

**THE STRATEGIC BENEFITS OF A
MULTILATERAL APPROACH TO TRADE POLICY
IN THE ASIA-PACIFIC REGION**

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE,
CUSTOMS, AND GLOBAL COMPETITIVENESS

OF THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

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TUESDAY, JUNE 22, 2021

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
CUSTOMS, AND GLOBAL COMPETITIVENESS,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:50 p.m., via Webex, in Room SD-215, Dirksen Senate Office Building, Hon. Thomas R. Carper (chairman of the subcommittee) presiding.

Present: Senators Brown, Bennet, Casey, Cortez Masto, Grassley, Cornyn, Thune, Toomey, Daines, Young, and Sasse.

Also present: Democratic staff: Brian Papp, Staff Director for Senator Carper; and Naomi Zeigler, Legislative Aide for Senator Carper. Republican staff: Andrew Cooper, Legislative Assistant for Senator Cornyn.

OPENING STATEMENT OF HON. THOMAS R. CARPER, A U.S. SENATOR FROM DELAWARE, CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL TRADE, CUSTOMS, AND GLOBAL COMPETITIVENESS, COMMITTEE ON FINANCE

Senator CARPER. I will call to order the first hearing in the 117th Congress of the Senate Finance Subcommittee on International Trade, Customs, and Global Competitiveness.

I want to thank our witnesses for your willingness to testify before us in person—Wendy, and those who are joining us virtually. I want to especially thank Ranking Member John Cornyn and his staff for working with our staff and with me to pull together a hearing that examines a vital topic: our trade policy in the Asia-Pacific area.

For 7 months, Senator Cornyn and I worked on the subcommittee on a push for the U.S. to get its seat back at the table when it comes to trade in the Asia-Pacific region. And one of his first acts as President that former President Trump made was what many of us regard as a misguided and short-sighted decision to withdraw from the Trans-Pacific Partnership, TPP, agreement.

I will be the first to admit that the TPP agreement was not perfect. It left a lot to be desired, especially with regard to labor provisions, and with regards to environmental provisions. The negotiations on the TPP began some 13 years ago and were just concluded just over 5 years ago. So much has changed since then, including

the overwhelming bipartisan support of the USMCA, United States-Mexico-Canada Agreement, which had some of the strongest labor and environmental protections ever included in a U.S. trade deal.

And Senator Brown and I were talking, Senator Cornyn, just before the committee began, about some ideas for future hearings, and we talked about maybe our interest in doing some kind of oversight on how the USMCA is being implemented, particularly with respect to provisions like the environment and the labor provisions.

But we also have, in terms of changes, a new U.S. Trade Representative, Katherine Tai, whom some of us remember from our negotiations on the USMCA, especially on the environmental pieces. She was confirmed, you will recall, on a 98–0 vote, which does not happen every day. And she is the one who is working to ensure that our trade policies benefit all Americans and leave no one behind.

With a new administration and a new leadership at the helm of USTR, we have a key opportunity to work on a bipartisan basis to put the U.S. in a far better position on the global stage. Today's hearing will help us understand the state of play on the ground and help us begin to consider how we can once again forge multilateral trade partnerships in the region.

The Asia-Pacific is home to some of the fastest-growing, largest, and most dynamic economies on the planet. With 60 percent of the world's population and more than one-third of the world's gross domestic product, Asia is a region of the world we simply cannot ignore.

Further, since the U.S. left the TPP, our trading partners have not been idle. New agreements have been formed that have furthered Asia-Pacific economic integration. For example, the Regional Comprehensive Economic Partnership, called the RCEP, signed just last year, brings 15—15—Asia-Pacific nations, including China, together. And together they account for about 30 percent of the world's population, and 30 percent of the world's GDP.

The RCEP—again, that is the Regional Comprehensive Economic Partnership—is less comprehensive than other free trade agreements, lacking key provisions on labor and the environment, as well as state-owned enterprises and other key issues for us here in the United States.

However, the sheer size of its membership, and its potential to restructure trade patterns and supply chains in Asia, shows just how active this region has been in forging multilateral trade deals without the U.S.—without the U.S.

And further, the TPP did not die a quiet death after the U.S. withdrew from that agreement. Eleven remaining TPP signatories signed a new Comprehensive and Progressive Agreement for Trans-Pacific Partnership, CPTPP. So it is a comprehensive and progressive agreement on a trans-Pacific partnership. This is essentially a modified TPP among the remaining TPP parties after our departure.

Recent reporting reveals that China is quietly, but deliberately, seeking to join this successor to the TPP. Recent reporting reveals that China is quietly but deliberately seeking to join the successor

to the Trans-Pacific Partnership, and that should set off alarm bells for all of us.

Regardless of the merits or the demerits of the Trans-Pacific Partnership, the fact was that the agreement allowed the U.S. to have a seat at the table and actively help write the rules of trade in this dynamic region of the world.

Questions remain about China's ability to join this agreement. However, as I like to say, if you are not at the table, you may well end up on the menu. We need to take China's interest seriously and begin the hard work on developing a comprehensive policy towards reengagement with our allies in this part of the world.

Simply put, we find ourselves at a crossroad with an excellent opportunity to reengage in the region and weigh the benefits for U.S. interests—and reassert U.S. leadership in the region.

This hearing today will focus on the broad context of current U.S. trade policy in the Asia-Pacific region. We will hear from experts who can provide us with the current state of play, as well as lessons learned from prior U.S. multilateral trade actions. We will also explore how the U.S. can consider reengaging in the region, given the emergence of several multilateral trade agreements in the past few years.

I will close with this. Any proposal for reengagement in the region must be based on input from key U.S. stakeholders. That includes labor. That includes the environment, business community, civil society groups throughout our country, and it certainly includes Congress.

This hearing will allow us to begin those conversations by setting the table for the dynamics that exist in that bright region of the world and to explore ways in which the United States can start to lead again.

Once more, let me thank our ranking member, John Cornyn, and the witnesses appearing before us today, and especially welcome Sherrod Brown in joining us too. And I am sure we will have other members of the subcommittee who will drift in as they vote on the floor and find some time on their schedules to join us.

With that, let me turn it over to Senator Cornyn, again with my thanks, for his opening statement. Senator Cornyn?

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

**OPENING STATEMENT OF HON. JOHN CORNYN,
A U.S. SENATOR FROM TEXAS**

Senator CORNYN. Thank you, Chairman Carper, for organizing this hearing on such an important and timely topic. And thank you to our witnesses for appearing in person and virtually.

This subcommittee continues its work exploring the geopolitical benefits and consequences of America's trade policy—and in particular, our foreign adversaries such as Russia and China.

The topic is U.S. trade policy in the Asia-Pacific. It is not a new topic nor a partisan one. But it should be at the forefront of our conversation about the ever-evolving economic, authoritarian, and human rights threat posed by countries like China. Our government must take a balanced, innovative approach to this competi-

tion, for we cannot rely on the paradigms of the past to build that approach. After all, we know China does not play by the rules.

First, our national security must come first. We have to identify smart, democratic measures that take into account the unfair trade practices, the human rights, and censorship abuses deployed by our adversaries while making targeted investments in trade relations with our allies that abide by rules based on international trading systems.

I have been proud to work with our colleagues on both sides of the aisle to craft legislation with these goals in mind. One example is the SECRETS Act, which I recently introduced with Senator Coons and Senator Young. This legislation would prevent the importation of specific products that contain intellectual property stolen via economic espionage.

There is also the SPEECH Act, which I authored with the Senator from Pennsylvania, Senator Casey, and was passed by the Senate. This would require the U.S. to review items for export control that could be used for human rights abuse and censorship by foreign governments such as China in Hong Kong, Tibet, Taiwan, and the Uyghur region.

The bill Senator Casey and I introduced, called The National Critical Capabilities Defense Act, would safeguard our critical supply chains to ensure we are not caught flat-footed in the event of a public health crisis or natural disaster, or a national security emergency. And the CHIPS for America Act, along with the FABS Act that we recently introduced—which was modeled after the original provision that Senator Warner and I introduced—would bring semiconductor manufacturing capabilities back home and eliminate that vulnerable supply chain.

In addition to these efforts, we need to work to strengthen the international rules-based trading system and our relationships with nations that abide by them. For example, we can reauthorize programs like the Generalized System of Preferences and codify an exclusion process for section 301 tariffs to transition critical supply chains away from foreign adversaries, as was done in the Crapo amendment to the U.S. Innovation and Competition Act.

And we can support critical reforms of the World Trade Organization. Most importantly, we can open new markets and reduce tariffs for nations that follow the rules, through U.S. accession to a multilateral trade agreement in the Asia-Pacific.

The U.S. needs a seat at the table in the Asia-Pacific, along with India, the UK, Taiwan, and other nations in the Comprehensive and Progressive Trans-Pacific Partnership, also known as the CPTPP. This is our most effective weapon to confront China's sharp power, to speak up against its accession to the agreement, and to counter the Regional Comprehensive Economic Partnership or the RCEP.

Next week, Trade Promotion Authority designed for the now-named CPTPP, will expire. That is hard to say, Mr. Chairman—CPTPP. The Trade Promotion Authority will expire. The U.S. withdrawal from the TPP, as Senator Carper and I have opined in a joint op-ed in *The Washington Post* recently, was a missed opportunity for national security, free enterprise, and international trade.

I, along with 24 of my Republican colleagues in 2018, said as much when the previous administration withdrew from the agreement in favor of bilateral trade deals.

In 2019, the U.S. turned around and signed onto a regional multilateral and landmark trade deal with the USMCA that can serve as a model for our engagement in the Asia-Pacific. So I look forward to learning from each of our witnesses today as we examine the best path forward.

Ms. Cutler has a wealth of knowledge in international trade policy and law, and was present for previous negotiations during TPP.

Dr. Petri can help us quantify the economic growth we missed by withdrawing from that agreement, and what we might gain going forward.

Ambassador Cunningham has represented the United States around the world, including Hong Kong, where he saw China's claims in the early 2000s to become a responsible partner. He has also seen the China of today that ignores the rule of law in the name of national security when it locks up, censors, and steals from press freedom advocates like Jimmy Lai.

Mr. Allan, on behalf of his 55,000 employees, can provide us with a firsthand account of the importance of a diversified supply chain, and how we can make targeted investments to strengthen manufacturing here at home, including through the opening of a new facility in Fort Worth, TX.

So, thank you all for being here today, and thanks to my friend, Senator Carper, for making this possible. I look forward to exploring this topic.

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

Senator CARPER. Thank you very much, Senator Cornyn. I'm happy to be your wing man on this subcommittee and in other ways. Speaking of wing men, there is another one to my right, and I would like to say that I think Senator Brown has a unanimous consent request, and I am happy to yield to you.

**OPENING STATEMENT OF HON. SHERROD BROWN,
A U.S. SENATOR FROM OHIO**

Senator BROWN. Thank you. And I will not take a full 5 minutes, because it is not my place. You are the chair and the ranking member.

Ms. Cutler, thank you, and other witnesses. I appreciate Senator Cornyn's comments about USMCA, and I think the Brown-Wyden language we got in, which Chairman Carper helped us with, makes that a much more worker-oriented update of the North American Free Trade Agreement.

I just have two unanimous consent requests. The first one, Mr. Chairman, is I would ask unanimous consent to submit Ambassador Tai's speech at the AFL-CIO on the worker-centered trade agenda.

Senator CARPER. Without objection.

[The speech appears in the appendix beginning on p. 36.]

Senator BROWN. And we share the goals of the worker-centered trade policy. We actually need to listen to workers better than

probably all of us do, so that—and I think we see a very different day in trade policy.

I also ask unanimous consent to submit—I had opposed the Trans-Pacific Partnership deal in 2015. The chairman and I have talked about that. I ask unanimous consent to submit two reports: one by the AFL–CIO and a statement by the Steelworkers on the effects the TPP would have on workers.

Senator CARPER. Without objection.

[The reports appear in the appendix beginning on p. 41.]

Senator BROWN. And the last statement: Senator Portman and I passed bipartisan legislation through the full committee, the Level the Playing Field Act. We are now working on Playing Field 2.0 to strengthen U.S. trade remedy laws. I am hopeful that this subcommittee can play a role in advancing Senator Portman’s—who, as Ms. Cutler knows, was a former U.S. Trade Rep—his and my legislation, to move it forward. So thanks for the time, Mr. Chairman.

Senator CARPER. Thanks so much. Thanks for your good work on the labor provisions, especially, with USMCA. I am happy to work with you and thank you for working with us on the environmental piece. Thanks.

All right, I am going to go ahead and introduce our witnesses: Wendy Cutler, Donald Allan, and Peter Petri. And I heard—Dr. Petri, I have heard four different pronunciations of your name. I have heard “Pee-tree,” I have heard “Pe-try,” I have heard—you name it, I have heard it. So, Mr. Peter A. Petri—Doctor, rather. How do you pronounce your last name?

Dr. PETRI. Mr. Chairman, you had it just right. So thank you.

Senator CARPER. Well, I said it four different ways, so which one?

Dr. PETRI. Pet-tree is probably the easiest.

Senator CARPER. Petri; okay, that’s good. That is what I thought; great. Dr. Petri it is. And, Mr. Cunningham, I cannot screw up yours.

All right, let me introduce our witnesses. I am going to introduce Wendy Cutler and ask her to go ahead with her comments, her statement. And then we will turn to our other witnesses and ask them, after we have introduced them initially, to give us their statements. But first, Wendy Cutler, who is vice president of the Asia Society Policy Institute. Take 30 seconds and tell us about the Institute, please. This does not count into your time.

Ms. CUTLER. It’s a relatively new think tank, part of the Asia Society, focusing on the pressing issues facing the Asia-Pacific region.

Senator CARPER. Great. Thank you. The role of Ms. Cutler focuses on highlighting pressing and emerging matters in the Asian trade landscape, and on leading initiatives to address challenges that are related to trade, investment, and innovation, as well as women’s empowerment in Asia.

Ms. Cutler previously served nearly 3 decades—is that right?—3 decades as a negotiator in the Office of the U.S. Trade Representative. Ms. Cutler, the floor is yours. Please proceed.

**STATEMENT OF WENDY CUTLER, VICE PRESIDENT,
ASIA SOCIETY POLICY INSTITUTE, WASHINGTON, DC**

Ms. CUTLER. Thank you, Chairman Carper, Ranking Member Cornyn, and Senator Brown. I am pleased for the opportunity to testify today. As the largest and fastest-growing region in the world, the Asia-Pacific offers the United States an enormous economic opportunity that will help drive American prosperity and innovation for years to come. But without long and sustained economic engagement in the region, the United States risks not only foregoing this opportunity but becoming increasingly marginalized as the region forges a new future without us.

As you mentioned in your opening statement, the regional play has shifted significantly in recent years with the CPTPP and RCEP. Following the U.S. exit from the TPP, members regrouped and concluded the CPTPP. But interestingly enough, they kept the overwhelming majority of the agreement's provisions intact. And while a number of economies have expressed interest in joining, the United Kingdom is the first country to formally express interest.

But China has also expressed interest, and Xi Jinping publicly stated last November that China will favorably consider joining the CPTPP. Statements like this are not made lightly and must be taken seriously. Chinese officials are now consulting with TPP members, and these discussions are happening in real time and all over the region. And the longer we are on the sidelines of these conversations, the less influence the United States will be able to exert.

Compared to the CPTPP, RCEP is a low-standard agreement, but we need to pay attention to it as well. With its ministerial meetings and committee structure, RCEP will become an important venue for developing rules on emerging issues, setting another table without a U.S. seat.

As we consider how we might reengage on trade in the region, I would like to offer a few observations.

First, the United States was successful in defining the topics and shaping the rules that comprised the final TPP agreement, and we can play a similar role in future negotiations.

Second, agreements like the TPP are in essence trusted supply chain agreements. By bringing together like-minded countries committed to high-standard rules and the elimination of barriers, such agreements encourage the development of resilient supply chains between the parties.

And third, negotiating a comprehensive agreement with a group of countries is complex and often takes longer than other negotiations. As talks proceed, initial negotiating objectives can be overtaken by changing public sentiment. Such was the case with the TPP. So, looking ahead, I think we should consider building in a mid-term review to reassess U.S. negotiating objectives and make necessary adjustments that align more closely with possible shifts in stakeholder and congressional views.

Importantly, the Biden administration is conducting a detailed review of our existing agreements, consulting widely and developing a new approach on trade focused on improving the livelihood of U.S. workers. This work is critical but will take time—but time is not on our side in Asia. As each day passes, our regional trading

partners are strengthening their economic ties with China, including agreements among themselves, and drawing closer to each other. Meanwhile, China is moving full steam ahead to fill the vacuum that we have left.

So this leads me to a concluding recommendation. And that is, even if the United States may not currently be ready to consider a comprehensive negotiation, we should not put our entire regional rule-making trade agenda on hold. Rather, we should pursue narrower deals in sectors that would deliver concrete benefits to U.S. workers and firms while regaining our voice in regional rule setting.

A digital trade agreement with like-minded partners could be an excellent candidate. It could benefit our workers and firms, particularly SMEs; promote our democratic values of openness and fairness; reverse digital protectionism; and serve as a building block for a broader agreement, such as an updated CPTPP down the road. Of course, there are other negotiating topics worth considering, but we need to get our seats back at the table in this critical region.

Thank you.

[The prepared statement of Ms. Cutler appears in the appendix.]

Senator CARPER. Thank you very much for a clear and cogent presentation.

Next up is Donald Allan, Jr. Mr. Allan, you are recognized. Again, thank you so much for joining us. Mr. Allan is the president and the chief financial officer for Stanley Black & Decker. Mr. Allan leads the strategy and implementation of Stanley Black & Decker's operating model; chairs oversight of its global operations and supply chain; and oversees the Stanley security business, the Outdoor Products Group, and Asia Tools and Storage.

Mr. Allan, welcome. You have the floor.

STATEMENT OF DONALD ALLAN, JR., PRESIDENT AND CHIEF FINANCIAL OFFICER, STANLEY BLACK & DECKER, NEW BRITAIN, CT

Mr. ALLAN. Good afternoon, Chairman Carper, Ranking Member Cornyn, members of the subcommittee, and fellow panelists. As mentioned, I am Don Allan, president and chief financial officer for Stanley Black & Decker. I lead our global operations organization, which is the heart of our manufacturing and supply chain.

In the U.S. we employ over 17,000 people, and more than 55,000 globally. The majority of our colleagues are in manufacturing jobs, designing and making the world's leading tools, security, technological, and industrial products and solutions.

We have over 2,000 manufacturing and operations jobs open in the U.S. right now. Demand is strong, and we are hiring. Our hiring and investment in the U.S. are a manifestation of our commitment, made about 10 years ago, to move supply chains and manufacturing closer to our customers.

Stanley Black & Decker was founded in 1843 in New Britain, CT, and we are still headquartered there today. We are guided by our purpose, which is "for those who make the world," because we are in business to help those who use our products to do better, safer, and more significant work.

As a leading global corporation, we believe we have the privilege and responsibility to help solve the world's biggest challenges through socially oriented innovations, such as building the workforce of the future, addressing environmental concerns, and racial equity. We are committed to address gender parity and racial equity in our company. And we are partnering with nonprofit organizations like the Thurgood Marshall College Fund and the Business Higher Education Fund to make manufacturing jobs more accessible to underserved communities and people looking for new careers due to world disruption.

We are the largest power tool manufacturer in the world, and we are the only company manufacturing power tools at scale in the United States. Roughly 60 percent of our tools and storage sales are to U.S. customers, and for the last 10 years we have been moving our operations and supply chain closer to these customers so we can serve them with the right product at the right time, and at the right price.

We are building new factories, adding U.S. manufacturing and jobs, and increasing our impacts on local economies and communities where we operate. In October 2021, Stanley Black & Decker will cut the ribbon on a new facility in Fort Worth, TX that will be the new home of Craftsman hand tool manufacturing in the U.S., employing about 500 people initially. We bought the Craftsman brand in early 2017 and then committed to bringing the manufacturing of the famous Craftsman hand tools back to the U.S., which the brand's prior owner had let go to China decades ago.

This year, we are making good on that commitment. We believe a strategic U.S. trade agenda is critical to ensuring U.S. competitiveness, expanding access to new markets, and ensuring a robust and inclusive economic recovery.

For the topic of this hearing, we believe the U.S. should remain engaged in the Asia-Pacific region and develop a strategy that enhances regional partnerships, supports strategic supply chains across those partnerships, and promotes high standards in trade. Strengthening commercial and diplomatic ties with countries including South Korea, Japan, India, and other allies will ensure that no one country is over-relied upon for serving the world, and particularly the U.S. market.

Strategic U.S. engagement will also strengthen rules-based trade across the region, including the disciplined use of subsidies, preventing currency manipulation, maintaining secure supply chains and critical infrastructure, and improving market access for U.S. companies.

The U.S. trade agenda should also reconsider the section 301 tariff regime that currently applies to China, particularly on those inputs used to support U.S. manufacturing. The 301 tariffs have been a tax and a burden on U.S. manufacturing by increasing costs of inputs that reduce competitiveness of U.S. operations. We applaud the Senate's support of the provisions of the United States Innovation and Competition Act that reauthorize section 301 tariff exclusions and create a new exclusion process that can be effectively and transparently administered by USTR.

Thank you again for the opportunity to testify before the committee today, and I would be happy to answer questions later on. Thank you.

[The prepared statement of Mr. Allan appears in the appendix.] Senator CARPER. Thank you so much, Mr. Allan.

Our next witness is Dr. Peter Petri. Dr. Petri is the Carl J. Shapiro professor of international finance at the Brandeis International Business School. Dr. Petri is also nonresident senior fellow at the Brookings Institution. And Dr. Petri has published widely on trade and technology in the Asia-Pacific region and has served as a consultant for the World Bank, the World Trade Organization, and other governmental organizations.

Dr. Petri, you have the floor. Welcome, and thank you.

STATEMENT OF PETER A. PETRI, Ph.D., CARL J. SHAPIRO PROFESSOR OF INTERNATIONAL FINANCE, BRANDEIS UNIVERSITY; NONRESIDENT SENIOR FELLOW, BROOKINGS INSTITUTION; AND VISITING FELLOW, PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS, BOSTON, MA

Dr. PETRI. Thank you, Chairman Carper, Ranking Member Cornyn, and distinguished members of the subcommittee.

As a research economist, I have long specialized in Asia-Pacific trade, working on Asia-Pacific trade agreements and their effect on the United States. Over the past decade, the results of this work have frequently informed policy discussions on the TPP, and on the new CPTPP and RCEP agreements, and I will mention some of those results here and in my written testimony.

I have been at this for over 50 years, and I have been awed by the large investments that the United States has made in the Asia-Pacific region, at times at tremendous cost. The U.S. has made the region safer, and it has helped it gain access to world markets.

Even 5 years ago we were on the job—and I think my fellow panelist Wendy can speak particularly well to this issue—spearheading the new high-quality TPP trade agreement. In the wise words of former Secretary of State Jim Baker, we refused to draw a line down the middle of the Pacific.

Yet today our ties with East Asia are weakening. China has become an indisputable and challenging force. It is now the largest trading partner of all 11 of East Asia's larger economies. U.S. policies in the meantime have tilted toward protectionism.

The concerns of America's middle class are real and very important. But they call for investments to make our workers more competitive, and not further trade barriers.

We walked away from our leadership role in the Asia-Pacific economy. Not only did we abandon the TPP agreement, but we also attended only three of the last 11 East Asian leaders' summits. These are consequential trends. Intra-Asian economic ties are overtaking trans-Pacific talks. Colleagues and I estimate that U.S. income will be reduced by these policies over time.

Meanwhile, East Asia is repairing the damage with two major new agreements that my fellow panelists have already mentioned, the CPTPP and the RCEP. While the trade war will cost the world economy around \$500 billion annually, the new East Asian agreements will more than make up for these losses.

According to our recent estimates, the RCEP is actually worth more than the CPTPP, although this would change if the United States were to join the CPTPP. For the United States, however, the trade war's effects will not be offset. They will be amplified by the new agreements. As now structured, the CPTPP and RCEP create preferences for regional trade at the expense of trade with outsiders—which would now include the United States.

They especially strengthen Asian manufacturing. For example, the RCEP is the first agreement that will connect China, Japan, and South Korea through mutual preferences. So I applaud the chairman and the ranking member for considering U.S. membership in the CPTPP. This would increase U.S. income. It would align and advance U.S. economic and strategic interests.

And make no mistake, the CPTPP will grow. Nine countries are already in line for membership, amplifying these strategic benefits. We must also acknowledge that the politics of trade in the United States remain very divided.

Fortunately, our government—not least including you, our distinguished Senators—are laser-focused on innovation, competitiveness, infrastructure, and human capital. If these tools materialize, they will give our workers the resources and the confidence to compete anywhere.

In addition, we cannot neglect the challenge of developing stronger political foundations for trade policies that benefit Americans, both abroad and at home. This cannot be an afterthought. It will not be easy work. At home, we must empower and incentivize American communities broadly and inclusively, especially the businesses and workforces of our future, to embrace Asia-Pacific opportunities and to help draft a truly national strategy for future Asia-Pacific ties.

Thank you, Mr. Chairman.

[The prepared statement of Dr. Petri appears in the appendix.]

Senator CARPER. Dr. Petri, thank you very much. Thanks for joining us, and thanks for your testimony and for your insight.

The last witness for us today is Ambassador James Cunningham. Ambassador Cunningham is, as some of us know, nonresident senior fellow at the Atlantic Council, and a former U.S. Ambassador to Afghanistan, Israel, and the United Nations. Ambassador Cunningham also served as a former Consul General of the United States in Hong Kong, and currently serves as the board chair of the Committee for Freedom in Hong Kong.

Ambassador Cunningham, we are delighted you have joined us. You have the floor. Please proceed.

STATEMENT OF HON. JAMES B. CUNNINGHAM, NONRESIDENT SENIOR FELLOW, THE ATLANTIC COUNCIL; FORMER U.S. AMBASSADOR TO AFGHANISTAN, ISRAEL, AND THE UNITED NATIONS; FORMER CONSUL GENERAL OF THE UNITED STATES IN HONG KONG; AND BOARD CHAIR, COMMITTEE FOR FREEDOM IN HONG KONG, ELIZABETHTOWN, NY

Ambassador CUNNINGHAM. Thank you very much, Chairman Carper and Ranking Member Cornyn, for the invitation to meet with you and other members of the subcommittee.

The United States is uniquely both a European and Asian power. Asia is vital for American economic and security interests. We are in a long-term competition with China over influence in the world, and over the values which will dominate this century.

The restoration of U.S. engagement in a multilateral approach to trade policy in the Indo-Pacific region is fundamental to success in that competition. Whether our relationship with China is confrontational or not, competition with China for influence in almost every realm is inescapable. Multilateral engagement in Asia, whether regarding trade, diplomacy, or security, reinforces our capacity to counter Chinese influence and pursue our vision of Asia's future. That vision is based on liberal democratic values and fair, open trade. Chinese General Secretary Xi Jinping has a quite different vision based on authoritarian control. The contest between these two visions is the defining theme of our age.

China's voice is increasingly more aggressive, with so-called "wolf warrior" behavior becoming the norm as China disregards Deng Xiaoping's advice to bide time and hide capacity. China's message is that it and its authoritarian model are on the rise, and the West and its values are in decline.

