising and renewing trade preference programs, can you discuss the importance of prioritizing womens' interests in national trade policies?

Ambassador TAI. Absolutely, Senator Cortez Masto. Women make up half of the world's population; I think that maybe the statistics are more than half. Economies, in order to realize their potential, have to provide for opportunities for their women. There is so much potential to unlock, and this is such an important area for all of us to work on.

Senator CORTEZ MASTO. Thank you, Ambassador. Thank you so much for joining us today.

The CHAIRMAN. Thank you very much to my colleague from Nevada.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman. Ambassador, nice to have you here; welcome.

I understand that the question of intellectual property and the issue surrounding whether or not that ought to be waived with respect to dealing with the coronavirus has been talked about at some length already, but I would associate myself with the comments, I think, of a number of my colleagues here, that that is an issue that we cannot—in my view at least, what we need to address is the production capability, manufacturing, scaling that up big time here, rather than giving away our IP from our pharmaceutical companies and the important work that they do, the R&D work that they do to continue to come up with solutions to treat these types of pandemics when they come up.

I wanted to ask you, one of the things I hear repeatedly back home—and if you have been asked this already today, perhaps I should apologize as well—but the home builders, the realtors, everybody in my State is talking about the cost of lumber and how that is driving up housing costs in this country and really curtailing new construction, just pricing homes in a way that is outside the reach of a lot of families in this country.

And one of the issues they consistently raise are the tariffs on lumber coming from Canada. Could you speak to that issue, and what is being done to address that and the impact that those tar-

iffs have on the cost of lumber in this country, and ultimately on the cost of housing?

Ambassador TAI. Certainly. The issue of lumber—I think there are probably volumes of books written about the U.S.-Canada disagreement over our lumber policies. And what I would say is this: that this is an issue that we have worked on for it feels like as long as time with Canada. Our trade remedies are there to address unfair practices in terms of Canada's production and its structure for lumber production.

We will raise our concerns with Canada, but there are obviously needs for us to really be honest about with the Canadians in addressing ways of resolving some of these concerns.

So let me center myself a little bit here in terms of focusing on your question. The Free Trade Commission, which is required to meet within the first year of the USMCA, is meeting next week, and I will be raising our concerns with the Canadians. But obviously I look forward to continuing this conversation with you and the many other members of Congress who have raised concerns about this on both sides of the issue.

Senator THUNE. Let me just follow up. What is the administration doing to prioritize a new softwood lumber agreement between the U.S. and Canada?

Ambassador TAI. So in order to have an agreement, in order to have negotiations, we need to have a partner. And thus far, the Canadians have not expressed interest in engaging. So on that, I would also welcome your intervention right now in terms of raising the profile of how important this is to the United States.

Senator THUNE. Well, it is having a tremendous impact on the ground, I can tell you that, on the economy out there.

On agriculture, you have not yet announced—or the administration I should say, has not announced a nominee for USTR Chief Ag Negotiator. It is an important role when it comes to representing our agricultural interests, in particular expanding market access for producers, products in trade negotiations.

So I ask you when we can expect to have a nominee for that position. And then secondly, TPA expires July 1st, and I think when asked in February whether you support TPA renewal, you stated in your QFR responses that you would consult closely with Congress and work to pursue trade policies that receive bipartisan support. All of that is welcome, but we need leadership in the administration in order to move TPA forward to grow jobs and exports.

And so, a lot of questions in there, and I am out of time, but if you could also address if there is any discussion in the administration about rejoining TPP. Because many of us here thought that was a good agreement that went a long ways towards expanding access into markets in Asia, and were disappointed when the previous administration withdrew from it.

So I know there are several questions in there, but if you could speak to those issues, it would be appreciated.

Ambassador TAI. Senator Thune, let me try to be particular and responsive at the same time. Our Chief Ag Negotiator, this is a priority for the administration, this is a priority for me in terms of wrapping up at USTR, so I hope soon.

On TPA and TPP—maybe I will take both of them and give you a bottom-line response here, which is, my interest in engaging with Congress is primarily going to be focused on a version of TPA and a version of working with others in the Asia-Pacific with shared interests that is going to take the form of something that is going to have robust bipartisan support. And if there is a way that we can accomplish these that can achieve robust bipartisan support, that is the key to what we are looking to accomplish in this administration.

Senator THUNE. Thanks.

The CHAIRMAN. I thank my colleague.

Senator Daines, I believe, is next. Is he out there?

Senator DAINES. Yes. Can you hear me?

The CHAIRMAN. Go ahead.

Senator DAINES. Thank you. Ambassador Tai, thanks for coming here today. Congratulations on your new role.

The importance of expanding access to important markets around the world and assuring that our Montana small businesses, workers, our farmers, our ranchers are able to compete on a level playing field in this global committee, frankly cannot be overstated.

It is also very essential that the U.S. make badly needed investments in the research into next-generation technologies, protecting IP so that we can run faster, create better jobs, and win this race against China to be more competitive and to be more innovative.

As you know, China has been a long serial abuser of IP, and the China Phase One trade deal made progress in that space. Our focus, I believe, needs to be on fully and aggressively enforcing that deal. We need to strengthen and enforce IP protections, not weaken or waive them.

I am very concerned that the recent decision to support waiving vaccine IP protections will harm U.S. innovation; it will harm our leadership in vaccines; it will provide a windfall for adversaries such as China and Russia, as well as not necessarily expedite vaccination globally.

My question is, what kind of message do you think it sends to China, when under pressure from foreign competitors and international interest groups, we are willing to cave and disregard WTO IP commitments?

Ambassador TAI. Senator Daines, let me say this. In terms of the U.S. support for the waiver at the WTO and the U.S. support for the waiver proponents, the message that I think it sends is that the United States is back to exercise leadership, and the United States cares about saving lives.

And so I hope that is the message that everyone is receiving, in particular the waiver's primary proponents, which are India and South Africa. And let me just say one word; India right now is going through a crisis of unimaginable scale and experiencing human tragedy. South Africa is strategically situated in Africa to speak up for the fact that Africa as a continent does not have vaccine production capacity and will need to have that to get through this pandemic and future epidemics and pandemics.

So that really is the focus of the message that is motivating me and this administration in supporting the beginning of a process at

the WTO to respond to a collective and humanitarian tragedy that we are all experiencing right now.

Senator DAINES. Well, I appreciate that response. I would probably respectfully disagree. There is no doubt that we need to work as fast as we can to save lives. At the same time, we need to protect these IP rights so we continue to foster the innovation that allowed these breakthroughs to occur to get these effective vaccines out to market as quickly as we did.

I think we should be prioritizing fighting the pandemic internationally by getting more shots in arms in countries who need them without transferring this critical technology to China and Russia and really undermining our global leadership position. It is sending a chilling message for future innovation, and I think we could actually accomplish both by protecting IP and in accelerating production by working with those who have the IP.

Ambassador Tai, while in the Senate, I have urged both the Trump and Biden administrations to reengage in the Trans-Pacific Partnership. Senator Thune talked about that a minute ago. I led a letter in fact to President Trump then with Senators supporting reengaging in the TPP. Given China's growing economic and geopolitical influence, it is essential we work in a strategic manner with our allies and our partners in the region in more of a multilateral approach.

In your nomination hearing, you referenced that TPP was a, quote, "sound formula," but it is a different world than 2015 or 2016. Notwithstanding any improvements you may view as necessary, would you agree that the geopolitical and strategic benefits of pursuing a multilateral approach like TPP as a counter to China still remain?

Ambassador TAI. Yes, a multilateral approach working with like-minded countries on a shared competitive challenge like China, is a sound equation. And I think that, as with all things in trade—which I live and breathe—the devil is in the details. And my focus will be on formulating trade policy here to find a path that has broad bipartisan support that is going to be effective and not allow for free ridership on what we put together with our partners.

The CHAIRMAN. Thank you, Senator Daines.

We have a vote on the floor. We are going to have to finish, because we have a series of votes, I believe.

Senator Warren is next.

Senator WARREN. Thank you, Mr. Chairman.

So COVID-19 has already infected over 156 million people; it has killed more than 3 million people globally. It is great that companies have developed safe and effective vaccines, but we cannot seem to make them quickly enough to stop the global spread that threatens all of us. The world needs more vaccine.

Part of the problem is that the drug companies own the recipes even if taxpayers paid for the research. And the drug companies are using exclusive intellectual property rules that they lobbied for in order to keep others from making more of these lifesaving products.

Ambassador Tai, I was glad to see you announce last week that the United States supports waiving some of the international intel-

lectual property rules to help end the pandemic. But I have some questions about how this waiver is going to work.

I am concerned that your announcement last week committed only to negotiating a waiver on IP rights for COVID-19 vaccines. As you know, testing, treatment, PPE are also vital to combating this virus. Drug companies can use patent protections to block countries from making their own versions of these products as well.

So, Ambassador Tai, does the administration also support a TRIPS waiver for COVID-19-related diagnostics, therapeutics, and PPE in addition to a waiver on vaccines?

Ambassador TAI. Senator Warren, thank you for paying attention to that statement, and for your words on framing what we are encountering right now as a reality to many of us.

Let me just say this. We are focused right now on the intellectual property waiver at the WTO with respect to vaccines. I know your question is broader, but for my efforts at the moment, it is a focus on access to vaccines and inequality in terms of the access to vaccines—

Senator WARREN. So I am hearing you not rule out that we will also focus on waivers for these other products?

Let me ask the question differently if that helps. Do you agree that the U.S. should be doing everything it can to help other countries ramp up their testing, treatment, and PPE production?

Ambassador TAI. Sure.

Senator WARREN. We will go there for right now.

You know, testing, treatment, PPE are critical, and that is why India and South Africa asked 7 months ago for the world's help to make those items without running a risk that a drug company was going to sue them.

So I believe that the U.S. should be backing these countries on this point too and not try to wiggle out of helping. Time is also of the essence here; millions of people are dying; millions more will die if it takes another 7 months to reach any kind of meaningful agreement.

The special protections for drug companies are an even bigger issue than COVID-19 alone. For years the U.S. Government has let giant corporations write the rules of our international trade system; so it is no surprise that when drug companies draft our trade agreements, they include provisions protecting pharma monopolies and putting profits ahead of the lives of people all around the world.

We are fighting over a waiver to rules, rules that never should have existed in the first place. Ambassador Tai, as you negotiate new trade agreements, or as you revisit some outdated ones, do you agree that it is time to eliminate provisions that drive up drug prices for consumers by strengthening monopoly protections for big pharma?

Ambassador TAI. Senator Warren, thank you so much for the question. I am committed to reviewing everything about how we have done trade agreements and looking at them through the lens of what we have experienced, in particular the negative impacts our trade agreements have had, especially on individuals, workers, and communities.

Senator WARREN. Well, I am glad that Congress forced the previous administration to strike a part of the USMCA that never should have been drafted, but I think it is time now for our trade negotiators to take leadership and actively set rules that lower drug costs for American families instead of focusing on boosting profits for drug companies.

Drug companies are kicking and screaming about this waiver over the COVID vaccine because they are worried that the Federal Government may finally have the spine to lower drug prices through global trade agreements and here at home.

So the U.S. Trade Rep's commitment on the waiver is a good first step, but I am very much expecting you, Ambassador Tai, to follow through at the negotiating table.

I have also urged President Biden to take executive action to lower drug prices for tens of millions of American families by allowing the generic production of products like insulin and EpiPens. I am glad that the drug companies are worried that their enormous profits may shrink. I am going to keep pushing the administration to take more steps to put patients ahead of drug company profits.

Thank you for being here today, Ambassador Tai.

And thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warren.

We are going to get Senator Hassan in, and then we are going to have to run and vote.

Senator HASSAN. Well, thank you so much, Mr. Chair and Ranking Member Crapo, for this hearing. And, Ambassador Tai, welcome and thank you. You have put in a very long morning, and I greatly appreciate it.

The President's ongoing strategic review of critical supply chains is a necessary step to strengthening our economic security and out-competing China. Another important step would be passing the bipartisan Endless Frontier Act, legislation led by Senators Schumer and Young, which I cosponsored. And it would invest in U.S. leadership in science and technology innovation.

Ambassador Tai, what role has USTR played in the President's supply chain review, and how does USTR plan to use trade policy to promote our leadership and competitiveness in advanced technology?

Ambassador TAI. Senator Hassan, USTR is doing our part to support and participate in, and bring our expertise to the ongoing critical supply chain review, and we will continue to do so.

In terms of what we can do with our trade policy, I think it really is about reexamining the trade policies that we have pursued and thinking about how we devise a different approach to trade policy that does not simply prioritize the lowest cost and the lowest levels of protection so that we are creating supply chains that are going to be driving a race to the top, but that are also going to be resilient and have in mind that crises happen, and that our supply chains need to be strong and reliable.

Senator HASSAN. Thank you. I am working on a bipartisan basis to promote domestic R&D, including through bipartisan tax legislation with Senators Young, Cortez Masto, Portman, and Sasse.

Because, again to the point you just made, promoting R&D investment in the U.S. is key to out-competing China. The Chinese

Government uses trade restrictions, tax incentives, direct subsidies, and other policies to try to drive R&D investments into China.

Ambassador Tai, how does USTR plan to use trade policy and coordinate with other agencies to help promote domestic R&D?

Ambassador TAI. Well, I think there are two ways. One is to continue to push for leveling of the playing field, calling out and holding others to account when we see practices and measures that are inconsistent with the norms and rules that have been set out there.

The other is to really support and to reimagine trade policy as supporting our domestic investment policies, as opposed to undermining them. That is going to be so critical, and I would just add that it is not just the R&D; the R&D is critical to our competitiveness, and that is absolutely the right area to focus on.

But we should also focus on that chain that translates R&D into production, into manufacturing. As we have seen, without that ability to produce the scalability, the ability to pivot, we remain really vulnerable.

So I would just say that USTR stands ready to work with you and your colleagues on the R&D and investment pieces, and also the pieces to build out the supply chain.

Senator HASSAN. Thank you.

Last question, because I would like to have follow-up on an issue we discussed at your confirmation hearing regarding the small business chapter of the bipartisan U.S.-Mexico-Canada agreement.

In addition to cutting red tape for small exporters, the agreement created a committee to give small businesses a voice in shaping our trade policy. In implementing the USMCA, including the provisions cutting red tape for small businesses, how has USTR coordinated with this committee and the small business community generally?

Ambassador TAI. Well, Senator Hassan, I have started conversations with Small Business Administrator Guzman about partnering on the USMCA, and we have the great fortune that she has background in this area, and brings with her to her job an understanding of where the synergies are between the SBA and USTR.

With respect to working with this committee, my door is open. I am so excited about working with you, your colleagues on this committee, on the Small Business Committee here, to really capitalize on the opportunities that we have in the USMCA.

Senator HASSAN. Well, I thank you for that, and I specifically look forward to working with you to bolster the committees that the USMCA created, to really make sure the voices of small businesses are heard. So I look forward to that.

Thank you, Mr. Chair.

The CHAIRMAN. I thank my colleague, and particularly for closing with the emphasis on small business.

Ambassador, it has been a long morning, and with you, they are always productive sessions. We thank you, and let me just give a couple of quick thoughts.

First, I think it was clear—you heard from Senator Crapo, you heard from myself, you heard from Democrats and Republicans on the Senate Finance Committee—that we are laser-focused on this proposition of being able to out-compete China. We understand this is the economic challenge of our time, and for me, priority one is to stop China from feasting on the weaknesses of the global trading

system. And in various ways, my colleagues made essentially that kind of point.

And what it really comes down to, and I think you recognize this, is that this is going to take more than vague calls for reform. This is going to take decisive action in two areas: one, the question of enforcement, and we are pleased—Senator Brown and I have both discussed it today—that you all came out of the gate so quickly on enforcing USMCA under the law that we authored.

And second, modernizing those trade laws that are simply outdated. We need to have modern policies, we need to have modern policies in our trade toolbox, and at the end of the day it comes down to something you and I talked about in our first conversation, and that is to get more workers in that winner's circle.

So I think this has been a productive morning. We look forward to working with you; and as I and a number of Senators indicated, you let us know what we need to do to modernize those trade tools, update those trade tools. We will be working with you, and I think you saw evidence of strong bipartisan interest in that.

Colleagues, for those who are still following this, and staff of course, questions for the record are due Monday, May 17th. And with that, the Finance Committee is adjourned.

[Whereupon, at 12:15 p.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MIKE CRAPO,
A U.S. SENATOR FROM IDAHO

The President's 2021 trade policy agenda opens with two objectives: "[1] ending the COVID-19 pandemic and [2] strengthening the economy. . . ." Significant progress is being made on the first, with record vaccine development thanks to Operation Warp Speed and continued efforts by the Biden administration to get shots in arms. Unfortunately, with regard to the second objective, the progress is disappointing.

Last month, the United States added only 266,000 jobs—far less than the 1 million that most economists expected. President Biden's response is that "we have a long way to go." Yes, we do. In fact, more Americans are out of work at the moment than during the worst point of the Great Recession.

Of course, Americans have crossed unimaginable distances before—and they will do so again. But why counsel Americans to be patient? It's not in their nature. What we need to do, right now, is to speed up the journey for everyone by fully reopening the economy, and executing an ambitious and sound trade policy.

According to President Biden's trade agenda, exports facilitate greater productivity and wages. In fact, President Obama's White House determined that every billion dollars in increased annual exports supports between 5,300 and 7,300 jobs. If the Biden administration wants a worker-centered trade policy, then the logical—and only sensible—course is to adopt a trade policy that creates as many high-paying jobs as possible. That kind of successful trade policy requires at least three components.

First, enforcement must be a priority. The trade agenda notes there will be comprehensive enforcement of the labor and environmental obligations in our free trade agreements. I support that, because America's businesses, workers, and farmers need to compete on a level playing field. We can do that—and also stand up for them by challenging other market access barriers at the same time. Enforcement in these areas is complementary, not exclusive.

Make no mistake, there is a great deal to enforce. For example, the United States-Mexico-Canada Agreement (USMCA) contains groundbreaking market access commitments. These commitments are particularly important to our farmers, who have faced a decline in demand from restaurants, school systems, and hotel customers. We must make sure American farmers get the access to our trading partners to which they are entitled. But the story on enforcement must become better.

An important U.S. tariff-rate quotas case against Canada remains stalled in the USMCA process. It is time to see progress on it, or the United States must proceed with a dispute settlement panel so that American farmers, ranchers, and businesses can enjoy the benefits they bargained for under the agreement. Mexico is adopting a host of measures that undermine our agricultural rights, including restrictions on biotech crops, glyphosate, and unreasonable food packaging labels.

Ambassador Tai, I encourage you to press for action on these barriers at the meeting of the USMCA Free Trade Commission later this month. If our partners should refuse, you must use the enforcement tools at your disposal.

The second component of an effective trade policy is negotiating new rules and market access opportunities. To that end, I support the Biden administration's call

to work with allies. Yet, the President's trade agenda is silent on whether we will continue to negotiate with the United Kingdom and Kenya.

I encourage you to work with the United Kingdom—one of the United States' oldest allies—and with Kenya, which can serve as a replicable model for future trade deals in a country where China has failed to get an FTA, and that will also establish our commitment to the people of Africa.

Furthermore, we must deepen our engagement in the Asia-Pacific, or risk losing U.S. allies there to China's predations. While I understand you believe the Trans-Pacific Partnership (TPP) may have become dated, I see value in an agreement with new disciplines, including on digital trade. However, that means we must start thinking about how to modernize TPP, or what other structures we can use for U.S. engagement in the Asia-Pacific. We cannot simply take a "time-out" from the region.

Last month, Japan ratified the Regional Comprehensive Economic Partnership (RCEP)—which is China's model for what trading relationships in the region should look like. In the absence of U.S. leadership in the region, our allies will have to look elsewhere. If the United States is to pursue a worker-centered trade policy, we need to be mindful that American workers lose when China writes the rules.

The final—but most important—component of a successful trade policy is consultation. The Supreme Court noted 60 years ago that the President is strongest when he acts pursuant to an authorization of Congress—and is potentially powerless when he acts in defiance. The administration must be strong when it comes to trade policy, and that requires a close partnership between Congress and the U.S. Trade Representative.

We recently had a test of that partnership: the administration's decision to support a waiver to the intellectual property protections in the WTO TRIPS Agreement. The WTO TRIPS Agreement was approved by Congress. The law says Congress's approval can only be withdrawn "if, and only if" Congress enacts a joint resolution to that effect. Last summer, during the height of the pandemic, both Houses of Congress declined to act on such a resolution. Yet, without any consultation with this committee, you announced via a tweet that the administration unilaterally supports waiving the patent obligations of the TRIPS Agreement.

Chancellor Merkel of Germany asserts the problem with vaccine distribution is not patents, but manufacturing capacity and production standards. Albert Bourla, the CEO of Pfizer, said the decision will "categorically" create more problems for vaccine distribution. He added that it will "disincentivize anyone else in the future from taking a big risk" like Pfizer did, laying the groundwork for the classic moral hazard problem. Iconic American innovators, like Bill Gates, have also said the decision will not advance vaccine distribution.

In short, these observers assert a TRIPS waiver will undermine the very objective I said the administration was making progress on: ending the pandemic. Conversely, Vladimir Putin, in fact, supports your decision to pursue a waiver. Neither did it surprise me that a bureau chief for one of China's propaganda outlets replied to your tweet by asserting that "global pressure works."

You may, of course, have your own good reasons. But to date, you have not offered an adequate explanation. You will hear more on this subject from me and my colleagues.

Ambassador Tai, I know that you like the expression that "USTR can walk, chew gum, and play chess at the same time." But what we need is a USTR that can enforce, negotiate, and consult at the same time. The American people—and members of Congress, including myself—are counting on you to prove that is the case.

PREPARED STATEMENT OF HON. KATHERINE C. TAI, UNITED STATES TRADE
REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT

Thank you, Chairman Wyden, Ranking Member Crapo, and members of the committee, for inviting me here today to testify on the President's trade agenda.

Our worker-centric trade policy is a key part of the Biden-Harris administration's effort to Build Back Better. We are making real strides towards ending the pandemic. There are pockets of progress and hope. But we still have a lot of work ahead.

I want to thank Congress for passing the American Rescue Plan, which has already helped get shots in arms and money in the pockets of millions of Americans. We're seeing the economic benefits of that quick action here in the United States. We're on track for a full economic recovery, though more needs to be done.

The American Jobs Plan and the American Families Plan would combine to make the United States a healthier, safer, more prosperous, fairer, and more competitive nation. They would make bold investments that build a better foundation for decades of economic growth.

We know these extraordinary times demand extraordinary leadership and creativity to find solutions that can defeat COVID-19. The announcement last week that the United States will not let intellectual property rights get in the way of saving lives is just one part of the administration's global effort. We will pursue text-based negotiations at the WTO, which may take time. But I am encouraged that other countries have already announced that they will roll up their sleeves and join us.

We will also continue to ramp up our efforts—working with the private sector and all possible partners—to expand vaccine manufacturing and distribution around the world, including access to the raw materials needed to produce those vaccines. This comprehensive effort will not only save lives, but also help heal the economy. And as we reengage the world, our trading partners, and international institutions from a position of strength, support from Congress gives us more authority and opportunity to deliver results for the American people.

We want a fair international trading system that promotes inclusive growth and reflects America's universal values. Trade policy must respect the dignity of work and value Americans as workers and wage-earners. For too long, we have overlooked the effect of our trade policies on individual workers, who are human beings, living in a community trying to survive and thrive. The worker-centered trade policy outlined in the President's trade agenda builds on progress made in the USMCA. Our goal is to foster broad-based, equitable growth, increase innovation, and give workers a seat at the table.

The transparency principles I announced last week reflect the administration's commitment to comprehensive public involvement in developing trade policy. The principles, along with the appointment of our Chief Transparency Officer, are just the starting point.

For the first time, the President's trade agenda included the goal of racial equity. Our thoughtful, sustained engagement with new—and all too frequently silenced—voices will give the Biden-Harris administration a better understanding of how our proposed policies affect all communities. And we will consider those effects on people of color, minority-owned businesses, and aspirational entrepreneurs before making policy decisions.

Trade policy must also help protect the environment and fight climate change. For too long, we've seen a race to the bottom that suppressed environmental protection to attract investment. We can use trade tools to incentivize a race to the top and build a cleaner and brighter future, with new market opportunities and high-paying, quality jobs. And by encouraging fresh, collaborative thinking, we can forge consensus among diverse groups and find solutions that we never knew existed.

Our farmers, ranchers, fishers, and food processors will benefit from our new approach, and they are essential to meeting our climate and sustainability goals. We are turning the page on erratic trade policies. USTR's goal is to pursue smarter policies that expand global market opportunities while enforcing global trade standards and ensuring that trading partners live up to their commitments.

Sustained, American leadership and reengagement with our allies, trading partners, and economic competitors will be key. The Leaders' Climate Summit in April showed that we can rally the world to tackle big challenges. In the early meetings with my counterparts, I have stressed that the United States will be a constructive partner, and we welcome the frank and open dialogue.

We will work with the World Trade Organization's new Director-General, Dr. Ngozi Okonjo-Iweala, and like-minded countries to reform the WTO's rules and procedures so it can be a relevant force for good in the 21st-century global economy.

We are also working with the European Union and the United Kingdom to resolve the ongoing Boeing/Airbus dispute and are having constructive discussions to address the real problem of overcapacity in the steel and aluminum sectors coming pri-

marily from China. These talks will take time, but I believe a resolution is possible and worth pursuing.

Those two issues underscore the importance of our ongoing comprehensive efforts to address trade frictions with our allies and strategic partners so that we can turn to focusing on the challenges facing us today and tomorrow. We will not hesitate to call out China's coercive and unfair trade practices that harm American workers, undermine the multilateral system, or violate basic human rights. We are working towards a strong, strategic approach to our trade and economic relationship with China.

We welcome the competition. But the competition must be fair, and if China cannot or will not adapt to international rules and norms, we must be bold and creative in taking steps to level the playing field and enhance our own capabilities and partnerships. I've been encouraged that our trading partners also recognize this challenge, and they are willing to find a common approach to our shared concerns. Our security will depend on diversifying and securing the supply lines for products. Improving our trade relations with trusted allies and partners will not only improve our prosperity but our national security.

Closer to home, we are using every tool available to make sure our existing agreements work and have a positive impact on real people. The United States-Mexico-Canada Agreement gives me confidence that this approach is worthwhile. We must invest and commit to the agreement's full and successful implementation. USMCA is a starting point for future efforts in the region that explicitly acknowledges climate change, aggressively addresses global forced labor issues, and expands the benefits of trade to women and historically underserved communities.