China is using economic punishment or enticement to exploit the openness of our society. It rejects or seeks to rewrite international norms and the rules-based framework from which it has benefited. This is all very dangerous and now more widely understood than even a few years ago. When I arrived in Hong Kong in 2005, there was wide discussion of encouraging China's peaceful rise as a responsible stakeholder. It was hoped that Hong Kong, where China had committed to the one-country/two systems framework, could serve as a model for how China might evolve as it became more prosperous.

China has taken quite another direction. Fearful of any threat to its authority, the Chinese Communist Party is using the national security law it imposed on Hong Kong last year to dismantle the one country/two systems framework it had committed to preserve. Democracy, freedom of the press, and rule of law are being crushed. Private property is being seized. Journalists and pro-democracy figures like Jimmy Lai are jailed indefinitely without bail.

Hong Kong is now holding political prisoners, and intimidation is the rule of the day. Today's Hong Kong unfortunately embodies the clash between authoritarian and liberal values. Beijing did not need to gut the high degree of autonomy it had promised in order to maintain stability.

At the recent summit meetings of the G7, NATO, and the EU, leaders addressed Chinese behavior, human rights abuses in Xinjiang and Hong Kong, stability around—

Senator CARPER. We seem to have lost you there. Can you hear me?

Ambassador CUNNINGHAM. Can you hear me now?

Senator CARPER. We lost you for about 15 seconds. Can you just back up about 15 seconds, please?

Ambassador CUNNINGHAM. Yes. The three summit statements demonstrated clearly how the international ground has shifted.

Multilateral cohesion will be required to advance a strategy in the Pacific based on shared values and interests.

Partnerships on trade, security, and diplomacy with our Pacific and Asian friends, including Taiwan where possible, will bolster efforts to curb Chinese behavior and strengthen America's hand in the conflict of values.

Bilateral relationships in trade or otherwise are inefficient in developing the shared purpose that competing with China demands. China seeks to divide, intimidate, and entice those confronting the systemic challenges it poses. The power of America's global alliances is a unique instrument, one unavailable to China. We must be sure to use it.

That is the strategic optic through which the administration and the Congress should urgently be looking at our trading arrangements in the Pacific. The strategic value of a broad multilateral approach to linking American and Pacific economies, and to building prosperity in a U.S.-Pacific partnership based on fundamentally shared aspirations, is immense and we should not lose the opportunity. Thank you.

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

Senator CARPER. Thank you, sir. Thank you all. Those were wonderful testimonies.

I am going to ask a question for the whole panel, but before I do that I want to just look—Senator Cornyn, I am looking at a list of those who have joined us virtually or in person. And the lineup is, I speak, then after myself is Senator Cornyn. Senator Brown was here, and he would be next if he rejoins us. Then Senator Grassley, Senator Bennet, Senator Thune, Senator Casey, Senator Toomey, Senator Cortez Masto, Senator Daines, and Senator Sasse.

We start off with a question of my own. The question is for the whole panel. I am going to go through and ask you all the same question. Where do you sense, in one or two areas—and I am going to ask you, Wendy, to take no more than a minute—where do you see a consensus between the four of your testimonies, the most important points? Where do you see the consensus for us to take home?

Ms. CUTLER. I think we have all sent a clear message how important the Asia-Pacific is to the United States, and the importance of the United States reengaging on trade in the region, but keeping in mind that we have domestic issues with respect to trade, and particularly workers' views on trade that we need to respect, and we need to incorporate. And in any trade agreement going forward, we need to work on a bipartisan basis to show our trading partners that we are serious about trade, and that in concluding the agreement we can bring it into effect.

Senator CARPER. Thank you.

Dr. Petri, where do you sense that there is, amongst the four of you, a broad agreement on a particularly important issue? Take maybe a minute for that.

Dr. PETRI. I would agree largely with Wendy Cutler. But I would add that I think we agree on the fact that the trends as we see them are not favorable to the United States, and we need to take action. The action that I also support is membership in the CPTPP

trade agreement. Finally, as Wendy already emphasized, we need to pay attention to building broad, inclusive support for this agreement across major communities of American society. That is a challenge, but it is a very important one. Thank you.

Senator CARPER. Yes; thank you, sir.

Dr. Allan, please.

Dr. ALLAN. Senator, I would agree with the statements made by the previous two panelists. I really do believe that we do need to engage in the Asia-Pacific region, and it will benefit our U.S. competitiveness in multiple ways. And sitting down and working out an agreement with the CPTPP countries, and perhaps enhancing some of the language around labor and environmental commitments similar to what was developed with the USMCA in a bipartisan way, could be a very effective path forward. And I think all statements were circling around that topic over the last several minutes.

Senator CARPER. All right; thank you.

Ambassador Cunningham, the same question, please.

Ambassador CUNNINGHAM. I think what we have seen is that all of us agree quite clearly that we are in a competition with China, whether we like it or not, and the nature of that competition can vary, but it is there and needs to be addressed.

I am not an expert at all in trade matters, and clearly the TPP had flaws, but it was, in my view, a valuable strategic instrument that we need to find a way to recapture. I do not know myself how to do that, but I know that it needs to be done because we need that kind of instrument. We need a political, security, and economic partnership in the Asia-Pacific region. That kind of partnership is the strongest and the best way to reassert American influence and to curb China's aggressive behavior.

Senator CARPER. Okay; thank you. I want to turn to Ms. Cutler for this next question on the importance of engaging shareholders early and engaging them often.

Ms. Cutler, last September the Asian Society Policy Institute put out a report, I believe it was called "Reengaging the Asia-Pacific on Trade: a TPP Roadmap for the Next U.S. Administration." I firmly believe that any proposal for U.S. reengagement in the region must be based on input from labor, from environment, from business, and society groups throughout our country, as well as Congress.

And my question for you, Ms. Cutler: can you take a moment to explain one of your recommendations in the report, which was to institute a mid-term review for U.S. trade deals going forward?

[Pause.]

Senator CARPER. Please speak loudly. We cannot hear you. You were there just for a moment.

Ms. CUTLER. Hello?

Senator CARPER. Hello? You had us from "hello."

Ms. CUTLER. The idea behind the mid-term review is that sometimes these multilateral negotiations take a long time. And while we work initially to set negotiating objectives with Congress, with input from stakeholders, 2 years into a negotiation, public sentiment may have changed. And indeed, that happened with TPP.

And so what I am suggesting is, if negotiations go on for more than a year or so, perhaps we should take a step back and institute

a formal mid-term review with congressional and stakeholder input, and adjust our negotiating objectives and proposals, all in an effort to build domestic support for a negotiated outcome that negotiators can bring home and work with Congress and stakeholders to put it into effect.

Senator CARPER. Good. I am glad we heard that explanation, every word. Thanks.

Senator Cornyn?

Senator CORNYN. Well, Ms. Cutler, I was intrigued by your commentary with regard to the change in maybe Congress's attitude toward these trade agreements over the years. And I am intrigued by your suggestion that, rather than the administration just deciding to negotiate something and presenting it as a *fait accompli* to Congress, that there be a process in place that could develop some consensus so that the chances of success would ultimately be better. Is there a model that has been used in the past for that that you would recommend?

Ms. CUTLER. Well, there clearly—in TPA there are detailed consultation provisions between Congress and the executive branch. I think what I am suggesting is something that would go even further than that but specifically apply to the kind of longer negotiations that take a while. In other words, what TPA talked more about was setting initial negotiating objectives. The administration would consult and then bring home the agreement.

With a mid-term review, perhaps some of the negotiating objectives could be adjusted if indeed the public sentiment and views on trade, and views on trade agreements, have changed significantly. That is what happened during the TPP. The negotiation went on for 5 years. We had initial negotiating objectives. We had TPA towards the end. And when we brought the deal back home, it did not receive the support needed to bring it over the finish line.

Senator CORNYN. And as you note, Trade Promotion Authority expires very soon. Is that something you would recommend that Congress take up and try to reauthorize as a starting point? Or do you think it is premature to do that?

Ms. CUTLER. Well, I think hopefully, eventually we will need it. Right now, the administration does not seem focused on negotiating new trade agreements. But I think TPA is a useful tool, not only to set negotiating objectives, but really to set the table in terms of congressional-executive branch consultation.

Senator CORNYN. It seems to me like, when it comes to China, that Congress is of two minds. One is, we obviously recognize the competitive nature of our relationship with China, as reflected by the bill we passed just a few weeks ago. And a point was made by one of our colleagues in his maiden speech to the Senate—I think it was Senator Romney—actually that has kind of stuck with me. He said the one thing that the U.S. has that China does not is friends.

And rather than engage bilaterally, just one on one, with some of these trading partners, or with other countries, it strikes me that there is strength in numbers. And that is another reason to commend this CPTPP and efforts to pursue our involvement there.

But speaking to that issue, Ambassador Cunningham, obviously our relationship with China is more than just an economic concern.

It is a geopolitical concern. It is a national security concern as well. Could you talk about the role of some of these multilateral trade agreements that would complement things like the Quad, which is our cooperation with Japan, Australia, and India, when it comes to things like the freedom of navigation in the South China Sea? Do you have a view about that?

Ambassador CUNNINGHAM. Yes, sir, Senator.

So I look at the framework that we want to construct in the Indo-Pacific region to advance our interests and our values, which thankfully are values that are shared by many countries in the region. I view this as kind of a fabric that is being woven with many strands. And those strands involve all the things that involve international life in the region. They involve cultural exchange. They involve security. They involve political and diplomatic cooperation. They involve trade and economics.

We are much stronger and much better able to ensure our national interest, as well as the interests of the American economy and the American worker, when that fabric is as carefully aligned and oriented in the same direction as possible, again based on a common set of interests and values that are shared. And it strikes me as wasteful if we do not take advantage of the opportunity that exists to build on those common aspirations and values.

I know reaching trade agreements is a particularly difficult area which takes a lot of time, but finding where to begin building that framework, that fabric, I think is a particularly important challenge. Because, as I noted and others have said, this competition is already underway. And China has, whatever else one thinks about China's future possibilities—and they have many serious problems—China has a pretty clear goal of where it wants to go. And it will move in that direction.

Senator CORNYN. Thank you. My time has expired.

Senator CARPER. Thanks, Senator Cornyn.

Next on our list is Senator Brown. He was on and maybe dropped off, but Senator Brown was next. If he is still with us, please say so.

[No response.]

Senator CARPER. If not, please join us later.

Senator Grassley is next in line. If he is still with us, please say so.

[No response.]

Senator CARPER. Senator Bennet was after him, and then Senator Thune.

Senator Thune, I understand you may be waiting to be recognized. Are you there?

Senator THUNE. Yes, sir. Thank you, Mr. Chairman and Ranking Member Cornyn, for holding this very timely hearing.

In the last few years, China has actively worked to shape trade rules in Asia with economic initiatives and massive spending on cross-border infrastructure through the Belt and Road Initiative and other projects.

With our Nation's withdrawal from the Trans-Pacific Partnership, the field opened for China to assume greater trade leadership in Asia. And it has not hesitated. China last year joined the Regional Comprehensive Economic Partnership, the world's largest

free trade block, and it now aspires to join the trade deal that America helped craft but ultimately withdrew from, the TPP. All the while, China is becoming more aggressive militarily in the East China Sea.

Ms. Cutler, why is a strong American engagement in Asia critical for U.S. leadership abroad, and also for our economy at home? And then I would direct a question to Mr. Allan. And that is, would reentering the TPP boost job growth at home and help America compete economically with China?

Ms. Cutler?

Ms. CUTLER. Well, I think it is critical because, if we are not capable of negotiating these agreements and setting the rules, China is filling that vacuum. And China is the largest trading partner for most countries in the region and is becoming a more important driver of growth for these countries.

So, we are losing our influence. We are losing our ability to write the rules for new technology. And frankly, we are losing out with respect to preferences that are given to products of foreign countries, but not of the United States. So it is a real lose/lose proposition for the United States to be on the outside looking in.

Senator THUNE. Mr. Allan, would reentering the TPP be good for jobs at home and help us compete economically?

Mr. ALLAN. I believe that if we have a mutually agreed upon arrangement, as I mentioned earlier, associated with maybe something with CPTPP that has some labor standards and environmental standards in it consistent with USMCA, many that I mentioned earlier, that would make us more competitive in the United States.

I also think we have to seriously think about what I mentioned in my statement around section 301 tariffs that are hurting the U.S. manufacturers that assemble or manufacture products here in the United States. Certain components that come from China have a tariff of 25 percent on them, and someone can assemble or manufacture a full product in China and send it to the United States and not have a tax on it.

So there are inconsistencies that also have to be dealt with associated with those particular tariffs. But I do think, Senator, overall, some type of bipartisan agreement would be very beneficial to attracting more U.S. manufacturing over time.

Senator THUNE. I recently introduced an amendment to call on the WTO to reform its special and differential treatment rules so that globally competitive countries like China, with the world's second largest economy, can no longer self-designate as a developing country to gain unfair trade advantages.

China declaring as a developing country at the WTO misidentifies its economic standing and undermines countries that are truly developing, and corrodes trust in the WTO itself.

Ms. Cutler, do you agree that the WTO should reform its special and differential treatment rules so that major economies can no longer self-designate as a developing country? Maybe share your thoughts on that.

Ms. CUTLER. I strongly agree that those rules need to be changed. It is ludicrous that countries like China can self-designate themselves as developing countries and take exceptions and expect

special treatment and special breaks from negotiations and agreements that are in place and underway.

At a minimum, I would hope that China would say for ongoing and future negotiations, "We are no longer going to self-designate ourselves as a developing country. We are going to take on the same responsibilities and commitments as other countries as the second largest economy, and soon to be the largest economy in the world."

Senator THUNE. Very quickly, Ms. Cutler, Ambassador Cunningham; we have not seen a TPA renewal proposal yet. What does that mean? And if the administration is not going to actively lead in trade in the Asia-Pacific, what type of message does it send in terms of American interests and willpower to remain a leader in the global economy?

Ms. CUTLER. I would hope that, with time, we will see a TPA bill. I think there is a lot of reflection that needs to be given on the contents of that bill. And I think as we develop our negotiating agenda, then the necessity for TPA will become more apparent.

I think there are certain negotiations, however, in narrower sectoral areas where we could proceed with a negotiation, perhaps without TPA, but with close consultation with Congress, such as agreements that would not require the United States to change its laws but to bring other countries in line with our laws and regulations.

Senator THUNE. Okay. Thank you. My time has expired, Mr. Chairman. I would love to hear from Mr. Cunningham on that, but we can get that for the record if necessary.

Senator CARPER. Go ahead, Mr. Cunningham; just briefly respond if you would, please.

Mr. CUNNINGHAM. As I said earlier, I am not an expert in trade itself. But to the extent that we need to take the steps now to prepare for things that we need to do, or should do in the trade area in the future, I think that is a good path to follow.

We are going to have to do this in one way or another whether we like it or not. As Ms. Cutler said, we are in the process of setting new rules in the region. If we do not actively participate in that, we will be disadvantaged for sure.

Senator THUNE. Thank you. Thank you, Mr. Chairman.

Senator CARPER. You bet. Thank you, Senator.

Next, I think we have in the queue Senator Casey. I do not know if he is still on the line. Senator Casey, are you there?

[No response.]

Senator CARPER. If not, Senator Toomey. I believe Senator Toomey has joined us. Senator Toomey?

Senator TOOMEY. Yes, I am here. Can you hear me, Mr. Chairman?

Senator CARPER. Yes, we can. Please proceed.

Senator TOOMEY. Thank you very much.

Let me pose a question to Dr. Petri. Dr. Petri, you proposed that pursuing a comprehensive multilateral FTA might be the best way to both strengthen strategic economic ties and to benefit U.S. workers and consumers.

As you know, there is a narrative that free trade agreements are harmful to workers because labor-intensive sectors will just move

to the lower labor cost countries, and therefore they tend to drag down wages and be harmful to American workers.

It is my understanding that your research has focused significantly on this question of the effects of comprehensive trade agreements on workers. What has that research shown? What is your conclusion on that?

Dr. PETRI. Thank you, Senator. A very important question. I think there is no question that a comprehensive trade agreement like the CPTPP, and as the TPP did before, has to have strong labor provisions that recognize the rights and the input of labor in the way they are structured.

Now, the effects of trade agreements are complicated. And the idea that low-wage countries will force wages down through trade is early trade theory, but it is not reflected in many modern areas of trade analysis.

In the models that we use, the productivity of a firm has a lot to do with who gets to trade, and who benefits from trade. All of the workers and firms that are productive relative to those that are not so productive will benefit. In fact, overall wages for both skilled and unskilled workers in those firms would tend to rise in the United States as a result of the CPTPP agreement.

So deeper analysis suggests that there is no reason to expect that competition with low-wage countries will force our wages down.

Senator TOOMEY. I think that is important. And of course, our workers are also consumers, and consumers certainly benefit from the competition that the trade brings.

A quick question for Ms. Cutler. I think you and I both agree that a comprehensive FTA is preferable to the narrower agreements, but it might be more pragmatic in the short term to pursue the narrower sectoral trade agreements.

If we were to pursue that route, is there anything in particular we ought to do to try to ensure that smaller sectoral agreements do not undermine support for joining more comprehensive FTAs in the future?

Ms. CUTLER. First, I think we are in agreement. I do not think a multilateral TPP-like agreement is a realistic proposition now. So the question is, do we wait and put everything on hold, or are we pragmatic, and we find out what we can do to get back in the region? And that is why I am advocating these narrower sectoral deals.

I think such deals could serve as building blocks towards a larger comprehensive deal. They do not have to be kind of one-off deals. And perhaps if we do pursue a narrower sectoral deal and we learn that we can benefit from such deals and grow closer to our trading partners and provide market access and set the rules, then perhaps then we would be ready to move to another topic, and another topic.

So I think we could look at this approach as a possible building block approach towards a comprehensive agreement.

Senator TOOMEY. I think that is a great point.

Ambassador Cunningham, I introduced a resolution in the Senate expressing that the U.S. should begin negotiations to enter into a comprehensive trade agreement with Taiwan. I think it is a big opportunity for us and would be mutually beneficial at a number

of levels. And it would be important both economically, but also for national security purposes.

Would you comment a little bit on the benefits that you think we would derive from a free trade agreement with Taiwan?

Ambassador CUNNINGHAM. I actually had the opportunity to discuss this a couple of years ago during a visit in Taiwan. I think it is a good idea for the United States and for the Taiwanese. The people I spoke to, a couple, when I was in Taiwan talking about this, I urged them to find ways to overcome their internal political opposition regarding the free trade agreement with the United States, which I believe is greatly in Taiwan's interests.

Taiwan is an important piece of that fabric that I was talking about a little while ago in the Pacific region, but it is a unique piece. We and others will have difficulty integrating it into a multilateral framework such as I discussed. But to the extent that we can do so, it benefits Taiwan and the region by allowing all of us to make greater use of the resources and the knowledge and capacity that Taiwan has. And it also puts it more firmly in an international framework that will, I think, promote stability around Taiwan and in the Taiwan Straits over time.

Senator TOOMEY. Great. Thank you. Thank you, Mr. Chairman.

Senator CARPER. We thank you, Senator Toomey.

Next, I think Senator Cortez Masto may be waiting to join us remotely. Senator Cortez Masto, are you there?

Senator CORTEZ MASTO. I am here. Thank you, Mr. Chairman.

Senator CARPER. Welcome aboard.

Senator CORTEZ MASTO. Thank you. And thank you to the panelists today.

Ambassador Cunningham, let me start with you just for clarification. Do you think that reengaging in the existing multilateral framework such as the CPTPP and the RCEP would be sufficient enough alone to meet our expectations going forward in terms of labor, environment, and digital protection?

Ambassador CUNNINGHAM. If it were possible to do that expeditiously, that might be the case. But as Ms. Cutler has explained, these things take time. And time has also moved on since we moved through and negotiated the original TPP.

I am kind of intrigued by the idea of sectoral arrangements. And I wonder—I hope, maybe not—that one could use that as a vehicle for reengaging the broader multilateral arena. I do not think that has to be mutually exclusive, to have a long-term goal of a multilateral, broad framework that incorporates all of the values and protections that we would want while you are working on things that are more easily and rapidly achievable, which at least get one back into the game.

Senator CORTEZ MASTO. Well, I appreciate that. And I am glad my colleague, Senator Toomey, had Ms. Cutler expand on it, because I was not sure what she meant by pursuing narrower deals. And thank you for that, because, Ms. Cutler, what I understand you are saying is going smaller, with what Senator Toomey recognizes as sectoral agreements. You said that they could be the building blocks to move forward.

But do you mean building blocks to stay within that sector or adding additional sectors, which then changes the whole agree-

ment? How do you envision that happening, particularly with a negotiation and various partners at the table?

Ms. CUTLER. In my mind, it means adding additional sectors. We start with one. We start with two. And then, over time, we negotiate in different areas and then create that momentum that hopefully will lead you at some point to a larger, broader agreement.

Senator CORTEZ MASTO. Thank you. And I appreciate that.

One issue that remains prominent in all of these agreements—and this is one of the reasons why I think the TPP did not move forward—is the issue to make sure that we are addressing labor issues. But one of them is forced labor, and it remains a prominent issue.

But I also understand—and we touched on this in this committee, I think it was in March. If there is collaboration among both public and private entities to combat the issue of forced labor, and there is a working arrangement—for example, the Cotton Campaign, along with other NGOs and partners, helped to lead Uzbekistan in prohibiting forced labor from being used to harvest cotton.

So is there a role—and I guess my question to you, Ms. Cutler, is, how can the global community work better together in collaboration to inform and protect against these kinds of practices, and specifically in the Asia-Pacific region?

Ms. CUTLER. I think the key is working with our allies and partners, and not just condemning practices but agreeing on joint actions to restrict the importation of products that use forced labor.

Senator CORTEZ MASTO. Well, I guess my question is, is there a role for a public-private partnership in trade?

Ms. CUTLER. Absolutely. I think it is very important that the private sector be involved as well, through tracing inputs and products that are using forced labor, which is extremely difficult and complex. And I think bringing the private-sector experience and challenges to the public sector and jointly trying to find a solution would move the process forward.

Senator CORTEZ MASTO. Thank you. And let me, Ms. Cutler, touch on one other issue. China is committed to expanding its global reach through increasing trade and foreign investment around the world. We know that. Senator Casey and I have introduced the Women's Economic Empowerment and Trade Act to ensure countries receiving trade preference under GSP strengthen standards on worker rights and the rights of women.

So do you see the ability of increasing GSP requirements to help raise the bar of equal rights and protections and pressure China to do the same as it seeks to expand its access to markets in those countries?

Ms. CUTLER. I am not sure if I understand your question, because China is not a beneficiary of the GSP program.

Senator CORTEZ MASTO. Right. It is not now. And as we look to engage, is there a role that GSPs can play? That is my question.

Ms. CUTLER. Given all the tariffs we have on China, it is hard for me to see that we will be in a situation where we are going to be offering them duty-free access or doing positive things. I think at this point we need to get to the table with them and kind of

level the playing field before we start offering duty-free access or the care you are suggesting.

Senator CORTEZ MASTO. Okay. So we are not even there yet is what you are saying, and we may not ever get there with China when it comes to duty-free tariffs? Is that right?

Ms. CUTLER. It is hard for me to see that, yes.

Senator CORTEZ MASTO. Okay; that is helpful to know. Thank you.

Senator CARPER. Thank you, Senator Cortez Masto.

We have several other colleagues, I think, in the queue. Senator Daines, followed by Senator Sasse and Senator Young. We will start with Senator Daines.

Senator Daines, are you there?

Senator DAINES. Yes, I am here. Thanks, Senator Carper.

Senator CARPER. You are recognized. Please proceed.

Senator DAINES. Thanks.

Ninety-five percent of the world's consumers live outside the United States. Trade is essential for my home State of Montana, essential for our jobs and for our economic growth. And working with our allies, I believe, is critical to reducing unfair barriers to trade and assuring that our farmers, our ranchers, and our small businesses are able to compete on a level playing field around the world. This is especially true given China's growing economic and geopolitical influence, and it is essential that we work with our allies and partners in the Asia-Pacific region.

During my time in the Senate, I have called on both President Trump and President Biden to reengage with the Trans-Pacific Partnership, both for economic benefits as well as part of a really more holistic strategy to China.

The question for Ms. Cutler: if the U.S. were to actively reengage with the TPP, are there specific areas you think the U.S. should improve or amend to better reflect the challenges we face today?

Ms. CUTLER. I mean, if we were to consider returning to the CPTPP, I think it would be critical for the United States to seek updates and seek revisions. I think it would be important that we prioritize the number of changes we would seek, because we need to keep in mind that we would be asking to come into an agreement in place among other countries. With that said, certain chapters come to mind, many based on where public sentiment is now and the accomplishments of the USMCA.

But I think, in particular, the chapters on labor and the environment would need to be revised and updated, but I also think that revisions and updates may be needed and called for in other chapters as well. Furthermore, I think there may be certain provisions that we initially wanted in the original TPP that maybe are not so important anymore. So there may be areas where we would be seeking to delete obligations from the agreement as well. And some of those might be welcomed by other countries.

Senator DAINES. Thank you.

I want to follow up too with a question about India. I believe that India, as we are looking short- and long-term, will play an even larger role, and the U.S. should work to expand our economic ties and consider entering formal negotiations with India, which presents an enormous opportunity certainly for U.S. farmers. In Mon-

tana, we are the Nation's leading pulse crop producer now—a big opportunity there.

In addition to that, I think the strategic, the regional, and the geopolitical significance of India is a counterweight to China's growing influence. What opportunities and challenges might you see with regard to India, whether we thought of that on a bilateral basis or multilateral?

Ms. CUTLER. I guess that is for me?

Senator DAINES. That is. I am sorry, Ms. Cutler; that is for you, yes.

Ms. CUTLER. Look, when it comes to India, I could not agree with you more that there are enormous opportunities there. But I need to be quite honest: there are enormous challenges as well, particularly on the trade front.

There is so much potential there, but throughout my long career at USTR, just a lot of disappointment. And I need to bring to the subcommittee's attention that India was a member of RCEP for many years, with the other 15 Asian countries. And then a year before the agreement was signed, it withdrew its participation. And that is because, in my view, India faces a lot of domestic opposition to trade liberalization and is not ready to take those steps to open its market yet.

Senator DAINES. I appreciate that blunt assessment. Is there any reason to be optimistic that that might change going forward?

Ms. CUTLER. Look, I am an optimistic person, and I think, perhaps when I look at India's participation in the Quad discussions now, that leaves me some optimism going forward. But I would also note that in a recent Quad leaders meeting, trade was conspicuously absent from the announcements. And I think that has more to do with India and less to do with the United States, Australia, and Japan.

Senator DAINES. Next is for Dr. Petri, as well as Ms. Cutler, about China not being transparent in how it is meeting IT commitments in the Phase One agreement. What can the U.S. do to better work with our allies to enforce IT protections in China?

Dr. Petri, why don't you start there and give Ms. Cutler the final word?

Dr. PETRI. This is going to be a very, very difficult problem for the United States to solve. We need to work with partners, most importantly. And we are not members of a trade agreement, either bilateral or multilateral, aside from the Phase One deal, which could impose additional pressure upon China to alter its policies.

So it will depend to a large extent on where China decides to go. It was, for a while, beginning to implement some improvements in its IT policies. It has stopped now. And it is unclear where it is going to go, and we do not have leverage at this point.

We would have some leverage if we built a network of major trade agreements among like-minded partners like those in the CPTPP in the Asia-Pacific region.

Senator DAINES. All right. I am out of time here, so I am going to turn it back to the chairman. Thank you.

Senator CARPER. Thank you. Thanks very much for joining us with those questions.

Senator Sasse is next on the list, if he is able to join us. Senator Sasse, are you there?