I will enforce the new standards, follow through on our commitments, and use the agreement to ensure that Canada and Mexico do too. The updated agreement now includes the most comprehensive, enforceable labor and environmental standards of any U.S. trade agreement—and, I would argue, any trade agreement. And this week, you've seen that we're committed to using the tools.

The innovative rapid response mechanism will allow us to address longstanding labor issues in Mexico. Today I am proud to announce the inaugural use of this mechanism in our request that Mexico review whether workers at a General Motors facility in Silao, located in the State of Guanajuato, are being denied the right of free association and collective bargaining.

I commend the Government of Mexico for stepping in when it became aware of voting irregularities earlier this year. I am proud to partner on this shared goal of helping both Mexican and American workers prevent a race to the bottom. This use of the rapid response mechanism demonstrates that we will act when workers in certain facilities are denied their rights under laws necessary to fulfill Mexico's labor obligations.

As you can see, we have our work cut out for us. But I'm confident that we can walk, chew gum, and play chess at the same time. The professional and dedicated public servants at USTR are working hard to implement the President's trade agenda. And I am proud to carry the strength and creativity of our small, but mighty agency into the room today.

Thank you for your time, and I look forward to your questions.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. KATHERINE C. TAI

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. The U.S.-China Phase One agreement has now been in place for over a year, and the results are mixed. In addition to a number of commitments on intellectual property rights, trade in agricultural goods, and services, the deal obligated China to buy \$468 billion of U.S. products and services over 2 years. Unfortunately, China's purchases in 2020 fell below its commitments and, in many sectors, were well below 2017 trade levels. At the same time, while China appears to have improved certain intellectual property practices, it continues to engage in unfair trade practices and distort global markets through forced technology transfer, state-directed investment in sensitive technology, and large-scale industrial subsidies. Under the Phase One agreement, USTR has a schedule of meetings with its Chinese counterparts to gauge compliance with the agreement.

In addition to these regular meetings, what is USTR doing to ensure compliance with the written obligations made by China in the Phase One agreement?

Answer. The U.S.-China Economic and Trade Agreement (*i.e.*, Phase One agreement) is the agreement that we have, and this is the agreement that needs to stand up as we engage with China across the board in our trade and economic relationship. We will continue to make use of and push the existing tools that we have for the benefit of U.S. workers, farmers, ranchers, manufacturers, service suppliers, and small businesses. Under the Phase One agreement, the primary mechanism for reviewing China's implementation progress involves monthly meetings of the two sides' "designated officials." We continue to hold these meetings and supplement them with various technical-level engagements.

In addition, on May 26, 2021, I held an introductory call with Vice Premier Liu He, my counterpart under the Phase One agreement. In that call, I raised issues of concern and explained that USTR's review of the U.S.-China trade relationship is ongoing.

Question. The Phase One agreement was named "Phase One" because it reportedly anticipated the further work to be done with China in addressing forced technology transfer, intellectual property theft, and other anti-competitive trade practices. Moreover, the section 301 tariffs, which were intended to create leverage to encourage China to address these issues, are still in place.

What is USTR doing to get China back to the negotiating table? Are you planning to engage further on the issues underlying the section 301 investigation—forced technology transfer and intellectual property rights violations—in a meaningful way?

Answer. The administration is currently engaged in a comprehensive and coordinated review of U.S. strategy for addressing the many challenges that China poses, both for the United States and the world. USTR is actively participating in the development of this strategy, which will encompass all policy areas, including trade policy.

With regard to the administration's trade policy toward China, USTR is currently conducting a top-to-bottom review of the U.S.-China trade relationship, with a view toward ensuring that our trade policy supports and complements the administration's broader China strategy. A key focus of this effort is on China's non-market and unfair policies and practices that are inadequately disciplined by the WTO or the Phase One agreement, such as industrial subsidies, excess capacity, forced technology transfer, and state-owned enterprises. The results of this review, as well as our ongoing engagement with allies and like-minded partners, with whom we share values and interests, will inform our thinking of how we proceed.

Question. The Phase One agreement states in Article 7.4 that "[t]he Appeal and any information and matters related to it are confidential and shall not be shared beyond the Bilateral Evaluation and Dispute Resolution Office, absent the agreement of the Parties." Article 7.4 appears to prevent the existence of an "Appeal and any information and matter related to the Appeal" to be disclosed beyond the dispute resolution office without China's consent.

Is China's permission required for USTR to share information with members of this committee regarding an appeal under the Phase One agreement? Will you commit to consult with Congress regarding any dispute or appeal under the Phase One agreement?

Answer. USTR is committed to remain open and transparent with members on all relevant information related to the enforcement of the Phase One agreement.

Question. The United States must ensure that its trade agreements, including the United States-Mexico-Canada Agreement (USMCA), are fully enforced. To this day, Canada has not come into compliance on dairy tariff rate quota (TRQ) obligations, and Mexico is lagging on implementation of its labor laws. Additionally, the list of trade issues between our three countries is growing, rather than contracting, as problematic new laws and regulations on everything from products of biotechnology to electricity are introduced. It is critical that we ensure the USMCA is more than a piece of paper. It must be the bedrock of our trading relationship with Mexico and Canada, and the foundation on which we make our economy work for American workers, farmers, and businesses.

What do you anticipate happening over the next 6 to 12 months in terms of implementation and enforcement of USMCA? In particular, how does USTR expect to

keep the pressure on Mexico and Canada to ensure the agreement is fully implemented—as it should have been July 1, 2020, prior to entry into force?

Answer. Full implementation of the USMCA, including the labor and environment provisions, is a top priority for the Biden-Harris administration. I stressed this with my Mexican and Canadian counterparts during the first USMCA FTC meeting last month. On the eve of the FTC meeting, I raised with Secretary Clouthier the importance of an energy policy that respects U.S. investment and is consistent with efforts to tackle climate change and an immediate resumption of authorizations of agricultural biotechnology products, among other concerning issues.

Regarding Canada's dairy TRQs, on May 25, 2021, the United States requested and established a dispute settlement panel under the USMCA to review allocation measures that undermine the value of these TRQs by limiting access to in-quota quantities negotiated under the USMCA. USTR will continue to engage on these issues and we have committed to hold a deputies' meeting before the end of this year.

For additional questions on the state of section 232 tariffs on steel and aluminum, I would refer you to the Department of Commerce, which has the statutory lead on section 232.

Question. On June 15, 2020, prior to entry into force, Canada issued new regulations describing its updated tariff rate quota (TRQ) administration for dairy products under the USMCA. The TRQ regulations specify that large portions of the TRQs will be allocated to Canadian "processors" who produce competing products and have a vested interest in limiting imports of competitive products. American producers of award-winning Oregon cheese and other dairy products have expressed concerns that Canada distributed the TRQs in a way that discourages certain American products from entering the Canadian market.

With regard to Canada's implementation of the dairy TRQs, do you anticipate a change of approach in Canada's TRQ licensing? If Canada does not agree to reform its approach to handling USMCA dairy TRQs, will you continue with the dispute started under the previous administration? If not, how do you intend to enforce these obligations under the USMCA?

Answer. On December 9, 2020, USTR requested USMCA consultations with Canada regarding its dairy TRQ allocation measures and the parties held consultations on December 21, 2020. However, Canada did not indicate any willingness in the consultations to address U.S. concerns. As a result, on May 25, 2021, USTR requested and established a dispute settlement panel under the USMCA to review Canada's dairy TRQ measures. A top priority for the Biden-Harris administration is fully enforcing the USMCA and ensuring that it benefits American workers. Launching the first panel request under the agreement will ensure our dairy industry and its workers can seize new opportunities under the USMCA to market and sell U.S. products to Canadian consumers.

Question. I have been pleased to see both the filing of petitions and the self-initiation of a case under the Brown-Wyden rapid response mechanism. These represent an important test of this critical enforcement mechanism, which will provide timely relief to workers in Mexico and raise the standards for workers throughout North America.

In addition to using the rapid response mechanism, what is USTR doing to ensure Mexico's labor laws as written and as enforced meet the standard set by the USMCA?

Answer. USTR has taken and continues to take many relevant steps. We are engaging with the Government of Mexico on a regular basis to support Mexico's efforts to implement the reforms required by the agreement. USTR hosted the first Free Trade Commission meeting under the USMCA on May 18th. At the end of June, USTR, in coordination with the Department of Labor, plans to hold the first Labor Council meeting under the USMCA, which will include a public session. USTR routinely consults with interested stakeholders, including members of the Labor Advisory Committee for Trade Policy and Negotiation, to support our monitoring efforts and to help ensure Mexico's laws are enforced on the ground. We have considered the information and recommendations included in the interim report of the Independent Mexico Labor Expert Board and have taken steps in response to the report's recommendations. In addition, the Department of Labor has launched several significant technical assistance projects to support the Government of Mexico in its labor reform and enforcement efforts and to strengthen workers' ability to exercise

their labor rights. USTR collaborates closely with the Department of Labor. USTR also has identified and posted to Mexico City an official to serve as Senior Trade Representative, and the Department of Labor has hired four labor attachés, two of whom have already been posted in Mexico City. The Senior Trade Representative and the labor attachés engage with the Government of Mexico and civil society in Mexico on an ongoing basis on labor matters.

Question. A consistent theme from this administration has been the need to work closely with our allies to counteract China's trade cheating. The European Union has long been both an ally and a source of serious "trade irritants." For this reason, I was pleased to see that the Biden administration has reinvigorated the negotiations with the European Union to settle the longstanding Boeing/Airbus dispute and provided a pause on tariffs.

What concrete action are you taking to engage with your European counterparts to ensure a meaningful and timely conclusion to this dispute? And ultimately, what would a positive outcome look like?

Answer. Our negotiations with the EU and the UK have resulted in agreement to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we're no longer competing on a level playing field. We, the EU, and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences.

With respect to China, we pledged to:

- Meaningful cooperation on countering (1) investments in the aircraft sector by non-market actors in our economies to acquire technology and know-how; and (2) outward investments that involve moving production into China pursuant to non-market forces.
- Identifying where joint work is needed to take parallel action against other non-market practices.
- Sharing information regarding these and other areas in the large civil aircraft sector.

Question. The EU has also announced that it will suspend its tariff hike on U.S. products, which was in retaliation for the U.S. section 232 tariffs on steel and aluminum. The U.S. announcement highlighted the need to address global steel and aluminum excess capacity, as a means of preserving these critical industries.

What concrete actions can the EU and the United States take in concert to address global overcapacity?

Answer. With respect to the section 232 tariffs on steel and aluminum, we have a very significant problem in the global steel and aluminum markets that is driven primarily by overcapacity in China and other countries, particularly in Southeast Asia and the Middle East. The administration is working to address the market distorting measures in economies that have led to overcapacity in the global steel and aluminum industries and the resulting national security threats.

In addition to the thorough review of the section 232 measures and product and country exclusions that is currently underway, the administration is also consulting closely with domestic stakeholders and partners around the world that share similar national security interests. We seek to address market distorting measures that pose a serious threat to the U.S. steel and aluminum industries and the workers in those industries. On May 17, 2021, the United States and the European Union (EU) announced the start of discussions to address global steel and aluminum excess capacity and the market distortions that result from this excess capacity, and we will be engaging intensively with the EU in the coming weeks. The administration is committed to working with the EU and other like-minded partners to address excess capacity, ensure the long-term viability of our steel and aluminum industries, and strengthen our democratic alliance.

For additional questions on the state of section 232 tariffs on steel and aluminum, I would refer you to the Department of Commerce, which has the statutory lead on section 232.

Question. I put out a report in 2009 highlighting the opportunities and challenges for U.S. exports of environmental goods, which have only become more prominent over the last 10 years. You have spoken about the development of innovative environmental technologies, goods, and services, as well as the need to cultivate stra-

tegic international supply chains. Reducing greenhouse gases and turning the tide on climate change is a key priority for the Biden administration; it is also an opportunity for U.S. innovators, manufacturers, and workers who make the technology the world so desperately needs.

What are you and your team currently doing to facilitate trade in environmental goods? For instance, are you considering revamping the list of what is considered an environmental good?

Answer. Facilitating trade in particular environmental goods and technologies is a key component to address climate change and the transition to a low-emissions future. USTR is actively engaged in regional and multilateral discussions regarding issues pertaining to trade in environmental goods. We continue to examine how we can leverage U.S. companies' innovation and domestic production of environmental goods to benefit U.S. jobs and increase exports. This may include updating lists of what is considered an environmental good, to ensure our objectives for achieving a net zero economy no later than 2050 are consistent with pursuit of trade facilitation of such goods and technologies.

Question. The COVID-19 pandemic has put significant pressure on U.S. supply chains for products well beyond personal protective equipment and medicines. A sudden shift in lifestyle meant products from office chairs to outdoor furniture have seen booms, while other goods and services have flatlined. Adding to this distortion are delays at ports and shortages of containers caused by the pandemic. One item that has received a lot of attention lately is the high price of lumber, but other products used in home construction like fixture and building materials are also subject to higher prices because of the section 301 or section 232 tariffs.

What are USTR and the Biden administration doing to address the high price of certain goods attributable to these supply and demand shocks in the United States?

Answer. Recognizing the supply chain vulnerabilities exposed by the COVID-19 pandemic and the resulting economic dislocations, President Biden signed Executive Order (E.O.) 14017, "America's Supply Chains," in which he directed the U.S. Government to undertake a comprehensive review of critical U.S. supply chains to identify risks, address vulnerabilities and develop a strategy to promote resilience. The first of the reports in response to this E.O. was released on June 8th and focuses on four critical products: semiconductor manufacturing and advanced packaging; large capacity batteries; critical minerals and materials; and pharmaceuticals and active pharmaceutical ingredients. It also recommends the creation of a Supply Chains Disruptions Task Force that will examine how to alleviate bottlenecks and supply constraints as the economy recovers.

I am also closely watching the historic movement in lumber prices. The United States is open to resolving our differences with Canada over softwood lumber, but it would require addressing Canadian policies that create an uneven playing field for the U.S. industry. Unfortunately, to date, Canada has not been willing to address these concerns adequately.

In addition, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process. Our plan to re-examine the tariffs provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

For additional questions on the state of section 232 tariffs on steel and aluminum, including the 232 exclusion process, I would refer you to the Department of Commerce, which has the statutory lead on section 232.

Question. The United States is a global leader in innovation and digital trade. However, the United States is facing increased digital protectionism around the world, including barriers to digital trade that modern U.S. trade provisions were designed to prevent.

How is USTR prioritizing digital trade in its broader agenda, and what steps do you intend to take to counter protectionist trends in digital policy, especially in the markets of some of the United States' largest trading partners?

Answer. The administration recognizes the importance of the digital economy to American jobs, prosperity and security, as well as U.S. companies' unique competitive advantages in this area. For example, every year in the last 15 years, the United States achieved a substantial surplus for trade in ICT-enabled and potentially ICT-enabled services, with that trade surplus exceeding \$100 billion annually

in each of the last 6 years. Trade rules must work to maintain and advance U.S. strengths in digital trade. USTR 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. The WTO has been trying to conclude the fisheries subsidies negotiations for over a year. I am pleased to see the vigor with which the negotiations have been pursued, both because they can demonstrate the utility of the WTO's negotiating function and because of the critical topic this negotiation covers.

What is the United States doing to push these negotiations toward an ambitious outcome that applies to countries across the board? What is the likelihood of coming to an agreement before the rescheduled WTO ministerial meeting?

Answer. The United States has continued to play a leadership role in the WTO fisheries subsidies negotiations, seeking a meaningful outcome that both effectively disciplines harmful subsidies in order to protect our oceans and fisheries resources, and supports our fishers and workers. The United States recently submitted a proposal calling attention to the use of forced labor on fishing vessels. The proposal urges WTO members to pursue an approach in the negotiations that would contribute to efforts to address this global problem, including by agreeing to effective disciplines on harmful subsidies to fishing activities associated with the use of forced labor. The United States will continue to engage constructively with other WTO members to achieve a meaningful outcome. However, if we are to successfully conclude the negotiations by the 12th Ministerial Conference, members will need to put aside calls for exclusions and flexibilities, and focus on agreeing to disciplines that actually improve the status quo and have a positive impact not just on the sustainability of fisheries resources but on the lives of fishers and workers.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. Congress granted China and Russia permanent normal trading relations as part of their accession to the WTO in significant part because of the commitment made by prior administrations that this would allow us to hold China and Russia accountable to WTO rules. Particularly important for many members was the ability to hold China and Russia to the WTO TRIPs Agreement, given their penchant for disregarding U.S. intellectual property rights.

China and Russia are engaged in so-called "vaccine diplomacy," albeit with currently less than effective vaccines. I am very concerned about letting them profit off U.S. funded research on MRNA in order to develop their own capabilities in this space.

You have referenced text-based negotiations in Geneva to discuss the waiver. Will you commit to this committee that you oppose allowing any waiver to extend to China and Russia?

Congress approved the WTO TRIPs Agreement. I have serious reservations about your ability to renegotiate or suspend it absent congressional consent. At a minimum, will you confirm that this committee will see the text of any proposal well in advance of you tabling it to other trading partners?

In light of these negotiations, do you see the value in the administration promptly naming nominees for Chief IP Negotiator and for Ambassador to the WTO?

Answer. In supporting a waiver of intellectual property protections for COVID-19 vaccines, the administration is committed to starting a process at the World Trade Organization (WTO) to find a solution there that is effective and practical in saving lives. We are committed to working with the WTO members and will be clear-eyed about potential risks as we enter text-based negotiations.

I am committed to keeping Congress fully informed of developments in the process in the WTO. With respect to nominees for Chief IP Negotiator and for Ambassador to the WTO, I take staffing on those and all positions at USTR very seriously. Those nominations are ones that will have to come through the Senate Committee on Finance, and we are working on those issues right now.

Question. One of the reasons I supported your nomination was your extensive experience. In particular, as Chief Trade Counsel on the Democratic staff of the Ways and Means Committee, you had the opportunity to see all of the U.S. negotiating proposals in the UK and Kenya discussions. Given that, one advantage you have over most people is that you could hit the ground running—or as you put it during

your confirmation hearing: make sure trade was not on the “back burner.” To me, we must reengage with the UK and Kenya. The UK is a massive market, and one of our most important allies. In Africa, China is engaged in a number of predatory practices. We need to show we are engaged economically.

Where is USTR in its review of these negotiations, and when do you reasonably expect them to conclude?

Answer. The President recently met Prime Minister Johnson and committed to deepening and strengthening our vital economic and trading partnership. As a first step, we agreed to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we’re no longer competing on a level playing field. We and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences. Second, the President and Prime Minister agreed to work closely to identify and pursue opportunities to deepen our already extensive trade relationship. As part of the Biden-Harris administration’s focus on the Build Back Better agenda and supporting a worker-centric trade policy, I am continuing my review of the objectives of the negotiations with the United Kingdom that were begun under the prior administration.

As I mentioned during the hearing, connecting with my Kenyan counterpart was one of my first meetings and priorities upon assuming office. The negotiations launched last year during the pandemic, and two rounds were completed. My team and I continue to study and consider how these negotiations could fit into the Biden-Harris administration’s agenda.

Question. When asked about the Trans-Pacific Partnership—or TPP—during your confirmation hearing, you noted that “that the world is very different in important ways from the way the world was in 2015 and 2016.” One thing not changed is that there are many countries that share strategic and economic interests with the United States. It is critical that we partner with these countries to ensure that we write the rules of trade rather than China. Moreover, in light of RCEP, China may now have better market access to many TPP countries than the United States.

What developments, since 2015, do you think in particular are relevant in evaluating our position with respect to TPP?

Answer. As compared to 2015, we have a better understanding of China’s deep-seated commitment to its economic model, industrial subsidies, and industrial policy, and of the distortive and harmful impact of China’s policies on U.S. producers and workers. The pandemic has highlighted supply chain fragility, including a dependence on production in China that left Americans short of critical goods, such as personal protective equipment. We are more informed about the operation of supply chain rules in trade agreements, and how these rules can allow free-riding by non-parties to the agreements. We have also seen how certain countries within the Asia-Pacific region continue to seek to integrate certain supply chains with China, including CPTPP countries, despite greater awareness of China’s economic strategy. In addition, we have witnessed recent technological developments are impacting regional patterns of trade and affecting trade’s distributive impact. Finally, there have been other regional developments, particularly in Hong Kong and Xinjiang, that affect considerations of technology, supply chains, and trade. All of these factors are relevant for our analyses on how to proceed.

Question. Chairman Wyden asked, during your confirmation hearing, if you could provide, within 30 days of taking office, your ideas on promoting transparency. Promoting transparency and accountability in trade negotiations is a priority I share with the chairman. Last Friday, USTR published its transparency principles.

It is not clear what new practices USTR is adopting. For example, the principles state that USTR will use tools like virtual hearings and website updates, which has been done by prior administrations. Additionally, the principles say USTR will adhere to the 2015 consultation guidelines it promulgated—which clearly are not new. Likewise, the guidelines promise to ensure that its advisory committees will have an array of perspectives, yet the Federal Advisory Committee Act has required, since the 1970s, that advisory committees promote a balance of perspectives.

Can you detail for me what is different or new with respect to USTR’s transparency policies?

Answer. The USTR Transparency Principles published on May 7th reflect the agency’s commitment to comprehensive, two-way public engagement, including out-

reach to historically overlooked and underrepresented communities, as it develops and implements a trade policy that advances the interests of all Americans. While it is true that USTR, under prior administrations, has engaged tools such as virtual hearings and sought to ensure a range of perspectives in advisory committee membership, it is equally true that those efforts have not always reached all American communities. The recognition that our trade agenda will only succeed if it reflects the views, and serves the interests, of all Americans will inform USTR's implementation of the Transparency Principles in its day-to-day operations. For example, under the Transparency Principles USTR will seek public input with respect to new major trade initiatives when feasible even beyond those circumstances when it is required by law. It is important to note that the Transparency Principles are a first step. We will continue to build on those principles and identify further opportunities for meaningful engagement with the American public.

Question. The Trade Policy Agenda notes that the administration will work with “like-minded trading partners to implement necessary reforms to the WTO’s substantive rules.” As you know, many of our allies want to address the situation regarding the WTO Appellate Body. The U.S. critique of the Appellate Body is well-founded. However, we have yet to provide a proposal for what reform might look like. Many members of Congress are interested in this issue, and want to be a part of this process—as is their right.

Can you share your thoughts on what some elements of resolving dispute settlement at the WTO might include?

Answer. The WTO dispute settlement system requires fundamental reform in order to preserve the rights and obligations of WTO members and to enforce the rules negotiated, drafted, and agreed to by the WTO members. A well-functioning dispute settlement system should improve the WTO as a forum for negotiations. We will seek reform of the WTO dispute settlement system to ensure that it functions appropriately by assisting parties in resolving their dispute and does not add to or diminish the rights and obligations of WTO members.

Question. Your time to get outcomes tied to purchases and critical structural issues under the Phase One deal is running out. There are also inconsistencies between your domestic and international policies, and it looks like the prospect of your top-to-bottom review to deliberate over your China trade policy is going to take even more time off the clock.

All this, while the administration presses needless subsidies, even unrelated to infrastructure, together with Buy American and other policies, that will further reduce U.S. negotiating leverage on structural issues with China, and other governments, including the EU. At face value, there seems to be a lot of deliberation and inconsistency, but little action.

What is your strategy to get results for the American people with China?

Answer. The administration is currently engaged in a comprehensive and coordinated review of U.S. strategy for addressing the many challenges that China poses, both for the United States and the world. USTR is actively participating in the development of this strategy, which will encompass all policy areas, including trade policy.

With regard to the administration’s trade policy toward China, USTR is currently conducting a top-to-bottom review of the U.S.-China trade relationship, with a view toward ensuring that our trade policy supports and complements the administration’s broader China strategy. A key focus of this effort is on China’s non-market and unfair policies and practices that are inadequately disciplined by the WTO or the Phase One agreement, such as industrial subsidies, excess capacity, forced technology transfer, and state-owned enterprises. In addition, the administration is actively engaged in discussing issues related to China’s distortive economic policies with allies and like-minded partners, with whom we share values and interests. The results of our top-to-bottom review, as well as our engagement with trading partners, will inform our thinking of how we proceed.

Question. During your nomination hearing, five Senators raised questions about attempts to include liability protections like section 230 of the Communications Decency Act (CDA) into trade agreements. Your answer indicated that you were still developing your position.

Given the on-going WTO e-commerce negotiations where inclusion of such liability protections is a matter of contention, when do you anticipate being in a position to share your position with Congress?

Answer. There is a wide variety of views on this issue. I have committed to consult with the relevant stakeholders, including Congress, on this and other provisions of our trade agreements. We are doing the work and when we have made sufficient progress, we will look forward to consulting with you and other members.

Question. Japan is once again the largest export market for U.S. beef due, in large part, to the U.S.-Japan Trade Agreement signed in October 2019. Strong demand, combined with the tariff reductions for U.S. beef established under the agreement, caused U.S. beef exports to surpass Japan's threshold for annual import volumes of U.S. beef products, triggering a 30-day tariff increase for U.S. beef. The U.S. is the only country subject to Japan's safeguard on beef imports, and at the current levels negotiated in the U.S.-Japan agreement, the U.S. is likely to trigger the safeguard every year over the next 15 years. The agreement stipulates that Japan will agree to consult with the U.S. to adjust the safeguard if it is ever triggered.

What is the status of the consultations between the U.S. and Japan?

Is USTR seeking to increase the level of Japan's safeguard on U.S. beef products?

Answer. USTR is engaged actively in consultations with Japan on the beef safeguard pursuant to the side letter to the U.S.-Japan Trade Agreement. The U.S. goal in these consultations is to achieve an adjustment in the safeguard trigger in order to avoid future disruptions in U.S. beef exports to Japan.

Question. You told this committee that, if confirmed, you would review the status of the dispute initiated with Canada late last year regarding Canada's administration of its dairy tariff-rate quotas (TRQs). You also pledged to use all of the tools available to you in doing so.

Has Canada indicated any intention to change course on its dairy TRQ measures?

If not, when will USTR move forward with formal USMCA enforcement actions against Canada to ensure our dairy farmers and processors receive the full benefit of the bargain that was negotiated with Canada under USMCA?

Answer. On December 9, 2020, USTR requested USMCA consultations with Canada regarding its dairy TRQ allocation measures and the Parties held consultations on December 21, 2020. However, Canada did not indicate any willingness in the consultations to address U.S. concerns. As a result, on May 25, 2021, USTR requested and established a dispute settlement panel under the USMCA to review Canada's dairy TRQ measures.

A top priority for the Biden-Harris administration is fully enforcing the USMCA and ensuring that it benefits American workers. Launching the first panel request under the agreement will ensure our dairy industry and its workers can seize new opportunities under the USMCA to market and sell U.S. products to Canadian consumers.

Question. I am concerned by countries continuing to develop and implement discriminatory digital services taxes rather than engage constructively through the OECD/G20 Inclusive Framework, and then adopting measures that are consistent with that framework. For example, the European Union continues to move forward with a digital levy that would apply on top of whatever negotiating governments are achieved multilaterally. Canada is advancing a digital services tax that would be effective as of January 1, 2022. India has even further expanded its Equalisation Levy to retroactively capture otherwise offline transactions in which only one aspect takes place online. There are still other jurisdictions that actively adopt and collect these taxes.

What steps are you taking to make clear to these governments—including the European Union and Canada—that the advancement of digital services taxes that target U.S. companies is not acceptable?

Answer. The Office of the United States Trade Representative recently completed its investigations into the digital services taxes of Austria, India, Italy, Spain, Turkey and the United Kingdom. The investigations found that these taxes were discriminatory and a burden on U.S. commerce, and as a result tariff lists have been prepared. To allow more time for the multilateral tax negotiations, the implementation of these tariffs has been suspended for 180 days. The investigation into France's digital services tax resulted in a similar outcome.

I have raised the United States' concerns about Canada's digital services tax with Minister Ng, and I would encourage the European Union to refrain from moving for-

ward with any new digital tax proposals while the OECD and G20 negotiations are ongoing.

Question. The United States has underscored that the standstill and rollback of unilateral measures is critical to the success of the multilateral project to address the tax challenges arising from the digitalization of the global economy. How are you working with your colleagues, at the Treasury Department, to identify measures that must be withdrawn at the time of political agreement?

Answer. USTR has been in close contact with the Treasury Department throughout the OECD and G20 negotiations. It is critical that any agreement on OECD's pillar one include a standstill and rollback provision that provides a clear path to the removal of existing discriminatory digital services taxes.

QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

Question. Polysilicon trade affects many of the President's trade priorities: supporting American workers, combating climate change, enhancing U.S. competitiveness, and confronting China's state-directed policies.

For years, China's unfair trade and industrial policies have specifically targeted and threatened the U.S. polysilicon industry. As a result, China's policies have captured nearly the entire solar supply chain, putting critical manufacturing in Michigan at risk.

The Chinese Government committed to open its market to U.S. polysilicon exports as part of Phase One, but that has yet to occur. We need a long-term solution and smart domestic policies to re-shore the missing pieces of the solar supply chain in the United States.

What role does USTR play in this process? Do you have the right trade tools to support reshoring the solar supply chain? What tools do you need?

Answer. USTR leads the administration's efforts to ensure that China complies with its Phase One agreement obligations, including with regard to polysilicon. USTR is currently conducting a top-to-bottom review of the U.S.-China trade relationship, with a view toward ensuring that our trade policy supports and complements the administration's broader China strategy. A key focus of this effort is on China's non-market and unfair policies, as well as problematic practices surrounding the use of forced labor in particular supply chains. We would expect that review to identify any new tools that are needed.

Question. Agricultural trade is not only about supporting exports to customers abroad. Many Michigan fruit and vegetable growers also face challenges with unfair competition from imports here at home. In past years growers have struggled with foreign cherries and asparagus being unfairly subsidized and dumped on the U.S. market.

I continue to hear from Michigan blueberry, squash, cucumber, onion, and other perishable fruit and vegetable growers concerned that increased imports at low prices, especially during the U.S. growing season, are threatening the viability of the domestic produce industry.

How does this fit into the President's agenda to defend U.S. producers, and do you have any ideas for how we can work to keep our domestic fruit and vegetable growers in business as they struggle with import competition?

Answer. The U.S. International Trade Commission (ITC) is currently conducting section 332 investigations for several seasonal and perishable products, including squash and cucumbers. I look forward to receiving the information resulting from the ITC's section 332 investigations. I welcome input and ideas from you and other members of Congress as to how USTR can further utilize the wide range of tools that are available to address the challenges facing U.S. producers.

Question. Many countries outside of North America exploit protections meant for valid geographical indications to limit competition and block imports. During your confirmation process, you committed to building on the success in USMCA of beginning to establish specific protections for common food names used by our food manufacturers, exporters, and producers and prioritize this issue during future negotiations.

What steps have you taken to advance this goal with existing Free Trade Agreement partners and in new trade negotiations under consideration?

Answer. We are actively engaging with our trading partners—both those with whom we have existing trade agreements and those with whom we do not—to ensure that obligations they take on as part of their negotiations with other trading partners do not impose barriers on existing and future market access for U.S.-made goods that rely on the use of common names.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. I was pleased that in March, the United States, the United Kingdom, and the European Union agreed to a 4-month suspension of all tariffs that were authorized by the WTO in the Boeing/Airbus dispute. The British and Europeans committed to working with the United States towards a negotiated settlement.

However, if no permanent resolution on the underlying dispute is reached, American businesses and consumers could once again pay extra tariffs on European goods and we will continue to face subsidized competition from Europe.

How close are we to coming to a negotiated settlement on the Boeing/Airbus dispute? What is the timeline and what are the benchmarks for progress?

Can you describe broadly what a settlement should entail and what are the biggest obstacles to reaching that settlement?

We have less than 60 days until we see the reimposition of tariffs. Will there be an extension of the suspension of all relevant tariffs?

Answer. Our negotiations with the EU and the UK have resulted in agreement to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we're no longer competing on a level playing field. We, the EU, and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences.

With respect to China, we pledged to:

- Meaningful cooperation on countering (1) investments in the aircraft sector by non-market actors in our economies to acquire technology and know-how; and (2) outward investments into China that are made pursuant to non-market forces.
- Identifying where joint work is needed to take parallel action against other non-market practices.
- Sharing information regarding these and other areas in the large civil aircraft sector.

Question. Washington State companies have been facing real challenges after their 301 China tariff exclusions expired. These are businesses that were previously approved for tariff exclusions by USTR and are in significant need of tariff relief as their revenues were seriously impacted by the COVID-19 pandemic.

For example, Rad Power Bikes in Ballard, WA imports electric-powered bikes. Their tariff exclusion ended in December. They now face \$20 million in estimated tariff-related costs this year if they don't receive an exclusion renewal. If granted, they plan to hire a couple hundred new U.S. employees this year. Without a new tariff exclusion, those new jobs will not happen.

Tariff relief on seafood products caught by Seattle-based fishing companies expired at the end of last year. These products are sent to China for additional processing before being imported back into the United States. We are now paying a 25-percent tariff on seafood products caught in our own waters.

These companies need relief through exclusions immediately. They have reached a critical point where jobs are being lost and eventually businesses may close.

Will you commit to restarting the 301 tariff exclusion process and to the timely renewal of tariff exclusions for American companies that have previously been vetted and granted exclusions?

Will you ensure that any new processes for reviewing 301 tariff exclusions are transparent, consistent, and prioritizes companies that need immediate relief?

When can my companies expect to get more information from USTR on what will happen with the 301 exclusions?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question. Following your meeting in March with India's Commerce Minister, USTR announced a commitment to restart the U.S.-India Trade Policy Forum this year to resolve trade disputes. Apple growers in Washington State still are struggling with real challenges in India. In March, the market closed for nearly 3 weeks during peak shipping season due to India's requirement that apple shipments be certified free of genetically modified materials.

Meanwhile, U.S. apples still face a 70-percent tariff! U.S. apple exporters face a 20-percent higher tariff than their foreign competitors because of retaliatory tariffs that resulted from President Trump's trade wars.

India was the second largest export market for Washington apples before the Trump administration's trade war—a \$120-million market. It is now an \$11.3-million market. On average, growers have lost \$83 million in exports to India each year since the trade war started.

Do you plan to raise concerns about tariffs and market access for American apples in the U.S.—India Trade Policy Forum?

What is the timeline for addressing India's retaliatory tariffs within the U.S.-India Trade Policy Forum?

How else are you working to end retaliatory tariffs in India that were imposed because of President Trump's trade wars?

Answer. India is an important market for U.S. apple exports. I am aware of the tariff and non-tariff barriers facing U.S. apple exports to India and the challenges faced by U.S. apple growers over the last several years. We will continue to push India to follow a science-based approach to agricultural trade policy. In my call with India's Minister of Commerce and Industry Goyal, we agreed to work constructively to resolve outstanding bilateral trade issues, including agricultural issues and tariffs. As we reengage with India through the U.S.-India Trade Policy Forum, apple market access remains a priority for USTR, and we look forward to working with you and your constituents on these important issues.

Question. It was great news that the Mexican Supreme Court ruled unanimously last month to allow the importation of fresh U.S. potatoes throughout Mexico. I have been fighting to get fresh potatoes from the Pacific Northwest into Mexico for more than a decade.

Mexico is the third largest export market for U.S. potatoes and products—a \$270-million market in 2020. The U.S. potato industry believes that access to the entire country for fresh U.S. potatoes may have a market potential of an additional \$200 million per year.

While Washington State exported \$37 million in processed potatoes to Mexico last year, it only exported about \$424,000 in fresh potatoes. There is a great potential to expand fresh potato exports.

What are the next steps you expect the Mexican Government to take to reinstate market access for U.S. fresh potatoes to the entire country?

What is the timeline expected to be? Would the Mexican Government be able to act rapidly to restore full market access?

Answer. I have stressed the importance of timely access for U.S. fresh potatoes to all of Mexico with my counterpart Secretary Clouthier. USTR and USDA continue to work with the Government of Mexico to bring this longstanding issue to resolution for the benefit of potato growers in Washington and other States.

Question. A key area where the U.S. is a global leader is in digital trade. It is essential to American global competitiveness.

U.S. digital services exports are now \$517 billion per year, generating a U.S. digital trade surplus of \$220 billion that is shared by small and large companies and workers far outside the traditional tech sector.

One in three small and medium-sized businesses report that they would not have survived the pandemic without digital tools, and two-thirds of small business employers say that technology can help them overcome export barriers.

It is clear, especially over that last year that without the ability to trade digitally, American workers and businesses would have been put at a significant disadvantage. It is imperative that we create more opportunities for US exporters to harness digital trade and push back on the growing threat of digital protectionism.

I believe we need a bold new strategy on digital trade; one that modernizes our existing Free Trade Agreements, and seeks new bilateral and plurilateral digital rules that ensure America stays competitive in the 21st century and our workers and that businesses can compete on a level playing field.

Beyond dealing with foreign Digital Service Taxes (DSTs), what is the Biden administration's strategy on digital trade and how do we create new opportunities for American digital exporters?

Where do the ongoing negotiations at the WTO on e-commerce stand and how can we increase the pace of the negotiations?

Answer. The administration recognizes the importance of the digital economy to American jobs, prosperity and security, as well as U.S. companies' unique competitive advantages in this area. For example, every year in the last 15 years, the United States achieved a substantial surplus for trade in information and communications technology-enabled (ICT-enabled) and potentially ICT-enabled services, with that trade surplus exceeding \$100 billion annually in each of the last 6 years.

Trade rules must work to maintain and advance U.S. strengths in digital trade. USTR will use a wide range of trade tools to address discriminatory practices that hinder U.S. workers and innovators, including practices that discriminate against U.S. digital and technology exports. The United States is focused on ensuring that the plurilateral e-commerce negotiations reflect high-standard rules that support U.S. workers, innovators, and consumers. The e-commerce negotiations involve more than 80 WTO Members, and the pace has reflected the need to find common ground across a range of issues.

Question. Exports are critical to helping support the milk prices Washington State dairy farmers receive and to offering an expanded pool of global buyers for our dairy manufacturers. The United Kingdom is a very large dairy-importing market that would offer tremendous opportunities if our farmers and dairy manufacturers had a level playing field there.

The United Kingdom imports approximately \$4.5 billion a year, but virtually all of that comes from European suppliers right now. Unfortunately, U.S. exporters are at a significant disadvantage to European suppliers due to the more favorable tariff and nontariff trading terms the European Union has with the United Kingdom.

U.S. cheese exporters are faced with having to pay steep out of quota tariffs such as \$194 per 100 kilogram, whereas E.U. suppliers pay nothing. Similarly, U.S. exporters are banned from using generic cheese terms such as parmesan and feta, and are required to meet excessively detailed dairy import certification requirements that far exceed the type of food safety assurances required by other markets.

Where do the U.S.-U.K. free trade agreement talks stand?

Answer. The President recently met Prime Minister Johnson and committed to deepening and strengthening our vital economic and trading partnership. As a first step, we agreed to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we're no longer competing on a level playing field. We and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences. Second, the President and Prime Minister agreed to work closely to identify and pursue opportunities to deepen our already extensive trade relationship. As part of the Biden-Harris administration's focus on the Build Back Better agenda and supporting a worker-centric trade policy, I am continuing my review of the objectives of the negotiations with the United Kingdom that were begun under the prior administration.

Question. Will market access for U.S. dairy and removing tariffs on dairy exports be priorities?

Answer. I am currently in the process of reviewing both the status and objectives of the previous U.S.-UK negotiations, and the prospect of U.S. dairy access will play a large role in any future actions.

Question. How will you ensure that the United Kingdom removes the dairy tariff and nontariff barriers that impede our exporters' ability to compete effectively in the UK market?

Answer. I intend to engage with any trading partner to resolve unwarranted nontariff barriers to U.S. dairy exports that undermine market access for U.S. products. We continue to encourage the UK to use science as the basis for its regulatory policies and to provide risk assessments to justify its sanitary measures.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. USTR has proposed a 25-percent tariff on building material products in response to digital services taxes being imposed by some of our European trade partners. I am concerned that this could negatively impact housing prices by increasing building costs, putting homeownership further out of reach of low-income Americans. Furthermore, such tariffs would be harmful to small and medium-sized construction businesses in New Jersey.

What is the rationale for setting tariffs on building materials in particular as a response to DSTs?

Has USTR conducted any analysis on how such proposed tariffs will impact housing affordability, and if so, would you share that analysis with the committee?

Answer. The final tariff lists for the DST actions reflect the USTR's judgment of what would be most effective in obtaining a satisfactory resolution to our concerns over unilateral DSTs. In determining the final lists, USTR considered the hundreds of written comments received during the notice and comment period, the testimony provided during seven public hearings, and advice from other U.S. government agencies.

Question. Increased lumber prices have exacerbated the existing housing affordability crisis, causing the price of an average new single-family home to increase by more than \$36,000 since the middle of last April according to estimates by 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.

Are you working on a new softwood lumber agreement with Canada? Is this a priority for you?

Answer. I am closely watching the historic movement in lumber prices. I discussed softwood lumber with my Canadian counterpart in our first USMCA FTC meeting and we agreed to keep in touch on the issue. The United States is open to resolving our differences with Canada over softwood lumber, but it would require addressing Canadian policies that create an uneven playing field for the U.S. industry. Unfortunately, to date, Canada has not been willing to address these concerns adequately.

Question. I was pleased to hear back in April that USTR extended product exclusions for certain products related to medical care. However, there are many more small businesses that still cannot obtain extensions of their product exclusions. The administration previously promised to conduct a full review of section 301 tariffs as part of the development of a more cohesive China strategy.

Could you give us an update on where this review stands?

In order to minimize the impact these tariffs have on U.S. businesses, workers, and consumers, do you have plans in place to reopen the exclusion process or extend previous product exclusions?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question. Another aspect of this issue that has gone overlooked is that some companies may be owed refunds by CBP due to delays in the section 301 product exclusion process.

Will you work with CBP in order to ensure that companies that were granted a product exclusion receive a refund for tariffs paid while waiting for their product exclusions?

Answer. USTR has worked closely with Customs and Border Protection on all aspects of the implementation of the China 301 tariffs, and will continue to do so.

Question. As the committee is considering options for renewing the GSP program, I have heard concerns about USTR's process for the GSP Annual Product reviews. USTR Regulations (15 CFR part 2007.0 *et seq.*) state: "Requests which conform to the requirements set forth above or for which petitioners have demonstrated a good faith effort to obtain information in order to meet the requirements set forth above, and for which further consideration is deemed warranted, shall be accepted for review." Yet according to the USTR's 2021 Trade Policy Agenda and 2020 Annual Report, USTR declined to review every one of 16 petitions covering new competitive needs limitation waivers or redesignations. It also declined petitions for 33 of the 36 requested product additions. These figures suggest that our constituents may not be receiving the due process they deserve.

Can you please provide any substantive information used as the basis for rejecting the aforementioned petitions as part of the 2020 GSP Annual Review?

Answer. Consistent with USTR's regulations, Ambassador Robert Lighthizer—who served as USTR during the period covered by the 2020 Annual Report—did not consider that the CNL petitions filed in that year warranted further consideration.

Question. Can you clarify how USTR determines, in the parlance of the relevant regulation, whether "further consideration [of a petition] is deemed warranted"?

Answer. To determine whether further consideration of a petition is warranted, USTR looks at the relevant provisions laid out in sections 501, 502(c), and 503. Generally, USTR accepts petitions for which we believe there is a reasonable chance that further examination of the petition will lead to a recommendation to the President to add products to, or remove products from, GSP; to grant CNL waivers; or to redesignate products as eligible for duty-free treatment under the GSP program.

Question. The regulations also state that "[u]pon written request, requests which are not accepted for review will be returned together with a written statement of the reasons why the request was not accepted."

How many such written requests has USTR received in the past 10 years? Has USTR provided a written statement of the reasons why the request was not accepted in all those cases? If not, please explain why USTR failed to abide by the regulation. Please also provide copies of all USTR written statements explaining why requests were not accepted for the past 10 years.

Answer. USTR does not receive many requests for explanations as to why petitions were not accepted for review. These discussions typically occur through verbal exchanges with the requestors. USTR recognizes the importance of transparency and would welcome the opportunity to work with your office to ensure that we are providing sufficient information to stakeholders with respect to these decisions.

QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

Question. Over the past several years, tariffs on China and subsequent retaliatory tariffs have caused significant economic disruptions for U.S. businesses and farmers. I have heard from many constituent companies who have invested significant time, money, and resources navigating the process for securing an exclusion from these tariffs. However, unfortunately, these exclusions expired at the end of last year, and no new exclusion process has opened. Recently, I joined Senator Portman, and several of my Senate colleagues on both sides of the aisle, to encourage USTR to restart an exclusion process.

However, the last exclusion process was far from perfect, and left many questions about speed, transparency, and fairness. I understand that the administration is currently engaged in a review of our trade policy with China, and that a decision whether to restart an exclusions process has not yet been made.

Could you please provide an anticipated timeframe as to when we can expect a decision will be made with regard to restarting an exclusions process?

What criteria will USTR use to determine whether or not to restart an exclusion process?

Moving forward, in your view, and assuming an exclusions process will be restarted, what should Congress and the administration do to reform this process in order to provide greater certainty and predictability to American companies?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question. I think we both acknowledge that the U.S. has a moral obligation to lead the world in rapidly providing COVID vaccines to nations in need of these life-saving shots, even as we provide vaccines to our own citizens. Quick and efficient distribution of vaccines around the globe is the best way to stop the spread of the coronavirus and finally put this pandemic in our rear-view mirror. With that in mind, I worry that waiving intellectual property protections for these vaccines may not be the quickest and most efficient way to ensure quick access to vaccines around the world.

With this in mind, what other U.S. trade policy objectives should the administration pursue to ensure U.S. manufacturers can rapidly export our life-saving vaccines around the world?

With regard to the waiver, what guard rails will you seek to protect intellectual property rights for U.S. manufacturers and our ability to rapidly produce life-saving vaccines in the event of another pandemic?

Will you commit to keeping Congress fully informed regarding the status of negotiations concerning the COVID-19 TRIPS waiver?

Further, concerns have been raised regarding the long-term availability of raw materials to produce the COVID-19 vaccine in light of the administration's announcement of its intent to engage in text-based negotiations over the COVID-19 intellectual property waiver at the World Trade Organization.

How will the administration help ensure the availability of raw materials used in manufacturing the COVID-19 vaccine as it pursues discussion of a waiver for intellectual property rights for the vaccine?

Answer. 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. We will also work to increase the raw materials needed to produce those vaccines. In supporting a waiver of intellectual property protections for COVID-19 vaccines, the administration is committed to pursuing a process at the World Trade Organization (WTO) to find a solution there that is effective and practical in saving lives. I am committed to keeping Congress fully informed of developments in the process in the WTO.

Question. Concerns have been raised about Mexico's recently enacted electricity reform legislation and its potential to undermine new private investment in Mexico's renewable energy sector by American companies and others, and its potential to violate agreements set out in the United States Mexico Canada agreement.

Will you commit to monitoring this issue and to keeping Congress informed about any further action needed to address this issue?

Answer. The recently passed legislation, stalled by Mexican courts, threatens significant U.S. investment in clean energy projects in Mexico and directly implicates several of Mexico's USMCA obligations. I made these points clearly to the Mexican Government during the inaugural meeting of the USMCA Free Trade Commission on May 18th. USTR will continue to monitor these issues and will keep Congress informed of our next steps.

Question. As you know, I strongly support adding an environmental criterion to the Generalized System of Preferences (GSP) program and was pleased to hear your unequivocal support for this during the hearing.

What new measures should Congress consider to incentivize countries to meet the higher standards? What steps can the administration take to ensure that new criteria lead to improved standards as opposed to non-compliance or increased GSP country terminations?

Answer. Adding an environmental criterion to GSP would appropriately recognize the importance of environmental protection to sustainable development. It would also provide an additional tool for the U.S. Government to use to support the administration's priority to improve environmental protection and tackle the climate crisis worldwide. Beneficiary countries tend to value their GSP designation, and it incentivizes efforts to comply with the criteria.

How can Congress and the administration work to build capacity within GSP countries to ensure that they are able to reach, and exceed, any environmental standards that are added to the GSP program?

Answer. I fully agree that it will be important for Congress and the administration to carefully consider the capacity of GSP beneficiaries to ensure that they will be able to reach and exceed any environmental criterion that is added to GSP. I welcome discussions with you and your colleagues as to how we can build capacity to support improved environmental conditions in these countries.

QUESTION SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. The Chinese Government has a well-established track record of using unfair practices to acquire U.S. technology and steal innovation; their efforts related to vaccine technology are no exception. U.S. security officials have found that Chinese state-backed hackers have attempted to break in to vaccine manufacturers and producers in the U.S. and India.

As the administration works to support access to the COVID-19 vaccine in the U.S. and around the world can you discuss how you will ensure the Chinese government cannot acquire our strategically important biotechnology? And will you commit to engaging with Congress as you negotiate on these matters?

Answer. The administration believes strongly in intellectual property (IP) protections and the importance of safeguarding American innovation from illicit acquisition. The decision to support a waiver of IP protections for COVID-19 vaccines reflects the extraordinary circumstances of this pandemic. We will be working with the World Trade Organization members and will be clear-eyed about potential risks as we enter text-based negotiations. I am committed to keeping Congress fully informed of developments in the process in the WTO.

QUESTION SUBMITTED BY HON. MARK R. WARNER

Question. USTR's Advisory Committee process has historically been an important tool for USTR to get input on trade-related concerns. The former USTR made limited use of those Advisory Committees.

Does USTR plan to reinvigorate the Advisory Committee process and get their input?

Answer. The Trade Advisory Committee system and the expertise its members bring are an important component of creating good trade policy. USTR plans to regularly utilize this important feedback tool to help inform our decision-making process to help further the goal of having a comprehensive worker-centered trade policy.

QUESTION SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. The Climate Leadership Council examined the average carbon intensity of the U.S. economy compared to our major trading partners (<https://clccouncil.org/reports/americas-carbon-advantage.pdf>). It found that the Chinese economy is more than three times as carbon-intensive as the U.S. economy, the Indian economy is almost four times as carbon-intensive, and the trade-weighted average of the rest of the world's economy is nearly two times as carbon-intensive as our own.

Given the significant advantage that the U.S. economy enjoys with respect to carbon intensity, if the U.S. were to adopt a border adjustable domestic carbon price,

it would also provide a significant advantage to domestic manufacturers vis-à-vis foreign importers, correct?

Answer. The impact of a border carbon adjustment (BCA) on imports would be contingent on a number of policy and technical decisions, including which products or goods are covered under a BCA, where the benchmark carbon intensity is set, and how carbon content and price are calculated. It is unclear if an advantage would accrue to domestic manufacturers. The purpose of a BCA is to ensure that carbon leakage does not occur by industries moving production overseas, which would effectively offshore the U.S. carbon footprint.

QUESTIONS SUBMITTED BY HON. ELIZABETH WARREN

Question. As part of their opposition to a waiver of certain provisions under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), pharmaceutical companies have argued that foreign nations have limited technological capacity to develop COVID-19 vaccines. Qualified manufacturers in countries like India, however, have asserted that they have the capacity necessary to produce vaccines.

What specific steps will USTR take, and on what timeline, to identify foreign manufacturers capable of producing mRNA and other vaccines? What specific steps, if any, does USTR plan to take to coordinate communication regarding technological capacity between those manufacturers and U.S. companies? If USTR does not plan to take these steps, is USTR aware of which Federal entity will take point on coordinating these communications?

Answer. Starting in mid-April, USTR began consultations with interested parties: labor organizations, civil society, public health advocates, public health experts both inside and outside of the government, and vaccine manufacturers themselves. USTR, in coordination with the rest of the administration, will continue to ramp up efforts to work with the private sector and other partners to expand vaccine manufacturing and distribution around the world.

Question. In your testimony, you said that USTR was currently “focused . . . on the intellectual property [TRIPS] waiver at the WTO with respect to vaccines” but agreed that “the U.S. should be doing everything it can to help other countries ramp up their testing, treatment, and PPE production.”

Which tests, treatments, and types of personal protective equipment is USTR considering for future intellectual property waivers at the WTO? What is USTR’s timeline to decide on whether to expand the TRIPS waiver to these products? If no timeline exists, why not?

Answer. The World Trade Organization is a consensus-based institution. In supporting a waiver of intellectual property protections for COVID-19 vaccines, the administration has facilitated a process for WTO members to devise a solution that is effective and practical in saving lives. We are actively engaged in discussions of proposals that have been put forward by WTO members for trade policy responses to the COVID-19 pandemic to date. Our timeline will be shaped by the course of those ongoing discussions.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. Could you share with the committee any progress you have made on free-trade agreements with the United Kingdom and Kenya?

Answer. The President recently met Prime Minister Johnson and committed to deepening and strengthening our vital economic and trading partnership. As a first step, we agreed to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we’re no longer competing on a level playing field. We and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences. Second, the President and Prime Minister agreed to work closely to identify and pursue opportunities to deepen our already extensive trade relationship. As part of the Biden-Harris administration’s focus on the Build Back Better agenda and supporting a

worker-centric trade policy, I am continuing my review of the objectives of the negotiations with the United Kingdom that were begun under the prior administration.