[No response.]

Senator CARPER. Okay; Senator Young would be next. Senator Young, are you there?

Senator YOUNG. I am, Mr. Chairman. Thank you. And I want to thank our expert witnesses for sharing a comprehensive outlook on the Asia-Pacific region today.

As we all know, China's influence is especially strong with its regional neighbors. But it is also growing rapidly across the globe and hitting very close to U.S. soil. Developing countries become saddled with debt from China in exchange for an economic lifeline. But this reliance comes with significant strings attached. Censorship and public proclamations supporting Chinese positions are one example. Lax IT protections and poor enforcement of trade secret laws are another example.

One of the worst-case scenarios for this parasitic relationship is Cambodia. Cambodia has seemingly surrendered large amounts of coastline to Chinese military activities and is using political propaganda to extol the Chinese and to lambaste Americans, all in exchange for buildings, roads, and bridges.

This question is for Ambassador Cunningham. Ambassador, am I wrong to be concerned with the level of Chinese involvement in the countries in the Asia-Pacific region?

Ambassador CUNNINGHAM. Thank you, Senator. No, not at all. Obviously, China is going to have a relationship with its neighbors, and with countries around the world, and that is entirely fitting. It is how it uses that relationship and where it uses its economic power of punishment or enticement, that I think we and our partners need to be worried about.

So to go back to my theme, we collectively are in a much better position to contest that kind of Chinese influence when a broad array of countries are concerned about it, and are willing to express that concern and to act on it.

A number of countries around the world have been enticed or intimidated by China into arrangements and agreements, some of which they have come to regret. And we should have a forum collectively where we can talk to people who share our values about the dangers of that behavior, and about how we can effectively help other countries repair damage where we resisted in the first place—even as we have to keep in mind that China has a legitimate interest of its own in relationships, economic and otherwise, with its neighbors.

It is where they go off the road that I think we need to be alert and can be helpful in helping others and strengthening our own values-based framework.

Senator YOUNG. Well, that sounds right to me. I mean, it is an incredibly populous country—that is, China—and growing at a rapid rate. We would expect them to play a significant role in the region, and no one is suggesting that they should not. It is the rules of the road, as it were, that they are following, or failing to follow, as they pursue their interests.

Mr. Ambassador, in what ways would you say the United States is poised to build better trade relationships with countries in the

Asia-Pacific region? And what are the chief barriers to improving such relationships?

Ambassador CUNNINGHAM. The foremost instrument that we have is engagement, pure and simple, engagement on things that countries in the region want to work with us on. We have an attraction for partnerships, for all of the difficulties that occur in relations between large countries and smaller countries. We have attractions in our relationships that the Chinese do not have and will not have for the foreseeable future. People want to work with us, basically, and they become alarmed when we are not engaged or when we are not available, or when we walk away from things that we have agreed to.

Senator YOUNG. So it is our value system. And that value system—what I am hearing is, that value system allows the United States to establish deeper relationships, including commercial relationships, with others around the world. Is that accurate?

Ambassador CUNNINGHAM. That is exactly right, Senator, and that is the strength that China cannot replicate.

Senator YOUNG. And would you assess that our values and our way of life will be undermined and could be in various ways threatened moving forward if we fail to leverage our values in the deeper commercial relationships with allies and partners in the Asia-Pacific region?

Ambassador CUNNINGHAM. Our values and our vision of how societies ought to be organized are already being contested by China and by some other countries. And that contest is going to continue. It is long-term. The Chinese look and act long-term, and we need to learn how to do the same thing, in the understanding that we have a stronger base, actually, if we will take advantage of it.

Senator YOUNG. Thank you so much for your service and your appearance before the committee today.

Senator CARPER. I second that emotion.

All right. Senator Cornyn has a couple of more questions and then may want to offer any closing statements, and then I have a few questions and a closing thought or two as well.

Senator Cornyn?

Senator CORNYN. Ms. Cutler, I believe I heard you say that trade agreements are trusted supply chain agreements. Did you say that? And could you explain what you mean by that? I thought that was an interesting characterization.

Ms. CUTLER. Sure. That is what I said, and I truly believe that. There is so much talk about creating trusted supply chains, and that is what these regional trade agreements are about. So, getting rid of barriers, you are letting trade move freely between the countries. There are strong trade facilitation provisions and you have set common rules of origin and other common rules. So by definition, it is a group of like-minded countries coming together, encouraging their trade to take place within this block.

Now is it sufficient, given some of the supply chain challenges we are facing now? Perhaps not. And if we were to rejoin the CPTPP, for example, would we want to seek a separate chapter on supply chains? Or would we want to include annexes with supply chain agreements with respect to specific products like semiconductors or batteries, and just have a handful of those countries involved?

There are a lot of possibilities, but I think once you start thinking of these trade agreements along these lines, you will see there is not much difference between this notion of trusted supply chains and regional trade agreements. There is a lot of overlap,

Senator CORNYN. Well, that is an interesting way to frame it. I had not thought about that before, so thank you. You know, for myself, I think I learned a lot about COVID-19 and supply chains. And the example that I have pointed out to others is that when I talked to my Governor in Texas when COVID-19 hit our shores, he said, "There are two things I need. I need testing, and I need PPE." And the more I looked into it, the more I realized that almost all of the PPE was manufactured in China. And why was that? Well, because it was the cheapest place to produce it, and then for us to export it.

So it seems to me that one of our lessons—and I looked to semiconductors and had a hard time sleeping at night, realizing that 90 percent of the semiconductors in the world come from Asia; 63 percent from Taiwan alone. And recognizing that, whether it is a natural disaster, or another pandemic, or a military conflict—Heaven forbid—in the region which would cut us off from access to those advanced semiconductors made by Taiwan Semiconductor, for example, the economic shock, not to mention the national security threat to the United States, is unacceptable. So that is the reason why we have moved forward in that area to incentivize more manufacturing of semiconductors here on our shores.

Mr. Allan, I might ask you, just as a large company, I am sure you have very complex or involved supply chain issues. I know there must be a number of reasons, financial and business reasons, to diversify your supply chain.

Could you talk a little bit about what you, what Black & Decker does, or what similar companies do to diversify their supply chain and how you view this issue? Is this an issue that you think has significance, and is it something we ought to be paying more attention to? How would you characterize that?

Mr. ALLAN. Thank you, Senator. I do believe very strongly that diversifying the supply chain for companies like mine is incredibly important. And it is something that we at Stanley Black & Decker have been focused on for over 10 years now, as we continue to migrate as much manufacturing closer to our customers, whether those are customers in the United States, or customers in the European region, or other parts of the world. And that is a strategy that is important to not only the success of Stanley Black & Decker, but also the success of our customers.

And as a result, we have been working on that diversification over the last decade. And as we went through the pandemic, we recognized the value of that situation where we were able to continue to navigate a very difficult set of circumstances and move product to different locations logistically, whether that was cross-country or just within the United States in many examples.

And so that diversification ultimately allowed the company to be stronger. And I do think having strong trade agreements with key countries around the globe—and in this particular case we are talking about the Asia-Pacific region—really facilitates the opportunity

for that diversification, while it also facilitates the opportunity to increase manufacturing here in the United States.

Senator CORNYN. Well, as I have said, I think the pandemic taught us a lot of lessons that we need to pay heed to, one of which to me seems like we cannot depend on a country that does not play by the rules as a reliable or trusted supply chain provider. And I think the framework Ms. Cutler has suggested—we are thinking about those trade agreements as a trusted supply chain agreement—is just another way to characterize what trade agreements are. It would be pretty obvious to us that if we could not have a supply chain agreement, or a trade agreement with a country like China, then maybe that ought to be a signal to us that we should not enter into those agreements, and we ought to be looking for other friends and allies.

For example, I think Senator Daines and Ms. Cutler talked about India. India comes from a similar history as the United States, both as former colonies of the United Kingdom, and one of the inheritances we have, both countries, is the rule of law. And like I said, when China does not play by the rules, I think it is an opportunity for us to think about how we would move those supply chains to trusted partners and think of that in terms of one of the goals of these trade agreements.

So, Mr. Chairman, thank you for organizing this hearing. I think it has been very helpful for a number of reasons, and I hope we have provoked some thinking that will be productive in the future. But it seems to me that we all agree, in Congress certainly, on what China presents, and the importance of our engagement in the region. And I thank you for organizing the hearing.

Senator CARPER. We are happy to work on it with you and your staff.

I have a couple of questions, and then I will offer a closing statement. Anything else you would like to say in terms of closing, Senator Cornyn? Anything else?

[No response.]

Senator CARPER. Okay.

A couple of questions, if I can. One of the things I was going to ask you to do is for you just to talk, continue to talk to folks who might be watching this, who say this is just a lot of acronyms, and for whom it does not make a whole lot of sense.

Every now and then I am reminded of the advice I got from an old Methodist minister in southern Delaware—Seaford, DE—who once said to me when I was becoming the Governor of Delaware, he said, “Governor Tom,” he said, “the main thing is to keep the main thing the main thing.” That is what he said. And I was not sure what he meant by that, but eventually I figured it out.

And the last thing I will ask you to do is just to take a minute and talk to us about the main thing, as we call it a day.

I have two questions, though; one would be to Ms. Cutler. As you know, the Trans-Pacific Partnership contained a digital trade chapter that would have opened markets for our goods and services in 11 other countries in the Asia-Pacific rim. In fact, several of the provisions within this chapter were adopted and included in the USMCA and the U.S.-Japan Digital Trade Agreement.

In the last year, the coronavirus pandemic has shown just how much Americans rely on the Internet for work, for education, for health, for commerce, and a lot more. In order to remain competitive in the digital economy, I believe we need to be strategic and to work cooperatively with our allies to ensure fairness, transparency, and openness in our e-commerce and data roles. This is especially true in the Asia-Pacific region. Of course, several of the TPP countries have formed their own digital trade agreements and are trying to engage on e-commerce matters with their neighbors.

This question is for Ms. Cutler. In your view, what can the U.S. learn from these recent digital trade agreements? And what should the U.S. do to constructively reengage with our allies on digital trade matters? Ms. Cutler?

Ms. CUTLER. Well, the United States, as you noted, has a strong interest in remaining at the table, shaping the rules on digital trade and digital technologies. Our small and medium-sized enterprises rely on these tools to survive and trade, and I think a digital trade agreement would offer benefits to our workers and our middle class, including exploring issues like digital inclusiveness, as well as democratic values of fairness and transparency.

So I think there is a lot we can gain from this. Other countries in the region, as you mentioned, are forging their own deals on digital. We have a very strong digital chapter in the USMCA which was worked on and approved by Congress.

So I think we are well-positioned to enter into a conversation with our regional partners and help shape those rules, today's rules, but also to provide a forum for shaping the rules regarding new technologies. Other countries in the region are setting those tables right now. As you said, we do not want to be on the menu, we want to be at the table.

Senator CARPER. Yes.

My last question, if I could, would go to Ambassador Cunningham. As a senior member and former chairman of the Homeland Security and Governmental Affairs Committee, I have had a keen interest in the intersection between trade and national security. Over the past several years, the U.S. has been subject to a variety of state-sponsored cyberattacks, as we know all too well, not only on government agencies but on our universities and domestic companies.

Not only do these cyberattacks undermine confidence in digital trade, they also pose a grave national security threat. I am heartened by the inclusion of cybersecurity provisions in recent trade agreements like the USMCA and the U.S.-Japan Digital Trade Agreement.

My question, Ambassador Cunningham, is this: could you speak to the opportunities that trade agreements present to strengthen both our economy and our national security posture? What actions should the U.S. take to cooperate with our allies on this issue, Ambassador Cunningham?

Ambassador CUNNINGHAM. Thank you. So I think that is a very interesting question. Obviously, cybersecurity is a priority for all of us in the West, and particularly when it comes to protecting our infrastructure and our own security apparatus, and our economy and our intellectual property, for that matter.

So we have a shared interest, it seems to me, quite regardless of anything that China or Russia or anybody else does. We have a shared interest, among our trading partners and our close allies, in cooperating and promoting cybersecurity and establishing rules of the road for how we protect ourselves and how we might act in defense of ourselves when we are attacked.

This is a very hot-button issue, of course, at the moment. But I think it should be ingrained in our discussions about trade and economics going forward, as well as being handled internally by each of the governments concerned.

Senator CARPER. Thank you. All right.

Before I conclude, I mentioned—I told the story about Pastor Reynolds down in Seaford, DE, at the Methodist church and how he said to me, as I was about to become Governor some years ago, to keep the main thing the main thing. And for folks around the country who might be listening in this afternoon and watching us, some people may say, “Well, that is just a lot of gobbledy gook.” That is a lot of acronyms and does not make much sense or have a whole lot of relevance for them in their lives. And maybe you could just explain why it does have relevance, and maybe share with us sort of what is the main thing here that they should take away, please? Wendy, I will ask you to lead off if you would, followed by Mr. Allan, and Dr. Petri, and then Ambassador Cunningham.

Wendy?

Ms. CUTLER. The Asia-Pacific region is growing quickly and offers enormous economic opportunity and is really vital to the future of American health, jobs, and innovation. And so we need to be engaged. We need to be working with these countries. If we are not, others will fill the vacuum, like China.

Senator CARPER. That is good. Thank you.

Mr. Allan, please?

Mr. ALLAN. I would agree with what Ms. Cutler just said. I do believe that the United States needs to have a significant role in the Asia-Pacific region. This is one of the fastest-growing regions in the world, as she mentioned. The growth opportunity is significant for the U.S. economy as well, as many manufacturers over time can begin to provide products into that market that could potentially be manufactured here in the United States. And so it creates an opportunity for our country going forward to have strong trade agreements with a very large part of the world that is growing at a significant pace, or somebody else might step in and do it on our behalf.

Senator CARPER. Thank you, sir.

And Dr. Petri, please?

Dr. PETRI. Thank you, Mr. Chairman. We have talked a lot over the last couple of hours about the growing challenges to the United States, and indeed our partners and allies, in the Asia-Pacific from China.

We need to better align our economic relationships with the national security issues and the national security objectives that these challenges represent. And most importantly, I want to add that our friends want us to be there in the region. Japan has worked very hard to leave an open space for the United States to

reenter the new CPTPP agreement, and Japan has many partners that would equally welcome the United States to come back.

So these are measures that we should take for our own interests, but we will be welcomed with wide arms when we resume our rightful place in regional economic decision-making. Thank you.

Senator CARPER. That is an encouraging note to close on.

And finally, Ambassador Cunningham, please, the main thing.

Ambassador CUNNINGHAM. I think the main thing is that we have a huge advantage in values and innovation to bring to the table in Asia and elsewhere, and, as Dr. Petri just said, our allies want our involvement and engagement.

Also, competition is good, if you are prepared for it. And the competition is taking place. China is moving ahead in Asia, whether or not we are—whatever we do. And we need to be prepared for that, and we need to respond. And I am actually quite optimistic that we can get this right.

Senator CARPER. A long time ago, I was a naval flight officer, and my squadron was oftentimes deployed during the Vietnam War to the South China Sea, to the Western Pacific, and even into the Indian Ocean, and the areas where the Chinese had been pushing other countries around, and almost blocking the movement of our aircraft, our ships, and others in the region. There is a fair amount of adversity in that part of the world, and we are hearing about that. But I am also reminded of the words of Albert Einstein. I have never been able to get him to come to testify at a hearing, but if I did and we were talking about the kind of adversity we deal with, I would ask his thoughts, and then he would say, “In adversity lies opportunity.”

A lot of people remember quotes from Einstein. One of the most famous ones is that the definition of insanity is to keep doing the same thing over and over again, expecting different results.

I love “in adversity lies opportunity.” And in testimony and an earlier conversation that we had, I think I heard you say that you were an optimist by nature. And this is probably a good area for us to be optimistic; not blindly optimistic, but this is, I think, definitely a glass half-full. We have to be smart about it.

I think the testimony of these witnesses today has made us a little smarter. As my dad used to say to my sister and me, he would say that we need to take our smart pills. We were kids, and maybe with your help we are taking a few extra smart pills to go home with.

So with that, I want to thank Senator Cornyn and his staff. I want to thank majority staff here too, who are sitting over my right shoulder, and to thank all of you for all your work in helping us pull together a great panel of witnesses that will enable us to learn something that is really important.

This is our first hearing in this Congress, and it is an important one. And it is one that I think has put us off on a very good start. We have been talking here today about the next hearings that we want to hold, and you have helped us clarify that in our minds, and for that we are grateful.

But we thank you for appearing here today and for lending your expertise to this discussion, and making it relevant in the lives of all of us in this country.

And for Senators who wish to submit questions for the record, those questions are due 7 days from today. That is 7 days from today. Our witnesses will have 45 days to respond to any questions for the record. We would appreciate your doing so. If you want to respond more quickly, you are welcome to do that as well.

And with that, this hearing is adjourned. Thank you all so much.
[Whereupon, at 4:33 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF DONALD ALLAN, JR., PRESIDENT AND
CHIEF FINANCIAL OFFICER, STANLEY BLACK & DECKER

Chairman Carper, Ranking Member Cornyn, and members of the Senate Finance Committee, thank you for the opportunity to testify as a witness for this hearing. As President and Chief Financial Officer for Stanley Black & Decker, I lead our global operations organization, which is the heart of our manufacturing and supply chain operations.

I. Stanley Black & Decker Is a Purpose-Driven, World Leading Manufacturer and Significant Global and National Employer.

- *World Leader:* A global manufacturer of hand and power tools, infrastructure and industrial equipment, and creator of security solutions. Homes, buildings, and infrastructure projects are built and maintained with our tools and our heavy equipment and attachments. Valuables are protected and health care is provided to people by our security systems and solutions, and vehicles and industrial equipment are constructed with our engineered fastening solutions.
- *1843:* Stanley Black & Decker has a long history having been founded in New Britain, CT in 1843. We are still headquartered minutes away from where Frederick Stanley founded his bolt manufactory.
- *Purpose:* We are a purpose-driven organization guided by our Purpose which is “For Those Who Make the World” because we are in business to help those who use our products and solutions to do better, safer, more significant work. The pandemic reminded us that Those Who Make the World are indeed our key stakeholders—our employees and communities, our suppliers, and our customers—and they are the stakeholders that 55,000 of us serve, every day. I always delight in speaking with Those Who Make the World because they take such pride in the things they build—like schools, hospitals, hotels, bridges, farms, ranches, or when they fix an 18-wheeler to drive goods across the country. These are the people who led the way in our fight against COVID.
- *Those Who Make the World/Critical Infrastructure:* These are the people we live for, and in the face of rapid technological and societal change, traditional public institutions like governments, schools, and civic organizations cannot keep pace. But, public trust in corporations is significantly higher than these institutions. We believe that our stakeholders have high expectations of our company and we intend to meet them leveraging the agility, innovation, imagination that we utilized to help the company and our stakeholders survive the pandemic. We will continue to stand with those who demand justice, and to serve as constructive partners with those seeking to address climate, diversity, racial justice, and other social challenges facing our stakeholders.
- *Our Societal Role/ESG:* We believe, as a leading global corporation, that we have a societal role. With this greater role, we have the privilege and responsibility to help solve the world’s biggest challenges through socially oriented innovations, such as building the workforce of the future, addressing environmental concerns, and racial equity.
- *Employer:* Worldwide, we employ over 55,000 people, with over 17,000 people in the U.S. Nearly 40,000 of these colleagues are employed in manufacturing-

related jobs, and thousands more are in engineering and design to create and innovate the world's leading tools.

- *Made in USA*: We are hiring in the U.S.—we currently have over 2,000 manufacturing and operations jobs open in the U.S. Demand is strong, and we are expanding our U.S. operations. Not only are we the largest hand and power tool manufacturer in the world, we are the only company manufacturing power tools at scale in the United States. Our increased investments, manufacturing and growth in the U.S. is a manifestation of the commitment we made nearly 10 years ago to move our supply chains and operations closer to our customers. For several years, on an ongoing basis, we have been increasing production in the U.S., building new factories, adding jobs, and contributing to local economies and communities where we operate.
- *Committed to DEI and Creating Black Talent Pipeline*: On behalf of Stanley Black & Decker, I applaud Congress and the President making Juneteenth a Federal holiday. This year, Stanley Black & Decker employees had a companywide day off on Friday, June 18th, as a “Day of Hope and Healing” that leads into Juneteenth and honors George Floyd and those who have lost their lives or have been victims of violence. The company encouraged employees to use the day to reflect on the hard work that lies ahead to make our society a better, safer, and more just place to live.

The addition of Juneteenth as an ongoing, company holiday starting in 2022 continues Stanley Black & Decker's efforts to confront racism and social injustice throughout our communities and across the world.

- In June 2020, following the tragic death of George Floyd, we strengthened our commitment to increase minority talent within our company, at all levels. We are partnering with several non-profit organizations, like the Thurgood Marshall College Fund, to develop diverse talent pipelines, and others that are partnering on developing skills credentials to make manufacturing jobs more accessible to broader and diverse candidates and particularly those displaced by COVID.

II. Need for Congressional Engagement and Trade Strategy to Maintain U.S. Competitiveness.

We are expanding our manufacturing in the U.S. to better meet demands of our customers and end-users across the country, and in fulfillment of our commitment to move our supply chain and manufacturing operations closer to our customer set forth nearly 10 years ago. In this period of recovery from the impacts of the COVID pandemic, we believe a strategic U.S. trade agenda is critical to ensuring a robust and inclusive economic recovery. The agenda should support job creation in the U.S., expand access to new markets, and ensure global competitiveness of U.S. manufacturing. The United States should remain engaged in the Asia-Pacific region to enhance regional partnerships, support strategic supply chains across those partnerships, and promote high standards in trade.

Strengthening commercial and diplomatic ties with countries including South Korea, Japan, India, and other allies would ensure that no one country is over-relied on for serving the world, and particularly the U.S. market. Strategic U.S. engagement would also strengthen rules-based trade across the region including the disciplined use of subsidies, preventing of currency manipulation, maintaining secure supply chains and critical infrastructure, and improving market access for U.S. companies.

The U.S. trade agenda should also reconsider the section 301 tariff regime on products of China, particularly those that are inputs used to support U.S. manufacturing. We appreciate the members of this committee, other members of Congress, and the administration exploring options to reassess the trade relationship with China. We applaud the administration's “top-to-bottom” review of the 301-tariff policy as a thoughtful approach to the commercial relationship and we look forward to the conclusion of the review. We also applaud the Senate's support of the provisions of the United States Innovation and Competition Act that reauthorize the section 301 tariff exclusions and create a new exclusion process that can be more fairly and transparently administered by USTR.

The section 301 tariffs have created competitive barriers for U.S. companies, thereby creating an advantage for our competitors in other countries, who can continue to sell products into the United States and invest in innovation unencumbered by these extra taxes. The tariffs must also be better managed to not impede or dis-

courage investments in U.S. manufacturing. Increasing high-value manufacturing presence in the United States will necessarily rely on importing at least some inputs. The 25-percent tariffs on these inputs have effectively become a 25-percent tax on U.S. manufacturing. The Senate has helpfully recognized that this is an unsustainable policy and that funds currently being used to pay tariffs would be better spent on investing in new U.S. facilities, manufacturing, and competitiveness.

III. Supply Chain Resiliency and Agility Are Critical to Meeting Customer Demands.

Over the past 16 months or so, through the height of the COVID crisis, we had 3 key priorities that we focused on and continue to focus on: (1) Keeping our employees safe; (2) Maintaining our operational continuity; and (3) Doing our part to stop the spread and impact of the virus in our communities.

We are still living these priorities in the U.S. and across the world, and we are currently focused on “strongly encouraging” our employees to be vaccinated—we have run 30 on-site or near-site vaccination drives for our employees, we have conducted robust safety and vaccine communications featuring senior leaders, influencers, medical professionals and in several languages and some specifically for communities of color.

Across the U.S. and throughout the world, the COVID crisis brought into relief several critical aspects of ensuring supply chain resiliency:

- *Global Over-Reliance on China:* There was a stark over-reliance on Chinese supply chains by all kinds of industries and companies making access to critical care products difficult. Now in the recovery from COVID, there are shortages in the U.S. of many foundational products for technological development including batteries and semi-conductors.
- *The Importance of Localization to Enhance Competitiveness and Meet Customer Demands:* Global supply chains led to over-reliance on shipping goods across the world, and while the trade network still makes that possible, it is not preferable for companies like ours with capability to manufacture at scale in the United States. Congress should support and incentivize companies to move operations to the U.S., and at the same time, ensure a competitive landscape for manufacturing in the U.S. underpinned by a comprehensive trade strategy, a reassessment of the tariff regime, and sustained support for demand-driven workforce development programs.

IV. Stanley Black & Decker Is Expanding Operations in the United States, Closer to our Customers.

Roughly 60 percent of our Tools and Storage sales are to U.S. customers, and about 10 years ago we committed to moving our supply chain and manufacturing operations closer to these customers so we can serve them with the right product, at the right time, at the right price. Some of the recent and forthcoming highlights of our increased operations and manufacturing investment and growth in the U.S. include the following facilities and locations:

- *Ft. Worth, TX:* In October 2021, Stanley Black & Decker will cut the ribbon on a new facility in Ft. Worth, TX that will be the new home of Craftsman in the United States. We bought the Craftsman brand in late 2016 and then committed to bringing the manufacturing of the famous Craftsman hand tools back to the U.S., which the brand’s prior owner had let go to China decades ago. This year, we make good on that commitment, and will be hiring up to 500 people to run the facility. With Craftsman as a brand that is 99 percent sold in the U.S., it makes sense to move that manufacturing closer to our primary customers.
- *Jackson, TN:* In Jackson, TN, where we make DeWalt-branded pancake air compressors, we have recently expanded the facility to meet U.S.-customer demand for these products through manufacturing right here in the U.S., and also to create metal housings for export. Investments in this facility have led to roughly doubling the number of employees in that facility since 2015 to about 900 employees today, and we currently have over 100 jobs open at that site.
- *Fort Mill, SC:* Similarly, in Ft. Mill, SC, we opened a new power tool manufacturing facility in 2018 to make high-end cordless DeWalt drills and impact drivers, and in turn grew our manufacturing workforce by several hundred employees in the past 3 years.

- *Mission, TX*: In 2018, we opened our Mission, TX manufacturing facility to make power tools that has grown to 450 employees in the past 3 years.

These expansions have significantly increased our cordless power tool production in the U.S. over the past several years and are representative of the kinds of growth and investments that have resulted in growing our U.S. manufacturing workforce by 40 percent since 2015. We are moving our supply chain and operations back to the U.S. to serve U.S. demand and could accelerate this growth if the section 301 tariffs related to China were removed.

V. Adopting Advanced Manufacturing Processes Is Critical to Establishing Competitiveness of U.S. Manufacturing.

A key driver of enhancing the competitiveness of U.S. manufacturing is the shift to advanced manufacturing which requires both a technological and a human-workforce transformation. New technologies and the infusion of data into the manufacturing process makes manufacturing more efficient, greener, and more responsive to customer demands. Contrary to the perception that advanced manufacturing replaces jobs, our experience has been that in facilities where we have adopted advanced manufacturing—including each of those mentioned by name above—those facilities have increased production and the number employees, significantly.

VI. With the Advanced Manufacturing Transformation Comes the Responsibility to Skill, Upskill, and Reskill the Workforce in our Facilities and our Communities.