As I mentioned during the hearing, connecting with my Kenyan counterpart was one of my first meetings and priorities upon assuming office. The negotiations launched last year during the pandemic, and two rounds were completed. My team and I continue to study and consider how these negotiations could fit into the Biden-Harris administration's agenda.

Question. According to the recent Special 301 report, "IP infringement undermines U.S. competitive advantages in innovation and creativity, to the detriment of American businesses and workers. In its most pernicious forms, IP infringement endangers the public, including through exposure to health and safety risks from counterfeit products. In addition, trade in counterfeit and pirated products often fuels cross-border organized criminal networks and hinders sustainable economic development in many countries."

Have you evaluated the impact the proposed waiver at the WTO would have on these concerns?

Answer. This is a global health crisis, and the extraordinary circumstances of the COVID-19 pandemic call for extraordinary measures. The administration believes strongly in intellectual property protections, but in service of ending this pandemic, supports a waiver of those protections for COVID-19 vaccines. We are committed to working with the World Trade Organization members and will be clear-eyed about potential risks as we enter text-based negotiations. The United States is committed to using its leadership to reach consensus at the WTO.

Question. Since any infringement of intellectual property rights under the proposed WTO waiver would occur outside the WTO and TRIPS regime, what recourse would an American innovator or the United States have if that infringement were to occur in ways not contemplated by the proposed waiver?

Answer. The administration believes strongly in intellectual property (IP) protections and the importance of safeguarding American innovation from illicit acquisition. The decision to support a waiver of IP protections for COVID-19 vaccines reflects the extraordinary circumstances of this pandemic. We are committed to working with the World Trade Organization members and will be clear-eyed about potential risks as we enter text-based negotiations.

Question. The Special 301 report specifically identifies "inadequacies in trade secret protection and enforcement in China, Russia, and elsewhere" as well as "troubling 'indigenous innovation' and forced technology transfer policies that may unfairly disadvantage U.S. right holders in markets abroad."

Won't the proposed waiver just exacerbate these problems?

Answer. The administration believes strongly in intellectual property (IP) protections and the importance of safeguarding American innovation from illicit acquisition. The decision to support a waiver of IP protections for COVID-19 vaccines reflects the extraordinary circumstances of this pandemic. We are committed to working with the World Trade Organization members and will be clear-eyed about potential risks as we enter text-based negotiations.

Question. Before the Biden administration made the decision to support waiving intellectual property rights for COVID-19 vaccines currently under consideration at the World Trade Organization, were you aware that Pfizer expects to produce 3 billion doses this year and at least 4 billion doses in 2022?

Answer. Starting in mid-April, USTR began consultations, including on issues related to manufacturing capacity, with interested parties: labor organizations, civil society, public health advocates, public health experts both inside and outside of the government, and vaccine manufacturers themselves. USTR will continue to ramp up efforts to work with the private sector and other partners to expand vaccine manufacturing and distribution around the world. This comprehensive effort will not only save lives but also help heal the economy.

Question. Before the Biden administration made the decision to support waiving intellectual property rights for COVID-19 vaccines currently under consideration at the World Trade Organization did the administration know that U.S. drug companies have already voluntarily entered into dozens of licensing agreements with other manufacturers, many in low-income countries before?

Answer. Starting in mid-April, USTR began consultations, including on issues related to licensing agreements, with interested parties: labor organizations, civil society, public health advocates, public health experts both inside and outside of the government, and also vaccine manufacturers. USTR will continue to ramp up efforts to work with the private sector and other partners to expand vaccine manufacturing and distribution around the world.

Question. When you are negotiating trade deals, where do you prioritize climate in these negotiations compared to the economic impact on Americans of possible reductions in trade due to a border adjustment?

Answer. USTR has, in the past, faced limitations regarding inclusion of climate change provisions in trade deals. In pursuit of a whole of government approach to tackling the climate crisis, I look forward to using trade tools—including trade deals with trading partners—to meet the challenge. Regarding border adjustments, at this stage, it is unclear whether there would be reductions in trade due to these mechanisms. The impact of a border carbon adjustment (BCA) on imports would be contingent on a number of policy and technical decisions, including which products or goods would be covered under a BCA, where the benchmark carbon intensity is set, and how the carbon content and price are calculated. In general, I do not see trade and climate change as competing interests in trade negotiations, but rather an opportunity to ensure strong and enforceable environmental obligations protect the interests of U.S. consumers and support our jobs at home.

Question. I am alarmed by rhetoric from European politicians in which they advocate for policies to undermine the competitiveness of U.S. technology companies. EU leaders regularly stress the need for “digital sovereignty” while advocating for new unilateral tools to steal American innovation.

Unfortunately, the EU, which has sat on the sideline for decades on tech, is now targeting U.S. businesses with an unfair, discriminatory agenda to try and gain a competitive advantage. I’m not opposed to appropriate regulation. But what the EU is proposing is protectionism.

What are you doing to confront this protectionist agenda in Europe?

Answer. I am aware of the concerns that U.S. companies have raised about digital services taxes (DSTs), other European Commission regulatory initiatives, such as the Digital Markets Act (DMA), and the continued free flow of data across the Atlantic. I will consider the full range of trade tools available to me to address discrimination against U.S. workers and U.S. companies.

Question. After the United States, Brazil is the world’s second largest producer of ethanol in the world and has also enjoyed nearly tariff-free access into the United States for a decade. Meanwhile, our domestic producers face a 20-percent tariff for ethanol heading into Brazil, creating an extreme, uneven playing field. With new U.S. trade negotiators coming into place, it provides a chance to reset and reestablish negotiations with Brazil on ethanol.

What steps will you and the administration take to push the Brazilian government to remove the tariff on imported American ethanol?

Answer. I understand the importance of this issue to U.S. ethanol producers. I will emphasize in engagements with Brazil the importance of more reciprocal conditions for trade in regards to American ethanol. I will also emphasize the common domestic statutory mandates for blending ethanol into gasoline that we share and our shared interest in addressing barriers to trade with third countries.

Question. I sent Ambassador Lighthizer a letter encouraging him to drop section 230 from the U.S.-UK trade agreement negotiations. We each also raised concerns about the issue with you during your confirmation process. To date, though, you’ve refused to take a position on the issue. Your boss called for outright repeal of section 230 at one point. Secretary Raimondo agreed it needed to be reformed during her confirmation process. The Department of Justice has put forth a number of concrete reform proposals.

Will you commit to drop this provision from future trade agreements?

Answer. There is a wide variety of views on this issue. I have committed to consulting with the relevant stakeholders, including Congress, on this and other provisions of our trade agreements. We are doing the work and when we have made sufficient progress, we will look forward to consulting with you and other members.

QUESTIONS SUBMITTED BY HON. JOHN CORNYN

Question. In 2012, the U.S. and China entered into a memorandum of understanding to settle a 2009 WTO case that the U.S. initiated and won regarding significant market barriers employed by China preventing the importation and distribution of theatrical films from the U.S. Due for an update to further open up distribution since 2017 as described in the original agreement, the bilateral discussions to update the agreement have so far come up fruitless. However, the “USTR’s 2020 Report to Congress on China’s WTO Compliance” which was released in January 2021, specifically states, “The United States will continue pressing China to fulfill its obligations.”

What is the administration’s plan to appropriately update the existing MOU and address the China’s longstanding market access barriers in the forms of foreign film restrictions and revenue caps?

Answer. The United States will continue pressing China to fulfill its obligations relating to the importation and distribution of theatrical films, as set forth in the 2012 memorandum of understanding. As you have noted, among other things, that memorandum of understanding calls for China to provide further meaningful compensation to the United States in terms of the number of films to be imported each year and the share of gross box office receipts from such films retained by U.S. enterprises, but China has not yet followed through on those important obligations. Our view is that China needs to keep the promises that it has made. Currently, USTR is conducting a top-to-bottom review of the U.S.-China trade relationship. The results of this review will inform our thinking as to how we proceed.

Question. What is the administration doing to ensure that foreign films and digital content are not blocked due to “censorship” concerns when they are in fact a barrier to market access?

Answer. China is well aware of U.S. concerns. Over the years, the United States has repeatedly expressed concerns to China regarding the impact of its content-related policies on market access. For example, regarding the online provision of content, the United States has raised concerns regarding China’s requirement that foreign companies license their content to Chinese distribution platforms. The United States also has raised concerns regarding China’s other burdensome restrictions on content, which are implemented through exhaustive content review requirements that are based on vague and otherwise non-transparent criteria. Currently, USTR is conducting a top-to-bottom review of the U.S.-China trade relationship. The results of this review will inform our thinking as to how we proceed.

Question. While I understand that USTR may still be reviewing China’s compliance with the Phase One agreement, there are a number of third-party indicators that show China is still behind in meeting the requirements of the deal.

IP licensing of services purchases are a major component of these purchasing requirements, correct? What can the U.S. do to see to it that China meets these commitments in the Phase One deal, particularly in addressing the IP licensing of services purchasing requirements?

Answer. Under the Phase One agreement, China’s purchase commitments cover calendar years 2020 and 2021 and fall into four broad categories and 23 sub-categories of U.S. goods and services. “Charges for use of intellectual property” is one of the services sub-categories. During meetings held under the Phase One agreement to review China’s implementation progress, the U.S. side has repeatedly pressed China to increase the pace of its purchases of U.S. goods and services. China’s purchases shortfall in 2020 is certainly in our sights. China’s purchase commitments are important to the United States economically, but they are also important as commitments that China undertook of its own free will to make, and we need to ensure that its promises are worth the paper that they are written on. We will continue to make use of and push the tools that we have for the benefit of all U.S. stakeholders, including service suppliers.

Question. While innovative technologies have offered a variety of new goods and services that benefit consumers and businesses, it also has proliferated access to copyright infringed content as well. For example, a 2019 study estimated that global online piracy drains at least \$29.2 billion annually from the U.S. economy and that 80 percent of copyright piracy occurs via streaming technologies. In addition to the significant economic harm posed by these technologies, there are significant malware and fraud threats posed to U.S. consumers by streaming piracy websites identified by the Federal Trade Commission and Department of Homeland Security.

How do these evolving threats to US-based copyrights and intellectual property in general impact the United States' economic and strategic competitiveness? What steps does USTR plan to take to effectively account for these threats?

Answer. Fostering innovation and creativity is essential to U.S. economic growth, competitiveness, and the estimated 45 million American jobs that directly or indirectly rely on intellectual property (IP)-intensive industries. IP infringement undermines U.S. competitive advantages in innovation and creativity, to the detriment of American businesses and workers. We will take appropriate actions necessary to combat unfair trade practices and to ensure that trading partners follow through with their international commitments

Question. The UK and the EU continue to impose a damaging 25-percent tariff on American whiskey. This tariff was imposed in June 2018 in response to U.S. tariffs on steel and aluminum, and will double to 50 percent on June 1st. In March, the administration reached agreements with the EU and UK to suspend tariffs for four months in connection to the WTO large civil aircraft dispute, including tariffs on U.S. rum, brandy, vodka and certain UK and EU spirits and wines. Absent urgent action to fully suspend these tariffs, American whiskey will remain at a serious competitive disadvantage in our two most important export markets.

Will you commit to ensuring these damaging tariffs are eliminated, and what is the administration's plan to secure the immediate suspension of UK and EU tariffs on American whiskey and agreements that result in the permanent removal of all tariffs on U.S., EU, and UK distilled spirits and wine?

Answer. With respect to the section 232 tariffs on steel and aluminum, we have a very significant problem in the global steel and aluminum markets that is driven primarily by overcapacity in China and other countries, particularly in Southeast Asia and the Middle East. The administration is working to address the market-distorting measures in economies that have led to overcapacity in the global steel and aluminum industries and the resulting national security threats.

In addition to the thorough review of the section 232 measures and product and country exclusions that is currently underway, the administration is also consulting closely with domestic stakeholders and partners around the world that share similar national security interests. We seek to address market distorting measures that pose a serious threat to the U.S. steel and aluminum industries and the workers in those industries. On May 17, 2021, the United States and the European Union (EU) announced the start of discussions to address global steel and aluminum excess capacity and the market distortions that result from this excess capacity, and we will be engaging intensively with the EU in the coming weeks. The EU announced its intention to temporarily suspend the planned increase in retaliatory duties, including duties on American whiskey. We believe the EU's duties are inconsistent with WTO rules and we are challenging them before the WTO. The administration is committed to working with the EU and other like-minded partners to address excess capacity, ensure the long-term viability of our steel and aluminum industries, and strengthen our democratic alliance.

For additional questions on the state of section 232 tariffs on steel and aluminum, I would refer you to the Department of Commerce, which has the statutory lead on section 232.

Question. Korea is an important U.S. ally in the Indo-Pacific, and the upcoming summit between President Biden and President Moon will be an important opportunity to strengthen this critical bilateral relationship and partnership, particularly in strategic industries. For example, while American cloud service providers offer the most secure and technologically advanced storage and computing solutions on the market today, and are certified to the highest international security and privacy standards, Korea has imposed a unilateral security certification scheme that USTR recognized in the 2021 National Trade Estimate as "a key barrier for U.S. cloud service providers (CSPs) in the Korean public sector market." These same barriers are spreading to other sectors of Korea's economy, further blocking access to Korea's cloud market for U.S. cloud providers and undermining our bilateral and regional security goals.

Given the strategic nature of the cloud services industry to the U.S. economy and our security interests in the Indo-Pacific, will you commit to working with the Government of Korea to remove these discriminatory requirements, adopt international security standards, and allow American cloud providers to compete in the public sector cloud market?

Answer. We are actively engaged in working with Korea, both bilaterally and in relevant WTO committees, to further our bilateral and regional security and economic goals.

Question. Some are concerned about actions by Mexico on data localization issues under USMCA, such as the recent regulation that requires financial technology companies to localize data, making it more complex and expensive for them to operate in Mexico, and disadvantaging U.S. companies in the process. Data localization is also a worrisome trend emerging in Latin America, as Ecuador and Uruguay also have data localization blockers that are impeding US services exporters, such as cloud service providers.

Are you committed to addressing these data localization blockers in Mexico and other countries, and do you have a plan for implementation of USMCA's digital chapter commitments in particular?

Answer. USTR is committed to ensuring that Mexico fulfills its commitments under the USMCA and that barriers to digital trade are effectively addressed. We are in touch with Mexico regarding our concerns relating to Mexico's recently finalized requirements on use of cloud services by electronic payment fund institutions.

USTR will continue to engage with countries in Latin America and other regions across the world that adopt or consider any such measures that impede cross-border data flows or impose data localization requirements.

Question. May is National Beef Month. For many Americans, we will celebrate National Beef Month by enjoying ribeyes, filets, and hamburgers with our families and friends. But we are not the only consumers celebrating U.S. beef. In fact, there has been a tremendous growth in demand for U.S. beef among many of our trade partners in Asia, where cuts like short plate, tongue, short ribs, and offal are in strong demand. Earlier this year, Korea surpassed Japan to become our number one export market. While sales in Japan remain strong, we have seen a 1,500-percent increase in U.S. beef sales in China. These remarkable developments are a combination of strong consumer demand coupled with strong trade policy that opened these markets for U.S. beef. Our trade agreement with Korea removed a 40-percent tariff, our agreement with Japan removed a 38.5-percent tariff, and the Phase One agreement with China removed numerous non-tariff barriers that acted as a ban on U.S. beef. Trade policy rooted in market-based, science-based, and rules-based principles has opened doors for U.S. cattle producers.

What does USTR need from Congress to ensure we will successfully implement this winning formula for U.S. cattle producers and our growing international consumer base?

Answer. I appreciate your offer of support as we continue advocating on behalf of U.S. beef producers by holding trading partners accountable to their international commitments and bilateral obligations under our trade agreements. There is a demand for high quality and nutritious beef products from the United States, and USTR will continue its work to ensure that U.S. beef exporters are able to supply this growing demand by addressing unjustified non-tariff barriers to trade and encouraging tariff liberalization wherever possible.

Question. The United States has a strong history of defending and advancing science-based trade. The U.S. cattle industry has some of the most efficient and sustainable production practices in the world, with some of the healthiest cattle and safest beef, because we incorporate science at every level of production. We use well-established, FDA-approved technologies like hormones and beta agonists to raise cattle efficiently and use fewer resources to produce more beef. We use low-stress animal handling techniques taught in our Beef Quality Assurance Program. As a result of these efficient production practices, the United States produces 18 percent of the world's beef with only 6 percent of the world's cattle. Unfortunately, the European Union and others apply protectionist measures not rooted in science, with the purpose of restricting U.S. beef exports and to discourage developing countries from adopting our safe and sustainable production practices. Over the next year, the United States will be involved in different global forums to discuss economic recovery efforts, strengthening global supply chains, and address food security.

If we want to feed a growing global population with safe, nutritious food, we must embrace technology and science-based standards in food production. Will USTR continue to expand access for U.S. cattle producers by prioritizing and enforcing science-based standards in our trade agreements?

Answer. As you noted, the United States has a long history of defending and advancing science-based trade through our active engagement in global forums. USTR will continue to advocate for access to safe, innovative tools, including those used by U.S. cattle producers, that are essential to improve efficiency and support sustainable agricultural production to address the challenges facing agriculture worldwide.

Question. Forced technology transfer and intellectual property theft in China have long concerned U.S. trade and national security officials and culminated in WTO disputes, punitive tariffs, and other actions. When it comes to COVID vaccines developed using U.S. taxpayer dollars, it is particularly concerning that the administration would waive our previously agreed to commitments under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Does not the support for the WTO waiver amount to a giveaway of American intellectual property and a voluntary technology transfer of America's mRNA technology to China and the rest of the world?

Answer. The administration believes strongly in intellectual property (IP) protections and the importance of safeguarding American innovation from illicit acquisition. The decision to support a waiver of IP protections for COVID-19 vaccines reflects the extraordinary circumstances of this pandemic. We are committed to working with the World Trade Organization members and will be clear-eyed about potential risks as we enter text-based negotiations. Support for a waiver of intellectual property rules for the WTO waiver does not amount to a giveaway of American intellectual property, nor does it represent voluntary technology transfer.

Question. As you prepare to meet with your counterparts from China for a review of the Phase One agreement and progress to date, there is support to focus on the importance of the purchase commitments made. Additionally, a close review of progress to date with an objective of China fulfilling its commitments under Phase One as we are nearing the half way point should be considered.

What are your perspectives on the current status of the agreement and how to facilitate fulfillment of the terms?

Answer. China's purchases shortfall is certainly in our sights. China's purchase commitments are important to the United States economically, but they are also important as commitments that China undertook of its own free will to make, and we need to ensure that its promises are worth the paper that they are written on. We will continue to make use of and push the tools that we have for the benefit of U.S. workers, farmers, ranchers, manufacturers, service suppliers, and small businesses.

Question. One of the challenges continuing to face many of our agricultural exporters and shippers is port congestion and shortage of shipping containers available for agricultural products being shipped from the U.S. to Asia and other destinations. These issues are causing increased shipping costs, order delays and penalties that can reduce the value/price paid to farmers, and potentially harm our competitiveness in export markets. These shipping concerns need to be addressed aggressively across the administration and constituents urge you to coordinate with your colleagues at USDA, Federal Maritime Commission, and other agencies to ensure all steps are being taken to resolve these challenges.

What thoughts do you have on how the administration can work to address these concerns and what is currently being done?

Answer. I understand that recent port congestion issues are one of the consequences of the economic disruption created by the COVID-19 pandemic and have put even more pressure on global supply chains. I am committed to working with other agencies as well as allies to address supply chain challenges. As part of the supply chain initiative established by President Biden in Executive Order 14017, "America's Supply Chains," an internal task force spanning more than a dozen Federal Departments and Agencies is closely examining the supply chain vulnerabilities to recommend actions that increase supply chain resilience in critical industrial base sectors that underpin America's economic and national security, including the transportation industrial base and the role of transportation systems in supporting existing supply chains.

Question. As you know, during your nomination process a number of Senators, including me, raised their concerns about the negative impact of the section 301 tariffs that the last administration re-imposed on January 1, 2021. Many Senators urged you and the President to take action on these tariffs in advance of completing the new administration's critically important review of China policy.

It is now a few days short of 2 months since your confirmation, and while the administration's review is underway, these companies and their consumers have already paid billions in new tariffs in 2021 which often are undercutting their ability to compete globally, and in some cases even advantaging their Chinese competitors. Additionally, many of these companies have invested significant time and funds to move their manufacturing out of China, but have been stalled in those efforts by the more than year-long international travel bans.

Can you share where the administration is today on a decision to either open a new exclusion process or extend the exclusions for some defined period of time, perhaps through the end of the year?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question. You have stated that the Biden administration will ensure that our trading partners fulfill their commitments under existing agreements. Since entry into force of the USMCA, the government of Mexico has announced and enacted policies that threaten our access to the Mexican market. This is particularly true in energy where government policy is discriminating against U.S. energy companies and instead favoring state-owned enterprises. These discriminatory provisions have been approved and signed into law in Mexico in recent months.

Many in America's energy industry are wondering at what point the United States will begin enforcing the agreement. Are you prepared to present a case under the dispute settlement provisions of the USMCA?

Answer. Mexico's energy policies are undermining existing investments and directly implicate several of Mexico's USMCA obligations. I made these points clearly to the Mexican government during the inaugural meeting of the USMCA Free Trade Commission on May 18th. USTR continues to analyze Mexico's energy measures, including recently passed legislation. I will use all dispute settlement tools to fully enforce the USMCA. I am also aware that U.S. companies are considering potential remedies under the agreement.

Question. You have held up the USMCA as a model for future trade agreements. For that reason, one of my overarching concerns is that a lack of enforcement of the agreement could put the credibility of the USMCA at risk.

Will you take actions in the short term if the Free Trade Commission meeting this month does not result in concrete steps by Mexico to address these apparent violations of the agreement?

Answer. Full implementation of the USMCA is a top priority for the Biden-Harris administration. Last month, we initiated the first dispute settlement panel under the USMCA to review dairy TRQ allocation measures adopted by Canada. We also utilized the USMCA's rapid response mechanism last month to request that Mexico review whether workers are experiencing a denial of their rights to free association and collective bargaining. We continue to analyze other issues we are tracking with Mexico, and will to use all dispute settlement tools to fully enforce the USMCA.

Question. The United States has long used efforts to negotiate—and fully enforce—next-generation free trade agreements to strengthen our economy and our workforce. America's free trade agreement partners buy nearly half of all U.S.-manufactured exports—highlighting the importance of pursuing, utilizing, and enforcing a robust and revitalized rules-based international trading system that enhances the role of free market forces, promotes respect for the rule of law, and propels manufacturing innovation in the United States and globally.

We've seen lots of discussion about enforcing these agreements and look forward to work with you to ensure comprehensive enforcement of key commitments related to critical areas like labor, environment, market access and innovation. But we also must look at negotiating new agreements: we cannot afford to fall behind other trading partners like the EU and China that are continuing to lock in market access for our competitors through agreements.

How will you approach new trade agreements to combat unfair barriers and practices around the world?

Answer. The administration is in the process of reviewing the objectives of the UK and Kenya trade agreement negotiations, which were launched under the prior administration. In these reviews, and in thinking about potential future engagements, the administration wants to ensure that new trade agreements meet the objectives of the Biden-Harris administration for a worker-centric trade policy.

Question. Recent tech regulations out of Europe speak to a broader need for the U.S. to engage with like-minded democracies on a wide range of tech issues. Legislation like the Digital Markets Act (DMA), if implemented, would likely discriminatorily target U.S. companies, while avoiding any regulation of European companies.

Such efforts relate to what certain European leaders refer to as “digital sovereignty,” which means building European champions to replace U.S. companies. While competition is desired, it must be fair. Using discriminatory regulations is clearly not.

Is resolving such discriminatory practices against U.S. companies a priority to USTR and if so, how is USTR working with the EU to ensure actions are non-discriminatory?

Answer. I am aware of the concerns that U.S. companies have raised about digital services taxes (DSTs), other European Commission regulatory initiatives, such as the Digital Markets Act (DMA), and the continued free flow of data. I will consider the full range of trade tools available to me to address discrimination against U.S. workers and U.S. companies.

Question. Numerous companies around the country are collectively owed millions of dollars in refunds by U.S. Customs and Border Protection (CBP), which have gone unpaid due to the way the previous administration administered the section 301 China tariff exclusion process. In short, when exclusions from China 301 tariffs were granted, they were applied retroactively to when the China tariffs were initially put in place, which should have resulted in a refund of China tariffs already paid. However, because it took so long to approve many of the 301 exclusions, many companies are unable to recoup money that is otherwise owed to them.

If a company imported a product that qualified for an exclusion, they should be able to take advantage of that exclusion, regardless of when the exclusion was granted. As the current United States Trade Representative, will you commit to working with CBP and this committee to ensure these companies receive all of the money that is owed to them?

Answer. USTR has worked closely with Customs and Border Protection on all aspects of the implementation of the China 301 tariffs, and will continue to do so.

Question. 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. I look forward to working with you and other members of this committee to ensure reauthorization of these programs is consistent with the President’s worker-centered trade policy.

Question. Some are concerned about the wave of regulations in Mexico targeting the packaged food and beverage industry. As you may be familiar, the restrictions include sales bans (already in effect in two Mexican states, with proposals in 23 others and at the Federal level), as well as excessive packaging and marketing rules which infringe on IP rights (trademarks and patents) and stifle innovation. These measures lack scientific justification and provide incomplete and misleading information to consumers.

What is USTR doing to ensure that Mexico lives up to its international trade commitments, including USMCA?

Answer. On the subject of Mexico's prepackaged foods front-of-package labeling, Mexico exempted food service products, raw materials, and unfinished products from its labeling requirements, and in April 2021, Mexico notified an inter-institutional agreement allowing continued use of stickers on imported products to comply with its front-of-package labeling requirements indefinitely.

We continue to closely monitor and raise concerns with any State or Federal level bans that would impact foods that are required to carry front-of-package warning symbols.

Question. There has been a lot of focus on moving supply chains out of China. The Generalized System of Preferences (GSP), which excludes China but eliminates U.S. tariffs on developing countries that could be viable sourcing alternatives, seems like a natural fit to encourage such sourcing shifts. In fact, expanding GSP to cover travel goods in 2016/2017 has led to a rapid relocation of supply chains for backpacks, luggage, and other travel goods from China to GSP countries in Southeast Asia in recent years.

How can programs such as GSP fit into the administration's broader China strategy?

Are there aspects of the current GSP program that you believe limit its effectiveness for companies seeking sourcing alternatives to China?

As Congress considers GSP renewal legislation, what changes could we make to increase its effectiveness in this regard?

Answer. As the 2021 President's Trade Agenda Report notes, one of the Biden-Harris administration's core international and trade policy goals is to strengthen relationships with America's allies and friends to tackle pressing global challenges, including the China policy challenges we face.

As conceived by Congress in 1974, GSP is a development program, intended to improve the conditions of people in those beneficiary countries. However, GSP can also be an important tool that helps build relationships with many low- and middle-income countries, through support for their development and economic diversification. Economic diversification among beneficiaries can also promote economic diversification away from countries such as China.

I look forward to working with you and other members of this committee to ensure that GSP renewal is effective in tackling our China policy challenges.

Question. What are your thoughts on incentives, through GSP or otherwise, to move supply chains away from China and to the Western Hemisphere, given the increased cooperation between the EU and China for example?

Answer. President Biden's executive order on America's supply chains sets out to establish resilient, diverse, and secure supply chains to ensure our economic prosperity and national security. The 2021 President's Trade Agenda Report also notes one of the Biden-Harris administration's core international and trade policy goals is to strengthen relationships with America's allies and friends to tackle pressing global challenges, including the China policy challenges we face. I welcome the opportunity to work with Congress on how USTR can achieve these two objectives.

Question. What are your thoughts on creating specific incentives, in contrast to the current tariffs, for companies currently operating in China but looking to diversify their supply chains away from the country?

Answer. As set out in the President's executive order on America's supply chain, USTR is actively participating in the administration's supply chain review, including by considering reforms to international trade rules and agreements in order to support supply chain resilience, security, diversity, and strength. I welcome the opportunity to work with Congress on these goals as well.

Question. June 5th will mark 2 years since India's eligibility under the Generalized System of Preferences (GSP) program was terminated. Since then, American companies have paid as much as \$600 million in new tariffs, yet none of the issues raised when the review was launched 3 years ago have been resolved. I view cooperation with India not just from an economic benefit but as a geo-strategic way to counter Chinese influence.

What are your plans to engage on a trade agreement of any type with India which has never successfully negotiated?

Answer. India is an important, but challenging market for US businesses. In my initial discussions with India's Minister of Commerce and Industry Goyal, we have agreed to revitalize the U.S.-India Trade Policy Forum to resolve outstanding trade concerns before exploring additional prospects for expanding the bilateral trade relationship.

Question. It's good that we are using the tools of the USMCA. We also put a lot of work into the state-to-state mechanism in Chapter 31. It's important to show that mechanism works too. Mexico has proposed or enacted many domestic trade-affecting measures inconsistent with its USMCA obligations and failed to carry out other obligations.

Which commercial USMCA implementation concerns are ripe for consultations, the first step in the process?

Answer. We are tracking issues across several sectors with Mexico, including in the agricultural and energy sectors. We continue to analyze these issues, and will use all dispute settlement tools to fully enforce the USMCA.

Question. U.S. companies are reporting a long and growing list of USMCA implementation challenges in Mexico. Some have catalogued concerns across 13 chapters and annexes, covering agriculture, national treatment, government procurement, biopharmaceuticals, medical equipment, financial services, telecommunications and broadcasting, Customs, and more.

Can you discuss how enforcement of USMCA's commercial provisions is critical to the President's worker-centric trade agenda and strengthening our industrial and innovation base?

Answer. We are tracking issues across several sectors with Mexico, and I have been in touch with several stakeholders directly about their concerns. The President's worker-centric trade agenda is based on ensuring that America's workers don't face unfair competition from competitors beyond our shores—and especially from our closest trading partners like Mexico. Ensuring that Mexico lives up to its obligations in the USMCA is critical to avoiding a race to the bottom, and I will use all dispute settlement tools to fully enforce the agreement.

Question. A new bill in the Mexican Senate would, if passed, force a 10-percent local content quota for video streaming services. This would violate USMCA commitments that prohibit performance requirements and require Mexico to accord non-discriminatory treatment. It would unfairly restrict U.S. services exports that support tens of thousands of U.S. jobs.

How will USTR act to prevent this initiative from coming into force and protect U.S. audiovisual exports to Mexico?

Answer. Since the first version of this bill appeared in March 2020, USTR has coordinated closely with the U.S. Embassy in Mexico City and our counterparts in the Ministry of Economy to ensure that the USMCA implications of this bill are widely understood. USTR will continue with these efforts.

Question. A common stated goal in U.S. trade policy is the promotion and expansion of U.S.-based manufacturing, employment, and exports. However, apart from trade remedies, there are notable examples of tariff policies in trade agreements and adopted by the United States and other countries with whom the United States has negotiated a free-trade agreement that undermine those broader trade-policy goals by undercutting the cost competitiveness of U.S. based manufacturing in our domestic and export markets.

Would the Office of the U.S. Trade Representative support and be willing to request that the U.S. International Trade Commission (ITC) conduct a study of this problem and develop recommendations to address it, including how existing programs, especially the U.S. Foreign-Trade Zones Program, that are designed to advance broader trade-policy goals, could be used most effectively?

Specifically, would you be willing to consider reviewing the USMCA restriction on goods produced in FTZs?

Answer. This issue was considered by Congress as part of the implementation of USMCA. I would be happy to discuss your concerns about this issue.

Question. The EU has made it clear that they seek "tech sovereignty" and have set forth an ambitious agenda that proposes a range of regulatory efforts that at times clearly targets American firms.

Are you closely watching these worrisome developments and how are you engaging Europe to ensure American companies are treated fairly in its market?

Answer. I am aware of the concerns that U.S. companies have raised about digital services taxes (DSTs), other European Commission regulatory initiatives, such as the Digital Markets Act (DMA), and the continued free flow of data. I will consider the full range of trade tools available to me to address discrimination against U.S. workers and U.S. companies.

QUESTIONS SUBMITTED BY HON. RICHARD BURR

Question. The partnerships formed to develop and manufacture the COVID-19 vaccines have been one of the biggest scientific success stories in generations. As part of the global response to COVID-19, over 275 partnerships have been created to further the collaborative efforts to scale up vaccine manufacturing for global health security. I am gravely concerned by the Biden administration's decision to support waiving intellectual property protections for COVID-19 vaccines under the WTO framework. Intellectual property rights are not a credible barrier to increasing vaccine supply to countries in need. This counterproductive approach will jeopardize ongoing efforts to ramp up vaccine production and undermine our ability to respond to this and the next pandemic.

On April 23rd, international vaccine innovators and manufacturers raised concerns regarding existing supply challenges impacting COVID-19 vaccine production.

As part of the deliberation regarding this decision to undercut innovators, what steps has the administration taken to address the identified supply challenges to help increase vaccine production and distribution immediately, such as working to help address export controls?

Answer. Starting in mid-April, USTR began consultations with interested parties: labor organizations, civil society, public health advocates, public health experts both inside and outside of the government, and also vaccine manufacturers. USTR, along with the rest of the administration, will continue to ramp up efforts to work with the private sector and other partners to expand vaccine manufacturing and distribution around the world.

Question. We are not going to get this pandemic under control if we do not work together to address the global vaccine needs. According to the WHO, there have been more than 2.3 million new cases of COVID-19 reported in India within the last 7 days.

What specific actions has the administration taken to help get COVID-19 vaccines to other countries in need, such as India?

Answer. The top priority of the United States is saving lives and ending the pandemic in the United States and around the world. This includes investing in the COVAX Facility, sharing our surplus vaccine doses, and working with our international partners, such as the Quad Vaccine Partnership, to surge production and delivery, including through efforts to achieve greater regional and local manufacturing capacity, in recognition of the importance of widespread vaccination against COVID-19 to combat the pandemic and hasten economic recovery. In particular, the United States and India have closely worked together to respond to the COVID-19 pandemic. U.S. COVID-19 assistance has reached more than 9.7 million Indians across more than 20 States and union territories, providing life-saving treatments, disseminating public health messages to local communities, strengthening case-finding and surveillance, and mobilizing innovative financing mechanisms to bolster emergency preparedness.

Question. I have significant concerns with how Mexico has implemented USMCA. I am tracking recent actions by Mexico that violate, or threaten to violate, commitments in multiple chapters and annexes, covering agriculture, national treatment, government procurement, biopharmaceuticals, medical equipment, financial services, telecommunications and broadcasting, customs and more. The first Free Trade Commission meeting is next week.

What actions will the United States take to get Mexico to abide by its commercial USMCA commitments?

Answer. We are tracking issues across several sectors with Mexico, including in the agricultural and energy sectors. We continue to analyze these issues, and will use all dispute settlement tools to fully enforce the USMCA.

Question. The 2021 Trade Policy Agenda states that “Opening markets and reducing trade barriers are fundamental to any trade agenda.” In addition to being a strong ally, the United Kingdom is one of the top export markets for U.S. goods and services, and U.S. businesses and workers stand to benefit tremendously from an agreement to further lower tariffs and streamline regulations. You previously noted, in your response to my question for the record, that you would review the status of these negotiations.

Can you speak about your review and provide an update on your plans?

Answer. The President recently met Prime Minister Johnson and committed to deepening and strengthening our vital economic and trading partnership. As a first step, we agreed to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we’re no longer competing on a level playing field. We and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences. Second, the President and Prime Minister agreed to work closely to identify and pursue opportunities to deepen our already extensive trade relationship. As part of the Biden-Harris administration’s focus on the Build Back Better agenda and supporting a worker-centric trade policy, I am continuing my review of the objectives of the negotiations with the United Kingdom that were begun under the prior administration.

Question. The U.S.-China Phase One agreement is important to U.S. farmers and ranchers for the purchase goals and for the commitments on standards.

Can you provide an update on their fulfillment of the agreement, particularly with regards to agriculture purchases, and how is USTR working to ensure China fulfills its obligations under the agreement? How is USTR working to expand the opportunities in China for U.S. farmers and ranchers for the next year and beyond?

Answer. I agree on the importance of holding China fully accountable for the numerous agriculture commitments that it made in the Phase One agreement, including the purchase commitments. To date, while China has made progress in implementing many of the agriculture commitments under the Agreement, more work needs to be done. Especially with regard to China’s commitments to purchase agricultural commodities, China’s efforts so far have fallen short. Through the extensive consultation processes established by the Phase One agreement, USTR regularly engages China on all of these commitments to discuss China’s implementation progress and our concerns as they arise. Going forward, we will continue to make use of the Phase One agreement and other tools at our disposal in order to expand opportunities in China for U.S. farmers and ranchers.

QUESTIONS SUBMITTED BY HON. ROB PORTMAN

Question. At the hearing you indicated that there is need for new, 21st-century trade tools to respond to emerging non-market practices by countries, such as China.

Do you agree that modifications to the anti-dumping and countervailing duty laws should be included within the scope of conversations about the development of new tools to respond to such non-market practices?

Answer. As you underline, at the hearing I discussed the need for trade tools that address the challenges to our values and interests today and anticipate those of tomorrow. Statutes developed several decades ago may not fully address the economic and anticompetitive challenges that have arisen more recently. A prime example is China’s industrial policies and role in global excess capacity. In this spirit, as discussed at the hearing, we now have an opportunity to think through the tensions or gaps between the existing authorities and the particular non-market, coercive, or other unfair practices we now face. Last time, we discussed this dynamic in the context of section 232 of the Trade Expansion Act of 1962.

Our antidumping and countervailing duty laws may also need to be part of this conversation. To that end, I welcome ideas from you, Senator, and other members of Congress, on how we can enhance our tools to remedy unfair foreign dumping and subsidization, particularly when non-market practices are at play.

Question. In November 2020, 15 countries, including China, signed the Regional Comprehensive Economic Partnership. If the United States does not open new mar-

kets—such as the United Kingdom—for made in America products, China and other countries will vie for that market access.

How many trade agreements and entered into force among our largest trading partners over the past 15 years? Do you intend to launch negotiations for any comprehensive agreements in 2021?

Answer. As noted in the President's trade agenda, opening markets and reducing trade barriers, while ensuring that U.S. businesses and workers as a whole benefit from these efforts, will be a priority for the Biden administration. USTR is actively engaged in discussions with our partners in on how we can best work toward these aims.

Question. Efforts to waive the TRIPS Agreement for intellectual property related to the COVID-19 vaccines are concerning because those efforts may not actually expand vaccine access.

Can you provide an example of a factory in the world which would be able to start producing safe and effective COVID-19 vaccines if IP rights were waived at this moment? Are you considering efforts to increase the supply of raw materials needed for COVID-19 vaccines?

Answer. 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. We will also work to increase the raw materials needed to produce those vaccines. In supporting a waiver of intellectual property protections for COVID-19 vaccines, the administration is committed to starting a process at the World Trade Organization to find a solution there that is effective and practical in saving lives.

Question. Last month, you testified that the United States and the European Union need to find ways to come together and resolve differences in order to meet emerging challenges. One outstanding difference is the Boeing/Airbus dispute.

Do you need a path forward to resolving that dispute?

Answer. Our negotiations with the EU and the UK have resulted in agreement to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we're no longer competing on a level playing field. We, the EU, and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences.

With respect to China, we pledged to:

- Meaningful cooperation on countering (1) investments in the aircraft sector by non-market actors in our economies to acquire technology and know-how; and (2) outward investments that involve moving production into China pursuant to non-market forces.
- Identifying where joint work is needed to take parallel action against other non-market practices.
- Sharing information regarding these and other areas in the large civil aircraft sector.

Question. I understand that Customs and Border Protection (CBP) is applying tariffs to used vehicles imported from Canada and Mexico.

Do you agree that the intent of the U.S.-Mexico-Canada Agreement (USMCA) is for the agreement's rules of origin to apply only to newly manufactured vehicles?

Answer. The USMCA rules of origin do not differentiate between any new and used products. As a result, the rules of origin for autos are the same for both new and used vehicles. No U.S. free trade agreement has a separate rule of origin for used vehicles.

Question. As the Republican chair of the Friends of Switzerland Caucus, I support closer ties between the United States and Switzerland.

Do you believe that a trade agreement between the United States and Switzerland should be a priority? Do you agree that it would open up new agricultural markets for American farmers, ranchers, and growers?

Answer. The Biden administration highly values our relationship with Switzerland. We regularly engage Switzerland bilaterally to explore ways to expand and enhance our trade ties.

As the President has made clear, however, we will not be engaging in new trade agreements before we make the necessary investments at home.

QUESTIONS SUBMITTED BY HON. TIM SCOTT

Question. As you know, South Carolina is home to some of the most dynamic research institutions and biomedical manufacturers in the country. Robust IP protections are critical to the work they do, which is why I fought hard against the removal of IP protections for U.S. biologics in USCMA. It has always been clear to me that removing—or even threatening to remove—these protections doesn't just reduce incentives to innovate, it will deprive innovative U.S. companies of the fruits of their research and put them at a competitive disadvantage. Researchers and innovators in the Palmetto State provide us with a competitive edge in the global economy. It is alarming to think that our own government would not have their back, especially when their value has never been more clear.

Would you agree that this trend of increasingly reduced IP protections for U.S. biologics threatens our economic and national security?

How does this administration plan to reverse course and shore up protections in the future so that we may avoid losing countless jobs and our position as the world leader in biotech innovation?

Answer. The COVID-19 pandemic has highlighted the importance of pharmaceutical, medical device, and other health-related innovation and revealed the relatively concentrated distribution of resulting products. USTR continues to seek adequate and effective protection for pharmaceutical and other health-related intellectual property (IP) around the world to ensure robust American innovation in these critical industries to fight not only the current, but also future pandemics.

This is a global health crisis, and the extraordinary circumstances of the COVID-19 pandemic call for extraordinary measures. The administration believes strongly in IP protections, but in service of ending this pandemic, supports the waiver of IP protections for COVID-19 vaccines.

Question. As you may know, I joined 38 other members of Congress in the submission of a bicameral letter to you earlier this month, asking to coordinate with you to expeditiously develop a concrete action plan to deliver effective and enforceable relief to help our seasonal fruit and vegetable producers compete against unfair trade practices. As you may recall from our previous discussions, this remains a critical issue for the producers in my State who are continually forced to compete on an uneven playing field.

Will you commit to working with me to develop and implement new, effective ways to help deliver long-overdue relief to our country's seasonal producers?

Will you commit to keeping me updated as to the status of these efforts?

Answer. I commit to working closely with you and Congress on all trade legislation and crafting trade policy consistent with the Build Back Better agenda that prioritizes the interests of America's workers, including producers of seasonal and perishable produce. I am also committed to ensuring that U.S. producers are not unfairly disadvantaged by our trading partners' policies. I welcome input and ideas from you, Senator, and the other members of Congress as to how USTR can further utilize the wide range of tools that are available to address the challenges facing U.S. producers.

Question. As you know, the continued growth of the automotive industry is critically important to my home State. In South Carolina, the automotive industry is responsible for nearly 80,000 jobs and is one of the top 10 fastest-growing labor forces in the Nation. Roughly half a million vehicles were produced in South Carolina in 2019 alone, providing billions of dollars in employee compensation, support for U.S. suppliers, and State and Federal revenues. With the advent of the inaugural meeting of the USMCA Free Trade Commission, I have the following questions for you. Do you plan to make discussing the automotive rule of origin a priority at the Free Trade Commission meeting, and will you commit to working with your counterparts in Canada and Mexico to ensure timely and efficient implementation?

Will you also agree to keep me updated on the progress of these efforts?

Answer. During the first-ever USMCA Free Trade Commission meeting, the committee on Rules of Origin and Origin Procedures provided an update on its work related to the implementation of the automotive rules of origin. I will maintain close communication with Mexico and Canada on this issue. I will continue to keep you and other members updated as we continue our engagement with both Mexico and Canada.

Question. As you know, two critical trade preference programs, the Generalized System of Preferences (GSP) and the Miscellaneous Tariff Bill (MTB), lapsed at the end of 2020. This has created a significant burden on our workers, consumers, and businesses in the midst of an on-going pandemic and ensuing recession.

Can you confirm the administration's support for the renewal of GSP and MTB?

Can you share what steps the administration has taken, or plans to take, to support congressional approval?

Answer. I look forward to working with you and other members of this committee to ensure reauthorization of these programs is consistent with the President's worker-centered trade policy.

Question. As you may know, I have long been concerned about China's unfair trade practices and continue to support efforts to challenge the inequities in our relationship with China. At the same time, we must also recognize the reality that certain inputs for domestic manufacturers remain unavailable outside of China at this time. It is critical, especially now, that we take the necessary steps to mitigate undue harm to our small businesses, domestic manufacturers, and job creators. For this reason, I was pleased to see a tariff exclusion process that attempted to address these realities; unfortunately, that process expired at the end of 2020.

In light of these realities, will you commit to launching a new China section 301 product exclusion process and when can we expect that to occur? Can you also expand upon the administration's perspective of this form of relief as it currently stands, and, more specifically, what actions we can expect to see in the short term?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

QUESTIONS SUBMITTED BY HON. BILL CASSIDY

Question. Stakeholders in the U.S. energy sector tell me President Lopez Obrador has recently spearheaded major amendments to laws to change market rules in favor of Petroleos Mexicanos (Pemex) and Comision Federal de Electricidad (CFE) and against private companies. This comes after having already directed energy regulatory agencies to expressly favor Pemex and CFE over private investment in all energy production and generation. The common denominator is to hinder new private investment in the energy sector and minimize the value of already operating private assets. I'm told this could be in violation of Mexico's commitments under both NAFTA and USMCA. Issues such as non-discriminatory treatment, minimum standard of treatment and unlawful indirect expropriation each seem to be issues. These regulatory abuses are an affront to the fair and equitable protections clauses under USMCA. AMLO's repeated false claims that natural gas and oil are not covered under USMCA, with encouragement from his legislature, are highly concerning following the energy liberalization reforms that opened up investment partnerships for U.S. and Western investors.

Can you state for the record whether natural gas and oil are included under USMCA and detail for the committee the options USTR has at its disposal to ensure interests are protected?

What options does USTR have available to counter any reprisals from Mexico if they retaliate against companies who raise these concerns with the Mexican government?

How will USTR address systemic regulatory abuses by Mexican agencies toward U.S. and Western investors in Mexico that seem to only serve to advantage Pemex and CFE?

Will you raise this matter during your upcoming Free Trade Commission meeting with Mexican leaders?

Answer. There is no doubt that the USMCA applies to Mexico's energy sector; this is very clear in the USMCA text. Mexico's energy policies are undermining existing investments and directly implicate several of Mexico's USMCA obligations. I made these points clearly to the Mexican Government during the inaugural meeting of the USMCA Free Trade Commission on May 18th. USTR continues to analyze Mexico's energy measures, including recently passed legislation. I will use all dispute settlement tools to fully enforce the USMCA. I am also aware that U.S. companies are considering potential remedies under the agreement.

Question. As of this moment, the European Union, Canada, and the Biden administration have all expressed support for carbon border adjustment policies specific to their countries. A paper published this month entitled "Trade, Firm-Delocation, and Optimal Climate Policy" suggests that border carbon adjustments created as a part of a "carbon club"—consisting of countries undertaking harmonized emissions reductions—could reduce global CO₂ emissions by 81 percent. However, if these same countries unilaterally imposed domestic border carbon adjustments, the global carbon reduction would only be 3 percent of the reduction achieved under the carbon club proposal.

Do you worry that domestic border carbon adjustments may actually create a system where carbon reduction does not occur and instead serves solely as a tariff on imports?

In a scenario where individual countries each possess their own domestic border adjustment, do you worry about the ability for U.S. companies to export their goods abroad?

How can we take advantage of global interest in decreasing carbon emissions to create a global system that helps U.S. companies export their low-carbon goods?

Answer. I agree that the United States should seize the opportunity to support global ambitions to lower carbon emissions, and leverage this opportunity to support U.S. companies that export technologies, goods, and services that are low-carbon and that will support a global shift to low-carbon economic models. I share your concern that, if not designed appropriately, a border adjustment could undermine global ambition to achieve net zero emissions. USTR is engaged with the USG interagency and with key trading partners on these issues, to ensure that U.S. companies are not disadvantaged in the global marketplace and measures are designed to help achieve our environmental goals with the least disruption to efficient trade.

Question. In a speech last month, however, you stated that the trade "system itself" creates an incentive to lower environmental standards.

Can you elaborate with some examples?

Answer. The United States designs, develops, and implements mutually supportive trade and environmental policies. This includes ensuring that our trade agreements contain strong and enforceable environment obligations. Without such an approach, there is an incentive for companies, and governments, to seek to maximize profits while lowering costs, including through lower environmental standards. Over time, U.S. trade agreements have included environment provisions that evolved from cooperative to fully enforceable and subject to the same dispute settlement process as other provisions in those agreements.

Question. On March 4th and 5th, the administration announced a suspension of tariffs on the UK and the EU in connection with the ongoing WTO Boeing/Airbus dispute for a period of 4 months (expires July 4th and July 11th). As you know, this suspension now allows for all EU and UK distilled spirits, including Scotch and Irish whiskey, to enter the U.S. duty-free, while our American-made whiskeys remain subject to a 25-percent tariff in the EU and in the UK, possibly a 50-percent tariff in the EU by June 1st if nothing is done.

Can you help me better understand how we plan to avoid a 50-percent tariff on our whiskey and what we're doing to secure a level playing field for American-made whiskey to fairly compete in our largest export markets?

Answer. With respect to the section 232 tariffs on steel and aluminum, we have a very significant problem in the global steel and aluminum markets that is driven primarily by overcapacity in China and other countries, particularly in Southeast Asia and the Middle East. The administration is working to address the market distorting measures in economies that have led to overcapacity in the global steel and aluminum industries and the resulting national security threats.

In addition to the thorough review of the section 232 measures and product and country exclusions that is currently underway, the administration is also consulting closely with domestic stakeholders and partners around the world that share similar national security interests. We seek to address market distorting measures that pose a serious threat to the U.S. steel and aluminum industries and the workers in those industries. On May 17, 2021, the United States and the European Union (EU) announced the start of discussions to address global steel and aluminum excess capacity and the market distortions that result from this excess capacity, and we will be engaging intensively with the EU in the coming weeks. The EU announced its intention to temporarily suspend the planned increase in retaliatory duties, including duties on American whiskey. We believe the EU's duties are inconsistent with WTO rules and we are challenging them before the WTO. The administration is committed to working with the EU and other like-minded partners to address excess capacity, ensure the long-term viability of our steel and aluminum industries, and strengthen our democratic alliance.

For additional questions on the state of section 232 tariffs on steel and aluminum, I would refer you to the Department of Commerce, which has the statutory lead on section 232.

Question. The section 301 product exclusion process expired at the end of last year, except for a small number of exclusions that were extended for products needed to respond to the COVID-19 pandemic. The product exclusion process was deeply flawed—it lacked transparency and consistency and placed significant burdens on those wishing to apply for exclusions. Despite its flaws, the economic benefits were important for those who were able to secure exclusions, and the relief from these additional taxes became even more crucial during the economic recession. Allowing the exclusions to expire and raising taxes on American businesses of all sizes during this particularly difficult economic time should not have happened.

You recently received two bipartisan letters that were signed by over 100 House members and 40 Senators calling for a reinstatement of a fair and transparent exclusion process. Understanding that time is of the essence, can you provide us any further update on this front?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question. I have been following your commentary about the future of the WTO and the potential for the trade body to be workable with some revisions. One major issue on the radar of the rice producers in my State, and growers of other commodities around the country, are the believed WTO violations by India.

Could you look at formally filing a request for consultations and take a serious look at filing a WTO case?

Answer. India's agricultural trade policies are a serious concern for U.S. agricultural producers. Resolving agricultural trade barriers and unfair competition are a priority for USTR, and I am committed to ensuring trade partners live up to their international obligations.

QUESTIONS SUBMITTED BY HON. JAMES LANKFORD

Question. Why did you not consult with Congress on your decision to support a TRIPS waiver? Does the administration plan to submit the text of any waiver to TRIPS that it negotiates at the WTO to Congress for approval?

Answer. In supporting a waiver of intellectual property protections for COVID-19 vaccines, the administration is committed to pursuing a process at the World Trade Organization (WTO) to find a solution there that is effective and practical in

saving lives. I am committed to keeping Congress fully informed of developments in the process in the WTO.

Question. The decision to issue a TRIPS waiver blindsided many in the United States as well as allies like the UK, Canada, and Germany who do not want our intellectual property going to China and other bad actors.

Have you considered how ceding our intellectual property to China allows them to buy influence and boosts their predatory vaccine diplomacy, thereby undermining U.S. leadership on vaccine distribution throughout the developing world?