Introducing and implementing technologies in manufacturing does require new skill sets for our employees. In accordance with our commitment to our employees as a key stakeholder, we are taking on the role of upskilling and reskilling our employees, and skilling the next generation of the workforce to meet these needs. In particular, we coordinate with non-profit partners, governments, technical schools, and teachers to create skilling programs that equip students and mid-career employees, and those looking for new careers, with the skills they need to thrive in the 21st-century economy. In Jackson, TN, we work with the local public-school system for high school students to train in advanced manufacturing for half their school day and provide classroom space on site for traditional learning in the other half of their day. In Connecticut, we recently created a digital skilling credential with the help of non-profit partners and the CT College of Technology to prepare post-secondary students with digital skills. In many locations we are taking these learnings to our supplier and customer communities. Congress should proceed with supporting demand-driven workforce development policies that will support the skilling of the next generation of the manufacturing workforce, allowing businesses to lead the way in creating workforce pathways and skilling that meets the needs of those businesses.

It has been a pleasure to provide you with Stanley Black & Decker’s perspectives on how trade and related policies can support increased U.S. manufacturing, an inclusive, jobs-led economic rebound from COVID, and how businesses can lead in playing a societal role to aid with adaptation and coping with rapid change. We welcome the opportunity to continue to work with you on these or other issues before the Congress.

SUBMITTED BY HON. SHERROD BROWN,
A U.S. SENATOR FROM OHIO

Office of the United States Trade Representative

June 10, 2021

Remarks of Ambassador Katherine Tai Outlining the Biden-Harris Administration’s “Worker-Centered Trade Policy”

WASHINGTON—United States Trade Representative Katherine Tai today delivered remarks and participated in an AFL–CIO town hall to lay out her vision for a worker-centered trade policy that supports the Biden-Harris administration’s Build Back Better agenda. In her remarks, Ambassador Tai explains why workers must

be at the table early on, and throughout the negotiating process and she describes how the policy will help the economy grow from the bottom up and the middle out. The full text of her prepared remarks is below.

Thank you, President Trumka, for that very kind introduction. You have been a fearless champion for working people throughout your life, and I am grateful for your leadership.

I also want to recognize AFL–CIO Secretary Treasurer Liz Shuler, another fierce advocate for workers, and the other union leaders and members of the AFL–CIO Executive Council who are here today in the room and via zoom.

Also, I want to thank the union members who have joined us as well. This speech is for you.

The past 15 months have been hard for all of us, but especially hard for front-line workers. Nearly 600,000 Americans have lost their lives to COVID–19, including union members who paid the ultimate price for showing up to work.

Ending the pandemic is President Biden’s top priority, and thanks to his leadership, we are making progress. The majority of American adults have received at least one shot, and we are pushing to get more Americans vaccinated as quickly as possible. The pandemic isn’t over for any of us until it’s over for all of us.

That’s why we will share 80 million vaccine doses with other countries by the end of this month, and yesterday the United States announced it will purchase and donate 500 million Pfizer vaccine doses to help the rest of the world with its vaccination efforts. And in May, we declared our support for a waiver of intellectual property protections under the TRIPS Agreement for COVID–19 vaccines.

President Biden understands that our economy cannot fully recover until we defeat the virus, but there are signs of improvement. We are on track for the fastest economic growth in 40 years, and in our first 5 months, the Biden-Harris administration oversaw the creation of a record 2 million jobs—that’s more than any other administration, ever. Real wages are finally going up, the unemployment rate is coming down, and the number of initial weekly jobless claims has been cut in half.

But there is more to do.

Build Back Better starts by growing the economy from the bottom up and the middle out and putting workers at the center of our economic plans.

Workers and worker power are fundamental to those ideas, and that’s why the Protecting the Right to Organize Act—the PRO Act—needs to become law. We can’t rebuild an economy that works for everyone without empowering workers and giving them a voice to secure the better wages, benefits, and working conditions they deserve.

This is particularly true for workers of color, who have the dual burden of fighting for workers’ rights and for racial justice. They need the support of organized labor, and the Senate needs to send that bill to the President’s desk so he can sign it into law.

We also need to enact President Biden’s American Jobs Plan and the American Families Plan to invest in our future.

The President has been clear that trade policy will play a critical role in carrying out his vision for an economy where, as he puts it, “everyone is cut in on the deal.” And that is why I’m here today: to talk about your important role in the Biden-Harris administration’s pursuit of a worker-centered trade policy.

We know that trade is essential to a functioning global economy. It is clear, however, that the past promises made to workers on trade were not met. Certain sectors of the economy have done well. But far too many communities and workers were left behind. The consequences for families when factories closed and jobs were sent overseas were real. And they were real for the workers who lost their jobs to unfairly traded imports, too. This created a trust gap with the public about free trade.

This wasn’t because of trade agreements alone. Recent tax policy favored corporations over workers. Tax cuts for the wealthiest individuals and corporations never trickled down. President Biden knows this, which is why he wants them to pay their fair share.

In the United States, real wages have stagnated for decades, and the wealth gap—particularly between Black and White workers—has widened significantly. CEOs

now make on average 320 times more than their employees. And the percent of workers in unions—a good indicator of higher wages and job stability—is half of what it was 40 years ago.

This inequality isn't fair or sustainable. It didn't happen overnight. It is the result of a long pursuit of tax, trade, labor, and other policies that encouraged a race to the bottom.

President Biden is leading us on a new path. He wants an economic policy, including a trade policy, that delivers shared prosperity for all Americans, not just profits for corporations.

We want to make trade a force for good that encourages a race to the top.

The first step to achieving this goal is creating a more inclusive process. In order to understand how trade affects workers, we want to come meet with, listen to, and learn from them.

By bringing workers from all backgrounds and experiences to the table, we will create inclusive trade policy that advances economic security and racial and gender equity. We want to lift up women, communities of color, and rural America—people that have been systematically excluded or overlooked.

Last week I joined Senator Sherrod Brown and some of his constituents in Ohio for a virtual roundtable. We talked about their priorities and the changes we can make to trade policy that will help their businesses and towns. I hope to have many more conversations like this in the weeks and months to come.

Our goal is to improve worker representation in trade policy in the United States *and* in multilateral organizations. The WTO, for example, doesn't adequately hear from workers, and we want to change that. We'll keep asking for this in other international organizations, such as APEC and the OECD too.

We know that when workers have a seat at the table in their workplace, wages go up, retirement benefits go up, workplaces are safer, and discrimination and harassment get addressed. We want trade to deliver the same results.

The USMCA agreement is a good example of what can happen when labor is at the table. It's not perfect, but because we collaborated closely with President Trump and many of the union leaders here today, we negotiated a better deal for American workers.

Because of our partnership, the USMCA now includes:

- The strongest labor and environmental standards in any agreement ever;
- A new rapid response mechanism that allows us to quickly take action at a specific factory where workers are being denied their rights to freedom of association and collective bargaining; and
- Critical changes to the intellectual property provisions designed to increase access to affordable medicine for regular people.

Unlike previous trade agreements, USMCA passed with overwhelming bipartisan support. It is proof that consulting—really listening and working with workers, the labor movement, and a broad range of stakeholders—leads to more pro-worker, more meaningful, and more popular policy.

Less than a year after USMCA went into effect, we're already using its labor enforcement tools. Last month, we asked Mexico to investigate whether workers at a GM facility in Silao were denied their rights during a contract ratification.

This was the first time that the new rapid response tool was used by the U.S. government. It was also the first time in history that the United States proactively initiated labor enforcement in a trade agreement.

The AFL-CIO recently filed a rapid response petition alleging workers' rights had been violated at an auto parts manufacturer. Yesterday, we asked Mexico to review the allegations—the second time we've taken this step in the last month.

Under previous agreements, labor petitions could—and did—languish for years without a response from the administration. But we have acted quickly.

These enforcement actions matter. The rapid response mechanism will help to protect the rights of workers, particularly those in low-wage industries who are vulnerable to exploitation. Because when we fight for workers overseas, we are fighting for workers here at home.

And we'll do that across the board. Enforcing all of our trade rules is a priority for the Biden-Harris administration. Those who work hard and play by the rules, you deserve to have the government on your side when faced with illegal and unfair trade practices.

We must apply the same principles at the WTO. Despite a preamble that says "trade . . . should be done with a commitment to raising living standards and ensuring full employment," the WTO's rules actually don't include any labor standards, and workers are often an afterthought. This needs to change.

The United States recently submitted a proposal to ensure that fighting forced labor is included in any agreement the WTO reaches to prohibit harmful fisheries subsidies. We know that forced labor is a serious problem in the fisheries sector, particularly on distant water fishing vessels. I hope WTO members will commit to a high-standards, meaningful agreement that includes our common-sense provision and that will contribute to tackling this problem.

This is not just an economic issue. This is a moral imperative, and I ask all of you to help us to build support for our effort. The WTO must show in these negotiations that it can improve the lives of regular people and that it is capable of responding to crises and tackling difficult matters, particularly when it comes to worker abuse.

If the WTO is to be relevant and a force for good, it must be revitalized and modernized. We must take bold steps to fix its negotiating function, commit to greater transparency, and reform the dispute settlement process.

Under the Biden-Harris administration, we will bring dignity of work—and the empowerment of workers—to the WTO.

I am excited to work with Dr. Ngozi Okonjo-Iweala, the new Director General. With her leadership, and if WTO members choose to meet this moment, the commitments of that preamble may finally come true.

Whether we're negotiating issues at the WTO, or in other settings, we will be more successful if we partner with our allies.

The President promised that he would focus on rebuilding the American economy and the American middle class before he enters into any new trade deals, and that's exactly what he is doing. But he also knows that the world won't wait.

That's why we will also reengage with our friends, trading partners, and multilateral institutions to promote democracy, labor rights, and economic security. We know in the past other goals—including important national security and foreign policy concerns—have sometimes drowned out workers' voices in trade discussions and weakened our focus on serving American workers' best interests.

This time we're putting foreign policy and trade to work for the middle class. That means working with allies on a shared agenda that will lift up workers, increase economic security, and strengthen democracy around the world.

And we're already seeing results. We are close to an agreement on a global minimum tax, thanks to recent progress with G7 and G20 partners. And just last month, the G7 Trade Ministers made a historic commitment to work together to protect individuals from forced labor, including mitigating the risks of forced labor in global supply chains.

We're also working with allies to make our supply chains less vulnerable and more resilient. We need to diversify our international suppliers and reduce geographic concentration risk. For too long, the United States has taken certain features of global markets as inevitable—especially the fear that companies and capital will flee to wherever wages, taxes and regulations are lowest. The pandemic laid bare the challenge of this approach. And we need to fix it.

And crucially, by working with allied democracies on trade enforcement, we will more effectively respond to the policies of autocratic, non-market economies that hurt our ability to compete. We will increase our leverage so that we can achieve more for American workers. That's why I am leading a Trade Task Force as part of the President's Supply Chain Resilience effort: to propose unilateral and multilateral enforcement actions against unfair foreign trade practices that have eroded critical supply chains.

Next week, I will join the President on his trip to Brussels and meet with my European counterparts. We'll participate in intense negotiations to resolve the 16-year old Boeing/Airbus disputes and to find a path forward on products like steel and aluminum. These talks will give us a chance, first and foremost, to champion the

rights and interests of our workers in those industries, while also creating new standards to combat the harmful industrial policies of China and other countries that undermine our ability to compete.

From my conversations so far, I am optimistic that we will be successful.

Finally, a worker-centered trade policy means addressing the damage that U.S. workers and industries have sustained from competing with trading partners that do not allow workers to exercise their internationally recognized labor rights.

This includes standing up against worker abuse and promoting and supporting those rights that move us toward dignified work and shared prosperity: the right to organize and to collectively bargain. USTR will utilize the full range of trade tools and work with our allies to protect labor rights, including the elimination of forced labor and the worst forms of child labor, especially forced child labor. We must also achieve greater accountability from those in the business community that profit from this exploitation.

We will be more effective if our trading partners also commit to promoting, protecting, and enforcing internationally recognized workers' rights as part of their trade policies. And we will lead the way on this issue as a core American value.

Together with our allies, we must create high-standard trade agreements that empower workers and prevent other countries from violating labor rights to gain an unfair advantage in the global market. And we must aggressively enforce them.

We know we can't do this work alone. In addition to bringing workers to the table and partnering with our allies, we need to consult closely with the business community.

American companies have the know-how and expertise that we will need to identify market access opportunities, respond to unfair trade practices, and build strategic and resilient supply chains, all at the same time.

We want to partner with U.S. companies to send products stamped with Made in America to all corners of the world and to invest in American workers and communities. This is part of the Biden-Harris administration's pledge to Build Back Better.

A worker-centered trade policy seeks to expand opportunities for businesses by expanding economic security for workers here at home. I hope American companies of all sizes will join us in this effort. We need their ideas, experience, energy, and partnership.

At the beginning, I said this speech was for the workers who took the time out of their busy day to listen in.

You are the sweat, the muscle, and the brains behind American ingenuity, perseverance, and competitiveness. You are the backbone of our economy and our democracy. You are the guiding light of trade policy for the Biden-Harris administration.

When I go to Europe next week, it will be to encourage other allied democracies to pursue a worker-centered trade policy too and to work with us to set a high-standard alternative to state-directed economies that do not promote the rights of workers and to combat forced labor, the worst illustration of the race to the bottom.

I'll be asking them to join me in making global trade policy a force for good that raises wages and increases economic security.

The more we invest in our workers at home and abroad, the stronger democracy will be worldwide. And by partnering with our allied democracies, we will more effectively respond to the threats of autocratic, nonmarket countries whose policies undercut our workers.

We've shown in our first few months—through USMCA enforcement, our WTO forced labor proposal, and many other actions—that we can craft a worker-centered trade policy if we partner with you.

It is still early days, and we have far more to do. But I have confidence that we will build off of these early efforts. By working together, we will achieve a trade policy that prioritizes the dignity of work and workers, that promotes shared prosperity and racially inclusive, equitable economic growth here at home and abroad.

Thank you.

A GOLD STANDARD FOR WORKERS?

The State of Labor Rights in Trans-Pacific Partnership Countries

AFL-CIO

INTRODUCTION

This report seeks to shed light on the state of labor rights and commitments among the Trans-Pacific Partnership (TPP) partner countries. Respect for labor rights is at the core of increasing jobs, raising wages and creating broadly shared prosperity. The Obama administration had promised that the TPP would be a 21st-century agreement, a “gold standard,” that would promote and respect labor rights, and raise wages for U.S. workers and workers across the Pacific Rim. Unfortunately, the grim conditions facing workers in TPP partner countries were not effectively addressed in the TPP text or consistency plans. Many commitments to improve labor rights remain vague, and the proposed enforcement scheme relies on the discretion of the next administration. The failure of the TPP to incorporate needed improvements to labor commitments that already have proved themselves inadequate in previous agreements belies the agreement’s stated commitment to workers. It is clear that, as currently drafted, the TPP would increase corporate profits and skew benefits to economic elites, while leaving workers to bear the brunt of the TPP’s shortcomings, including lost jobs, lower wages and continued repression of worker rights.

The majority of this analysis is based on the submission of the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC), a body consisting of U.S. trade union leaders with a statutory responsibility to provide advice to U.S. trade negotiators. The LAC had the statutory duty to respond to three questions concerning the TPP:

1. Is the Trans-Pacific Partnership in the economic interests of the United States?
2. Does the TPP achieve the applicable overall and principal negotiating objectives?
3. Does the TPP provide equity and reciprocity for labor interests?

On all three of these crucial questions, the LAC concluded that the TPP fell short. Overall, the LAC found the TPP is likely to harm U.S. manufacturing interests, cost good jobs, suppress wages, and threaten our democracy and economic security interests, while doing little to improve conditions for workers in the United States and overseas.

Before dealing with the question of labor conditions in the TPP countries, it is important to dispel some of the arguments that the supporters of the Trans-Pacific Partnership advance regarding the labor rights provisions in the text of the TPP.

“Enforceable” Labor Rights Provisions

The TPP’s supporters note that the TPP’s labor provisions are “enforceable.”

This is the wrong measuring stick. The correct measurement is whether there are sufficient provisions to provide confidence that they will be enforced. The United States has never imposed trade sanctions or even a fine as a response to labor violations by FTA partner countries. It has only attempted dispute settlement once, against Guatemala. The Guatemala case has been ongoing since 2008 and workers have yet to experience any measurable improvements as a result.¹ Despite receiving numerous specific recommendations, informed by experience, on how to turn theoretical enforceability into actual enforcement, the United States Trade Representative (USTR) failed to incorporate these recommendations. For example:

- The TPP fails to require parties to advance to the next stage in the dispute settlement process when an earlier stage proves ineffective (Article 19.15). This failure means that future labor submissions are likely to languish as the Guatemala case has.
- The TPP fails to include deadlines for its public submission process that would require parties to advance TPP submissions they receive in a timely manner (Ar-

¹As of February 1, 2016, a panel report from the first hearing (held in June 2015) has not even been published. Publication of the report is far from the end of the process. The case seems likely to drag on for years.

ticle 19.9). This failure means that parties will be able to use “administrative delays” to indefinitely defer acting on such submissions, as happened with the Honduras case, in which the petitioners waited for an initial report for 2½ years, and formal consultations have still not commenced.

- The TPP fails to clarify the obligations of the parties with respect to International Labor Organization (ILO) standards (Article 19.3). This vagueness as to what the obligation regarding freedom of association and other fundamental labor rights mean makes it less likely the labor obligations will be enforced effectively.
- The TPP fails to include measureable benchmarks or an independent evaluation to determine whether the consistency plans for Vietnam, Brunei and Malaysia are met. This failure means the determination that a consistency plan has been fulfilled and the TPP is ready for entry into force is wholly discretionary. The decision will be subject to immense commercial pressures to prematurely declare fulfillment. Such pressure was brought to bear regarding the Colombia Labor Action Plan (LAP), which also contained positive objectives, but lacked benchmarking criteria or an independent evaluation mechanism. As a result, success was declared prematurely, and Colombia has been out of compliance with its labor obligations since Day One of the agreement. This premature certification of compliance with the LAP apparently has deterred the U.S. government from self-initiating labor consultations with Colombia even though workers continue to be subjected to threats and violence, up to and including murder, in order to discourage them from the free exercise of their fundamental labor rights. There is no reason to expect a different outcome from the TPP plans.
- The TPP contains different dispute settlement mechanisms for foreign investors and working people (Chapters 9 and 19). Foreign investors can bring cases against TPP parties on their own, without having to petition their own government to do so. Working people must petition their governments, and then engage in years-long campaigns to attempt to move the cases through the arduous process. The negotiators demonstrated they know how to create effective dispute settlement mechanisms when they want to (Article 9). Thus, we conclude the failure to equalize the dispute settlement procedures available to workers was purposeful.

The TPP’s supporters say the labor chapter responded to all of labor’s concerns.

This is a spurious claim—one that easily can be disproved.² As detailed in the section above, a number of important labor recommendations were wholly ignored. Those proposals that were not wholly ignored were included in a weakened form that would undermine their effectiveness.

After providing high levels of engagement at the initial stages of the TPP negotiations, USTR moved in the opposite direction. Between February 21, 2012, and July 2015, the USTR and the Department of Labor (DOL) provided no updated texts of the labor chapter (and the same was true for many chapters of interest to working people). Furthermore, the LAC was never allowed to review the text or substance of the draft labor consistency plans for Vietnam, Malaysia and Brunei, despite numerous requests. Given that these arrangements are focused on these countries’ labor and employment laws, the unwillingness of U.S. negotiators to share draft text of these arrangements with its labor advisers (who have security clearances) is indicative of the indifference USTR generally displayed toward its consultation process with the LAC throughout TPP negotiations. The gaps in labor rights coverage and lack of accountability mechanisms in the TPP exemplify the outcome of such an approach. The LAC could have offered advice that would have plugged holes and strengthened weak spots, but we were not provided an opportunity to do so, despite our role pursuant to the Trade Act of 1974.

The TPP’s supporters say it is much stronger than the May 10th labor chapter.

USTR argues the TPP labor chapter greatly improves on language developed in 2007 known as the “May 10th” agreement on labor, which included “enforceable” language requiring countries to adopt and maintain in their laws, and to practice

²See “Report on the Impacts of the Trans-Pacific Partnership” by The Labor Advisory Committee on Trade Negotiations and Trade Policy, December 2, 2015, especially Chapter V and Annex 1.

five basic internationally recognized labor principles as stated in the ILO Declaration on Fundamental Principles and Rights at Work. Yet the changes are minor and provide little value to workers (for example, TPP parties must set a minimum wage, but there is no level below which that wage cannot go). As the AFL–CIO noted at the time, the May 10th agreement, though an important step forward from previous FTAs, was “by no means a complete fix appropriate for any country or any situation.”³

Because both the May 10th agreement and earlier labor provisions have been weakly enforced,⁴ the labor movement worked hard to develop proposals, provide recommendations and engage positively with USTR to reform labor texts that had proved ineffective, even when dealing with countries with less severe labor and human rights issues than Vietnam and Malaysia. Rather than trying a new model, the TPP incorporates without improvement numerous provisions, including the discretion to indefinitely delay acting on labor rights violations, already known to be ineffective. Because employers in our trading partner countries will continue to abuse workplace rights, workers throughout the TPP region will continue to make lower wages and will have fewer benefits and more dangerous workplaces than they otherwise might. An injury to a worker in Vietnam will indeed affect his or her American counterpart by driving down wages and working conditions.

TPP supporters say the TPP would, for the first time, require parties to have laws concerning “acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.”

Unfortunately, because the TPP sets no minimum standards for these laws, this provision is not as valuable as it might first appear. The TPP explicitly provides that these obligations will be satisfied “as determined by” each country (Article 19.3.2). As a result, a TPP country can set a minimum wage of a pennyan hour, or allow shifts of 20 hours per day with no overtime pay, or require workers to provide their own safety gear—and yet be fully compliant with the TPP. Thus, this provision adds little in terms of meaningful new protections for workers in TPP countries.

TPP supporters say it requires TPP countries to combat trade in goods made with forced labor.

Rather than requiring countries to prohibit or even combat trade in goods made with forced labor, the TPP requires parties only to “discourage” trade in such goods “through initiatives it considers appropriate” (Article 19.6). This language ensures a TPP party can judge for itself whether it is “discouraging” such trade. A TPP country not inclined to do much might, for example, put up a poster alerting customs employees that trade in goods made with forced labor should be discouraged. The provision allows parties to judge for themselves whether their initiatives are adequate, and even contains a footnote noting the provision provides no authorization to discourage trade in goods made with forced labor if such activities would violate obligations made in other trade deals. Thus, this provision provides no assurances that workers would be protected from forced or compulsory labor, including forced or compulsory child labor—and explicitly prioritizes trade obligations over obligations to protect human rights.

TPP supporters say the TPP obligates parties not to waive or derogate from statutes or regulations implementing minimum wages, hours of work, and occupational safety and health in a special trade zone or customs area.

This is yet another provision that adds little for workers. As explained above, a TPP party’s laws need not set meaningful standards regarding minimum wages, hours of work, and occupational safety and health. While preventing TPP parties from reducing these standards through waiver or derogation is a laudable goal, this particular obligation only applies “in a special trade or customs area, such as an export processing zone or foreign trade zone, in the Party’s territory.” Thus, it leaves the vast majority of TPP workers without this protection. The AFL–CIO had requested that parties not be allowed to waive or derogate from laws regarding acceptable conditions of work for *any worker*—as such a commitment would have been

³Letter from Bill Samuel, director, Department of Legislation, AFL–CIO, to Congress. Available at: www.massafcio.org/sites/massaftcio.org/files/PERUlettertoHouse.907.pdf.

⁴Government Accountability Office (GAO), “Free Trade Agreements: U.S. Partners Are Addressing Labor Commitments, But More Monitoring and Enforcement Are Needed,” November 2014. Available at: www.gao.gov/assets/670/666787.pdf; GAO, “Four Free Trade Agreements GAO Reviewed Have Resulted in Commercial Benefits, but Challenges on Labor and Environment Remain,” July 2009. Available at: www.gao.gov/products/GAO-09-439.

useful. Limiting the reach of this provision to special zones only limits its usefulness.

The TPP's supporters say it requires countries to eliminate discrimination in employment.

Unfortunately, the text of the TPP itself is vague regarding what types of discrimination are prohibited, even though a number of TPP countries have entrenched in practice (and in some cases in law) discrimination against disfavored groups. For example, Vietnam's consistency plan only requires Vietnam to prohibit discrimination on the basis of color, race and national extraction. It fails to mention religion, political opinion, LGBT status or immigration status.⁵ These glaring omissions leave open the strong possibility that these other bases of discrimination will be used as a pretext to discourage unions and deter workers from exercising their rights. Similarly, the Malaysia consistency plan fails to address discrimination on the basis of LGBT or immigration status, even though discrimination on these grounds is pervasive throughout Malaysia. Likewise, the Brunei consistency plan fails to address LGBT or immigration status even though it enacted a Sharia legal code during the TPP negotiations that includes the death penalty for illicit sexual relations.⁶ Moreover, neither the TPP text nor the consistency plans address basic human rights, including freedom of expression. Without even basic protections for such freedoms, it seems insincere to argue that governments that have engaged in years of repression against free and independent labor unions will not resort to other legal means at their disposal to continue to undermine workplace rights. These glaring omissions mean that workers who should be protected likely will continue to face major threats and discrimination that the TPP, on its face, will be unable to address.

TPP supporters argue that the TPP is "one of the best tools we have to fight forced labor and human trafficking" in Malaysia.⁷

Similar promises were made about the Colombia trade deal. The "strong labor provisions" of that trade deal were supposed to provide leverage to raise standards for a country with notoriously abusive labor practices, which had reduced labor density to 1 percent through a campaign of terror against labor leaders and activists. Unfortunately, because the Colombia trade deal went into effect before it had complied in both law and practice with its labor obligations, the promised leverage was lost. Now, even though threats and violence against trade unionists have increased since the deal's entry into force, the United States has failed to respond. The commercial pressure to keep trade flowing freely has superseded efforts to protect workers so they can act collectively to raise their wages and conditions of work. Likewise, the TPP includes Malaysia, a country with a notoriously bad record on human trafficking and forced labor. To deal with this, labor unions suggested new protections for migrant workers that would have obligated all TPP countries to prohibit certain practices by employers and labor recruiters that are linked to forced labor and human trafficking. We also recommended a clause making clear that migrant workers are entitled to the same rights and remedies as all other workers. Both of these recommendations were soundly rejected. Since the trafficking provisions in the Malaysia consistency plan apply only to Malaysia and have no independent evaluation mechanism, it is unlikely the TPP will prove effective at addressing trafficking and forced labor.

ANALYSIS OF LABOR CONDITIONS IN TPP PARTNER COUNTRIES

The TPP includes countries with entrenched labor and human rights abuses that are unlikely to be solved during a short implementation period.⁸

⁵ While gender also is not mentioned in the Vietnam consistency plan, Vietnam already has strong gender equity laws.

⁶ Quratul-Ain Bandial and Bandar Seri Begawan, "A New Era for Brunei," *The Brunei Times*, April 30, 2014. Available at: www.bt.com.bn/frontpage/2014/04/30/new-era-brunei.

⁷ <https://medium.com/the-trans-pacific-partnership/frequently-asked-questions-on-the-trans-pacific-partnership-eddc8d87ac73#rn5kzfxr8>.

⁸ It is important to note the United States is also out of compliance in a number of ways with fundamental labor rights. As Human Rights Watch put it, "Freedom of association is a right under severe, often buckling pressure when workers in the United States try to exercise it." Particularly egregious examples include restrictions and in some cases even prohibitions on the rights of freedom of association and collective bargaining for many public employees (at the Federal, State and local levels), child labor in the agricultural sector, many prison labor systems, and the lack of a Federal regime sufficient to deter private-sector employers from routinely interfering with the right to freedom of association.