Answer. The administration believes strongly in intellectual property (IP) protections and the importance of safeguarding American innovation from illicit acquisition. The decision to support a waiver of IP protections for COVID-19 vaccines reflects the extraordinary circumstances of this pandemic. We are committed to working with the World Trade Organization members and will be clear-eyed about potential risks as we enter text-based negotiations.

Question. The decision to issue a TRIPS waiver raised concerns that, in the future, the administration would pursue additional TRIPS waivers for other vaccines or biotechnologies, such as treatments for malaria, Alzheimer's, or Parkinson's that are currently in development.

Can you commit to the American people that the administration will not pursue a TRIPS waiver for future vaccines and biotechnologies without seeking the approval of Congress? Have you considered how this decision will adversely affect the financing of future vaccines due to the lack of confidence in this administration to defend American intellectual property protections?

Answer. COVID-19 is a global health crisis, and the extraordinary circumstances of the COVID-19 pandemic call for extraordinary measures. The administration believes strongly in intellectual property (IP) protections, but in service of ending this pandemic, supports a waiver of those protections for COVID-19 vaccines. In supporting a waiver of IP protections for COVID-19 vaccines, the administration is committed to pursuing a process at the World Trade Organization (WTO) to find a solution there that is effective and practical in saving lives. I am committed to keeping Congress fully informed of developments in the process in the WTO.

Question. The 2021 trade agenda does not indicate a desire for new free trade agreements or to expand market access for Americans to new places. Instead, the primary areas of focus appear to be climate change, supporting American labor, and racial equity.

Do you believe that expanding trade opportunities benefits U.S. businesses and their employees? If so, why is the administration opposed to pursuing new FTAs or not making them a priority this year? Why is the administration not working on TPP or alternative agreements with our Indo-Pacific partners, even bilaterally?

Answer. As noted in the President's trade agenda, opening markets and reducing trade barriers, while ensuring that U.S. businesses and workers as a whole benefit from these efforts, will be a priority for the Biden administration. USTR is actively engaged in discussions with our partners in the Indo-Pacific region on how we can best work toward these aims.

Question. In your confirmation hearing, you indicated the 301 exclusion process was "very high on your radar." However, we have not seen any action to resume the 301 exclusion process.

What have you done since your confirmation to get your arms around the 301 exclusion process? How close are you to resuming that process and reinstating expired exclusions? Will you commit to having a robust and fair exclusion application process in place for American importers for the duration that the 301 tariffs are in place?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question. On February 24, 2021, President Biden issued an executive order beginning a whole-of-government review of supply chain vulnerabilities, including on crit-

ical minerals. I believe that in order to reduce reliance on China, we must use our Indo-Pacific partnerships to pursue a critical minerals agreement.

What have you recommended as part of that supply chain review on critical minerals specifically? Have you been in touch with other countries about working together to reduce reliance on China? Specifically, have you pursued conversations with the Quad countries on an agreement to jointly develop rare earth minerals? What is your plan to leverage our alliances, and the Quad in particular, to counter China's dominance in this area?

Answer. Executive Order 14017, the first report on supply chains, "Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth," was released on June 8th, and one of its overall recommendations to the President is that the United States work with allies and partners to decrease vulnerabilities in global supply chains. Specifically, the report recommends expanding multilateral diplomatic engagement on supply chain vulnerabilities, particularly through groupings of like-minded allies such as the Quad and G7, to collectively assess vulnerabilities and develop collective approaches to supply chain resilience.

Question. President Trump initiated FTA negotiations with the UK, our closest ally and a top trading partner in Europe. The administration held five rounds of talks in 2020 and made considerable progress towards a comprehensive FTA. However, the trade agenda for 2021 does not outline any subsequent steps that the Biden administration plans to take to complete the U.S.-UK FTA.

Why is the administration not prioritizing completing this FTA when it is so close to completion? Can we expect progress in the area in the coming months?

Answer. The President recently met Prime Minister Johnson and committed to deepening and strengthening our vital economic and trading partnership. As a first step, we agreed to move past the 16-year WTO dispute regarding aircraft subsidies. We have agreed to suspend tariffs related to the dispute for 5 years, while retaining flexibility for the United States to reapply tariffs if we're no longer competing on a level playing field. We and the UK have also adopted clear statements on acceptable support for large civil aircraft producers and a cooperative process to address support between the parties and overcome longstanding differences. Second, the President and Prime Minister agreed to work closely to identify and pursue opportunities to deepen our already extensive trade relationship. As part of the Biden-Harris administration's focus on the Build Back Better agenda and supporting a worker-centric trade policy, I am continuing my review of the objectives of the negotiations with the United Kingdom that were begun under the prior administration.

Question. The price of lumber has drastically increased and is affecting housing affordability across the United States.

Is your team working on a new softwood lumber agreement with Canada? Have you discussed within the administration how to lower the 9 percent Canadian lumber tariff?

Answer. I am closely watching the historic movement in lumber prices. I discussed softwood lumber with my Canadian counterpart in our first USMCA FTC meeting and we agreed to keep in touch on the issue. The United States is open to resolving our differences with Canada over softwood lumber, but it would require addressing Canadian policies that create an uneven playing field for the U.S. industry. Unfortunately, to date, Canada has not been willing to address these concerns adequately.

Question. New Zealand has expressed a desire to improve trade ties with the United States. Since our countries are close security and intelligence partners, I support taking steps to bolster our economic ties and work together in countering China.

Is the administration considering an FTA or smaller, sector-specific agreements with New Zealand? Do you see improving trade ties with New Zealand as a priority?

Answer. The Biden administration highly values our economic and security relationship with New Zealand. We regularly engage New Zealand bilaterally, including through our Trade and Investment Framework Agreements (TIFA), to explore ways to expand and enhance our trade ties.

As the President has made clear, however, we will not be engaging in new trade agreements before we make the necessary investments at home.

Question. Mexico continues to violate the USMCA with their state-owned oil company, and recent laws favor Mexican state energy companies at the expenses of private investment in the energy sector. It appears that permits for private-sector energy projects have been blocked, raising concerns about Mexico's commitment to the USMCA.

What is your plan to pursue correction action on these issues? How will you stop the damage these measures are causing to U.S. energy companies, and ensure that Mexico lives up to its commitments under the USMCA?

Answer. Mexico's energy policies are undermining existing investments and directly implicate several of Mexico's USMCA obligations. I made these points clearly to the Mexican Government during the inaugural meeting of the USMCA Free Trade Commission on May 18th. USTR continues to analyze Mexico's energy measures, including recently passed legislation. I recommit to using all dispute settlement tools to fully enforce the USMCA. I am also aware that U.S. companies are considering potential remedies under the agreement.

QUESTIONS SUBMITTED BY HON. STEVE DAINES

Question. What is the current status of Chinese implementation of the Phase One agreement's IP provisions?

Answer. The intellectual property chapter of the Phase One agreement addresses numerous long-standing concerns of a wide range of U.S. stakeholders, including in the areas of trade secrets, patents, pharmaceutical-related intellectual property, trademarks, copyrights, and geographical indications. The United States has been closely monitoring China's progress in implementing its commitments. In 2020, China published a large number of draft intellectual property-related legal and regulatory measures and finalized over a dozen measures. Notably, China amended the patent law, the copyright law, and the criminal law over the past year. However, additional legal changes are needed and all steps toward reform will require effective implementation at the local level. In addition, China's commitments fall short of requiring the full range of fundamental changes needed to improve the intellectual property landscape in China.

Question. What current actions is USTR taking to enforce the IP provisions in the Phase One agreement?

Answer. The United States has been closely monitoring China's progress in implementing its numerous commitments under the Phase One agreement and has regularly engaged China using the extensive consultation processes established by the agreement to discuss China's implementation progress and concerns that we have as they arise.

Question. Is USTR currently tracking the number of instances of IP theft or forced technology transfer since the Phase One agreement was signed?

Answer. USTR is continuing to engage with both U.S. stakeholders and other U.S. government agencies to track intellectual property theft and forced technology transfer in China.

Question. Has the administration met with or received approval from any of the U.S. companies that currently hold IP rights to the COVID-19 vaccines about the administrations WTO waiver proposal?

Answer. Starting in mid-April, USTR began consultations with interested parties: labor organizations, civil society, public health advocates, public health experts both inside and outside of the government, and also vaccine manufacturers themselves. USTR will continue to ramp up efforts to work with the private sector and other partners to expand vaccine manufacturing and distribution around the world.

Question. If the waiver is agreed to, what existing authorities will the administration use to acquire and share COVID-19 vaccine IP? Will the administration need to come to Congress for any additional authorities in order to share vaccine IP?

Answer. In supporting a waiver of intellectual property protections for COVID-19 vaccines, the administration is committed to pursuing a process at the World Trade Organization (WTO) to find a solution there that is effective and practical in saving lives. I am committed to keeping Congress fully informed of developments in the process in the WTO.

Question. Has the administration assessed whether increased U.S. production and distribution to countries in need would provide more shots in the near term than would that same country acquiring U.S. IP and building out the necessary infrastructure to administer their own shots?

Answer. The top priority of the United States is saving lives and ending the pandemic in the United States and around the world. This includes investing in the COVAX facility, sharing our surplus vaccine doses, and working with our international partners, such as the Quad Vaccine Partnership, to surge production and delivery, including through efforts to achieve greater regional and local manufacturing capacity, in recognition of the importance of widespread vaccination against COVID-19 to combat the pandemic and hasten economic recovery. In supporting a waiver of intellectual property protections for COVID-19 vaccines, the administration is committed to pursuing a process at the World Trade Organization to find a solution there that is effective and practical in saving lives.

Question. As you know, the USTR's Chief Agricultural Negotiator is an essential role and key to addressing market access challenges Montana farmers and ranchers face in critical markets around the world. A nominee for this important role has yet to be named though.

When can we expect a nominee for Chief Agricultural Negotiator to be named?

Answer. The Chief Agriculture Negotiator is a priority position for the Biden-Harris administration. It is important that this position be filled by someone who will put America's farmers and farming communities first, and I look forward to working with Congress to confirming a nominee soon.

Question. In your nomination hearing, you referenced that TPP was a "sound formula" but that it's a different world than 2015 or 2016.

What specific changes would you seek in TPP, whether provisions in USMCA or other agreements, in order to seek to rejoin that agreement?

Answer. We are evaluating how best to ensure that provisions in our future trade agreements be made consistent with the core principles of the President's Trade Agenda and the administration's Build Back Better agenda. This includes evaluating how best to craft rules of origin to benefit parties to the agreement rather than third parties, advancing labor and environmental priorities, safeguarding against the harmful practices of non-market economies, and adopting other innovations learned through our recent experiences with USMCA, other trade negotiations, and the pandemic.

Question. Trade Promotion Authority is set to expire in just a few months. I believe it is critical we reauthorize TPA in a prompt manner and look forward to working with both my colleagues on this committee and you to get it done.

Will you commit to supporting and prioritizing reauthorizing TPA this year?

Answer. There are strong views on both sides of the Trade Promotion Authority issue, and I look forward to working with this committee should you decide to advance TPA legislation. Regardless, I commit to consulting closely with members of this committee on trade policy as long as I am USTR.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. American businesses have been working tirelessly to address the domestic and global health challenges from the pandemic. Innovators made careful and considerate decisions to ensure patient safety first and foremost. Building more production capacity is the logical next step, but your recent decision to pursue a waiver on intellectual property protections for the COVID-19 vaccine undermines the distribution pipeline and could allow access to replicates without quality controls. We can protect patients and also support innovation—it does not have to be one or the other. Even more alarming, right after your statement on twitter, China's government controlled media said, "So—global pressure works. And I hope it does not take forever for this to be a reality." A survey last month conducted by Teneo Research further showed that 60 percent of all voters opposed sharing sensitive biotech intellectual property with China.

After all we know of China's deliberate decisions to undermine the strength of America's economy, should we be concerned of the implications of the waiver, especially given China's public mockery of the United States?

How is this waiver in the best interest of the United States?

How did the administration decide to pursue waiving these intellectual property (IP) protections?

Was an analysis completed that identified key reasons why vaccines were not produced at scale, and were IP protections identified as the contributing factor to this issue?

Answer. The top priority of the United States is saving lives and ending the pandemic in the United States and around the world. In addition, the administration believes strongly in intellectual property (IP) protections and the importance of safeguarding American innovation from illicit acquisition. The decision to support a waiver of IP protections for COVID-19 vaccines reflects the extraordinary circumstances of this pandemic. We are committed to working with the World Trade Organization members and will be clear-eyed about potential risks as we enter text-based negotiations.

Question. Our economy is rapidly changing as new technologies constantly emerge and businesses adapt to the changing landscape. Countries, like China, that assert protectionist policies cause barriers that hurt customers and leave American businesses at a severe disadvantage. You affirmed this conclusion in the section 301 Special Report that placed China on the Priority Watch List and identified key areas of immediate concern.

The USMCA and the U.S.-Japan digital trade agreement contain comprehensive and high standards indicative of the digital age we live in. Enforcing cyber-theft penalties, prohibiting forced data transfer, and removing localization requirements are some provisions that increase integrity in digital trade.

How does the administration view the importance of strong digital trade provisions, and how will you build on the strides made under the USMCA and U.S.-Japan agreement?

What strategies will you employ to hold China accountable for digital trade practices that specifically target and place barriers on American businesses?

Answer. The administration recognizes the importance of the digital economy to American jobs, prosperity and security, as well as U.S. companies' unique competitive advantages in this area. For example, every year in the last 15 years, the United States achieved a substantial surplus for trade in ICT-enabled and potentially ICT-enabled services, with that trade surplus exceeding \$100 billion annually in each of the last 6 years.

Trade rules must work to maintain and advance U.S. strengths in digital trade. USTR 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. President Biden and President Moon of Korea will meet this week for a summit here in Washington. Korea is a linchpin of any successful Indo-Pacific strategy, but we have also seen an explosion in digital trade barriers coming out of Korea recently that have created challenges in our bilateral trade relationship.

How are you and President Biden planning to work with your counterparts in Seoul to rein in the protectionist measures recently taken on data flows, cloud market access, competition, and other areas so that we can build a stronger technological alliance going forward?

Answer. We are engaging with Korea in numerous fora, primarily under KORUS committees, to address the challenges relating to digital trade in the Korean market.

Question. Last week, I sent you and Secretary Raimondo a letter with 17 bipartisan Senators expressing concern with the June 1st scheduled increase of tariffs on distilled spirits and wine. I understand that the European Union announced on May 17, 2021 that they would not double the tariffs while discussions are ongoing to address global capacity issues. As you know, adverse action on the distilled spirits industry harms job creators and employees in Indiana and many other States. Many of these jobs are located in rural communities in my State, like Borden, Lawrenceburg, and New Albany. Further, boat manufacturers employing over 14,000 Hoosiers are also subject to these tariffs and would have been harmed by the subsequent increases. With businesses attempting to recover from the pandemic, we

should be looking to strategies that minimize harm to industries while seeking to hold countries accountable for adverse action that hurts American manufacturers.

Did you receive this letter?

How will you provide certainty and relief to industries affected by these tariffs?

Answer. I did receive your letter. With respect to the section 232 tariffs on steel and aluminum, we have a very significant problem in the global steel and aluminum markets that is driven primarily by overcapacity in China and other countries, particularly in Southeast Asia and the Middle East. The administration is working to address the market distorting measures in economies that have led to overcapacity in the global steel and aluminum industries and the resulting national security threats.

In addition to the thorough review of the section 232 measures and product and country exclusions that is currently underway, the administration is also consulting closely with domestic stakeholders and partners around the world that share similar national security interests. We seek to address market distorting measures that pose a serious threat to the U.S. steel and aluminum industries and the workers in those industries. On May 17, 2021, the United States and the European Union (EU) announced the start of discussions to address global steel and aluminum excess capacity and the market distortions that result from this excess capacity, and we will be engaging intensively with the EU in the coming weeks. The EU announced its intention to temporarily suspend the planned increase in retaliatory duties, including duties on American whiskey. We believe the EU's duties are inconsistent with WTO rules and we are challenging them before the WTO. The administration is committed to working with the EU and other like-minded partners to address excess capacity, ensure the long-term viability of our steel and aluminum industries, and strengthen our democratic alliance.

For additional questions on the state of section 232 tariffs on steel and aluminum, I would refer you to the Department of Commerce, which has the statutory lead on section 232.

Question. I have repeatedly heard from businesses requesting relief and certainty in the section 301 tariff exclusion process. During this hearing, you iterated that the administration is conducting a top-down review of the current exclusions and subsequent process, and alluded that American businesses and Congress could expect details before December and likely in the summer. Can companies expect more details on the administration's section 301 exclusion process in June, or July?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process which provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question. The United States exports over \$6 billion in medical devices to China. The Chinese volume-based procurement (VBP) tendering system seriously threatens access to this important market and could undermine the stability of U.S. exports and American jobs. The medical device industry develops and produces these innovations on American soil, and accessing the Chinese market is critical to support this workforce.

Are you aware of the ongoing implementation of volume-based procurement in China at both the national and provincial levels?

How will the administration plan to address this issue as part of the broader trade agenda?

Do you believe there is an opportunity to work closely with other medical tech-intensive countries on this critical market access issue?

Answer. USTR is closely tracking China's implementation of its volume-based procurement approach to medical devices, both at the national and provincial levels. As the 2021 President's Trade Agenda Report notes, one of the Biden-Harris administration's core policy goals is to strengthen relationships with America's allies and friends to tackle pressing global challenges, including in the China trade policy challenges we face. USTR remains committed to confronting China's unfair trade practices and to promoting the success of the U.S. medical devices sector.

QUESTIONS SUBMITTED BY HON. JOHN BARRASSO

Question. The Phase One agreement negotiated by the Trump administration was very important to American exporters. Wyoming's farmers, ranchers, and energy producers applauded the deal. While agriculture purchases have been positive for U.S. agriculture exports to China, American energy exporters, services and manufacturing industries are still waiting for China to fulfil their commitments.

What can we do today in Congress to ensure China meets its Phase One purchase obligations with respect to energy, services, and manufacturing? And should the U.S. proceed with a Phase Two agreement prior to China meeting its commitments under the Phase One deal?

Answer. China's purchases shortfall is certainly in our sights. Not only are these commitments important to the United States economically, they are also important as commitments that China undertook of its own free will to make, and therefore, we need to ensure that its promises are worth the paper that they are written on. We will continue to make use of and push the tools that we have for the benefit of U.S. workers, farmers, ranchers, manufacturers, service suppliers, and small businesses.

Currently, USTR is conducting a top-to-bottom review of the U.S.-China trade relationship. The results of this review will inform our thinking as to how we proceed with regard to the possible negotiation of a further agreement with China.

Question. The WTO was formed to establish a trading system based on "open, market-oriented policies" per the 1994 Marrakesh Agreement which established the organization. Despite modest improvements, China's markets are not "open." Their policies are not "market-oriented." China is no longer a "developing nation" despite its WTO status. Market-distorting subsidies, intellectual property theft, forced technology transfer, forced labor and industrial overcapacity in China aren't anomalies. They are the cornerstones of China's economic policy.

Is there any reason to believe the WTO has the necessary tools to address the challenges the world is facing with respect to China? And what WTO reforms are needed to make it a more effective "cop on the beat" with respect to China?

Answer. USTR is currently conducting a top-to-bottom review of the U.S.-China trade relationship, with a view toward ensuring that our trade policy supports and complements the administration's broader China strategy. A key focus of this effort is on China's non-market and unfair policies and practices that are inadequately disciplined by the WTO. Our review is ongoing and we will share details of those findings in the future.

Question. Chinese overcapacity of steel, aluminum, cement, chemicals, and numerous other industrial inputs is part of a broader strategy to drive down prices and put international competitors out of business. China's rapid global expansion has been fueled by forced technology transfers, intellectual property theft, human rights violations and the use of forced labor. This is unacceptable and cannot continue.

Can you elaborate on how we can work with our allies to achieve lasting and meaningful change in how China conducts business in the international markets? And could the EU-China investment agreement impact our ability to work with our allies in Europe to counter China's manipulative market practices and human rights abuses?

Answer. It is a priority of the Biden-Harris administration to work with allies to take effective action to address the many challenges posed by China, including its coercive and non-market practices and human rights abuses.

For instance, we are working on strengthening our relationships with the European Union and the United Kingdom, including through engaging with them to resolve the ongoing Boeing/Airbus dispute, and we are having constructive discussions with these trading partners to address the problems of excess capacity in the steel and aluminum sectors coming primarily from China. Further, as part of the administration's effort to work with allies, we recently confirmed with our partners in the G7 our shared commitment to address non-market policies and practices and their harmful impact on our citizens and businesses. As a result, all have agreed to cooperate to address non-market policies and practices that create unfair competitive conditions, hinder the development and use of innovative technologies and undermine the proper functioning of international trade.

Question. American cattle producers raise some of the best beef in the world. In the past, I have raised concerns with United States Department of Agriculture

(USDA) about fresh beef imports from Brazil, which can carry foot and mouth disease.

Will you coordinate closely with USDA's Animal and Plant Health Inspection Service and the USDA's Food Safety and Inspection Service (FSIS) to ensure that the United States does not allow the import of meat and meat products from countries that have livestock diseases that could be transmitted to our domestic industry?

Answer. USTR will coordinate very closely with USDA on issues related to the bilateral trade of fresh and frozen beef products between the United States and Brazil, including to ensure that imports of beef from Brazil comply with relevant U.S. sanitary and phytosanitary measures.

Question. USTR is currently working through the notice and comment process for section 301 tariffs in response to digital service taxes in Austria, India, Italy, Spain, Turkey, and the UK. The Treasury Department has indicated that this administration will pursue a global minimum tax through the OECD even absent the repeal of these tax regimes targeting American companies.

Given the fact the goal of these section 301 investigations is apparently to protect U.S. interests, is the Treasury's global minimum tax negotiating stance working in opposition to the USTR's goals?

Answer. The Biden administration is seeking to resolve the digital taxation dispute in the context of the multilateral effort to address base erosion and profit shifting through the OECD/G20 process.

Any multilateral agreement must include both a strong international minimum tax and a path to resolution of the issues around Digital Services Taxes (DSTs). A higher global corporate minimum tax is central to reducing tax competition globally and removing incentives to move profits to low tax jurisdictions. The OECD estimates that governments lose \$240 billion annually due to tax avoidance by multinational companies.

The standstill and rollback of existing unilateral tax measures, including discriminatory digital services taxes, is an essential part of the OECD's proposed framework. A successful conclusion of these negotiations is thus critical to the resolution of the issues raised in the section 301 investigations.

Question. Canada and Mexico are our largest energy export partners, and the United States-Mexico-Canada Agreement (USMCA) recognized that fact and encouraged trade flows and investments in energy between the three countries. Over the past year, the Mexican government has heavily tilted market rules to favor state-run enterprises over private companies. These actions against American companies run contrary to several commitments Mexico made in signing the USMCA. What actions have you taken, or do you plan on taking, to ensure that Mexico lives up to its commitment under the USMCA?

Answer. Mexico's energy policies are undermining existing investments and directly implicate several of Mexico's USMCA obligations. I made these points clearly to the Mexican government during the inaugural meeting of the USMCA Free Trade Commission on May 18th. USTR continues to analyze Mexico's energy measures, including recently passed legislation. I will use all dispute settlement tools to fully enforce the USMCA. I am also aware that U.S. companies are considering potential remedies under the agreement.

Question. American cattle producers are responsible stewards of pasture and rangelands, who sequester carbon while producing a premium product on land that is not suitable for growing other food products. As we enter fire season, it is important to emphasize that livestock grazing can be used as a tool to lower wildfire risk by controlling the amount, height, and distribution of grasses and forage that fuel wildfires. Additionally, our natural landscape allows cattle producers to graze livestock without deforesting, and EPA data shows that direct greenhouse gas emissions from beef cattle only represent 2 percent of greenhouse gas in the U.S.

As the United States engages in global forums, will USTR continue to advocate for science-based trade and highlight the safe, efficient, and sustainable production practices of U.S. cattle producers as part of the solution to address climate concerns?

Answer. Through our active engagement in global forums, including the World Trade Organization (WTO) Committee on Sanitary and Phytosanitary Measures (SPS Committee), USTR will continue to support and defend science-based trade while promoting our safe, efficient, and sustainable production practices.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

This morning the Finance Committee welcomes U.S. Trade Representative Tai for our annual hearing on the president's trade agenda. In 2021, just about every major trade policy needs to be based on a straightforward agenda: out-competing China for jobs and economic growth. The reality is, too often, the Chinese Government has feasted on weaknesses in the global trading system to the disadvantage of American workers.

The Finance Committee examined many of the key issues in a hearing last month. American factories and plants have shut down because of unfair subsidies and overproduction in China. American websites and digital service providers are blocked by the Great Firewall, and they watch as homegrown Chinese firms rip off their ideas and grow into tech giants intolerant of free speech. American workers cannot and must not ever have to compete against forced labor, which is an atrocity on its own regardless of what it means for international trade.

Bottom line, the U.S. has been playing catch-up ball in the competition with China for too long. It's going to take higher standards and stronger enforcement policies that move faster to protect American jobs and businesses. The old, slower approach—one that responds to China's rip-offs long after the damage is done—clearly hasn't worked.

This committee is working on bipartisan legislation addressing these challenges directly. There will be progress on that bill to announce in the days ahead, and I'm looking forward to discussing these issues with Ambassador Tai today.

Propos of showing what tough, quick-moving trade enforcement looks like in practice, there are two brand new examples making news this week. The AFL-CIO announced Monday that it was bringing forward the first major complaint dealing with labor rights under the new USMCA rapid response mechanism. And as Ambassador Tai will tell us about shortly, USTR announced just this morning that it has self-initiated the first rapid response action to protect workers' rights to organize and collectively bargain. Senator Brown and I proposed this new system because the Trump administration's new NAFTA deal wasn't strong enough on enforcement to protect American jobs.

The new petition and action announced this week are taking on classic labor violations in Mexico, such as firing or harassing workers who try to organize, and failing to ensure a legitimate vote on bargaining agreements. That sort of abuse becomes a threat to workers everywhere, including in Oregon and across the country, because it perpetuates the race to the bottom on worker rights. This is a new approach and a new day for labor rights enforcement. The committee will have questions on this issue today, as well as other areas of USMCA implementation.

USTR is also going to be leading negotiations dealing with intellectual property and the COVID-19 vaccines. Entering negotiations on an IP waiver was the right decision. The Biden administration is working hard to get shots into arms across America, and COVID-19 cases are dropping. However, new coronavirus variants will still pose a danger to Americans as long as there are terrible outbreaks around the world.

My view is, our system ought to include IP protections and exceptions that promote the common good, and it's unquestionably in the common good to squash this virus as quickly as possible all around the world.