The following summary of the labor and human rights practices of other TPP countries is broken down into three categories: countries with critical labor rights violations, countries with serious concerns and selected labor rights violations in partner countries. Holistically, each partner country is assessed on the basis of its adherence to the ILO's five fundamental labor rights: the right to freedom of association, the right to collectively bargain, the abolition of forced or compulsory labor, the abolition of child labor and nondiscrimination. This report also will consider how the TPP and, in some cases, U.S.-negotiated labor consistency plans (side agreements for Vietnam, Malaysia and Brunei) would impact the situation for workers in the future. It will conclude with recommendations for a worker-centered trade policy.

I. Countries With Critical Labor Rights Violations (Out of Compliance)

Mexico

The human and labor rights situation in Mexico is rapidly deteriorating. Mexico currently fails to adopt and implement laws that protect the ILO's core labor standards. Indeed, the Department of State (DOS) Mexico 2014 Human Rights Report concludes that:

The government did not consistently protect worker rights in practice. Its general failure to enforce labor and other laws left workers without much recourse with regard to violations of freedom of association, working conditions, or other problems.⁹

The use of "protection contracts" (agreements masquerading as collective bargaining agreements (CBAs) signed between an employer and an employer-dominated union, often without the knowledge of the workers) is the most serious threat to freedom of association and collective bargaining in Mexico. Today, there are estimated to be tens of thousands of protection contracts and tens of thousands of workplaces in Mexico covering millions of workers. In thousands of workplaces, workers are governed by contracts they have never ratified, were never consulted on, and in many cases have never seen.

When workers attempt to bring complaints about protection contracts, these complaints are heard by Mexico's Conciliation and Arbitration Boards (CABs), which are politically biased and corrupt.¹⁰ Instead of ensuring workers can exercise their rights under Mexican and international law, the CABs, the labor authorities and sometimes privately hired or public police forces have interfered with workers' freedom of association. This situation presents itself at the worksites of many multinational companies, including Atento, Excellon, Honda, PKC and Teksid.¹¹ In the agricultural sector, child labor, forced labor and inhumane working conditions exist on farms that export fresh produce into the United States, which then is sold at major retailers, including Walmart and Safeway.¹² The recent mobilizations in Baja California for better wages in the agricultural sector and the right to form independent unions were met with police repression.¹³

⁹DOS, DRL, "Country Reports on Human Rights Practices for 2014: Mexico," 2014. Available at: www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper.

¹⁰Graciela Bensusán and Arturo Alcalde, "El sistema de justicia laboral en México: situación actual y perspectivas" (June 2013). Available at: www.fesmex.org/common/Documentos/Libros/Paper_AP_Justicia_Laboral_Bensusan-Alcalde_Jun2013.pdf. U.S. National Administrative Office, public review of submission 9703 (Itapsa) (evidence "raises questions about the impartiality of the CAB and the fairness, equitableness and transparency of its proceedings and decisions"); public review of submission 9702 (Han Young); Julie M. Wilson, "Mexican Arbitral Corruption and the North American Agreement on Labor Cooperation: A Case Study." *Swords and Ploughshares: A Journal of International Affairs* 12, no. 1 (Spring 2003): 61–77; Adam Bookman and Jeffrey K. Staton, "A Political Narrative of Mexican Labour Arbitration Boards and Legal Strategies." Paper prepared for presentation at the Conference on the Scientific Study of Judicial Politics. Texas A&M. October 21–23. Political Science Working Paper #375. It has been suggested that the boards can be made more efficient by adopting oral procedures. See Instituto Mexicano para la Competitividad, *Por una mejor justicia laboral* (2014). However, it has been reported that in some labor boards the recordings of these proceedings are being used to bring criminal complaints against workers and their attorneys. Manuel Fuentes Muñoz, *La justicia laboral de embudo*, July 1, 2014. Available at: <http://manuel Fuentesmuniz.blogspot.com/2014/07/la-justicia-laboral-de-embudo-la-silla.html>.

¹¹Sindicato Mexicano de Electricistas, Public Communication under the North American Agreement on Labor Cooperation (November 4, 2011): 5–6. Available at: www.dol.gov/ilab/submissions/pdf/MexicoSubmission2011.pdf.

¹²Marosi, Richard, "Product of Mexico," *Los Angeles Times*, December 7, 2014. Available at: <http://graphics.latimes.com/product-of-mexico-camps/>.

¹³Binkowski, Brooke, "Arrests as Mexico farming wage strike turns violent," *Al Jazeera*, May 12, 2015. Available at: www.aljazeera.com/news/2015/05/150512051555205.html.

The union certification process is designed to limit worker representation. For example, a requirement known as *toma de nota* has been used by the labor authorities as a tool to deny union office to leaders who are politically disfavored under the guise of an elections certification process. Labor authorities also have denied legal registration to independent unions on seemingly arbitrary or technical grounds. They continue to assert that unions may represent only workers in specific industries, and that the state may restrict a union to a specific “radius of action” (*radio de acción*).¹⁴

The magnitude of these problems has been well documented in public reports, submissions under the North American Agreement on Labor Cooperation (NAALC),¹⁵ reports of the ILO Committee on Freedom of Association,¹⁶ academic investigations¹⁷ and recent case studies.¹⁸ Although Mexico and the United States have had more than 20 years to work on bringing Mexican labor law and practice up to minimum international standards through the NAALC process, labor abuses in many cases are worse now than before the North American Free Trade Agreement (NAFTA), and these abuses appear to be concentrated in supply chains that feed U.S. markets.

In short, NAFTA has contributed to labor abuses, not improvements. NAFTA also contributed to massive displacement of Mexican *campesinos*.¹⁹ Some of these workers searched for promised new jobs in the *maquiladoras*. Many others migrated north to the United States, either through irregular channels or by utilizing often-exploitative labor recruitment firms and guest worker visa programs. As documented in a 2011 NAALC petition, migrant workers in the United States are subject to a range of labor rights violations.²⁰ Meanwhile, companies have shifted manufacturing work to Mexico for decades to take advantage of displaced *campesinos* and other impoverished workers who lack the most basic workplace protections.

There is currently a crisis of violence and impunity taking place in Mexico that raises doubts about whether the Mexican government can and will fulfill its obligations under the TPP. The disappearance last year of 43 students, now declared dead, from the teachers’ college in Ayotzinapa, Guerrero, by local police and criminal gangs widely believed to be responsible, is a horrific example of violence, corruption and dissolution of the rule of law. More than 22,000 persons have been disappeared since 2007, including more than 5,000 in 2014 alone.²¹ These crimes rarely are investigated and almost never prosecuted, allowing public security forces—the same that have sporadically engaged in violent worker repression over the years—to operate with impunity.

There is nothing in the TPP’s labor chapter that would ensure Mexico’s history of worker abuse and exploitation will be remedied. No provisions were added to the enforcement section to ensure monitoring and enforcement of the labor obligations

¹⁴ See Secretaría Auxiliar de Conflictos Colectivos, Junta Especial Numero Quince, Expediente Numero: IV-54J2012.

¹⁵ See U.S. National Administrative Office, public reports of review for public submissions 940003 (Sony), 2003-01 (Puebla), 2005-03 (Hidalgo), 9702 (Han Young), 9703 (Itapsa).

¹⁶ See, e.g., ILO CFA cases 2115, 2207, 2282, 2308, 2346, 2347, 2393.

¹⁷ José Alfonso Bouzas Ortiz (Coordinador) EVALUACION DE LA CONTRATACION COLECTIVA EN EL DISTRITO FEDERAL, Friedrich Ebert Foundation, 2009. Available at: www.democraciaylibertadsindical.org.mx/media_files/LIBRO_BOUZAS.pdf. Carlos de Buen Unna, “Collective bargaining agreements for employer protection (‘protection contracts’) in Mexico,” Friedrich Ebert Foundation, 2011. Available at: www.democraciaylibertadsindical.org.mx/media_files/Paper_Charles_De_Buen.pdf. Chris Tilly and José Luis Alvarez Galván, “Lousy Jobs, Invisible Unions: The Mexican Retail Sector in the Age of Globalization.” *International Labor and Working-Class History* 70 (2006), pp. 1-25.

¹⁸ See, e.g., Worker Rights Consortium, Violations of International Labor Standards at Arneses Y Accesorios De Mexico, S.A. DE C.V. (PKC GROUP), June 18, 2013. Available at: <http://workersrights.org/Freports/WRC%20Findings%20and%20Recommendations%20re%20Arneses%20y%20Accesorios%20de%20Mexico%202006.18.13.pdf>. Centro de Reflexión y Acción Laboral, “After the Reform: Fifth report about the labor conditions of Mexico’s electronics industry,” August 2013. Available at: www.fomento.org.mx/novedades/Informe2013-ingles.pdf.

¹⁹ M. Angeles Villarreal, “NAFTA and the Mexican Economy,” Congressional Research Service, June 3, 2010.

²⁰ Petition on Labor Law Matters Arising in the United States submitted to the National Administrative Office (NAO) of Mexico under the NAALC, “Regarding the Failure of the U.S. Government to Effectively Enforce its Domestic Labor Laws, Promote Compliance with Minimum Employment Standards, and Protect Migrant Workers,” September 19, 2011.

²¹ “Law and Order in Mexico,” *The New York Times*, November 11, 2014. Available at: www.nytimes.com/2014/11/12/opinion/murder-in-mexico.html?_r=0. “Mexico’s Disappeared,” Human Rights Watch, February 20, 2013. Available at: www.hrw.org/reports/2013/02/20/mexicos-disappeared-0.

will be deliberate, consistent, timely, vigilant, effective or automatic. There is not even a “consistency plan” for Mexico despite the U.S. Government’s extensive knowledge of the problems—problems that not only impoverish Mexico’s workers, but also act as an inducement to transfer production out of the United States. The TPP fails to even include any specific protections for equal rights and remedies for migrant workers, or specific prohibitions against exploitive or fraudulent international labor recruitment, which labor union presidents had recommended strongly.

In December 2015 in Cancun, Mexico, President Peña Nieto announced he would send new labor law reform proposals to Congress early this year, but to date there is no clear process to include independent unions and civil society in developing these proposals.

The president of Mexico also sent ILO Convention 98 on the right to organize and collective bargaining to the Senate for ratification, and the labor secretary has announced a new inspection protocol that supposedly would verify whether workers understand their contracts, but workers still would lack the right to get a copy of their contract, which reinforces the current protection contract model.

On January 20, 2016, the Mexican Supreme Court ruled the government can cap back pay at 1 year in lawsuits over unjust firings, although on average these cases take more than 3 years to resolve. This ruling creates a perverse incentive to fire workers who attempt to organize democratic unions.

Despite public statements promising to address worker rights issues, the Mexican government has failed to address systemic worker rights violations. The government continues to fail to eliminate the CABs and replace them with independent labor judges, create transparency in the union contracts and certification, or ensure that union democracy is protected through improved election and certification processes. Labor rights must be enforced, not be just potentially enforceable, to have an impact on the ground. As currently written, the TPP fails to meet this benchmark, and would reward Mexico with more trade benefits before the government makes fundamental and structural changes to its labor system to bring it into compliance with international labor law.

Vietnam

Vietnam has an authoritarian government that limits political rights, civil liberties and freedom of association. The government maintains a prohibition on independent human rights organizations and other civil society groups. Without the freedom to exercise fundamental labor rights, labor abuses in Vietnam are pervasive, artificially suppressing wages, stifling the ability of Vietnamese workers to escape poverty, and putting U.S. and other workers at a disadvantage in the global market. Labor provisions in the TPP and the labor consistency plan do not appear to be carefully crafted to effectively mitigate this urgent problem or empower workers to improve conditions.

The Vietnamese government currently restricts union activity outside the official unions affiliated with the Communist Party’s Vietnam General Confederation of Labor (VGCL), which actually controls the union registration process.²² Workplace-level VGCL unions generally have management serving in leadership positions, and when that is not the case, workers cannot meet as the union without management present.²³ This effectively bars the possibility of establishing independent trade unions in Vietnam. Further, there is no right to strike in Vietnam. Wildcat strikes and industrial actions outside VGCL unions have led to government retaliation, including prosecution and imprisonment.

Government repression of civil liberties further undermines industrial relations in Vietnam. Corruption in the judicial system and widespread law enforcement abuse, including arbitrary killings, stifles whistleblowers and labor activists, as well as human rights defenders.²⁴ The government blocks access to politically sensitive websites and monitors the Internet for the organization of unauthorized demonstrations.²⁵

²² U.S. DOS, “Vietnam 2014 Human Rights Report,” 2014. Available at: www.state.gov/documents/organization/236702.pdf.

²³ ITUC, “Survey of Violations of Trade Union Rights: Vietnam,” 2014. Available at: <http://survey.ituc-csi.org/Vietnam.html?lang=en#tabs-3>.

²⁴ Human Rights Watch, “World Report 2015: Vietnam,” 2015. Available at: <https://www.hrw.org/world-report/2015/country-chapters/vietnam>.

²⁵ DOS, “Vietnam 2014 Human Rights Report,” 2014.

Vietnam has significant problems with forced labor and child labor. The U.S. DOL finds that child labor is prevalent in the production of bricks and garments. Forced labor and human trafficking also is prevalent in the garment sector and in the informal economy.²⁶ Vietnam is the second-largest source of apparel and textile imports to the United States, totaling just under \$10 billion in value²⁷ and employing more than 2 million workers.²⁸ Many of the clothes contain textiles produced in small workshops subcontracted to larger factories. These workshops frequently use child labor, including forced labor involving the trafficking of children from rural areas into cities.²⁹

The government of Vietnam also actively imposes compulsory labor on drug offenders. In these work centers styled as drug treatment centers, detainees are harassed and physically abused when they do not meet their daily factory quotas in so-called “labor therapy.” An estimated 309,000 people were detained in Vietnam’s drug detention centers from 2000 to 2010. The detainees receive little or no pay for their work.³⁰

The labor consistency plan with Vietnam offers many improvements on paper, but few of them are likely to be actualized given that full TPP membership and market access will be granted after ratification and before changes are made. The plan contains a number of other shortcomings. It allows Vietnam to give “independent” unions “mandatory political obligations and responsibilities” so long as they are not “inconsistent with labor rights as stated in the ILO Declaration.” It is inconsistent with the concept of free and independent unions to allow the government to saddle them with “political obligations” of any kind. The plan calls for a prohibition on discrimination, but does not include religion, political opinion, immigration status and sexual orientation/gender expression as protected categories. Despite important language clarifying the right to strike, the right of unions to independently manage their own affairs and elect their own leadership, and to create independent federations, it is not clear that penalties for employer violation of these rights will be established.

Further, the plan provides a free pass to Vietnam to deny the right to freedom of association above the enterprise level for *at least the first 5 years* after the TPP’s entry into force. The potential penalty is only a delay of future tariff reductions. However, by Year Six of the agreement, Vietnam already will enjoy the bulk of the tariff reductions required by the TPP, including significant market access in the all-important garment sector. By providing a grace period, the agreement gives away important leverage that could improve the situation *now*.

The market opening benefits of the TPP should not apply to Vietnam unless and until Vietnam comes into full compliance with fundamental labor rights. Anything less essentially will create a permanent ceiling on labor and human rights in Vietnam, stunting Vietnamese wage growth, suppressing Vietnamese demand and continuing to allow social dumping on world markets.

Malaysia

Malaysia has grave problems with every one of the five fundamental labor rights. Particularly troubling is its profound failures to protect workers from forced labor and human trafficking. The DOL reports that forced labor is prominent in the electronics and garment industries, and the palm oil sector, which also uses child labor.³¹ The majority of the victims of forced labor in Malaysia are among the country’s 4 million migrant workers—40 percent of the overall workforce.³² The govern-

²⁶ DOL ILAB, “List of Goods Produced by Child Labor or Forced Labor: Vietnam,” 2014. Available at: www.dol.gov/ilab/reports/child-labor/list-of-goods/countries/?q=Vietnam. Office to Monitor and Combat Trafficking in Persons, 2015 Trafficking in Persons Report, “Vietnam.” Available at: www.state.gov/documents/organization/243562.pdf; scroll down to Vietnam report, page 362.

²⁷ ITA, Office of Textiles and Apparel, “Major Shippers Report: U.S. General Imports By Country,” September 2015. Available at: <http://otexa.trade.gov/msrcry/v5520.htm>.

²⁸ Worker Rights Consortium, “Made in Vietnam,” May 2013. Available at: www.workersrights.org/linkeddocs/WRC_Vietnam_Briefing_Paper.pdf.

²⁹ *Ibid.*

³⁰ Human Rights Watch, “World Report 2015: Vietnam,” Adeline Zensius, “Forced Labor in Vietnam: A Violation of ILO Convention 29,” International Labor Rights Forum, December 2011. Available at: http://laborrightsblog.typepad.com/international_labor_right/2011/09/forced-labor-in-vietnam-a-violation-of-ilo-convention-29.html#sthash.FJEFKw8.dpuf.

³¹ DOL ILAB, “List of Goods Produced by Child Labor or Forced Labor: Malaysia,” 2014. Available at: www.dol.gov/ilab/reports/child-labor/list-of-goods/countries/?q=Malaysia.

³² “Immigration in Malaysia: Assessment of its Economic Effects, and a Review of the Policy and System,” The World Bank: Human Development Social Protection and Labor Unit East Asia

ment of Malaysia's failure to uphold labor rights, or even basic human dignity, puts the products of forced labor into the hands of U.S. consumers, and forces U.S. workers to compete with a workforce with few rights and protections.³³ Under current conditions, it is difficult, if not impossible, to imagine these workers moving into the middle class and becoming a significant market for U.S. exports.

Freedom of association is strictly limited, as there are many legal restrictions on industrial action and police permission is required for public gatherings of more than five people.³⁴ Collective bargaining also is restricted, especially for migrants and public-sector workers. Employers use provisions that allow for multiple unions at the enterprise level to set up company-dominated unions and erode the bargaining power of representative unions. Trade union leaders and workers report that employers regularly terminate or penalize workers for expressing their political opinions or highlighting alleged wrongdoings by employers. These practices contribute to the overall level of exploitation, suppressing wages and driving demand down.

Migrants to Malaysia face a range of abuses related to their recruitment and placement, and often are threatened with deportation for speaking out. Migrant workers in agriculture, construction, textiles and electronics, and domestic workers throughout Malaysia, are subjected to restrictions on movement, deceit and fraud in wages, document confiscation, and debts by recruitment agents or employers. Migrants also are limited in their ability to improve these conditions. While the Malaysian Employment Act of 1955 guarantees all workers, including migrant workers, the right to join a trade union, employers and government authorities discourage union activity among migrants, and work contracts and subcontracting procedures often undermine worker agency.³⁵

Some of the most recognizable electronics brands operate or source components from Malaysia, including Intel, Advanced Micro Devices, Dell and Flextronics.³⁶ Verité interviewed more than 500 workers and found that approximately 28 percent of electronics workers toiled in conditions of forced labor. Additionally, 73 percent of workers reported violations that put them at risk for forced labor, such as outsourcing, debt from recruitment fees, constrained movement, isolation and document retention.³⁷

In May 2015, Malaysian police uncovered 139 makeshift graves in the jungle alongside abandoned cages used to detain migrant workers—an operation so massive many believe local officials were complicit.³⁸ Not long after, the U.S. State Department made the disastrous and apparently political decision to upgrade Malaysia in its annual Trafficking in Persons Report from Tier 3 to the Tier 2 watch list—removing the country from the threat of trade restrictions under the TPP or other sanctions tied to Tier 3 status.³⁹ The situation in Malaysia has not improved: forced labor, human trafficking and exploitation remain pervasive.

Fundamental reforms must be taken in terms of Malaysia's labor, immigration and industrial policies before workers will be able to escape the cycle of exploitation and vulnerability that often leads to labor abuses and trafficking. Despite Malay-

and Pacific Region, 2013. Available at: <http://psu.um.edu.my/images/psu/doc/Recommended%20Reading/Immigration%20in%20Malaysia.pdf>.

³³ Verité, "Forced Labor in the Production of Electronic Goods in Malaysia: A Comprehensive Study of Scope and Characteristics," 2014. Available at: <https://www.verite.org/research/electronicsmalaysia>.

³⁴ ITUC, "Survey of Violations of Trade Union Rights: Malaysia," 2015. Available at: <http://survey.ituc-csi.org/Malaysia.html?lang=en#tabs-2>.

³⁵ Human Rights Watch, "U.S./Malaysia: Letter to Secretary Kerry on Trafficking in Persons in Malaysia," July 31, 2015. Available at: <https://www.hrw.org/news/2015/07/31/us/malaysia-letter-secretary-kerry-trafficking-persons-malaysia>. Kosh Raj Koirala, "Malaysia flouts own law on migrants' trade union rights," *Nepal Republic Media*, June 26, 2015. Available at: www.myrepublica.com/politics/story/23544/plight-of-nepalis-in-malaysia-flouting-own-law-malaysia-prevents-migrants-joining-trade-union.html#sthash.txEWzuIN.dpuf.

³⁶ Malaysia Investment Development Authority, "Top 10 U.S. Companies in Malaysia," 2012. Available at: www.mida.gov.my/env3/uploads/events/TIMUSA29042012/02Top10USCompanies.pdf.

³⁷ Verité, "Forced Labor in the Production of Electronic Goods in Malaysia."

³⁸ Wang Kelian, "Malaysia finds 139 graves in 'cruel' jungle trafficking camps," Reuters, May 25, 2014. Available at: www.reuters.com/article/us-asia-migrants-idUSKBN00A06W20150525#lbtIVKhvKl33D1cQ.97. Ambiga Sreenevasan, "Malaysia's deadly connection," *MalayMail*, July 24, 2014. Available at: www.themalaymailonline.com/what-you-think/article/malaysias-deadly-connection-ambiga-sreenevasan.

³⁹ Office to Monitor and Combat Trafficking in Persons, 2015 Trafficking in Persons Report, "Malaysia." Available at: www.state.gov/j/tip/rls/tiprpt/countries/2015/243485.htm.

sia's notorious failure to combat human trafficking and protect the rights of migrant workers, the TPP fails to even include any specific protections for equal treatment for migrant workers or against exploitive or fraudulent international labor recruitment.

The TPP labor provisions and the Malaysia consistency plan have some helpful provisions. For example, the consistency plan calls on Malaysia to amend its laws to limit the ability of labor officials to deny trade union registration and affiliation; make it illegal to retain a worker's passport; expand the right to strike; and allow migrant workers improved trade union rights. However, despite these provisions, they do not appear sufficient to ensure working people in Malaysia will be able to exercise their fundamental labor rights.

The plan does not clearly call for an expansion of the right to bargain collectively in all sectors, nor does it appear to hold employers fully accountable for abuses in subcontracting and recruitment processes—major factors in the perpetuation of forced labor. Improved rules regarding access to justice, recruitment fees, targeted labor enforcement in industries known to be problematic and victim services still could be lacking even under the agreement. Nor does the agreement address basic human rights, including the right to free assembly and lack of civil rights for LGBT persons. As such, employers and government officials still may attack workers for their advocacy, while claiming to be using a different section of Malaysia's legal code to do so.

All workers in Malaysia must be broadly empowered to improve wages and working conditions. The consistency plan fails to meet this benchmark and lacks any specific measurements or criteria to evaluate the implementation and enforcement of the required reforms. Given that Malaysia could be rewarded with greater market access under the Trans-Pacific Partnership without having to first enforce the changes it promises to make on paper, there will be little incentive for the government to end exploitative working conditions or the brutality of forced labor after entry into force.

Brunei

The human and labor rights situation in Brunei is dire. Under the Sultan of Brunei, whose family has ruled for more than six centuries, the country adheres to a strict penal code based on Sharia law, which mandates flogging, dismemberment and death by stoning for crimes such as adultery, alcohol consumption and homosexuality. Despite widespread calls from U.S. labor, LGBT and human rights groups to exclude Brunei from the TPP, it appears the agreement and the consistency plan situate the U.S. and Brunei governments to enter into a permanent trading relationship without ensuring that working families can exercise their fundamental human and labor rights in Brunei.

Freedom of speech in Brunei is severely limited, and the legislature has a limited role.⁴⁰ It is difficult, if not impossible, to imagine freedom of association will exist where the right to free speech does not accompany it. Under the Internal Security Act, activists deemed to be anti-government can be detained without trial indefinitely, renewable for 2-year periods.⁴¹ Harsh punishment stifles worker activism, and there is a nationwide prohibition on collective bargaining.

Workers, and migrant workers in particular, have few protections for their basic rights. The government prohibits strikes. The law does not provide for reinstatement for dismissal related to union activity. The government can refuse to register trade unions.⁴² Government permission is required for holding a public meeting involving more than 10 people, and the police can break up any unofficial meeting of more than five people if they regard it as liable to disturb the peace.⁴³

Many of the 85,000 migrant workers in Brunei face labor exploitation and trafficking related to debt bondage from labor recruitment fees, wage theft, passport

⁴⁰ U.S. Department of State (hereinafter DOS), "Brunei 2014 Human Rights Report," 2014. Available at: www.state.gov/documents/organization/236638.pdf.

⁴¹ Amnesty International, "Amnesty International Report 2014/15: Brunei Darussalam," 2015. Available at: <https://www.amnesty.org/en/countries/asia-and-the-pacific/brunei-darussalam/report-brunei/>.

⁴² U.N. Human Rights Council, "Report of the Working Group on the Universal Periodic Review Brunei Darussalam," July 7, 2014. Available at: www.upr-info.org/sites/default/files/document/brunei_darussalam/session_19_-_april_2014/a_hrc_27_11_e.pdf.

⁴³ DOS, "Brunei 2014 Human Rights Report"; ITUC, "2010 Annual Survey of violations of trade union rights—Brunei Darussalam," March 3, 2010. Available at: <http://survey.ituc-psi.org/Brunei-Darussalam.html?lang=en#tabs-2>.

confiscation, abuse and confinement. Immigration law allows for prison sentences and caning for workers who overstay their visas, fall into irregular status, or work or change employers without a permit.⁴⁴ This traps migrant workers in abusive employment and impedes access to justice and compensation if a migrant worker chooses to leave an exploitative employment relationship.

The labor consistency plan with Brunei is wholly inadequate to deal with the serious problems indicated above. For example, it calls for an end to document confiscation and “an outreach program to inform and educate stakeholders,” but does not address excessive recruitment fees or the criminalization of migrant workers. While it requires that employment discrimination be made unlawful, it fails to include LGBT workers within this new protection. Moreover, it fails to provide for labor courts or other structures free from the political influence of the sultan.

The labor side letter fails to include any specific benchmarks to evaluate the implementation and enforcement of the required legal and regulatory changes. The letter includes no independent evaluation mechanism, which means that partial and ineffective fulfillment of the plan’s elements or changes on paper could be substituted for actual changes in workers’ lives. In short, the Brunei side letter seems likely to be partially implemented on paper, but likely will continue to leave workers without the ability to freely exercise their fundamental rights.⁴⁵

II. Countries of Serious Concern

Chile⁴⁶

Today, 25 years after the end of the Pinochet regime, workers confront a profound lack of legal guarantees and effective protection by the state. The current labor legislation remains largely the same and thus perpetuates the destructive legacy of the past. As a result, there has been a steep decline in the rate of unionization—from 30 percent in 1973 to only 8 percent today. Today, Chile has among the lowest unionization rates among all OECD members. While the current government has formulated amendments to address some of the issues described below, the legislation has yet to pass.