The waiver negotiations are one important step, but the waiver alone will not unlock a vaccination miracle. There's a lot more to this challenge. That includes manufacturing capacity. It includes building out supply chains. It could also include helping make sure other countries can afford the vaccine.

So there's a lot for the committee and Ambassador Tai to discuss today on a wide range of topics. Again I'd like to welcome Ambassador Tai to the committee. I look forward to hearing her testimony and Q&A.

COMMUNICATIONS

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The American Chemistry Council (ACC) appreciates the opportunity to provide a statement for the record regarding the May 12–13 hearings on the 2021 U.S. Trade Policy Agenda at the Senate Finance and House Ways and Means Committees. These hearings were important opportunities for ACC to hear Ambassador Tai further define the Biden Administration’s vision for U.S. trade policy and learn how the business of chemistry can contribute to and benefit from that vision. They also shined a spotlight on the impact of past U.S. trade policy on the U.S. economy, U.S. manufacturing competitiveness, and the international trading system.

In our view, a smarter U.S. trade policy tied to competitiveness can better serve the U.S. economy, workers, businesses, families, consumers, and communities achieve a healthier, safer, more secure, and more just society. For our statement, ACC would like to provide our 2021 Trade Policy Priorities, which are outlined below. These priorities contain five imperatives for immediate action:

1. Open **new markets** for U.S. exports of innovative chemicals and plastics;
2. Deliver much-needed **tariff relief** to American businesses and consumers;
3. Reduce and prevent **non-tariff barriers** to trade through greater regulatory cooperation in key regions and markets;
4. Cultivate resilient and strategically integrated **global supply chains**, particularly with key trading partners; and
5. Modernize the **World Trade Organization (WTO)** and the rules-based international trading system.

Within imperative 2 on tariff relief, ACC urges the Congress to pass the Miscellaneous Tariff Bill (MTB) as soon as possible with meaningful retroactivity and renew the Generalized System of Preferences (GSP) program. In that regard, we are encouraged by Senate Finance Chairman Wyden’s release of the “Trade Preferences and American Manufacturing Competitiveness Act” on May 18th and will work closely with the Congress to secure its passage and enactment.

We also urge the Congress to request that Ambassador Tai launch a new product exclusion process for the Section 301 additional tariffs on imports from China BEFORE the conclusion of the top-to-bottom review of U.S. trade policy concerning China. U.S. chemical manufacturers would appreciate the opportunity to seek exclusions from these tariffs. With this tariff relief, they will be able to create high-paying and high-skilled jobs, expand production, make supply chains more resilient, and contribute to the broad and sustainable revival of the U.S. economy.

ACC TRADE POLICY PRIORITIES

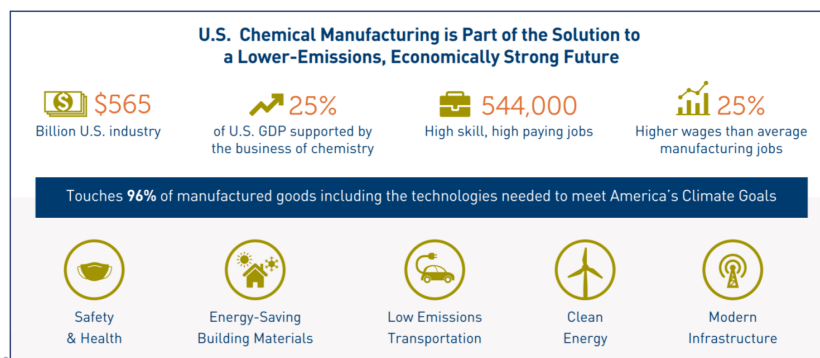
2021

Smart Trade Policy to Enhance U.S. Chemical Industry Competitiveness, and Achieve a Healthier, Safer, More Secure, and More Just Society.

Industry Profile

The business of chemistry is a \$565 billion enterprise in the United States, directly employing over a half a million workers and indirectly supporting over 4 million jobs in other industries. Our industry plays an important role in many elements of the Biden Administration agenda. For example, we are:

- Developing innovations and technologies critical to combating climate change and making our world more sustainable;
- Manufacturing goods and inputs necessary for combatting the COVID-19 pandemic and a range of United Nations Sustainable Development Goals (SDGs);
- Increasing investments in manufacturing in the United States and growing jobs;
- Fostering inclusiveness and diversity in our industry, which relies on a highly skilled, educated, and well-paid workforce; and
- Scaling up advanced recycling technologies to convert hard-to-recycle plastics into feedstocks for manufacturing, which increases circularity by putting used plastics back to work and keeping them out of the environment.



ACC Trade Policy Vision

U.S. chemical manufacturers share the U.S. Administration's vision for a trade policy that benefits all Americans by:

- Accelerating a wide-scale, equitable recovery from the devastation of the COVID-19 pandemic, and supporting American workers and businesses that may experience supply chain shocks caused by future public health crises;
- Fostering innovation in sustainable materials, products, and technologies to reduce emissions and increase energy efficiency;
- Mobilizing every segment of society to fight climate change; and
- Achieving tangible progress in improving the social, environmental, and economic health of underserved communities around the globe.

Our industry's ability to contribute to this vision depends on a robust partnership with the U.S. Administration on:

- Incentivizing investment in U.S. chemicals production capacity to enhance competitiveness and spur new jobs, economic growth, and innovation;
- Cultivating resilient and strategically integrated global supply chains that help keep business costs low, workers' wages high, and essential products readily available;
- Facilitating imports of intermediate inputs that enhance U.S. manufacturing processes and strengthen our industry's competitive advantage; and
- Boosting exports of innovative chemicals and plastics products that are the foundation of sustainable materials, products, and technologies.

5 Imperatives for Immediate Action

To maximize the U.S. chemical industry's ability to support the Biden Trade Policy Agenda, ACC and our coalition partners throughout the value chain are advocating for the U.S. Administration to:

1. Open **new markets** for U.S. exports of innovative chemicals and plastics;
2. Deliver much-needed **tariff relief** to U.S. businesses and consumers;
3. Reduce and prevent **non-tariff barriers to trade** through greater regulatory cooperation in key regions and markets;
4. Cultivate resilient and strategically integrated **global supply chains**, particularly with key trading partners; and

5. Modernize the **World Trade Organization (WTO)** and the rules-based international trading system.

(1) Creating New Market Access

Identify and open new growth markets for exports of innovative U.S. chemicals and plastics, and negotiate to reduce or eliminate tariffs.

- Open new export destinations for U.S.-made chemicals and plastics through bilateral, regional, plurilateral, and multilateral agreements and negotiations, including by:
 - Continuing and concluding ongoing free trade agreement negotiations;
 - Reaching a China Phase 2 trade deal that repeals additional U.S. tariffs and China's retaliatory tariffs, and lowers China's most-favored-nation (MFN) tariffs;
 - Entering into new free trade agreement negotiations with key trading partners and emerging markets;
 - Exploring entry into existing regional agreements such as the Comprehensive and Progressive Trans-Pacific Partnership;
 - Pursuing accessions to the World Trade Organization (WTO) Chemical Tariff Harmonization Agreement (CTHA); and
 - Pursuing focused tariff elimination with key trading partners and emerging markets wherever possible.

(2) Tariff Review, Reform, Relief, and Avoidance

Fully and transparently assess economic and social impact of U.S. additional tariffs to facilitate their repeal; lift retaliatory tariffs; and achieve a collective de-escalation of tariff wars.

- Launch a U.S. International Trade Commission (USITC) or Government Accountability Office (GAO) study on the impact of additional tariffs—under Section 301, Section 232, and Section 201—on the U.S. economy;
- Pursue common-sense reform of Section 301 and Section 232 to make their use more transparent, more strategic, and less burdensome on critical industries that use imports to enhance their competitiveness;
- Seek concessions from trading partners or alternative approaches to addressing problems that would enable full repeal of Section 301 and Section 232 tariffs;
- Exclude products from the Section 301 tariffs if those products also receive MFN duty suspensions or reductions under the Miscellaneous Tariff Bill (MTB);
- Suspend MFN and Section 301 tariffs on COVID-19 essential goods and input as identified by the USITC;
- Pursue full reauthorization of MTB with retroactivity as well as renewal of the Generalized System of Preferences (GSP);
- Eliminate tariffs on chemicals that support the manufacturing of goods essential to combating climate change and addressing other sustainable development goals (*e.g.*, clean water, energy efficiency, food safety, and food security); and
- Avoid imposing further additional tariffs on imports of chemicals, and avoid inviting retaliation by U.S. trading partners on U.S. exports of chemicals.

(3) Addressing Non-Tariff Barriers

Resolve existing trade barriers, and prevent future ones, by incorporating and enforcing regulatory cooperation provisions in both current and future trade agreements.

- Fully implement all provisions of the United-States-Mexico-Canada Agreement (USMCA), paying particular attention to the provisions on regulatory cooperation for chemical substances, technical barriers to trade, good regulatory practices, the Rules of Origin (ROO) for chemical substances, trade facilitation, digital trade, and marine litter provisions;
 - Continuously identify improvements to USMCA in advance of its six-year review in 2026;
- Ensure trade negotiations achieve greater regulatory cooperation between the United States and priority trading partners (*e.g.*, United Kingdom, European Union, Brazil, India, China, and Republic of Korea) and emerging markets (*e.g.*, Argentina, Colombia, Philippines, Thailand, and Vietnam);
- Ensure U.S. trading partners abide by their transparency commitments in FTAs and at the WTO;
- Reinforce Asia-Pacific Economic Cooperation (APEC) work on regulatory cooperation and good regulatory practices (within the Chemical Dialogue and across APEC fora); and

- Support effective dispute settlement in trade agreements, including through investor-state dispute settlement provisions.

(4) Building Resilient Supply Chains

Cultivate resilient and strategically integrated global supply chains that help keep business costs low, workers' wages high, and essential products readily available.

- Refocus U.S. efforts toward making supply chains more resilient, including through greater cooperation with allies;
- Prioritize intermediate inputs neither made in the United States nor made in sufficient quantity/quality, and with necessary access to customer markets;
- Collaboratively identify and assess exogenous shocks to supply chains of concern to the chemical industry and potential impacts on downstream industries;
- Identify opportunities in key customer industries that support increased market base for U.S. producers;
- Identify and establish appropriate incentives for U.S. chemical manufacturers to continue to invest in manufacturing in the United States. Incentives could include:
 - Tax credits and abatements;
 - Expedited permitting for plant construction or upgrading;
 - Timely review and approval of new chemistries under the U.S. Toxic Substances Control Act (TSCA);
 - Programs to educate the workforce in response to industry needs;
 - Facilitation of high skilled immigration;
 - Access to worker training/retraining programs;
 - Public-private partnerships for research and development of new materials and technologies;
 - Potential cost-shared grants to support domestic capital investments for key upstream materials, including chemical inputs, as well as infrastructure;
 - Low-interest loans that support critical mineral mine development;
 - Funding to support new downstream industry development if new on-shore supply of critical minerals comes online; and
 - Relief/insurance for domestic supply chain disruptions, *e.g.*, hurricanes, wildfires, and winter storms.

(5) WTO Modernization

Modernize the World Trade Organization and the rules-based international trading system to protect, promote, and enforce free and fair trade around the globe.

- Facilitate update of WTO dispute settlement process by identifying and promoting a package of reforms that can generate consensus within WTO membership on restoring Appellate Body;
- Advance negotiations on digital trade and investment facilitation;
- Enhance WTO operational/procedural transparency and stakeholder engagement, with:
 - Full notification of proposed and final measures; and
 - Greater opportunities for chemical industry stakeholder input and participation in WTO meetings and events.
- Explore how trade relates to climate change, circular economy, plastic pollution, biodiversity, fossil fuel subsidies, decarbonizing supply chains, and carbon border adjustment;
- Ensure regulatory cooperation is an integral part of WTO modernization;
- Seek tariff elimination/reduction for chemicals via appropriate mechanisms, such as:
 - Accessions to Chemical Tariff Harmonization Agreement (*e.g.*, Argentina, Brazil, Chile, Colombia, select ASEANs); and
 - Plurilateral initiatives on sustainable materials and environmental goods.

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The American Farm Bureau Federation, the nation's largest general farm organization, submits this statement for the Senate Committee hearing on the President's 2021 trade policy agenda. Trade is critically important to the current welfare and future prosperity of U.S. farmers and ranchers. America's farmers and ranchers depend on growing and stable export markets for the success of their businesses.

U.S.-China Phase 1 Agreement

The U.S.-China Phase 1 Agreement has and will continue to result in real progress toward a mutually beneficial trade relationship. We are already seeing positive results for agricultural trade and substantial progress in the removal of barriers that impact the competitiveness of U.S. products in this important market. In the Phase 1 Agreement, China committed to increase purchases of U.S. agricultural products by \$32 billion over two years. Working from the 2017 baseline of \$24 billion, China has agreed to purchase no less than an additional \$12.5 billion of U.S. farm and ranch goods in calendar year 2020 and no less than \$19.5 billion in calendar year 2021. Over the first two years of the Agreement, China is expected to purchase a total of \$80 billion of U.S. agricultural products. For 2020, China purchased over \$27 billion of U.S. agricultural products.

Chinese purchases of soybeans, corn, wheat, sorghum, beef, pork and other products are strongly improving, driving up demand—and prices—for these goods.

China has also been meeting the commitments they made to improve and reform many standards in the Agreement. Longstanding barriers to the export of U.S. beef, pork, poultry and other products have been or are being resolved, pursuant to the Agreement. An improved process for biotechnology product approvals by China is also being addressed. As these barriers go down, the opportunity for increased U.S. commodity sales goes up.

Also helping our sales growth is China's granting, upon application by importers, waivers of their retaliatory tariffs on U.S. agricultural products, which were put in place in 2018 and 2019, with direct, substantial impacts on agricultural sales.

The Biden Administration is conducting an overall review of relations with China, U.S. agriculture's number one export destination. As such, an ongoing trade relationship with China is critical for U.S. farmers and ranchers.

U.S.-Mexico-Canada Agreement

The USMCA went into force on July 1, 2020. The implementation of expanded access for U.S. dairy products by Canada through the new tariff-rate quotas is of importance and concern to our dairy producers and needs to be resolved. Concerns about agricultural trade with Mexico include the approval process for biotech products, dairy product labeling and the country's ban on glyphosate beginning in 2024.

U.S.-U.K. Negotiations

Five rounds of comprehensive negotiations have been completed. With the negotiations on food safety focused on U.S. standards for chicken, beef and pork, the U.K. needs to recognize the science-based approach of the U.S. We support continuing the negotiations toward a trade agreement with the United Kingdom.

U.S.-European Union

The U.S. has imposed \$7.5 billion in WTO-authorized tariffs from the Boeing-Airbus dispute on various EU products. The EU recently added \$4 billion in authorized tariffs on U.S. imports, including agricultural products such as cheeses, wine, tobacco, spirits, wheat and other goods. We are encouraged by the four-month tariff suspension and support a resolution of the underlying dispute and an end to the retaliatory tariffs.

Retaliatory tariffs imposed on U.S. agricultural products by the EU due to steel and aluminum tariffs are a continuing issue that needs to be resolved.

U.S.-Japan Agreement

The U.S.-Japan Trade Agreement went into effect on January 1, 2020. The tariffs applied to U.S. products are now the same as those applied to the products of the other countries with a trade agreement with Japan. Tariffs are being reduced or eliminated on a variety of U.S. agricultural exports to Japan. The U.S. and Japan

should continue talks on the remaining issues, such as SPS rules, that would lead to a comprehensive FTA between the U.S. and Japan. Also, rice and some dairy products were not covered in the agreement.

U.S.-Kenya

The trade negotiations with the Republic of Kenya offer the opportunity for a trade relationship with a nation that has growth potential for U.S. agricultural exports. The ambitious effort also sets the precedent for future discussions with other nations in the region. Eliminating and lowering tariffs, improving science-based sanitary standards, addressing the products of biotechnology and recognizing the common names for food products, not restrictive EU-style geographic indications, will allow for continued growth of agricultural trade in Kenya. The U.S. exported \$53 million in agricultural products to Kenya in calendar year 2020.

Trade Promotion Authority

The current Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Trade Promotion Authority) ends on July 1, 2021. Farm Bureau recognizes the crucial importance of Trade Promotion Authority and supports its extension or reauthorization. The negotiating objectives set by Congress, the consultation requirements of the Administration with Congress and the voting procedures established under TPA are important to the successful negotiation and conclusion of trade discussions.

Seasonal Produce Investigations

On September 1, 2020, USTR, USDA and Commerce released a plan of future actions that includes investigations and assistance for the seasonal produce industry related to the impacts of increased seasonal imports.

The U.S. International Trade Commission (USITC) has begun a Section 332 investigation into imports of strawberries and bell peppers. Investigations under this section are fact-finding only. Investigations have also begun for squash and cucumber imports. A recently concluded investigation into blueberry imports resulted in no action by the ITC.

Farm Bureau submitted comments to the USITC on the blueberry and strawberry investigations and on the cucumber and squash investigation. We encourage USTR to continue to engage on U.S. produce growers' concerns about imports of seasonal produce.

World Trade Organization

The Biden Administration will need to deal with various WTO reform issues such as the operation of the Appellate Body. The discussions on agriculture before the next Ministerial meeting require the engagement of USTR. We support working toward increased transparency through an improved notifications process. We do not support discussion of subsidy levels without a full discussion of market access initiatives.

As Congress considers future discussions with the nations that are our most important export destinations, and those that have the potential to grow in importance, we ask you to consider the opportunities to expand agricultural exports to the benefit of U.S. farmers and ranchers.

AMERICANS FOR FREE TRADE

May 26, 2021

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Richard Neal
Chairman
House Ways and Means Committee
Washington, DC 20515

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Kevin Brady
Ranking Member
House Ways and Means Committee
Washington, DC 20515

Dear Chairman Wyden, Ranking Member Crapo, Chairman Neal, and Ranking Member Brady,

The Americans for Free Trade coalition, a broad alliance of American businesses, trade organizations, and workers united against tariffs, respectfully submits this written statement to include in the public record of the Senate Finance Committee and House Ways and Means Committee's 2021 Trade Policy Agenda hearings, which took place on May 12 and 13, respectfully. We appreciate the Committees holding hearings on this important matter.

By way of background, Americans for Free Trade represents every part of the U.S. economy including manufacturers, farmers and agribusinesses, retailers, technology companies, service suppliers, natural gas and oil companies, importers, exporters, and other supply chain stakeholders. Collectively, we employ tens of millions of Americans through our vast supply chains.

As the Administration and Congress continue focusing on the U.S. economic recovery from the pandemic, a strategic trade agenda is a key element in ensuring this recovery succeeds. A robust economic recovery requires the U.S. to create and expand import and export opportunities for American businesses to reach new markets, create jobs here at home, and compete globally. It also requires the U.S. to craft a defined China policy that addresses unfair trading practices but removes ill-conceived tariffs that continue to harm all American businesses whether they are importing inputs to manufacture products domestically or finished goods. To date the U.S. has collected over \$87 billion in tariffs, which are taxes paid by U.S. importers. In other words, these tariffs are paid by Americans, not China. They have caused significant financial hardship for U.S. businesses, the millions of workers they employ, and the millions of American consumers they serve. At the same time, they have failed to effectively address China's unfair trading practices.

We appreciate that several members of the Committees inquired about the status of USTR's China review during the hearings. The China review is of critical importance and must be a top priority for the Administration. The tariffs continue to cause economic harm to businesses both small and large across the country, as well as to American consumers and workers who bear the downstream impacts of these tariffs. In fact, Moody's Investor Services just released a new report **finding that the tariffs "hit American businesses and consumers hardest," with China absorbing only 7.6 percent of the tariffs "while the rest of the tab was picked up by Americans."** Any delay in reviewing the China trade policy means delaying relief to these Americans—the same Americans whom Congress worked so hard to support in multiple major pieces of pandemic legislation.

We also appreciate that the Administration plans to review the section 301 tariffs on products from China as part of its "top-to-bottom" review and applaud it for wanting to take a thoughtful and deliberate approach. It is critical that this review begin immediately and identify a clear timeline for the review's completion. This review must also include a determination as to whether the tariffs are achieving the stated objective of changing China's policies and behavior and whether they provide any actual leverage in negotiations.

Unfortunately, the tariffs continue to cause economic harm to businesses both small and large across the country, as well as to American consumers and workers who bear the downstream impacts of these tariffs. Any delay in reviewing the China trade policy means delaying relief to these Americans—the same Americans whom Congress worked so hard to support in multiple major pieces of pandemic legislation. Time is of the essence.

This is why we support the Administration launching a new product exclusion process sooner rather than later. We are therefore deeply concerned that the Administration will not decide on whether to resume the exclusions process until it completes its overall China review. Reinstatement of a product exclusion process to provide targeted relief to Americans can happen while this review is ongoing. **We strongly encourage the Committees to urge the Administration to immediately reinstate a product exclusion process and to reinstate all product exclusions that expired in 2020.**

Furthermore, the previous section 301 product exclusion process had significant flaws, and we agree it needs improvement. We also appreciate that the Administration is interested in stakeholder feedback to better understand the shortcomings of the previous process. However, we are concerned that during the hearing, the Administration offered no timeline regarding when this stakeholder engagement might take place or when the broader review might be concluded. We support the Administration reaching out to stakeholders to solicit feedback on the exclusions process, and such stakeholder engagement should include American companies impacted by

the tariffs. However, ample feedback has been provided to the Administration over the last several years identifying transparency, consistency, and fairness issues with the previous process, and we believe this outreach should not delay instituting a targeted process for providing relief to American businesses.

As the Administration and Congress continue to focus on the economic recovery from the COVID-19 pandemic, lifting the section 301 tariffs on products from China is a simple, straightforward way to provide an economic boost to American families, American workers, and American businesses and to help ensure a successful economic recovery. It is also an important step to repairing relationships with U.S. trading partners and allies and restoring our standing on the world stage.

We appreciate the Committees' continued engagement on these important issues and urge it to continue weighing in with the Administration to ensure that destructive tariffs are lifted, and that a new and more effective approach to addressing China's unfair trading practices is adopted. We thank the Committees for holding these hearings and look forward to working with you on these important issues.

Sincerely,

Accessories Council	California Retailers Association
ACT The App Association	Can Manufacturers Institute
Agriculture Transportation Coalition (AgTC)	Carolina Loggers Association
ALMA, International (Association of Loudspeaker Manufacturing and Acoustics)	Chemical Industry Council of Delaware (CICD)
American Apparel and Footwear Association (AAFA)	Coalition of New England Companies for Trade (CONNECT)
American Association of Exporters and Importers (AAEI)	Coalition of Services Industries (CSI)
American Association of Port Authorities	Colorado Retail Council
American Bakers Association	Columbia River Customs Brokers and Forwarders Assn.
American Bridal and Prom Industry Association (ABPIA)	Computer and Communications Industry Association (CCIA)
American Chemistry Council	Computing Technology Industry Association (CompTIA)
American Down and Feather Council	Consumer Brands Association
American Fly Fishing Trade Association	Consumer Technology Association
American Home Furnishings Alliance	Council of Fashion Designers of America (CFDA)
American Lighting Association	CropLife America
American Petroleum Institute	Customs Brokers and Freight Forwarders Assn. of Washington State
American Pyrotechnics Association	Customs Brokers and Freight Forwarders of Northern California
American Rental Association	Distilled Spirits Council of the United States
American Specialty Toy Retailing Association	Electronic Transactions Association
American Wind Energy Association	Experiential Designers and Producers Association
Arizona Technology Council	Fashion Accessories Shippers Association (FASA)
Arkansas Grocers and Retail Merchants Association	Fashion Jewelry and Accessories Trade Association
Association For Creative Industries	Flexible Packaging Association
Association for PRINT Technologies	Florida Ports Council
Association of American Publishers	Florida Retail Federation
Association of Equipment Manufacturers (AEM)	Footwear Distributors and Retailers of America (FDRA)
Association of Home Appliance Manufacturers	Fragrance Creators Association
Auto Care Association	Game Manufacturers Association
Beer Institute	Gemini Shippers Association
BSA The Software Alliance	Georgia Retailers
Global Business Alliance	NAPIM (National Association of Printing Ink Manufacturers)

Global Chamber®	National Association of Chain Drug Stores (NACDS)
Global Cold Chain Alliance	National Association of Chemical Distributors (NACD)
Greeting Card Association	National Association of Foreign-Trade Zones (NAFTZ)
Halloween Industry Association	National Association of Home Builders
Home Fashion Products Association	National Association of Music Merchants
Home Furnishings Association	National Association of Printing Ink Manufacturers
Household and Commercial Products Association	National Association of Trailer Manufacturers (NATM)
Idaho Retailers Association	National Confectioners Association
Illinois Retail Merchants Association	National Council of Chain Restaurants
Independent Office Products and Furniture Dealers Association (IOPFDA)	National Customs Brokers and Freight Forwarders Association of America
Indiana Retail Council	National Electrical Manufacturers Association (NEMA)
Information Technology Industry Council (ITI)	National Fisheries Institute
International Association of Amusement Parks and Attractions (IAAPA)	National Foreign Trade Council National Grocers Association
International Bottled Water Association (IBWA)	National Lumber and Building Material Dealers Association
International Foodservice Distributors Association	National Marine Manufacturers Association
International Housewares Association	National Restaurant Association
International Warehouse and Logistics Association	National Retail Federation
International Wood Products Association	National Ski and Snowboard Retailers Association
Internet Association	National Sporting Goods Association
ISSA—The Worldwide Cleaning Industry Association	Natural Products Association
Jeweler's Vigilance Committee	New Jersey Retail Merchants Association
Juice Products Association (JPA)	North American Association of Uniform Manufacturers and Distributors (NAUMD)
Juvenile Products Manufacturers Association	North Carolina Retail Merchants Association
Leather and Hide Council of America	Ohio Council of Retail Merchants
Licensing Industry Merchandisers' Association	Outdoor Industry Association
Los Angeles Customs Brokers and Freight Forwarders Assn.	Pacific Coast Council of Customs Brokers and Freight Forwarders Assns. Inc.
Louisiana Retailers Association	Pennsylvania Retailers' Association
Maine Grocers and Food Producers Association	PeopleforBikes
Maine Lobster Dealers' Association	Personal Care Products Council
Maritime Exchange for the Delaware River and Bay	Pet Industry Joint Advisory Council
Maryland Retailers Association	Petroleum Equipment and Services Association
Methanol Institute	Plumbing Manufacturers International
Michigan Chemistry Council	Power Tool Institute (PTI)
Michigan Retailers Association	Promotional Products Association International
Minnesota Retailers Association	Recreational Off-Highway Vehicle Association
Missouri Retailers Association	Retail Association of Maine
Motor and Equipment Manufacturers Association	Retail Council of New York State
Motorcycle Industry Council	Retail Industry Leaders Association
RISE (Responsible Industry for a Sound Environment)	Retailers Association of Massachusetts

San Diego Customs Brokers and Forwarders Assn.	Texas Water Infrastructure Network
SEMI	The Airforwarders Association
Semiconductor Industry Association (SIA)	The Fertilizer Institute
Snowsports Industries America	The Hardwood Federation
Society of Chemical Manufacturers and Affiliates	The Toy Association
Software and Information Industry Association (SIIA)	The Vinyl Institute
South Dakota Retailers Association	Travel Goods Association
Specialty Equipment Market Association	Truck and Engine Manufacturers Association (EMA)
Specialty Vehicle Institute of America	United States Council for International Business
Sports and Fitness Industry Association	United States Fashion Industry Association
TechNet	U.S. Global Value Chain Coalition
Telecommunications Industry Association (TIA)	U.S.-China Business Council
Texas Retailers Association	Washington Retail Association
Virginia Retail Merchants Association	Window and Door Manufacturers Association
Virginia-DC District Export Council (VA-DC DEC)	World Pet Association, Inc. (WPA)

ASSOCIATION OF EQUIPMENT MANUFACTURERS

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Thank you, Chairman Wyden, Ranking Member Crapo, and members of the Committee, for the opportunity to offer the views of the U.S. equipment manufacturing industry on the important topics you are examining today.