Freedom of association is restricted, particularly in the public sector. Police, military personnel and civil servants of the judiciary are prohibited from joining a union. Temporary workers also have no right to organize. The constitution also provides that the holding of a trade union office is incompatible with active membership in a political party, and that the law shall lay down related sanctions (Political Constitution, Art. 23). In addition, broad powers are granted to the Directorate of Labor for supervision of union accounts, and financial and property transactions.

Collective bargaining also is restricted in a number of ways. Industry-wide agreements that set minimum standards for wages and working conditions for all workers once were common, but since largely have disappeared as the law does not require bargaining above the enterprise level. In addition, workers without permanent contracts and other temporary workers are excluded from collective negotiations, a serious problem as employers are shifting to short-term contracts even for work that in reality is full time. The law also permits groups of workers to submit draft collective agreements, even when there are unions present, undermining the role of unions as a bargaining representative.

Finally, Chile also circumscribes the right to strike. According to the Labor Code, a strike must be agreed to by an absolute majority of the company’s employees (Sections 372 and 373) and must be carried out within three days of the decision to call the strike (374). No strike action may be taken by workers if they are deemed to provide services of a public utility, or it would present a serious threat to health, the country’s economy or national security. This goes beyond the “essential services” strike restrictions acceptable under ILO guidance. Section 254 of the Penal Code provides for criminal penalties in the event of the interruption of public services or public utilities or dereliction of duty by public employees, and Act No. 12927 authorizes the imprisonment of anyone involved in the interruption or collective suspension, stoppage, or strike in public services or public utilities. Section 381 provides

⁴⁴ U.S. DOS, “Brunei 2014 Human Rights Report,” 2014.

⁴⁵ For a thorough explanation of the need for labor provisions in trade agreements that incorporate robust monitoring and enforcement mechanisms, as well as measurable benchmarks for change instead of a rigid focus on rules to the exclusion of implementation, see Barenberg, Mark, “Sustaining Workers’ Bargaining Power in an Age of Globalization: Institutions for the meaningful enforcement of international labor rights,” EPI Briefing Paper No. 246, October 9, 2009.

⁴⁶ ITUC, “Survey of Violations of Trade Union Rights: Chile,” 2015. Available at: <http://survey.ituc-csi.org/Chile.html>.

for the possibility of hiring replacement workers during a strike. Agricultural workers are not guaranteed the right to strike.

Peru

Since the U.S.-Peru free trade agreement (FTA) came into force, Peru has reduced protections for workers and weakened mechanisms to enforce labor legislation. Peruvian unions report there are low levels of public investment to eliminate child labor and forced labor, promote equality and nondiscrimination in employment, and to ensure the right to organize and collectively bargain. Labor rights, generally, and rights in export sectors, in particular, have been eroded by a disproportionate increase in temporary employment.

According to the DOS, Peru does not fully comply with the minimum standards for the elimination of trafficking. Peruvian workers are exploited in conditions of forced labor, primarily in informal gold mining, logging, agriculture, brick making and domestic service. Many of these victims are indigenous, rural or migrant workers who face deceptive recruitment, debt bondage, restricted freedom of movement or inability to leave, withholding or nonpayment of wages, and threats and use of physical violence. Forced child labor occurs in begging, street vending and criminal activities.⁴⁷ The DOL also has found significant instances of child labor in the production of bricks, coca, fireworks, fish, gold and timber.⁴⁸

Last year, the Peruvian government passed a series of laws to roll back health, safety and environmental regulations—purportedly “to create a more friendly environment, to reduce the impediments to investment.” Despite the fact that regressive laws likely violated trade commitments, the government turned back 2011 improvements to occupational health and safety and inspections processes. It also weakened enforcement mechanisms, fines and mandated action plans.⁴⁹

Further, it has been well documented by national and international organizations, including the ILO and the UN Office of the High Commissioner for Human Rights (OHCHR), that the Peruvian government is not enforcing its own labor laws in the sectors of garments, textiles and agricultural product exports, which together employ hundreds of thousands of workers who produce billions of dollars of goods for the U.S. market.⁵⁰ In the textile and garment industry, the Law for the Promotion of Non-Traditional Exports (Law No. 22342)—designed to encourage investment by allowing workers to be hired under an indefinite number of short-term contracts—has been a major obstacle to the promotion of labor rights. The largest textile and garment companies are the major beneficiaries of the law, and the 30 largest companies account for more than 70 percent of the contracts covered by these regulations. Employers can issue contracts as short as 15 days and renew the contract every 2 weeks for as long as 15 years. The law allows employers to discriminate against trade unionists by firing them under the pretext of not renewing their contract because of “economic circumstances.”

As documented in a recent submission to the Office of Trade and Labor Affairs (OTLA) on the failure of the government of Peru to comply with labor standards under the FTA, employers routinely have abused their power to renew short-term contracts of their workers when they are trying to constitute or become members of a union, making them permanent victims of firings for this purpose.⁵¹ This is the second submission regarding Peru’s labor practices in less than a decade, while many also have requested U.S. action on Peru’s violation of its environmental obli-

⁴⁷ Office to Monitor and Combat Trafficking in Persons, 2015 Trafficking in Persons Report, “Peru.” Available at: www.state.gov/documents/organization/243561.pdf; scroll down to Peru report, page 277.

⁴⁸ DOL ILAB, “List of Goods Produced by Child Labor or Forced Labor: Peru,” 2014. Available at: www.dol.gov/ilab/reports/child-labor/list-of-goods/countries/?q=Peru.

⁴⁹ “Paquetazo laboral viola tres TLC,” *Diario Uno*, July 13, 2014. Available at: http://diariouno.pe/columna/paquetazo-laboral-viola-tres-tlc/?fb_action_ids=10203308215938885&fb_action_types=og.likes%20. “Moody’s: Perú crecerá hacia un 6% para el 2016, asegura ministro Castilla,” *América Noticias*, February 7, 2014. Available at: www.americatu.com.pe/noticias/actualidad/miguel-castilla-sobre-informe-moodys-peru-crecera-hacia-6-2016-n143824.

⁵⁰ See Report Number 357 of the Committee on Freedom of Association (CFA), June 2010, case 2675; Office of the United Nations High Commissioner for Human Rights (OHCHR), ITUC submission to the URP. Available at: http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/PE/CSI_PER_UPR_S2_2008_InternationalTradeUnionConfederation_uprsubmission.pdf.

⁵¹ “Public Presentation to the Office of Trade and Labor Issues (OTLA) Under Chapters 17 (Labor) and 21 (Dispute Settlement) of the Trade Promotion Agreement Between the U.S. and Peru,” July 23, 2015.

gations as well.⁵² The lack of robust action by the USTR to enforce the first “May 10th” agreement sends the wrong message to TPP parties: that despite the “historic” nature of the obligations, these obligations are unlikely to be enforced.

The TPP Labor Chapter does not make significant and meaningful improvements to substantive labor provisions of the U.S.-Peru FTA and offers no improvements to the enforcement mechanisms. This, combined with 20 years of lackluster labor enforcement by the U.S. government, makes it clear that TPP will do little to improve working conditions or raise wages in Peru. Because Peru is currently in violation of the U.S.-Peru FTA, Peru will be in clear violation from the moment the TPP enters into force unless both governments take immediate actions to secure Peru’s compliance.

Singapore⁵³

Substantial legal limitations on freedom of association, collective bargaining and the right to strike exist in Singapore. The Registrar of Trade Unions has wide-ranging powers to refuse to register a union or cancel registration. The parliament may impose restrictions on the formation of a union on the grounds of security, public order or morality. The registrar has the right to refuse the rule change if she or he deems it either unlawful or “oppressive or unreasonable.”

The Trade Unions Act limits what unions can spend their funds on and prohibits payments to political parties or the use of funds for political purposes. Although the Trade Unions Act prohibits government employees from joining trade unions, the law gives the president of Singapore the right to make exceptions to this provision. The Amalgamated Union of Public Employees (AUPE) was granted such an exemption, and its scope of representation now covers all public-sector employees except the most senior civil servants.

Migrant workers particularly are limited in exercising their rights. The Trade Unions Act bars any person “who is not a citizen of Singapore” from serving as a national or branch officer of a trade union unless prior written approval is received from the minister. The act also stipulates that a foreign national cannot be hired as an employee of a trade union without prior written agreement from the minister. Similarly, a foreign national is forbidden to serve as a trustee of a trade union without the minister’s written permission.

As in other countries with existing serious rights violations, the United States failed to secure a labor consistency plan with Singapore. The TPP, as in other countries, will come into force, offering Singapore enhanced benefits, before any changes are required.

III. Selected Labor Rights Concerns in Other TPP Countries

Freedom of Association and the Right to Collective Bargaining

In **Japan**, all national and local public employees and some employees of private companies or state-run companies that provide essential services such as electricity are banned from striking. Dismissal and fines or imprisonment for up to 3 years can be imposed if a trade union leader is convicted of inciting a strike action in the public sector—this limitation for public-sector workers is a serious violation of the ILO forced labor convention (C. 105), which remains unratified by Japan.⁵⁴

New Zealand’s employment law allowing employers in the film and video game production industry to classify workers as contractors, denying them rights to collective bargaining and minimum labor standards, was introduced specifically to attract investment to that industry at the demand of Warner Brothers.⁵⁵

In March 2015, changes to New Zealand’s Employment Relations 2000 came into force. Key changes to collective bargaining allow employers to end negotiation more easily, weaken good faith negotiations, remove protections for new workers and

⁵² See: USTR, “Review of 2012 EIA Petition Regarding Bigleaf Mahogany and Spanish Cedar Exports,” 2013. Available at: <https://ustr.gov/sites/default/files/EIA%20Review%20Summary.pdf>. Environmental Investigation Agency, “Implementation and Enforcement Failures in the U.S.-Peru Free Trade Agreement (FTA) Allows Illegal Logging Crisis to Continue,” June 2015. Available at: [http://eia-global.org/images/uploads/Implementation_and_Enforcement_Failures_in_the_US-Peru_Free_Trade_Agreement_\(FTA\)_Allows_Illegal_Logging_Crisis_to_Continue.pdf](http://eia-global.org/images/uploads/Implementation_and_Enforcement_Failures_in_the_US-Peru_Free_Trade_Agreement_(FTA)_Allows_Illegal_Logging_Crisis_to_Continue.pdf).

⁵³ ITUC, “Survey of Violations of Trade Union Rights: Singapore,” 2015. Available at: <http://survey.ituc-csi.org/Singapore.html>.

⁵⁴ ITUC, “Survey of Violations of Trade Union Rights: Japan,” 2015. Available at: <http://survey.ituc-csi.org/Japan.html>.

⁵⁵ www.theguardian.com/business/2010/oct/31/warner-bros-new-zealand-hobbit-film.

make collective bargaining more difficult. The changes specifically allow employers to opt out of multiemployer negotiations without providing reasons or being subject to industrial action.⁵⁶

In **Australia**, there are a number of legal obstacles with regard to freedom of association and the right to collectively bargain. The Fair Work Act of 2009 imposes a number of restrictions related to trade union rights to elect representatives and to draw up their constitution and rules. Any person who has been convicted of a prescribed offense at any time is prohibited from holding trade union office, and individuals in vocational placement cannot join a registered union in connection with their work on that vocational placement. A 2015 amendment to the act further restricts freedom of association and the right to collectively bargain, in particular by setting an expiry date for negotiations in greenfield workplaces, after which an employer's "draft agreement" will be treated as a collective bargaining agreement when, in truth, the workers never agreed to it. Due to the act, a representative trade union also may be just one of a number of bargaining representatives taking part in the negotiations, which reduces the power of collective bargaining.⁵⁷

In **Canada**, federal labor law applies only to approximately 10 percent of workers; in workplaces and occupations that are not federally regulated, provincial and territorial governments are responsible for labor laws. This translates into a number of categories of workers being prohibited or limited from forming or joining a union or holding a union office, due to their professional designation or sector (such as in the medical professions or in agriculture). In the public sector, the government of Canada gave itself the exclusive right to define what constitutes an essential service, and to unilaterally designate its employees as essential. If 80 percent or more of the bargaining unit is designated as essential, strikes are prohibited.⁵⁸

Forced Labor and Child Labor

New Zealand has no minimum age of employment.

In **Australia**, forced and compulsory labor are explicitly prohibited by law; however, there have been a few reports of temporary workers in such sectors as agriculture, cleaning, construction, hospitality, manufacturing and domestic service being subject to forced labor. There also are numerous instances of foreign workers on temporary work visas being underpaid, exploited and denied their rights under Australian law.

Canada prohibits all forms of forced labor, and the government enforces the law. Some reports indicated that child labor occurred, especially in the agricultural sector. In British Columbia, children as young as 12 years old can work legally in any industry; a letter from the parent is all that is required, and the province places no legislative or regulatory restrictions on the occupations, tasks or time of day a child can work. There is some evidence of forced labor trafficking of workers from Eastern Europe, Asia, Latin America and Africa who are subjected to forced labor in agriculture, construction, restaurants, hospitality, food processing plants and as domestic workers.

Discrimination

Japan mandates equal pay for men and women. However, the Japanese Trade Union Confederation (JTUC-RENGO) reports many cases of discrimination against union members or activists as well as gender discrimination in wages and working conditions.

Canada prohibits discrimination with respect to employment or occupation on the basis of race, gender, etc. However, the Public Service Equitable Compensation Act makes it a criminal offense for a union to encourage or assist any employee in filing or proceeding with a pay equity complaint. Unions are subject to summary conviction and fined up to \$50,000 if they assist their members in any way in advancing pay equity complaints.

⁵⁶ ITUC, "Survey of Violations of Trade Union Rights: New Zealand," 2015. Available at: <http://survey.ituc-csi.org/New-Zealand.html>.

⁵⁷ ITUC, "Survey of Violations of Trade Union Rights: Australia," 2015. Available at: <http://survey.ituc-csi.org/Australia.html>.

⁵⁸ ITUC, "Survey of Violations of Trade Union Rights: Canada," 2015. Available at: <http://survey.ituc-csi.org/Canada.html>.

CONCLUSIONS AND RECOMMENDATIONS

The TPP, as currently written, is troubling in numerous ways. Of course, the agreement covers not just traditional trade issues, such as tariffs and quotas, but sets rules that will limit our democracy and how our government can regulate in the public interest. The TPP creates new and expansive legal rights for foreign investors—including their very own private legal system that is outside the reach of U.S. courts. The current labor chapter, even with improved language, does not represent a counterbalance to the protections and privileges gained by corporations. In the TPP, the interests of workers and the promotion of their rights are embedded in a failed model.

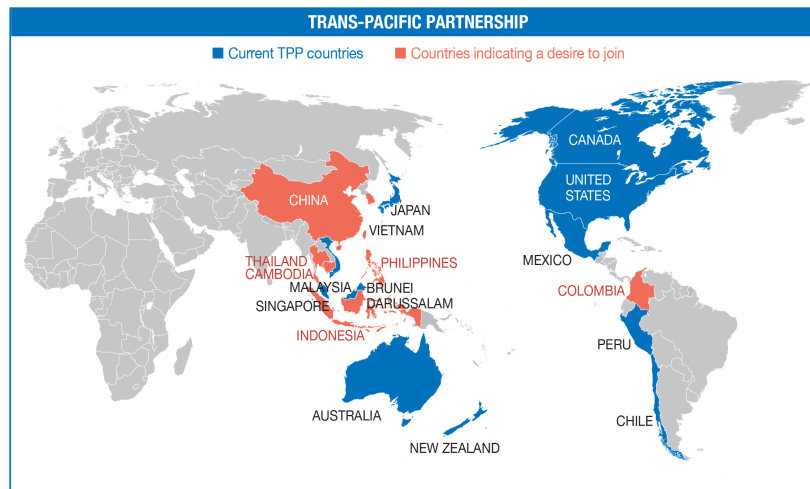
The labor movement has now had years of experience with labor rights language in trade agreements. As documented by the Government Accountability Office, the U.S. government does little to actively monitor or enforce commitments made in the labor chapter.⁵⁹ Unlike corporations that are able to unilaterally access dispute settlement mechanisms, workers do not have the power to initiate complaints and must petition their governments to advocate on their behalf. For workers denied their rights, trying to convince another government to initiate a complaint focused on the rights of foreign workers has resulted in an unworkable process. The fact is no worker in the global economy has won the right to form an independent union and to bargain collectively as a result of the enforcement of a worker rights provision in a trade agreement. There has never been a single monetary fine or tariff penalty imposed for labor violations in any U.S. trade agreement.

To make matters worse, as outlined above, the United States seeks to enter into the TPP with a number of Pacific Rim nations with troubling anti-worker practices. USTR gave away crucial negotiating leverage by not insisting that trade benefits be contingent on adherence and promotion of the core labor standards. To let the TPP enter into force without full compliance with all labor commitments from all 12 countries undermines the entire agreement. It sends the message that promises to comply—in any area—are sufficient. If the TPP is going to have beneficial effects, promises and changes on paper are not enough.

Nor does the TPP rebalance the playing field in ways beneficial for workers in the United States or globally. The chapters setting out rules for services, financial services, food safety and other regulations put some economic decision making a step further from democratic control, encircling domestic decision making within the neoliberal, deregulatory, Washington consensus indefinitely. This means that when political winds blow in the opposite direction, seeking more activist policies regarding Wall Street or food safety or government purchasing, foreign countries and foreign companies will be empowered to challenge those policies. Even if the labor promises of the TPP's authors were to come to fruition, the labor chapter alone would not create an equity of benefits for workers. The rules included in the other chapters enshrine an inequitable "you're on your own" economic model that places all of the downside risk of trade on working people without setting up adequate countermeasures that ensure future economic growth will be sustainable and inclusive.

As it currently stands, the TPP fails workers. The AFL–CIO and global labor movement stand in opposition to the agreement. To be effective at creating shared prosperity and inclusive growth, the TPP must be renegotiated to include protections for workers, as well as the environment and other public interest issues, that are as strong as all other protections in the agreement—including those for investors. Moreover, the other chapters must be renegotiated to include rules that *promote rather than inhibit* progressive economic policies that correct market failures, ensure adequate government investment in infrastructure and human development, and provide certainty for workers, not just global businesses. The AFL–CIO urges Congress to only support a people-centered trade approach that will guarantee the benefits of trade can improve the working and living lives of millions of workers and their families in the United States and throughout TPP countries. Further, we stand ready to work with Congress and the administration to renegotiate the TPP so that it works for people who work.

⁵⁹ Government Accountability Office (GAO), "Free Trade Agreements: U.S. Partners Are Addressing Labor Commitments, but More Monitoring and Enforcement Are Needed," November 2014. Available at: www.gao.gov/assets/670/666787.pdf. GAO, "Four Free Trade Agreements GAO Reviewed Have Resulted in Commercial Benefits, but Challenges on Labor and Environment Remain," July 2009. Available at: www.gao.gov/products/GAO-09-439.



Report on the Impacts of the Trans-Pacific Partnership

By The Labor Advisory Committee on Trade Negotiations and Trade Policy (AFL–CIO)

December 2, 2015*

THE UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL, AND SERVICE WORKERS INTERNATIONAL UNION (USW)

Statement for the record

June 22, 2021

The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial, and Service Workers International Union (USW) is North America's largest industrial union representing 1.2 million active and retired members. We welcome the opportunity to comment and submit this statement on the subject of today's hearing.

The union questions the title of this hearing given the significant challenges multilateral trade negotiations have yet to overcome since the U.S. started entering into modern trade agreements. The failure of multilateral agreements to significantly address income inequality among signatory countries coincides with the failure to address labor, migration, and environmental standards in a manner that ensures fair economic competition and a high rule of law.¹ Unfortunately the title of the hearing, "Strategic Benefits of a Multilateral Approach to Trade Policy in the Asia-Pacific Region," shows a clear bias towards the status quo, with the chairs of the hearing having openly called for reengagement into the Trans-Pacific Partnership (TPP) in a public op-ed² and failed to include any representatives of workers on the hearing agenda.

* See <https://aflcio.org/sites/default/files/2017-11/LAC%20Report--Final%2012-2-15%20As%20Adopted.pdf>.

¹ <https://cepr.net/images/stories/reports/nafta-mexico-update-2017-03.pdf?v=2>.

² <https://www.washingtonpost.com/opinions/2021/06/13/dont-cede-asia-pacific-china-us-must-learn-its-tpp-mistake/>.

Supporters of the TPP say that it represents 40 percent of the world's economic activity (GDP), but they fail to mention that the U.S., and the members of the TPP with whom the U.S. already has a trade agreement with, constitute 80 percent of that 40 percent. The other five countries represent the other 20 percent, with Japan alone being 17.7 percent of that total.³

Some say that a strategic benefit of multilateral negotiations, if there is even a need for one, is to better account for the blanket inadequacies that continue to plague free trade agreement (FTA) negotiations. For example, proponents of the TPP have recently highlighted that the People's Republic of China is starting talks on technical details of the CPTPP pact, the follow-up to the agreement after the U.S. made the decision to withdraw from the pact.⁴ This effort to have China dock onto the FTA will be a multiyear process but ultimately one that the labor and environmental communities have highlighted as a sign of the serious deficiencies of the agreement. The TPP contained a "docking agreement" which was highlighted by opponents of this inadequate free trade agreement as a means to reduce debate and governmental process for trade negotiations and to fast track new entrants.⁵ The notion that China could even be a potential member of the CPTPP highlights its serious limitations.

There was extensive work done in the 114th Congress to highlight the inadequacies of the TPP as negotiated, and many of those provisions remain in the CPTPP. The Rules of Origin (ROO), which guide the amount of content a product must contain from the trade party countries to qualify for duty free status, were significantly less than what has been recently negotiated in USMCA. At the time of U.S. negotiations, the TPP created a ROO that a car can enter the United States duty free with just 45 percent content from TPP countries. And that 45 percent figure does not count the additional flexibilities provided in a special appendix. There was analysis that indicated, depending on the methodology used, that an automobile would need as little as 37 percent trade partner content.⁶ The AFL-CIO also provided extensive comments on the inadequacies of the TPP that are just as relevant to the conversation today.⁷

Future trade agreements in the Asia-Pacific will also need to better address China's growth of state enterprises in ASEAN and CPTPP countries using the Belt and Road Initiative. For example, Guangxi Beibu Gulf International Port Group Company Ltd., a large-scale wholly state-owned enterprise directly under the management of Guangxi Zhuang autonomous regional government, has recently signed an agreement to jointly operate the Muara port, Brunei's largest port.⁸ Investments by large state enterprises that create uncompetitive advantages for domestic producers will need to be better accounted for before entering into any future trade negotiations in the region. Even the business members of the Advisory Committee on Trade Policy and Negotiations (ACTPN), an advisory group to the Obama administration, highlighted the serious problems with the TPP's provisions on SOEs that would allow for all previously provided subsidies to be grandfathered in and that could limit claims of injury in certain cases only if they lasted a year or more.

Of particular interest to the USW is the well documented issue of Chinese foreign direct investment in the Asia-Pacific region which will lead to increased steel capacity in the region that would contribute further to global overcapacity and potentially harm U.S. producers. The South East Asia Iron and Steel Institute (SEAISI) documented in 2020 that Chinese-led steel sector investments are pouring over 61 million tons of additional steel capacity into the region in the near future.⁹ For perspective, the current projected capacity increases are almost two thirds U.S. annual production. It is likely that this additional capacity will lead to increased import pressures for U.S. producers. As the largest union in key industries such as steel, rubber, glass, and paper, we believe policy makers should do everything in their power to ensure strong domestic supply chains and not allow trade agreements to be a vehicle for Chinese state supported or subsidized commodities flooding our market.

³ <https://www.industryweek.com/the-economy/trade/article/22008116/how-could-the-trans-pacific-partnership-affect-you-or-your-business>.

⁴ <https://www.bloomberg.com/news/articles/2021-05-17/china-steps-up-efforts-to-join-trade-pact-created-to-exclude-it>.

⁵ <https://www.citizenstrade.org/ctc/trade-policies/tpp-potential-trade-policy-problems/>.

⁶ <https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/TPP%20Issue%20Analysis%20-%20Autos.pdf>.

⁷ <https://aflcio.org/reports/report-impacts-tpp>.

⁸ http://www.xinhuanet.com/english/2020-12/22/c_139611431.htm.

⁹ https://www.oecd.org/industry/ind/Item_5_SEAISI_March_2020.pdf.

Additional upgrades to our trade enforcement regime to respond to twenty-first century trade distortions should be prioritized before renewing any FTA discussions. Legislation like S. 1187—Eliminating Global Market Distortions to Protect American Jobs Act of 2021—must take Finance committee priority before pursuing a traditional and flawed trade agreement model that has significantly underperformed on improving wages, hours and working conditions for workers in all countries.¹⁰

Ignoring the lessons of trade negotiations during the United States-Mexico-Canada Agreement (USMCA) would also be a dramatic policy failure by Congress. Supply chains must be better monitored for labor and environmental violations and multinational companies must be held accountable for labor and environmental violations. Improved ROO provisions in USMCA also ensure that the automobile supply chain remains in the USMCA zone and develops wage standards for the first time.

These are just some of the serious flaws in the TPP that generated the opposition of both Democratic and Republican Presidential candidates in 2016. There was broad bipartisan opposition, recognizing that the flawed, failed policies of the past should be abandoned.

The Biden administration has committed to creating a more “worker-centered” trade policy.¹¹ The USW plans to work closely with the administration and urges Congress to do the same to ensure the current discussion creates an environment where trade policy puts workers’ rights, environmental sustainability and democratic norms ahead of tariff cuts and special protections for investors like the Investor State Dispute Settlement (ISDS).

There is a path forward. But it has to be a different path. Workers need trade policies that create growth and broadly shared opportunity, sustainable development, and consumer and health protections. The TPP fails to measure up on any of those metrics.

PREPARED STATEMENT OF HON. THOMAS R. CARPER,
A U.S. SENATOR FROM DELAWARE

Good afternoon. It’s my pleasure to call to order the first hearing of the 117th Congress of the Senate Finance Subcommittee on International Trade, Customs, and Global Competitiveness. Thank you to our witnesses for your willingness to testify today, and thank you to our ranking member, Senator Cornyn, and his staff for working with my staff and me to pull together a hearing that examines a vital topic, and that is our trade policy in the Asia-Pacific.

For several months, Senator Cornyn and I have worked on this subcommittee to push for the United States to get its seat back at the table when it comes to trade in the Asia-Pacific region. In one of his first acts as President, former President Trump made what many of us regard as a misguided and short-sighted decision to withdraw from the Trans-Pacific Partnership, or TPP, agreement.

Now, I will be the first to admit that the TPP agreement was not perfect. It left a lot to be desired, especially with regard to labor and environmental protections. Negotiations on the TPP began some 13 years ago and were concluded just over 5 years ago. So much has changed since then, including the overwhelmingly bipartisan passage of the United States-Mexico-Canada Agreement, or USMCA, which had some of the strongest labor and environmental protections ever included in a U.S. trade deal.

Further, we have a new U.S. Trade Representative, Katherine Tai, confirmed on a 98–0 vote, who is working to ensure that our trade policies benefit all Americans and leave no one behind. With a new administration and new leadership at the helm of USTR, we have a key opportunity to work on a bipartisan basis to put the United States in a far better position on the global stage. Today’s hearing will help us understand the current state of play on the ground and help us begin to consider how we can once again forge multilateral trade partnerships in the region.

The Asia-Pacific is home to some of the fastest-growing, largest, and most dynamic economies in the world. With 60 percent of the world’s population and more than one-third of the world’s gross domestic product, Asia is a region of the world

¹⁰ <https://www.congress.gov/bills/117/congress/senate/bills/1187/text?r=2&s=1>.

¹¹ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/june/remarks-ambassador-katherine-tai-outlining-biden-harris-administrations-worker-centered-trade-policy>.

we simply cannot ignore. Further, and since the U.S. left the TPP, our trading partners have not been idle. New agreements have been formed that have furthered Asia-Pacific economic integration.

For example, the Regional Comprehensive Economic Partnership (or RCEP) signed just last year, brings 15 Asian-Pacific nations, including China, together, accounting for about 30 percent of the world's population and 30 percent of the world's GDP. The RCEP is less comprehensive than other free trade agreements, lacking key provisions on labor and the environment, state-owned enterprises, and other key issues for the United States.

However, the sheer size of its membership and its potential to restructure trade patterns and supply chains in Asia show just how active this region has been in forging multilateral trade deals without the United States. And further, the TPP did not die a quiet death after the United States withdrew from the agreement. The 11 remaining TPP signatories signed a new Comprehensive and Progressive Agreement on Trans-Pacific Partnership, or CPTPP. This is essentially a modified TPP among the remaining TPP parties.

Recent reporting reveals that China is quietly, but deliberately, seeking to join this successor to the TPP. That should set off alarm bells for all of us. Regardless of the merits or demerits of the TPP, the fact was that the agreement allowed the United States to have a seat at the table and actively help write the rules for trade in this dynamic region of the world.

Questions remain about China's ability to join this agreement. However, as I like to say, "If you aren't at the table, you may well end up on the menu." We need to take China's interest seriously and begin the hard work of developing a comprehensive policy toward reengagement with our allies in this part of the world. Simply put, we find ourselves at a crossroads, with an excellent opportunity to reengage in the region in a way that benefits U.S. interests and reasserts U.S. leadership in the region.

This hearing will focus on the broad context of current U.S. trade policy in the Asia-Pacific region. We will hear from experts who can provide us with the current state of play, as well as lessons learned from prior U.S. multilateral trade actions. We will also explore how the United States can consider reengaging in the region given the emergence of several multilateral trade agreements in the last several years.

I'd like to close with this. Any proposal for reengagement in the region must be based on input from key U.S. stakeholders, including labor, environment, business, and civil society groups throughout our country, as well as Congress. This hearing will allow us to begin those conversations by setting the table for the dynamics that exist in that vital region of the world and by exploring ways in which the United States can start to lead again. Once more, let me thank our ranking member and the witnesses appearing before us today, and with that, I'd like to turn it over to Senator Cornyn for his opening statement.

PREPARED STATEMENT OF HON. JOHN CORNYN,
A U.S. SENATOR FROM TEXAS

Thank you, Chairman Carper, for organizing this hearing on such an important and timely topic, and thank you to our witnesses for appearing in person and virtually.

This subcommittee continues its work, exploring the geopolitical benefits and consequences of America's trade policy, and in particular, our foreign adversaries such as Russia and China. The topic of U.S. trade policy is the Asia-Pacific. It's not a new topic, nor a partisan one. But it should be at the forefront of our conversation about the ever-evolving economic, authoritarian, and human rights threat posed by countries like China.

Our government must take a balanced and innovative approach to this competition. But we cannot rely on the paradigms of the past to build that approach. After all, we know China does not play by the rules.

First, our national security must come first. We have to identify smart, democratic measures that take into account the unfair trade practices, the human rights, and censorship abuses deployed by our adversaries, while making targeted investments

in trade relations with our allies that abide by a rules-based international trading system.

I've been proud to work with our colleagues on both sides of the aisle to craft legislation with these goals in mind. One example is the SECRETS Act, which I recently introduced with Senator Coons and Senator Young. This legislation would prevent the importation of specific products that contain intellectual properties stolen via economic espionage.

There's also the SPEECH Act, which I authored with the Senator from Pennsylvania, Senator Casey, and was passed by the Senate. This will require the U.S. to review items for export control that could be used for human rights abuse and censorship by foreign governments such as China in Hong Kong, Tibet, Taiwan, and the Uighur region.

The bill Senator Casey and I introduced, called the National Critical Capabilities Defense Act, would safeguard our critical supply chains to ensure we aren't caught flat-footed in the event of a public health crisis or natural disaster, or national security emergency. And the CHIPS for America Act, along with the FABS Act that was recently introduced, which was modeled after the original provision that Senator Warner and I introduced, would bring semiconductor manufacturing capabilities back home and eliminate that vulnerable supply chain.

In addition to these efforts, we need to work to strengthen the international rules-based trading system and our relationships with nations that abide by it. For example, we can reauthorize programs like the Generalized System of Preferences and codify an exclusion process for section 301 tariffs to transition critical supply chains away from foreign adversaries, as was done in the Crapo amendment to the U.S. Innovation and Competition Act.

And we can support critical reforms at the World Trade Organization. Most importantly, we can open new markets and reduce tariffs for nations that follow the rules, through U.S. accession to a multilateral trade agreement in the Asia-Pacific.

The U.S. needs a seat at the table in the Asia-Pacific along with India, the U.K., Taiwan, and other nations in the Comprehensive and Progressive Trans-Pacific Partnership, also known as the CPTPP. This is our most effective weapon to confront China's sharp power, to speak up against its accession to the agreement, and to counter the Regional Comprehensive Economic Partnership or the RCEP.

Next week, Trade Promotion Authority designed for the now-named CPTPP, will expire. The U.S. withdrawal from the TPP, as Senator Carper and I have opined in a joint op-ed in *The Washington Post* recently, was a missed opportunity for national security, free enterprise, and international trade.

I, along with 24 of my Republican colleagues in 2018, said as much when the previous administration withdrew from the agreement in favor of bilateral trade deals. In 2019, the U.S. turned around and signed into a regional multilateral and landmark trade deal with the USMCA that can serve as a model for our engagement in the Asia-Pacific.

So I look forward to learning from each of our witnesses today as we examine the best path forward. Ms. Cutler has a wealth of knowledge in international trade policy and law and was present for previous negotiations during TPP.

Dr. Petri can help us quantify the economic growth we missed by withdrawing from that agreement and what we might gain going forward.

Ambassador Cunningham has represented the United States around the world, including Hong Kong, where he saw China's claims in the early 2000s to become a responsible partner. He's also seen the China of today that ignores the rule of law in the name of national security when it locks up, censors, and steals from press freedom advocates like Jimmy Lai.

Mr. Allan, on behalf of his 55,000 employees, can provide us with the firsthand account of the importance of a diversified supply chain and how we can make targeted investments to strengthen manufacturing here at home, including through the opening of a new facility in Fort Worth, TX.

So thank you all for being here today. And thanks to my friend, Chairman Carper, for making this possible. I look forward to exploring this topic.

PREPARED STATEMENT OF HON. JAMES B. CUNNINGHAM, NONRESIDENT SENIOR FELLOW, THE ATLANTIC COUNCIL; FORMER U.S. AMBASSADOR TO AFGHANISTAN, ISRAEL, AND THE UNITED NATIONS; FORMER CONSUL GENERAL OF THE UNITED STATES IN HONG KONG; AND BOARD CHAIR, COMMITTEE FOR FREEDOM IN HONG KONG

Chairman Carper, Ranking Member Cornyn, thank you for the invitation to meet with you and the other members of the subcommittee to discuss the strategic and security context for the very important issue before you today.

The United States is uniquely both a European and Asian power. Asia is vital to American economic and security interests. The United States and its allies and partners are in a long term competition with China over influence in the world, and over the values which dominate this century. The restoration of U.S. engagement and a multilateral approach to trade policy in the Indo-Pacific region, as you have both advocated, is in my view fundamental to success in that competition.

Whether our relationship with China is confrontational or not, the competition with China for influence in almost every realm is underway and will persist. Our ability to engage multilaterally in Asia, whether regarding trade, diplomacy or security, is key to building and reinforcing our capacity, together with partners, to counter Chinese influence and to pursue our vision of Asia's future. That vision is based on political freedom, opportunity, prosperity, respect for the individual and, of course, open and productive trade and investment. The Chinese Communist Party and General Secretary Xi Jinping have of course a quite different vision, based on authoritarian control, assertion of Chinese "rights" and the restoration of Chinese primacy in Asia, intimidation, and subordination of the citizen to the State. The contest between these different models among and within nations is the defining theme of our age.

China is already fully engaged in this competition in the Indo-Pacific region, and increasingly around the world and in the international system of organizations on which the international community relies. Increasingly, its voice is also more confrontational and aggressive, with "wolf warrior" behavior and rhetoric becoming the norm as China under Xi Jinping disregards the famous advice of Deng Xiaoping to bide time and hide capacities. As China's outspoken ambassador to France recently explained in an interview on a Chinese website, "our style has changed, you need to get used to our new style . . . (this is) a protracted war that will last through the entire duration of the great rejuvenation of the Chinese nation." The message is that China and its authoritarian model are on the rise, and the West and its values are in decline.

In practice, China's rise has meant using the tools at its disposal, particularly economic punishments or enticements, to exploit the openness of our societies and universities, to control or shape information not only for its own citizens but abroad, and to blunt efforts over the past decade around the world to promote political reform. China is moving to rewrite or reject international rules and norms from which China itself benefitted as we attempted to integrate it into frameworks based on those rules and norms. It is working to reshape international institutions and dynamics in ways inimical to U.S. interests but much more to Beijing's liking. It has used its new-found power to bully its neighbors in the South China Sea. It declared "restoration" of sacred Chinese sovereignty over a large disputed portion of the South China Sea, and rejected out of hand the ruling of the relevant international maritime tribunal in the Hague that China's claim is baseless. Despite commitments not to do so, China has militarized artificial islands in the disputed area. The Chinese claim, in contravention of international law, and the militarization of the Sea in defense of Chinese sovereignty, is a threat to its neighbors and to the international community, given competing claims to the natural resources in the area and the vital trade sea lanes which pass through or near the zone.

This is all very dangerous, and now more widely understood than even a few years ago. When I first arrived in Hong Kong in 2005 as Consul General, the Chinese were trying to assuage fears about China's rise, and the talk in and outside China was about how to manage it peacefully, how to lead it to become "a responsible stakeholder" in the rules-based, liberal system in which the U.S. and many other countries hoped to integrate China. There was hope that Hong Kong, where China had committed to the "one country, two systems" framework agreed with the UK, might serve as a model for how the rest of China might evolve and liberalize, become more democratic and free, as it became more prosperous and engaged with more liberal, democratic nations.

Sadly, under Xi Jinping, China has taken quite another direction. Fearful of any threat to its authority, the Chinese Communist Party, under the National Security Law Beijing imposed on Hong Kong last year, is dismantling the one country, two systems framework it had committed to preserve. Pro-democracy figures are being jailed, freedom of the press and rule of law are being crushed. Private property and assets are being seized. Under the NSL, journalists and pro-democracy figures like media mogul Jimmy Lai are being held indefinitely without bail. Hong Kong is now holding political prisoners, and intimidation is the rule of the day as Hong Kong security authorities advise the media and populace “not to invite suspicion.”

Today’s Hong Kong embodies the clash between authoritarian and liberal values. Beijing did not need to seize control of Hong Kong and gut the “high degree of autonomy” it had promised in order to return stability to the city. That it chose to do so out of fear and perhaps impatience serves as a reminder of how easily Beijing can eschew political dialogue, ignore its commitments and dismiss the regard of the international community.

Around the world, governments have become alarmed at the issues posed by China’s assertions of power and right in the South China Sea, efforts to dominate its neighbors and Taiwan, pursuit of unfair trade and business practices including theft of intellectual property, and by its subversion of democracy, human rights and freedom of information. In the past week or so unprecedented statements emerging from President Biden’s meetings with the G7, NATO and the EU expressed concern about Chinese behavior, human rights abuses in Xinjian and Hong Kong, stability around Taiwan, and the competition of values. The NATO Allies concluded that “China’s stated ambitions and assertive behavior present systemic challenges to the rules-based international order and to areas relevant to Alliance security.” The three statements demonstrated clearly how the international ground has shifted in response to Chinese assertions of power and indifference to international opinion. As importantly, the tenor of the discussions demonstrated that China has failed to divide the U.S. and Europe.

That is precisely the sort of multilateral cohesion we need to pursue a strategy in the Pacific based on shared values and interests. Partnerships where possible on trade, security and diplomacy with our Pacific and Asian friends will lend mutual support to the efforts of the U.S. and all our partners to curb Chinese behavior. It will help America to strengthen its hand in the conflict of values, and to persuade Beijing that its behavior is unacceptable and even counter-productive. To the extent possible, Taiwan should be included in, or connected to, such partnerships. It has much to contribute, and its participation in a network partnerships will help promote stability in the region. As a Chinese democracy Taiwan shares our values and serves as a reminder that a different model of how to organize a successful Chinese society exists.

Alliances and partnerships make America stronger and more effective. Bilateral relationships, in trade or otherwise, no matter how positive, are ill suited to the task of strengthening an international regime based on our values. They are inefficient in developing and coordinating a program of joint, shared purpose. A network of bilateral ties does not easily serve to reinforce cohesion and common understanding and purpose. China will attempt to divide and intimidate and entice those seeking to confront the systemic challenges it poses. The power of America’s partnerships and alliances is one of the strongest instruments available to the U.S., even uniquely so. China has no ability to lead such a partnership, except where it can link up to other autocratic or proto-autocratic states. Its power rests on its economic prowess, and its authoritarian model, not on the attraction of its ideas. Its weaknesses, and the many challenges its leaders face—in its economy, demography, environment, corruption and political legitimacy—are daunting. Its strengths are not to be overestimated. Beijing needs, or will need, interaction with and support from the United States and its partners that it for now seems prepared to do without.

That is the optic through which I suggest the administration, as well as the Congress, should be looking at our trading arrangements in the Pacific. I’m sure the TPP had its flaws, and understand that some opposed it on principle. But the strategic value of a broad multilateral approach to linking American and Pacific economies, and to strengthening and building prosperity in a U.S.-Pacific partnership based on fundamentally shared values and aspirations, is immense.

PREPARED STATEMENT OF WENDY CUTLER, VICE PRESIDENT,
ASIA SOCIETY POLICY INSTITUTE

Chairman Carper, Ranking Member Cornyn, distinguished members of the subcommittee, thank you for the opportunity to appear before you today to share my thoughts on the strategic benefits of a multilateral approach to trade policy in the Indo-Pacific region.

As this subcommittee knows well, the Indo-Pacific region is home to some of the world's largest, dynamic, and fastest-growing economies in the world, as well as the most innovative companies. According to the Asian Development Bank, the region's share of global GDP will exceed 50 percent by 2050. The region accounts for over one-third of global goods trade, up from 25 percent a decade ago. Moreover, Asia is home to a large and growing middle class, which is projected to account for over two-thirds of the world's total middle-class population by the end of this decade. In short, the region offers the United States enormous economic opportunities that will drive global economic growth—and American prosperity—for years to come. Without strong economic engagement in the region, however, the United States risks not only foregoing these opportunities, but becoming increasingly marginalized as the region forges a new future without us.

While addressing the China challenge has understandably become an important rallying point in Washington to focus U.S. efforts regarding Asia, a comprehensive U.S. policy towards China will only succeed if accompanied by a broader Asia strategy. And an Asia strategy has the best chance of success with a robust trade pillar.

THE REGIONAL TRADE LANDSCAPE

The trade landscape in the Indo-Pacific region has shifted significantly over the past 4 years. The U.S.-China trade dispute, the COVID pandemic and its associated economic impacts, supply chain disruptions, logistics challenges, and growing export and import restrictions have had dramatic impacts on trade in the region. Nevertheless, regional trade remains strong halfway into 2021, with the WTO predicting an eight percent growth in global goods trade this year, with much of it fueled by the region.

The other important regional development, and the one on which I would like to focus today, is the ongoing efforts among the Indo-Pacific economies to strike trade agreements among themselves. This makes the Indo-Pacific not only the center of global trade, but a hub of activity for trade negotiations. By not being a part of these deals, the United States loses its seat at the table to help write the rules to govern trade for the years ahead, and loses its competitiveness in these growing markets while parties to these agreements gain preferential market access.

At the forefront of this movement are two multi-party regional agreements,—the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, or CPTPP, and the Regional Comprehensive Economic Partnership, or RCEP. The CPTPP entered into force approximately 2½ years ago after Japan rallied other countries to proceed with the agreement despite U.S. withdrawal. RCEP was signed in November 2020, and is expected to become effective in early 2022.

But that's not the whole story. Beyond these two deals, countries across the region have also moved ahead with numerous bilateral trade agreements, including with some partners outside the Indo-Pacific. Just last week Australia and the United Kingdom announced the conclusion of a free trade agreement (FTA) "in principle." Over the past couple of years, the Indonesia-Australia Comprehensive Economic Partnership Agreement and the EU-Vietnam FTA came into force; China concluded FTA negotiations with Cambodia; New Zealand and China updated and expanded coverage of their existing agreement; and South Korea and Indonesia are now working in their respective capitals to bring their recently concluded FTA into force.

There are multiple factors driving this stepped-up activity. They include the desire of regional partners to grow their economies, strengthen supply chain resiliency, create jobs, attract foreign direct investment, promote innovation, and diversify their trading partners. Regardless of their political systems or level of development, nearly all countries in the region see economic growth and innovation as a critical measure of societal success, and have witnessed firsthand the lifting out of poverty of millions of citizens in the short span of one or two generations—most made possible by expanding trade and investment opportunities across the region and the world. In short, our regional partners see trade expansion as a path worth pursuing.

Yet, even with all of this activity, our partners would still like to see the United States return to the negotiating scene to help craft agreements that shape the rules of the road on trade and investment for the coming years, and keep the United States fully engaged in the economic fabric of this dynamic region. While these countries strongly welcome recent U.S. engagement on security, climate change, and health, they note the conspicuous absence of trade initiatives, a significant gap in their eyes. Without an active trade agenda for the region, our partners view U.S. regional engagement as incomplete and unresponsive to one of the key levers that will promote and sustain U.S. integration and influence in the region.

CPTPP

In particular, the CPTPP members have made it clear that they would welcome the United States back to this pivotal regional agreement. These countries have not stood still since the United States announced its withdrawal from TPP in January 2017. While the U.S. exit initially threw the agreement into disarray, the eleven remaining countries regrouped under the leadership of Japan and signed the CPTPP just 14 months later. Surprisingly and importantly, they kept the overwhelming majority of the agreement intact, suspending only 22 of the thousands of provisions from the original TPP.

Despite this impressive success in resuscitating what looked like a moribund agreement, the CPTPP countries have not achieved comparable success so far in attracting new members. A number of economies have expressed varying degrees of interest in joining, including Indonesia, the Philippines, South Korea, Taiwan, and Thailand but none have made the leap to submitting a formal application. However, this changed earlier this month when the CPTPP partners launched the formal accession process for the United Kingdom. Given its high-standard trade agreements already in place with a number of CPTPP members, UK accession is expected to go smoothly, which could help pave the way for others to follow.

China has also expressed its interest, with Xi Jinping publicly stating last November that China will “favorably” consider joining the CPTPP. It’s unclear what China’s true intentions and motivations may be. But, statements like this are not made lightly and must be taken seriously. Chinese officials are now taking a deep dive into the specifics of the agreement’s provisions, while they consult with certain CPTPP members to further their understanding of what the rules would mean in practical terms for Beijing and take the temperature on possible support for a Chinese bid to join.

Indeed, China would have difficulties in adhering to certain CPTPP rules, particularly with respect to obligations on state-owned enterprises, digital trade, labor standards, and intellectual property protection. But, that’s not necessarily a reason to dismiss the prospect of Chinese accession. Let’s keep in mind that China is the number one trading partner for most countries in the region, with trade and investment flows growing steadily, and supply chains strengthening in some key sectors.

While China is Japan’s top trading partner, Japanese officials, in their capacity as chair of the CPTPP this year, have sent signals that China’s accession would have to be on the same terms and at the same high standards as for any other country. Other CPTPP members may be more flexible, believing that this would be an opportunity for further market-opening and reform by Beijing, while increasing their access to the large and growing Chinese market. What is key for Washington to keep in mind is that these discussions are happening in real time in capitals all over the region. The longer we are on the sidelines of these conversations, the less influence the United States will be able to exert in this process and in the region more broadly.

RCEP

The United States should also pay close attention to developments surrounding RCEP. Each of the fifteen RCEP members is now seeking domestic approval of the pact, which is expected to go into effect in early 2022. Four countries—China, Japan, Singapore, and Thailand—have already ratified the agreement and others are expected to follow in the months ahead.

RCEP is a low-standard agreement when compared to CPTPP. Rules on labor, environment, and state-owned enterprise are noticeably absent. The text is full of exceptions, long transition periods, weak enforcement mechanisms, and product exclusions for tariff reductions, leading some to dismiss its economic significance. But doing so would be a mistake. With common rules of origin and harmonized paperwork for customs purposes, this agreement will result in more economic integration

among its members, as well as the further strengthening of regional supply chains. Moreover, with its ministerial meetings, committee structure, and the establishment of a Secretariat, RCEP will become a forum for its members to set rules on emerging issues and strengthen preferential market access commitments.

While joining RCEP is not a realistic nor desirable prospect for the United States, it is an important milestone that should be factored into U.S. thinking as we shape our trade strategy in the region and consider the timing of new initiatives. America's key trading partners and allies in the region take the RCEP seriously—so should we.

IMPORTANT TAKEAWAYS FROM PAST REGIONAL NEGOTIATIONS

As the administration and Congress consider how the United States can most effectively reengage on trade in the Indo-Pacific, I commend the subcommittee's interest in seeking a deeper understanding of what lessons can be learned from our past work on trade agreements and how they can inform our next steps.

TPP

In light of my firsthand experience as a senior U.S. negotiator in the TPP negotiations, I would like to share the following observations of this multiparty negotiation which I believe are relevant to this exercise.

First, it's important to recognize that the United States was successful in defining the topics and shaping the rules that comprised the final TPP agreement. There is every indication that while the slate is not as clean as it was previously, we could still play a similar role in future negotiations. In such areas as e-commerce, state-owned enterprises, intellectual property protection and industrial and agricultural standards, the detailed TPP provisions, and now CPTPP provisions, were largely based on U.S. proposals. In fact, throughout the negotiation the U.S. objective was largely to bring other countries' trade regimes more in line with U.S. standards and norms. The U.S. success in this endeavor was evidenced by how few laws and regulations Washington would have needed to change to become part of the agreement, especially when compared to the other members.

Second, multiparty deals like the TPP by definition generate bigger bang for the buck as more countries agree to a common set of ambitious rules while providing access to their individual markets. The economic gains of a single negotiation can be multiplied by the number of parties to the agreement, and are then augmented by the additional benefits that flow from the outcome of constructing a regional framework. Furthermore, these benefits can grow as new, qualified members join the grouping.

Third, with the recent and urgent focus on supply chain resiliency, agreements like TPP should be viewed as "trusted" supply chain agreements. By bringing together like-minded countries committed to high-standard rules and eliminating barriers among them, such agreements encourage the development of resilient supply chains between the parties. They can provide a strong foundation for more detailed supply chain arrangements around specific strategic and essential products of concern.

Fourth, a multicountry agreement like TPP provides some important sources of negotiating leverage that are distinct from bilateral initiatives. During the course of the TPP negotiations, U.S. negotiators were able to capitalize on other countries' concessions to gain support from third-country members for U.S. negotiating requests. For example, once Japan joined the talks and offered new and valuable agricultural market access to the group, others were more amenable to moving in areas of importance to the United States, including intellectual property protection and state-owned enterprises. We also found that building a coalition of TPP members in support of a particular U.S. proposal sometimes made it easier for the outlier country to gain traction at home if it could show that it was responding to requests from a group of countries, and not just U.S. pressure.

One final thought to share on such multicountry agreements: negotiating a comprehensive agreement with a diverse group of countries is unquestionably more complex and usually takes more time than a bilateral negotiation. This is borne out by looking at the multiyear time frames for the TPP, RCEP, and WTO negotiations. As talks proceed, sometimes initial negotiating objectives can be overtaken by changing public sentiment about the deal itself, or concerning specific chapters or provisions. Such was the case with TPP. Looking ahead, we should consider building in a mid-term review—perhaps at the 2-year mark of negotiations—to take a step

back and reassess U.S. negotiating objectives and make necessary adjustments that align more closely with possible shifts in stakeholder and congressional views. Certain trading partners may view this as an unhelpful ploy by Washington to move the goalposts in the negotiations. However, a mid-term review, with congressional and stakeholder input, could help build needed domestic support and ensure that the negotiated outcomes are in line with public sentiment.

USMCA

There are also important takeaways from the USMCA negotiations that should be considered carefully as Washington develops its trade strategy for the Indo-Pacific region. First and foremost, the USMCA clearly demonstrated to skeptics in the United States and abroad that trade agreements can garner strong bipartisan congressional support if they are able to successfully address and balance the priorities and concerns of different stakeholders and congressional members. It also underscored how critical consultation and cooperation between the executive and legislative branches are in bringing negotiated deals into force. This collaboration should be a model for future negotiations, even if it builds extra time into the process.

One of the best kept secrets of USMCA was how this agreement borrowed heavily from the TPP, keeping its provisions alive and relevant in such areas as digital trade, intellectual property protection, and agricultural standards (SPS). Moreover, USMCA incorporated new features, including enforceable currency provisions, stronger enforcement tools for labor and the environment, and stricter rules of origin to ensure that the economic benefits of the agreement are directed to its members and not to outsiders. These new provisions paved the way for many earlier congressional opponents of trade agreements to rally behind the deal.

A word of caution, however. Before concluding that the USMCA should be the model or the floor for future trade agreements, particularly in the Indo-Pacific region, we should be mindful that the United States had unique negotiating leverage with Canada and Mexico. Both neighbors are highly dependent on the U.S. market with approximately 75 percent of their exports destined for the United States. This contrasts with the Indo-Pacific where the United States is just one of several major trading partners and where China is and will continue to be the largest trading partner for the overwhelming majority of countries in the region. Second, President Trump's threat to withdraw from the original NAFTA agreement resulted in unprecedented flexibility among American stakeholders who feared the commercial fallout that would transpire from uprooting 25 year-old trilateral supply chains that had developed under NAFTA—a flexibility that may not be repeated in negotiations of new trade agreements. Finally, Mexican political developments allowed the United States to play the negotiating clock skillfully with Mexico, and then use that factor to build pressure on Canada.

WHERE DOES THIS LEAVE US?

Each negotiation tends to have its own set of shared objectives, unique challenges, and sources of leverage. What works for one country or region may not be easily transferable to another. Thus, while it's important to develop a template, it's equally critical to build in flexibilities.

The TPP and the USMCA negotiations offer valuable lessons and insights that are important to keep in mind as the United States shapes its trade strategy for the Indo-Pacific region. Both are comprehensive trade agreements that cover dozens of topics, updating provisions of earlier agreements and including new features.

In shaping its worker-centered trade policy, the Biden administration has indicated that it will conduct a detailed review of our existing FTAs, consult widely, and develop a new template that responds to the concerns and priorities of U.S. workers, and the U.S. middle class more generally.

This internal work will take time—it is a painstaking but necessary process to develop concrete proposals, consult with a wide array of stakeholders, many new to the trade arena, and build domestic support. But time is not on our side in the Indo-Pacific region if we want to play a leading and impactful role in shaping the new rules, standards, and norms for regional trade and investment. As each month passes, most regional economies are concluding new trade agreements, strengthening their economic ties with China, and integrating further among themselves. Meanwhile, China's efforts to fill the vacuum that we've created are moving ahead full steam.