The Association of Equipment Manufacturers represents more than 1,000-member companies manufacturing equipment and providing services for the agriculture, construction, utility, mining and forestry sectors worldwide. Our industry supports 2.8 million jobs across all 50 states, representing 12 percent of all manufacturing jobs in America, and contributes \$288 billion a year to the U.S. economy.

With nearly 30% of equipment manufactured in the United States destined for export, our industry depends on policies that reduce global trade and investment barriers and promote an open, transparent, and nondiscriminatory rules-based trading system.

In today's global economy, U.S. equipment manufacturers rely on international supply chains to source critical components not manufactured in sufficient quantity or quality domestically. Starting in 2018, many critical manufacturing inputs have been subject to Section 232 steel and aluminum tariffs and Section 301 tariffs on goods imported from China. *These tariffs and the retaliatory countermeasures by many of our trading partners have significantly driven up costs for U.S. equipment manufacturers, particularly as it relates to the costs of steel.*

Domestic steel prices have risen more than 160% since August of last year, while delivery times have increased to a point where manufacturing operations are facing mounting delays. Throughout the industry, manufacturers are halting production as they wait for additional components and steel to arrive. *Lead times have gone from 3 months to 8 months and surcharges ranging from 2%-5% for end-delivery of equipment are now commonplace.* These stoppages and surcharges hurt U.S. employment as shifts and work hours are reduced, and U.S. agricultural producers and end-users of construction equipment are now forced to pay additional costs for domestically produced equipment.

Domestic steel mills are purposefully not increasing capacity to meet customer demand to keep prices artificially high. This has resulted in a huge price difference between U.S. steel and steel available on the global market, undermining our national manufacturing base and jeopardizing family-sustaining jobs in the steel industry.

The Biden-Harris administration must address this de facto competitive advantage enjoyed by our foreign competitors by *reducing or removing the Section 232 tariffs on steel*, particularly from our close trading partners and allies. As long as these tariffs remain in place, they will continue to undermine American workers and significantly undermine U.S. equipment manufacturers' competitiveness in the global economy. The Biden-Harris administration should instead bolster American manufacturing strength, strengthen our nation's global competitiveness, and increase exports of U.S. goods and services.

The Biden-Harris administration must request—and Congress must grant—Trade Promotion Authority and should work closely with Congress on new high-standard free-trade agreements that provide increased market access for U.S. goods and services, confer originating status on remanufactured products, ensure customs procedures are transparent, predictable, and consistent, and guarantee intellectual property protections.

As the U.S. economy begins to recover from the COVID-19 pandemic and the economic crisis, the United States must rebuild our manufacturing base. *Opening up new markets for American made products must be a priority*. Failing to renew Trade Promotion Authority sends a clear signal to our global competitors that America is not open for business, and only incentivizes customers in other markets to buy their goods and services from outside the U.S.

The Biden-Harris administration should move to rapidly complete ongoing negotiations for high-standard free-trade agreements with Kenya and the United Kingdom. In Kenya, consumers are demanding upgraded infrastructure systems and producers want to invest in modern agricultural production. American made equipment should help them achieve these goals, and not our Chinese competitors. Concluding a high-standard free-trade will not only boost exports of U.S. equipment but will also incentivize additional foreign direct investment, helping improve the Kenyan economy and lifting additional people out of poverty.

A high-standard free-trade agreement with the United Kingdom will strengthen transatlantic trade and investment with one of our nation's largest trading partners, and will also create a regulatory regime favorable to the adoption of U.S. technology and manufactured products. Brexit has put the United Kingdom on a new economic path, and the United States must seize this opportunity to formalize a high-standard free-trade agreement that reflects the importance of the "special relationship" and the substantial commercial ties that uphold it.

Thank you again for the opportunity to express the views of the U.S. equipment manufacturing industry on the President's 2021 trade policy agenda. We look forward to working with all members of the Committee as well as the Biden-Harris administration to advance free and fair trade policies and agreements that will strengthen American manufacturing and secure our nation's long-term prosperity.

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Statement of Michael G. Bindner

Chairman Wyden and the Ranking Member Crapo, thank you for the opportunity to submit these comments for the record to the Committee on Finance.

The last 4 years have shown us an extreme example of how not to use tariffs. The prior administration used economic policy as gunboat diplomacy, but without having a navy. We trust that from now on, trade policy will be handled by professionals, leading to a return to normalcy.

This is not to say that change is not needed. Donald Trump was originally elected by voters who saw the impact that bipartisan trade policy on their lives. Trump did not help, but for them, he at least tried something. In the long run, employee ownership is the solution for worker well-being on both sides of the border or ocean. Tax reform, including a border adjustable credit invoice VAT, a subtraction VAT to distribute benefits to workers and their families and an Asset VAT to close the tax gap, channel more ownership shares to employees and a negotiated rate to establish better international cooperation on business taxation. The United States leaves millions of dollars on the table because we do not have a value added tax that is zero rated at the border, while applying to all goods and services imported. Please see the at-

tachment, distilled from prior year comments, which explains how we propose to do this. Note that adding border-adjustable goods and services taxes allows the removal of other trade barriers with no loss of jobs.

We do not agree with the Administration's resolve to not raise taxes on anyone making under \$400,000 per year. This proposal led to constant attempts to repeal the Affordable Care Act, not because of any flaw in the Act, but because of how it was funded with surtaxes on unearned income over \$200,000. It is almost as if the Majority was setting a future Republican Majority up (which happened rather quickly) to make itself look bad by having these votes. The constant repeal votes, however, provided no electoral advantage.

Still, we agree that initially, VAT should not make some people poorer. When subtraction and a credit invoice VAT is first implemented, we propose doubling the child tax credit again so that families with children are not affected. A higher minimum wage (\$10 now, \$12 soon—or \$11 with a 32 work week—and eventually \$15) will indemnify the rest.

During the transition, income tax withholding will be adjusted to increase net income by 13%. The additional 6.5% invoice VAT rate comes from eliminating employer payments for FICA (which has the effect of eliminating the cap) and crediting each worker with the same amount.

All in all, our proposals are better for most of the working class than the status quo, although not everyone. Some people deserve to pay more. Please see our attachment on Tax Reform for more information.

We also propose a Carbon VAT, which is necessary for people to make spending decisions on the health of the planet (which is why carbon levies will be receipt visible rather than simply changing the price).

We propose an asset value tax with a compromise 26% rate (halfway between the current 24% and the Biden 28%). The asset VAT would mark option exercise and the first sale after inheritance, gift or donation, with zero rating for sales to Employee Stock Ownership Plans.

The first attachment on trade policy and the VAT includes how expanding employee ownership is the best trade policy for workers. Briefly, employee owners in the United States have an incentive to give foreign subsidiary and supply chain workers the same ownership rights and standard of living they receive. In order to do this, however, amendments to ERISA are necessary, as on paper owners will be paying more for the same products than they are paying now.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

Attachment—Trade Policy and Value-Added Taxes

Consumption taxes could have a big impact on workers, industry and consumers. Enacting an I-VAT is far superior to a tariff. The more government costs are loaded onto an I-VAT the better.

If the employer portion of Old-Age and Survivors Insurance, as well as all of disability and hospital insurance are decoupled from income and credited equally and personal retirement accounts are not used, there is no reason not to load them onto an I-VAT. This tax is zero rated at export and fully burdens imports.

Seen another way, to not put as much taxation into VAT as possible is to enact an unconstitutional export tax. Adopting an I-VAT is superior to its weak sister, the Destination Based Cash Flow Tax that was contemplated for inclusion in the TCJA. It would have run afoul of WTO rules on taxing corporate income. I-VAT, which taxes both labor and profit, does not.

The second tax applicable to trade is a Subtraction VAT or S-VAT. This tax is designed to benefit the families of workers through direct subsidies, such as an enlarged child tax credit, or indirect subsidies used by employers to provide health insurance or tuition reimbursement, even including direct medical care and elementary school tuition. As such, S-VAT cannot be border adjustable. Doing so would take away needed family benefits. As such, it is really part of compensation. While we could run all compensation through the public sector.

The S-VAT could have a huge impact on long-term trade policy, probably much more than trade treaties, if one of the deductions from the tax is purchase of employer voting stock (in equal dollar amounts for each worker). Over a fairly short period of time, much of American industry, if not employee-owned outright (and

there are other policies to accelerate this, like ESOP conversion) will give workers enough of a share to greatly impact wages, management hiring and compensation and dealing with overseas subsidiaries and the supply chain—as well as impacting certain legal provisions that limit the fiduciary impact of management decision to improving short-term profitability (at least that is the excuse managers give for not privileging job retention).

Employee owners will find it in their own interest to give their overseas subsidiaries and their supply chain's employees the same deal that they get as far as employee ownership plus an equivalent standard of living. The same pay is not necessary, currency markets will adjust once worker standards of living rise.

Over time, ownership will change the economies of the nations we trade with, as working in employee-owned companies will become the market preference and force other firms to adopt similar policies (in much the same way that, even without a tax benefit for purchasing stock, employee-owned companies that become more democratic or even more socialistic, will force all other employers to adopt similar measures to compete for the best workers and professionals).

In the long run, trade will no longer be an issue. Internal company dynamics will replace the need for trade agreements as capitalists lose the ability to pit the interest of one nation's workers against the others. This approach is also the most effective way to deal with the advance of robotics. If the workers own the robots, wages are swapped for profits with the profits going where they will enhance consumption without such devices as a guaranteed income.

Attachment—Tax Reform, Center for Fiscal Equity, May 10, 2021

Individual payroll taxes. These are optional taxes for Old-Age and Survivors Insurance after age 60 for widows or 62 for retirees. We say optional because the collection of these taxes occurs if an income sensitive retirement income is deemed necessary for program acceptance. Higher incomes for most seniors would result if an employer contribution funded by the Subtraction VAT described below were credited on an equal dollar basis to all workers. If employee taxes are retained, the ceiling should be lowered to \$85,000 to reduce benefits paid to wealthier individuals and a \$16,000 floor should be established so that Earned Income Tax Credits are no longer needed. Subsidies for single workers should be abandoned in favor of radically higher minimum wages.

Wage Surtaxes. Individual income taxes on salaries, which exclude business taxes, above an individual standard deduction of \$85,000 per year, will range from 6.5% to 26%. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction. Transferring OASDI employer funding from existing payroll taxes would increase the rate but would allow it to decline over time. So would peace.

Asset Value-Added Tax (A-VAT). A replacement for capital gains taxes, dividend taxes, and the estate tax. It will apply to asset sales, dividend distributions, exercised options, rental income, inherited and gifted assets and the profits from short sales. Tax payments for option exercises and inherited assets will be reset, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed.

As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as income or S-VAT surtaxes. This tax will end Tax Gap issues owed by high income individuals. A 26% rate is between the GOP 24% rate (including ACA-SM and Pease surtaxes) and the Democratic 28% rate. It's time to quit playing football with tax rates to attract side bets.

Lower rates are not as regressive as they seem. Only the wealthy have capital gains in any significant amount. The defacto rate for everyone else is zero.

The mutual fund exemption will be repealed. It is the biggest tax shelter is the use of money market funds to accumulate capital gains and income without taxation. This practice must end if salary surtaxes no longer include non-salaried income. 75% of such funds are held by the top 10% of households as measured by the 2019 Survey of Consumer Finance by the Federal Reserve. I suspect the other 20% are held by high income retirees. The working class will not be harmed. Applying the Pareto Rule to higher income households leaves the top 1450 households with 30% of wealth. The proof of the proposition is the holders of Berkshire Hathaway.

Subtraction Value-Added Tax (S-VAT). These are employer paid Net Business Receipts Taxes. S-VAT is a vehicle for tax benefits, including:

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long-term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence-level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S-VAT will not be border adjustable.

The S-VAT is also used for personal accounts in Social Security, provided that these accounts are insured through an insurance fund for all such accounts, that accounts go toward employee ownership rather than for a subsidy for the investment industry. Both employers and employees must consent to a shift to these accounts, which will occur if corporate democracy in existing ESOPs is given a thorough test. So far it has not. S-VAT funded retirement accounts will be equal-dollar credited for every worker. They also have the advantage of drawing on both payroll and profit, making it less regressive.

A multi-tier S-VAT could replace income surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Invoice Value-Added Tax (I-VAT). Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S-VAT, then they would be funded by the I-VAT to take advantage of border adjustability. I-VAT also forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. Enactment of both the A-VAT and I-VAT ends the need for capital gains and inheritance taxes (apart from any initial payout). This tax would take care of the low-income Tax Gap.

I-VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I-VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.5% to 13%).

As part of enactment, gross wages will be reduced to take into account the shift to S-VAT and I-VAT, however net income will be increased by the same percentage as the I-VAT. Adoption of S-VAT and I-VAT will replace pass-through and proprietary business and corporate income taxes.

Carbon Value-Added Tax (C-VAT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C-VAT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels (including fusion). This tax would not be border adjustable.

Summary

This plan can be summarized as a list of specific actions:

1. Increase the standard deduction to workers making salaried income of \$425,001 and over, shifting business filing to a separate tax on employers and eliminating all credits and deductions—starting at 6.5%, going up to 26%, in \$85,000 brackets.
2. Shift special rate taxes on capital income and gains from the income tax to an asset VAT. Expand the exclusion for sales to an ESOP to cooperatives and in-

- clude sales of common and preferred stock. Mark option exercise and the first sale after inheritance, gift or donation to market.
3. End personal filing for incomes under \$425,000.
 4. Employers distribute the child tax credit with wages as an offset to their quarterly tax filing (ending annual filings).
 5. Employers collect and pay lower tier income taxes, starting at \$85,000 at 6.5%, with an increase to 13% for all salary payments over \$170,000 going up 6.5% for every \$85,000—up to \$340,000.
 6. Shift payment of HI, DI, SM (ACA) payroll taxes employee taxes to employers, remove caps on employer payroll taxes and credit them to workers on an equal dollar basis.
 7. Employer paid taxes could as easily be called a subtraction VAT, abolishing corporate income taxes. These should not be zero rated at the border.
 8. Expand current state/federal intergovernmental subtraction VAT to a full GST with limited exclusions (food would be taxed) and add a federal portion, which would also be collected by the states. Make these taxes zero rated at the border. Rate should be 19.5% and replace employer OASI contributions. Credit workers on an equal dollar basis.
 9. Change employee OASI of 6.5% from \$18,000 to \$85,000 income.

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Dear Chairman Wyden, Ranking Member Crapo, Chairman Neal, and Ranking Member Brady:

Thank you for holding hearings on May 12th and 13th on the President's 2021 Trade Policy Agenda. Engine is a non-profit technology policy, research, and advocacy organization that works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Strong, forward thinking digital trade measures are critical to reduce and eliminate non-tariff barriers and enable U.S. startups to succeed and expand into new markets. To that end, we value your commitment to working with the Administration to promote sound trade policy and appreciate the opportunity to share trade-related priorities for startups.

Non-tariff barriers to trade hamper digital trade generally and uniquely hinder the ability of U.S. startups to compete abroad. U.S. trade policy must seek to reduce and eliminate these barriers. In future negotiations and updates to current trade agreements, strong digital trade provisions should be included. Such provisions would reject data localization requirements and ensure cross-border data flows, include balanced intermediary liability frameworks similar to 47 U.S.C. § 230, and implement certain, balanced, and consistent IP frameworks globally.

Many startups are unable to surmount the compliance burden that data localization measures impose, leaving them at a competitive disadvantage to larger companies. Similarly, large companies can afford the moderation tools and potential legal exposure occurring in a world without balanced intermediary liability frameworks,

but startups cannot.¹ And commonsense IP frameworks like 17 U.S.C. § 512 and U.S. Courts' use of actual harm and proportionate relief in patent litigation are needed in agreements to ensure startups can expand abroad.²

Digital Services Taxes are discriminatory, and, while targeting large, mostly American companies, they impact American startups through increases in the cost of services like advertising and cloud computing that startups rely on to launch and grow. In jurisdictions that have implemented DSTs, large companies have increased costs, something that is likely to continue as these onerous levies spread.³ As the pandemic continues and countries search for additional revenue sources, more countries are likely to adopt DSTs at lower and lower thresholds for companies subject to the tax. For example, the Indian equalization levy has a revenue threshold of roughly \$265,000.⁴ And the patchwork of varying taxes popping up stands to be impossible for startups to navigate given the compliance costs and difficulty of determining if they are subject to the tax jurisdiction-by-jurisdiction.

These taxes contravene international taxation norms by discriminating against U.S. companies, excluding domestic players, and taxing revenue, rather than profit—especially damaging for startups that might meet the threshold but not yet turn a profit. To combat these issues, the framework for digital taxation should receive new attention at the OECD.

Through the Digital Markets Act (DMA), Digital Services Act (DSA), and Artificial Intelligence Act (AIA), the European Union is leveraging the notion of digital sovereignty as they attempt to achieve a technology market comparable to that of the United States. But the imposition of these heavy-handed regulations is misguided, likely counterproductive to their goals, and harmful to U.S. startups. As Engine has long noted, enacting strict rules designed to regulate the practices of large companies without considering the impacts on the entire innovation ecosystem is likely to actually cement the standing of those large companies, while burdening their smaller rivals with elevated barriers to entry and proportionately higher compliance costs.⁵

The DMA's proposed rules on competition discourage growth by creating thresholds that impose different rules for companies that reach a certain size.⁶ Startups shouldn't be discouraged from attracting users, expanding into new markets, or boosting revenue, as these thresholds would. The rules would negatively impact mergers and acquisitions, an integral element of the innovation ecosystem related to investment in new startups.⁷ Startups rely on the so-called "gatekeepers" for low cost services—any regulation that significantly increases costs for "gatekeepers," could cause an increase in price of these services and would restrict startup formation, growth, and their ability to compete abroad. And these potential consequences mean the U.S. should not import and impose similar regulations domestically.

The DSA fails to recognize the difficult and expensive nature of content moderation for small platforms and startups. Even though startups would likely be subject to the lowest threshold under the DSA, these requirements, along with the potential for significant fines, could disincentivize content moderation due to increased liability that nascent platforms cannot afford to shoulder. Sound regulation should instead balance user safety with preserving opportunities for user expression in a way that will allow startups to grow and succeed.

¹ Evan Engstrom, "Primer: Value of Section 230," Engine, 31 Jan. 2019, <https://www.engine.is/news/primer/section230costs>.

² The Engine Team, "The Importance of DMCA for Startups," Engine, 4 June 2020, <https://www.engine.is/news/the-importance-of-dmca-for-startups>.

³ James Vincent, "Apple, Google, and Amazon respond to European tech taxes by passing on costs," The Verge, 2 Sept. 2020, <https://www.theverge.com/2020/9/2/21418114/european-uk-digital-tax-services-apple-google-amazon-raise-prices>.

⁴ Asim Choudhury and Aesa Dey, "INSIGHT: Indian Equalization Levy Under U.S. Scrutiny—What Comes Next?", Bloomberg Tax, 2 July 2020, <https://news.bloombergtax.com/daily-tax-report-international/insight-indian-equalization-levy-under-u-s-scrutiny-what-comes-next>.

⁵ Edward Graham, "Competition Policy Needs Startup Perspective," Engine, 10 Sept. 2019, <https://www.engine.is/news/this-week-in-startup-policy-9/10/19?rq=enacting%20strict%20rules>.

⁶ Jennifer Huddleston, "The Digital Markets Act: A Primer," American Action Forum, 7 Apr. 2021, <https://www.americanactionforum.org/insight/the-digital-markets-act-a-primer/>.

⁷ "The State of the Startup Ecosystem," Engine, April 2021, <https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/60819983b7f8bela2a99972d/1619106194054/The+State+of+the+Startup+Ecosystem.pdf>.

The AIA amounts to another non-tariff barrier to trade. The proposed law treats both the AI provider and the user as the creator of the AI.⁸ It imposes burdens such that European SMEs that might otherwise use American startups' AI-powered business solutions *e.g.*, for hiring or customer service, will likely avoid such technology solutions altogether. Larger businesses that can afford the compliance burden might still use AI solutions, but AI startups are unlikely to overcome the compliance costs and thus will not be able to compete. This means the law will likely cement the standing of larger players, while U.S. startups are likely to be shut out of European markets.

Onerous regulations like these have a disproportionate impact on nascent startups. Ultimately, small American startups may be disincentivized from expanding into the EU given barriers from these regulations' costs of compliance, potential for fines, and probable need for legal representation in the EU. In specifically targeting U.S. companies through digital protectionism, the EU risks hampering transatlantic trade, limiting options for consumers, and limiting opportunity for American startups to enter new markets.

Engine appreciates the opportunity to share the startup perspective on the importance of robust digital trade measures in a forward-thinking trade policy, and we look forward to being a resource for your committees on these issues. We look forward to further engaging with you on issues affecting startups in the future.

Sincerely,
Engine Advocacy

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This statement is being filed on behalf of the U.S. Global Value Chain Coalition—a coalition of U.S. companies and associations—that is on a mission to educate policymakers and the public about the American jobs and the domestic economic growth our companies generate through their global value chains.

Global value chains include those jobs we traditionally associate with the creation of a product—such as those in a factory or on a farm—as well as those positions involved in the conceiving of and delivery of those products—such as design, marketing, research and development, logistics, compliance, and sales. Simply put, the global value chain accounts for all jobs that add value from beginning to end to the good or service sold in the global marketplace. These positions are essential to the creation or sale of a good or service. Moreover, these jobs are primarily here in the United States and are usually high-paying, accounting for much of the value that is paid at the register.

China

Global value chains are dependent upon trade with China to create jobs and economic opportunities across the United States. For instance, American companies, and the American workers they employ, design and market consumer products that are sold in China, in the United States, and around the world. Although these everyday items—articles such as U.S. branded clothes, shoes, and backpacks—might be physically produced in China, they support millions of U.S. jobs in such disciplines as design, quality control, marketing, and compliance.

Furthermore, chemicals imported from China make their way through a network of U.S. distributors, employing tens of thousands of Americans who reformulate, manufacture, market, and distribute into American industries, including agriculture, automotive, pharmaceuticals, textiles, plastics, paints and coatings, and more.

The punitive tariffs on U.S. imports from China have been very damaging to these U.S. global value chains. These tariffs have led to considerable costs and uncertainty for our members because tariffs are no more than taxes that U.S. companies pay, which are then passed on to U.S. consumers in the form of higher prices. In

⁸Benjamin Mueller, “The Artificial Intelligence Act: A Quick Explainer,” Center for Data Innovation, 4 May 2021, <https://datainnovation.org/2021/05/the-artificial-intelligence-act-a-quick-explainer/>.

fact, a recent report by Moody's Investors Services¹ found "that U.S. importers absorbed more than 90% of additional costs" resulting from the section 301 China tariffs. Even before the coronavirus pandemic, these tariffs have required companies to make painful choices—usually at the expense of American jobs—as they figure out ways to manage these new costs.

We understand USTR is currently reviewing its China policy, but as we work to reopen the U.S. economy and get Americans back to work, we request Congress: (1) urge a retroactive extension for product exclusions that expired in 2020; (2) demand the Administration reinstate and improve the Section 301 product exclusion process without further delay; and (3) demand the Administration lift all punitive China tariffs.

Diversification

It is not easy for companies to shift their global value chains. While many have worked to diversify their value chains from the start of the trade war, there are others where it is just not feasible in a short period of time—if at all. There are many challenges such as ensuring new vendors can meet capacity, quality, product safety, sustainability, and social responsibility requirements, the availability of a skilled work force and needed infrastructure, and testing and auditing capabilities—just to name a few. In some instances, a product may not be available from any other source. Further, the coronavirus pandemic has made shifting supply chains even more complicated with travel essentially shut down due to global stay at home orders and limits on corporate travel. This should certainly be factored in as the Administration reviews current policies.

Generalized System of Preferences (GSP) and Miscellaneous Tariff Bill (MTB)

The Generalized System of Preferences (GSP) and the Miscellaneous Tariff Bill (MTB) expired at the end of 2020. Both programs allow American businesses to use duty-savings to compete internationally, lower costs for American families, hire more American workers, and invest in new products. GSP promotes economic and sustainable development in developing countries by eliminating duties on thousands of products imported from 119 designated beneficiary countries. The MTB allows American companies the ability to eliminate or reduce duties on nearly 2,500 inputs and finished goods not available or manufactured in the United States. We request Congress renew these critical trade preference programs quickly to provide certainty and predictability to American businesses, many of whom are utilizing these programs to help make and distribute urgently needed personal protective equipment in response to the coronavirus outbreak.

Punitive Tariffs

Punitive tariffs, and the threat of them, have resulted in price increases for American consumers, American job losses, and other irreversible economic damage to the U.S. The retaliation on unrelated industries by our trading partners due to the Section 232 tariffs on steel and aluminum is a prime example of how tariffs do not change the behavior of countries in international trade disputes. Further, the threat of punitive tariffs from the Boeing-Airbus dispute and the digital services tax (DST) issue will unnecessarily bring harm to unrelated industries. Lastly, we do not believe punitive tariffs align with the worker-centric trade policy agenda of the Biden Administration.

Thank you for this opportunity to provide a statement.



¹ <https://www.cnbc.com/2021/05/18/us-companies-bearing-the-brunt-of-trumps-china-tariffs-says-moodys.html>.