CONCLUSION: PURSUE NARROWER, SECTORAL TRADE AGREEMENTS IN THE INDO-PACIFIC

This leads me to a concluding recommendation. Just because the United States may not currently be ready to enter into a comprehensive trade agreement with Indo-Pacific partners, this should not mean that our entire rule-making trade agenda for the region be placed on hold. Rather, we should pursue narrower deals in sectors that deliver concrete benefits to U.S. workers and firms, while positioning the United States at the forefront of writing the rules that will govern trade for the years to come.

A digital trade agreement with like-minded regional partners would be an excellent candidate for such a focused approach. Such an agreement would help promote digital inclusiveness, provide small and medium-sized enterprises the digital tools they need to participate and flourish in the international marketplace, and reverse the emerging trend of digital protectionism. It could provide a forum to promote shared democratic values of openness, transparency and fairness. Moreover, such an initiative would put the United States squarely back at the regional negotiating table and could serve as a building block for a broader agreement, such as a revised and updated TPP, down the road. Finally, the rules of the road for digital technologies are still being written, and absent U.S. participation, these rules may work against our interests. Indeed, we are already seeing this—a case in point being the broad exception provided in the RCEP e-commerce chapter where data obligations can essentially be ignored if a party decides for itself to do so. To prevent such provisions from becoming the regional norm and spreading to other agreements, U.S. leadership is critical.

Needless to say, there are other subjects that could also be a useful focus for regional sectoral agreements, and I urge the subcommittee to give this more thought. But what's clear and was so well stated in a recent op-ed by the chairman and ranking member, the first and most important step is to "get our seat back at the table" in this critical region. Our future economic growth, competitiveness, and influence depend on it.

PREPARED STATEMENT OF PETER A. PETRI,¹ PH.D., CARL J. SHAPIRO PROFESSOR OF INTERNATIONAL FINANCE, BRANDEIS UNIVERSITY; NONRESIDENT SENIOR FELLOW, BROOKINGS INSTITUTION; AND VISITING FELLOW, PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS

Chairman Carper, Ranking Member Cornyn, distinguished members of the subcommittee, thank you for this opportunity to testify, and thank you especially for addressing a critical challenge—the need for a multilateral approach to trade policy in the Asia-Pacific region.

As a researcher specializing in international trade, I have studied this region's development and relationships with the United States for nearly 50 years. Over the last decade, in collaboration with Professor Michael Plummer of Johns Hopkins University and other colleagues, I also undertook extensive studies of actual and proposed trade agreements in the Asia Pacific, and their variants with additional members. These multilateral agreements are summarized in Table 1; I will report some results from our research below.²

As you know, the United States has long supported East Asia's political stability and access to world markets, at times at great cost. The region translated this support—through remarkable national success stories—into unprecedented prosperity and poverty reduction. The United States stayed on the job, promoting further progress through regional agreements and institutions as recently as 5 years ago. In the words of former Secretary of State James Baker, we refused to draw "a line down the middle of the Pacific."³

So it's disappointing to see U.S. economic ties with the Asia-Pacific weaken in recent years. While the United States has retained, and indeed intensified, its focus

¹ Carl J. Shapiro professor of international finance, Brandeis University; nonresident senior fellow, Brookings Institution; and visiting fellow, Peterson Institute for International Economics.

² Most results reported in this testimony will appear shortly in Cyn-Young Park, Peter A. Petri, and Michael Plummer, "The Economic Effects of the Regional Comprehensive Economic Partnership and Recent Trade Policy Developments in Asia and the Pacific," Asian Development Bank Working Paper (forthcoming). Our earlier publications on Asia-Pacific trade agreements are listed and linked on: <http://asiapacifictrade.org/>.

³ James A. Baker III, *The Politics of Diplomacy*. New York: Putnam and Sons, 1995.

on Indo-Pacific security, it withdrew political support for deeper economic integration across the Pacific and in East Asia itself, and reduced its participation in Asia's multilateral institutions. Its disengagement is striking relative to increased efforts by other countries, not least China.

The new decade offers a chance to review our engagement in the Asia-Pacific. In the past, the United States played an important role in the region's multilateral mechanisms. It should do so again. America's efforts to enhance the competitiveness of our economy will hopefully build confidence and resources for launching new trade initiatives. The U.S. economy is complementary to Asian economies, and the United States is respected in Asia for its historical role and economic prospects. It is uniquely positioned to benefit from the dynamism and prosperity of the Asia-Pacific, the fastest growing world region in the last half century.

Table 1. Multilateral trade agreements in the Asia-Pacific (actual and proposed)

Acronym	TPP	CPTPP	RCEP	RCEP16
Formal name	Trans-Pacific Partnership	Comprehensive and Progressive Agreement for Trans-Pacific Partnership	Regional Comprehensive Economic Partnership	As RCEP
Members	Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam	As TPP, except without United States	Australia, Brunei, Cambodia, China, Indonesia, Japan, Laos, Malaysia, Myanmar, New Zealand, Philippines, Singapore, South Korea, Thailand, Vietnam	As RCEP, except with India
Year in force	Abandoned	2018	Expected 2022	Unknown
Description	High-quality, comprehensive agreement with innovative provisions on digital economy and intellectual property	Uses TPP text but suspends 22 provisions including some on investment dispute resolution and intellectual property	Unusually diverse membership, lower-quality agreement, favorable rules of origin, no labor or environment chapters	As RCEP

Source: author.

FRAYING TANS-PACIFIC TIES

To help assess multilateral cooperation across the Pacific, consider five factors that currently shape these connections. Each of these trends has recently contributed to the erosion of tans-Pacific ties and limits what the United States might achieve in future Asia-Pacific agreements. But the list should not be read pessimistically. Appropriate U.S. policies can change some factors and find better ways to accommodate those beyond our control.

- *China's growing economic influence in East Asia.* In the decade ending in 2019, Chinese trade with East Asian partners excluding China expanded by

7.0 percent annually, compared to 5.6 percent for the United States.⁴ China is now the largest trading partner of all 11 major East Asian countries,⁵ and the United States is among the top two partners of only 3 countries (Japan, Korea, and Vietnam). These economic interests explain why East Asian countries prefer regional arrangements that are potentially open to China, but also incentivize it to conform to clear international standards.

- *Concerns about trade policy in the United States.* The TPP, which the United States abandoned in 2017, met many objectives for healthy Asia-Pacific relationships: it was a large, high-quality, innovative, multilateral arrangement. The U.S. withdrawal was a flawed decision, but in fact the politics of the TPP had turned very divisive by the time the agreement was signed. Opposition emerged across various political lines, fueled by the frustrations of American workers whose wages were not rising sufficiently fast, and who could not find alternatives to disappearing manufacturing jobs. Trade barriers emerged as plausible (though ultimately ineffective) remedies for unacceptable trends. In fact, our research suggests that agreements like the TPP can benefit workers by expanding markets for productive firms, causing wages to rise faster than profits, and thus also create additional jobs.⁶ New trade initiatives will require political support, and current U.S. policy innovations should give workers skills and confidence to pursue opportunities through trade.
- *Declining U.S. role in East Asia's cooperative mechanisms.* The key inter-governmental mechanisms operating in East Asia include the Association of Southeast Asian Nations (ASEAN), the 18-member East Asian Summit, which includes ASEAN, the United States and other partners, and the 21-member Asia Pacific Economic Cooperation forum (APEC). Each conducts annual leaders' summits, arranged to minimize related travel, and offers opportunities for high-level dialogue. Although U.S. presidents played important roles in these institutions in the past, during his term President Trump participated in only one of four ASEAN meetings, none of four East Asian Summits, and two of three APEC meetings. These are tables where the United States should be present.
- *Growing East Asian confidence in leading economic integration.* Filling the vacuum left by America's absence, East Asia reoriented its economic integration efforts toward regional and other partners, including Europe and even Russia. The 11 signatories of the TPP remaining after the exit of the United States, led by Japan, concluded a replacement agreement within 1 year after losing their dominant partner. That breakthrough served to accelerate the negotiations on RCEP, which were concluded in 2020. RCEP is a large agreement with an unusually diverse membership, spanning countries that differ widely in population and development. The United States should welcome and support these trends in collaboration with Asian partners.
- *Deepening intra-Asian, rather than trans-Pacific, economic ties.* Over time, intra-Asian business ties and agreements are becoming more important than trans-Pacific relationships. When the TPP was in negotiation, we estimated that its global benefits would be 72 percent larger than those offered by RCEP (then expected to include India), because the TPP provided a more modern and rigorous template.⁷ In contrast, we now estimate that RCEP (without India) would be 40 percent more valuable than the CPTPP, which has become smaller and less productive without the United States. Moreover, the CPTPP is now also likely to add other East Asian economies.

Compared to the final years of the TPP negotiations, the East Asian economy has greater regional focus. The United States remains an important partner, but trends

⁴Trade is measured as imports plus exports. Comparisons for the decade ending in 2020 are available but are distorted by the effects of COVID-19. Data are from the World Bank's WITS data base, extracted June 20, 2021.

⁵These are Australia, Cambodia, Indonesia, Japan, South Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, and Vietnam.

⁶A close review of the TPP's labor market effects suggests positive implications, including increases in the returns to labor compared to capital (Peter Petri and Michael Plummer, "Economics of the Trans-Pacific Partnership: Distributional Impact," *VoxEU*, 30 April 2016, <https://voxeu.org/article/economics-tpp-winners-and-losers>). Also, we recently added endogenous labor supply mechanisms to our model, which project job gains from agreements like the TPP that increase real wages (Park, Petri, and Plummer, forthcoming, *op. cit.*).

⁷Peter A. Petri, Michael G. Plummer, Shujiro Urata, and Fan Zhai, "Going it Alone in the Asia-Pacific: Regional Trade Agreements Without the United States," Peterson Institute for International Economics, Working Paper 17-10, October 2017.

argue for recognizing East Asia’s maturing economy. The return of the United States to meaningful regional agreements would be welcomed, for the large opportunities provided by U.S. markets and technology, and for diversifying regional risks. Many countries, moreover, also want sustained U.S. engagement as a foundation for a rules-based regional system and political stability.

CONSEQUENCES OF EAST ASIA “GOING IT ALONE”

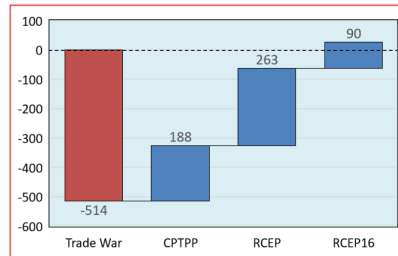
In recent research, colleagues and I have applied quantitative models to examine the consequences of these trends, including the shift from trans-Pacific to East Asia-centered trade agreements. We use a state-of-the-art computable general equilibrium (CGE) model, similar to those used by other researchers including the U.S. International Trade Commission. The model is not designed to make forecasts—rather, it answers “what if” questions about the effects of new policies such as trade agreements. It produces aggregate results, say, on changes in national real incomes, as well as detailed results, say, on bilateral trade flows of motor vehicles. We analyze these changes for the world economy divided into 19 sectors in 29 regions, over the 2015–2030 period.

We recently applied the model to examine four key trade policy developments: the U.S.-China trade war, the implementation of the CPTPP agreement, and the ramp-up of the new RCEP agreement (without Indian membership), and a potential RCEP16 agreement that would also include India. We represented these policy changes with announced details when available, say on tariffs, and with judgments about the effects of unquantified measures, say import, export, and investment restrictions applied to U.S.-China trade.

The results suggest large changes in real incomes as illustrated in Figures 1 and 2 below. These figures track the incremental effects of the policy scenarios. Each starts at zero on the left (the dotted line near the top) and then successively adds bars to show the effects of the trade war and the trade agreements.

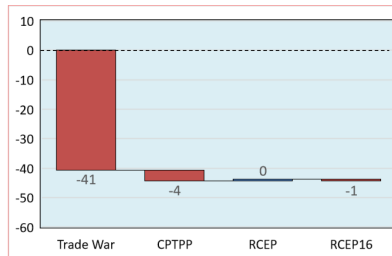
Figure 1 shows global real income effects. The trade war has a large negative effect, reducing world incomes by \$514 billion dollars (all values mentioned are annual estimates for 2030, representing also similar effects in later years). The trade agreements all have positive effects, each increasing global incomes from the levels reached under previous scenarios. Thus, the CPTPP will increase world incomes annually by \$188 billion, RCEP by a further \$263 billion, and RCEP16—RCEP with the addition of India—by a final \$90 billion. Together, the three agreements are projected to add \$541 billion to world incomes, enough to end up above zero, that is, to offset the costs of the U.S.-China trade war. However, these costs are not fully offset in all countries, including especially in China and the United States.

Figure 1. Effects on global real income, 2030 (\$b)



Source: author’s simulations.

Figure 2. Effects on US real income, 2030 (\$b)



Source: author’s simulation.

Figure 2 shows the effects of the same scenarios for real income in the United States. These follow a different pattern: the trade war and the new regional trade agreements all have negative or insignificant income effects (negative bars are shown in red). To be sure, U.S. losses are not large—for example, they represent less than 10 percent of the global losses associated with the trade war, with China bearing a far larger share—but the four scenarios together reduce U.S. incomes by \$45 billion annually. These losses reflect trade lost due to the new trade barriers introduced by the trade war as well as new preferences that America’s competitors receive (but U.S. producers don’t) under the CPTPP and RCEP.

Moreover, the direct losses from the CPTPP agreement shown in Figure 2 do not include what the United States would leave on the table by *not benefiting from joining* the CPTPP. If the United States did join, it would get preferential market access within the agreement—for example, U.S. exports would be subject to lower tariffs. In a 2016 study we estimated these gains at \$131 billion annually.⁸ We have not reestimated them since, but changes in our model suggest that updated results would be perhaps 25 percent larger. In other words, benefits foregone by not joining the CPTPP would be several times as large as direct U.S. losses estimated above.

More granular analysis shows that, all else equal, each of the four policy scenarios—the trade war and the new East Asian agreements—will reduce America’s Asia-Pacific economic ties. This is because the trade war has raised barriers to U.S.-China trade, and because the new agreements will offer advantages to imports from partners that are members, over imports from the United States. In addition, the new agreements, especially RCEP, will create incentives for regional supply chains, enhancing East Asia’s competitiveness in manufacturing. RCEP is the first trade agreement among China, Japan, and South Korea, reducing barriers among their firms and with producers in other RCEP countries. RCEP’s rules-of-origin provisions will be especially useful for incentivizing such regionwide collaborations.

It would be tempting to see East Asia’s trade agreements as beggar-thy-neighbor initiatives, or as concessions to a powerful China. But their evident goal is economic integration; they will create far greater gains for members than losses for outsiders like the United States. As a member of RCEP, China is likely become its biggest beneficiary, given its outsized economic role. But perhaps because this was expected, China did not appear to dominate the negotiations, according to key ASEAN officials.⁹ The negotiations demanded exceptional patience; they were repeatedly stuck on the sensitivities of one or more smaller countries.

BUILDING ON AMERICA’S STRENGTHS

For better or worse, East Asia is now following policies more focused on the region’s own integration than on trans-Pacific relations. One reason is that its trans-Pacific options have narrowed. Reversing, or at least slowing, this trend will require U.S. actions: increasing the priority of America’s economic ties with East Asian partners, and participating more fully in regional mechanisms of cooperation, such as ASEAN, APEC and the East Asia Summit.

From an economic perspective, the United States can best address these challenges by joining the CPTPP agreement, or an appropriate successor agreement. This would raise U.S. incomes and send the clear message that America’s commitments to the region are aligned across our economic and security interests. This will enhance the credibility of both pillars of the relationship.

Moreover, the value of the CPTPP is bound to expand through the “domino effect”—as new members join, benefits increase for current members as well as further entrants. The United Kingdom is already negotiating membership, while China, Colombia, Indonesia, the Philippines, South Korea, Taiwan, and Thailand have all expressed interest in joining. Nothing would accelerate the domino effect more than U.S. entry. An expanding CPTPP would amplify strategic benefits for the United States.

Still, in my view, America’s withdrawal from the TPP will not be quickly reversed. U.S. political divisions on trade remain acute. In the short term, the U.S. government is unlikely to prioritize relations with East Asia above other challenges at home and abroad. Nevertheless, promising signs are on the horizon: the U.S. economy is recovering rapidly from the COVID-19 crisis and Congress is engaging with difficult economic issues. With the American Rescue Plan and a Senate version of the United States Innovation and Competition Act behind it, Congress is poised to tackle legislation on infrastructure and human capital. Each of these bills establishes clear links between America’s prosperity and security and its international

⁸Peter A. Petri and Michael G. Plummer, “The Economic Effects of the Trans-Pacific Partnership: New Estimates.” *Assessing the Trans-Pacific Partnership, Volume 1: Market Access and Sectoral Issues*. Ed. Kimberly Ann Elliott et al. Washington, DC: Peterson Institute for International Economics, 2016, 6–30.

⁹ASEAN Secretary General Lim Jock Hoi and others close to the negotiations have widely argued this point. See for example Lim’s description of the signing of RCEP as “a historic event as it underpins Asean’s role in leading a multilateral trade agreement of this magnitude, despite global and regional challenges and 8 years of negotiations” (*The National*, “The RCEP trade deal proves Asia need not be led by the U.S. or China,” November 17, 2020).

competitiveness. If successful, they will enhance U.S. leverage and give workers and businesses the tools to embrace international challenges.

As the United States gains confidence in its economic recovery, opportunities in the Asia-Pacific will again come into sharper focus. In the meantime, much needs to be done to build support, abroad and at home, for future agreements. Abroad, the United States could initiate agendas on shared policy challenges in APEC, ASEAN, and the East Asia Summit, to explore zones for potential collaboration. It could scale up contributions to East Asia's people, through investments in public goods and initiatives centered on America's remarkable assets in education, science, and culture. At home, it could encourage diverse communities—in business, technology, health care and other sectors—to reinvigorate partnerships across the Pacific, and to develop joint strategies for renewed trans-Pacific engagement. Clear definitions of America's long-term interests, based on wide political foundations, will be essential for renewing Asia-Pacific ties.

COMMUNICATIONS

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The American Farm Bureau Federation, the nation's largest general farm organization, submits this statement for the hearing on the benefits of a multilateral approach to trade policy in the Asia-Pacific region. Trade is critically important to the current welfare and future prosperity of U.S. farmers and ranchers, who depend on growing and stable export markets for the success of their businesses.

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

The Asia-Pacific region is critical to the growth for U.S. agricultural exports. Several countries in the region are currently good markets for America's farmers and ranchers and the strong economies and growing populations of many others have great potential. Removing existing tariff barriers and achieving common standards across the region will increase the opportunities for providing our products to these customers.

American farmers and ranchers will benefit from the opportunities that exist in the Asia-Pacific region. We support efforts to re-engage with the countries involved in the CPTPP in a manner that will yield real gains. While we have trade agreements with certain CPTPP nations (Australia, Canada, Chile, Mexico, Peru, Singapore), we have no trade agreements with Brunei, Malaysia, New Zealand and Vietnam.

Farm Bureau supported the Trans-Pacific Partnership Agreement and supports the entry of the U.S. into the CPTPP. The goal of this multilateral approach is to improve trade conditions in the Asia/Pacific region and boost economic activity for all participating countries.

Eliminating or reducing tariff barriers is always an objective of trade negotiations. Achieving this across the Asia/Pacific region will immediately impact U.S. agricultural exports in a positive way. Improving sanitary standards to ensure a science-based approach across this region will eliminate and reduce barriers and improve efficiencies in trade.

U.S.-Japan Trade Agreement

The U.S.-Japan Trade Agreement went into effect on Jan. 1, 2020, putting tariffs applied to U.S. products on par with 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 must continue to work on the remaining issues, such as sanitary/phytosanitary rules, and address tariffs for rice and some dairy products. These issues can be covered through the CPTPP.

U.S.-Mexico-Canada Agreement

The USMCA went into force on July 1, 2020. The implementation of expanded access for U.S. dairy products in Canada through the new tariff-rate quotas is very troubling 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. As members of the CPTPP, Canada and Mexico are an important part of trade in the Asia/Pacific region and are also valued U.S. trading partners.

U.S.-U.K. negotiations

Five rounds of comprehensive negotiations have been completed between the U.S. and the U.K. With the negotiations on food safety focused on U.S. standards for chicken, beef and pork, the U.K. needs to recognize the United States' science-based approach. We support continuing the negotiations toward a trade agreement with the United Kingdom. The U.K. is also beginning the process of joining the CPTPP.

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 received by U.S. farmers—for these goods.

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 included. As these barriers go down, the opportunity for increased U.S. commodity sales goes up.

China has also expressed interest in being a part of the CPTPP.

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.

Conclusion

As Congress considers 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 seize all opportunities to expand agricultural exports to the benefit of U.S. farmers and ranchers.

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Statement of Michael G. Bindner

Chairman Carper and the Ranking Member Cornyn, thank you for the opportunity to submit these comments for the record to the Subcommittee on International Trade, Customs, and Global Competitiveness of the Committee on Finance. Outside-box thinking is important in this area, which is why I solicit comments. Please look beyond what the invited witnesses mention.

The foundational question must be this. What strategy is the nation pursuing?

Are we putting consumers ahead of the interest of workers, both here and abroad?

Are we acting in the public interest or in the interest of commercial concerns? How are we balancing these two concerns?

What is the impact of our relationships on the environment, not only on warming but on the basic questions of pollution? Stopping the warming of polluted air and water still leaves us with polluted air and water.

Most importantly, how are donors affecting how we approach these questions? Who is donating to member political and to “public information” campaigns?

Any actions the Subcommittee or the Special Trade Representative take must consider these matters.

The next issue is tax policy. The easiest form of multilateralism is to comply with the rest of the world on taxing imported and exported goods. This means enacting a border-adjustable value-added tax. Goods that come in are taxed while goods that go out are not. The current system puts consumers over workers, encourages the exploitation of overseas workers and constitutes an unconstitutional export tax. See attachment one for our usual analysis of this issue.

The remaining issues concern China.

The first is bilateral and multilateral. How are we responding to the first set of questions in this relationship, particularly in regard to workers and large firms. Intellectual property is also a concern, although given the growth of the Chinese technical sector, perhaps the Chinese have more to lose than we do. On artificial intelligence, we are falling behind. Perhaps we need to send more American students to Chinese universities (although they should be armed with questions and answers about our political system).

Authoritarian regimes see the protection of the ruling party in one of two ways. One is simply the preservation of political and social power. The other option is that the ruling party is committed to its ideals and fear that outside influences will threaten the nation’s way of life. We can catch more flies with honey, so gently educating Chinese leadership should be tried. If they were to see how the nation can be improved by losing an election, perhaps they will be amenable to a change in tactics.

A multilateral approach is helpful here. Of course, many of our partners may not be paragons of Democracy. Of late, neither is the United States. Our own problems are a teachable moment. No society is perfect. The nation can use our current struggles as an example that democracy is not an end, it is a process. Our difficulties with a vocal authoritarian movement supporting an authoritarian former president can be used as a teaching moment. The Chinese leadership will not need much convincing on how bad an authoritarian leader can be, given the last four years.

This dovetails nicely to the question of the Uighurs. Much discussion has occurred on this front over the last few years. Our analysis of this issue has been shared with Congress on more than one occasion, including the need to look inward on the issue of slavery—and not merely at our past sins. See our second attachment. We can also add our support of tyranny throughout our history and the Native American genocide. Again, our flawed past and how we are overcoming it may be our best narrative in dealing with our future and China’s.

Multinationalism on this issue should cast a wide net. It might even be an occasion to make peace with recent enemies, especially the Islamic Republic of Iran. Including them in a coalition of conscience regarding the Chinese Turkmen (as well as in dealing with the Taliban) would be a powerful statement. This is an opportunity that rarely presents itself. A united front on this issue threatens the Chinese plans for a Belt Road. We can use that to help the Uyghurs.

The Belt Road takes us to our last destination, containing Chinese hegemony. The Trans-Pacific Partnership was designed to counter emerging Chinese power. Now the Belt Road projects are in full swing and our biggest tool is no more. While I share the concerns of many regarding the power of industry in enforcing such agreements, some of these concerns are allayed by the recently negotiated U.S.-Mexico-Canada Agreement. The gains for workers and the environment should be migrated to all such agreements and the TPP process should be reopened.

The final question is to examine who really killed the TPP and why. Was this a case of an inept presidential candidate running amok or did he gain personally from raising the issue? Was it merely sparring between the major campaigns that killed the agreement or were there more organized interests behind the scuttling of the agreement?

This matter demands investigation. The intelligence community needs to follow the money (assuming it has not done so already). The Public Integrity Section of the FBI must take part. Even the Federal Election Commission has a role in this (okay, stop laughing). The death of the TPP and the rise of the Belt Road are too much of a coincidence not to take a second look. Our democracy needs this question answered, even though many are not asking it. The Subcommittee must.

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 One—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 Two—Fighting Forced Labor, March 18, 2021

. . . The other issue with China, as well as south Asia and the global south, is defacto slavery. Boycotting the products of slavery worked in fighting the Confederacy. The mass migration of slaves had more of an impact. A boycott of Xinjiang cotton and tomatoes is problematic during a pandemic, but generally it cannot succeed as a stand-alone action. Even though it may hurt in the short run, we should still do it.

To make a boycott work, we cannot do it alone. At minimum, Islamic nations must join in as well and start linking the cause of the Uygurs to the New Silk Road. The ethnic Turkmen range from modern Turkey to Xinjiang, so a little solidarity on their part could go a long way. If we do go this route, the whole effort to interfere in Iran must end. We cannot be with South Asian Muslims on some things and expect solidarity with them on others.

On the moral front, I am not sure we have room to talk. We hold migrants in stark conditions prior to deportation. If you doubt it, visit Lewisburg Federal Prison. Also stop in the Federal Prison Industries factory while you are there. Visit any food processing plant with large immigrant workforces (send people undercover) and see how many workers were trafficked and how local law enforcement reacts when they decide they want to leave. Examine the plight of sex workers in the United States and see how many of their pimps have arrangements with local police.

Our best weapon is our example. As long as slavery exists in the United States, our moral voice is compromised. Again, I am not saying to ignore this situation. I am saying to go “All In” to really fight slavery. Also, call it slavery. On the same subject, examine the Chinese treatment of peasant workers at their factories. There is a two-level society, and American consumers benefit from this. Our commitment to abolishing slavery cannot live only in the fringes.

This is not to say that loopholes cannot be closed, although we must stop our own unfair trade practices as well. American food should not show up in countries just before harvest when doing so depresses the price of local agricultural products. Poverty begets slavery. Making others poor is an invitation to exploitation.

Poor farmers can either be individual or tenant farmers who are essentially peons. The drive for lower food prices for American consumers comes at a human cost. This is especially true when only one buyer dominates the market, as is sometimes the case for export to America (if not often). Poor factory workers never have access to collective bargaining. This factor also drives down wages in American factories—often those with immigrant labor bearing the brunt of bad working conditions, poor wages and lax enforcement. The major difference is that being blacklisted in the United States for attempting to organize is rarely deadly, as it can sometimes be overseas.

Improved enforcement takes money and the willingness to accept higher food prices. More inspectors with more authority are needed at home and abroad. Government or third party inspection is vital to make sure work is safe, fairly compensated and able to organize. We cannot expect worker protection in China or Guatemala if we do not insist on it in North Carolina and Alabama.

