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THE PRESIDENT'S 2023 TRADE POLICY AGENDA

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

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THE PRESIDENT'S 2023 TRADE POLICY AGENDA

THURSDAY, MARCH 23, 2023

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

The hearing was convened, pursuant to notice, at 10 a.m., in Room SD–215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Cantwell, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, Whitehouse, Hassan, Cortez Masto, Warren, Crapo, Grassley, Thune, Cassidy, Lankford, Daines, Young, Johnson, Tillis, and Blackburn.

Also present: Democratic staff: Sally Stewart Laing, Chief International Trade Counsel; Joshua Sheinkman, Staff Director; and Tiffany Smith, Deputy Staff Director and Chief Counsel. Republican staff: Molly Newell, International Trade Counsel; John O'Hara, Trade Policy Director and Counsel; Mayur Patel, Chief International Trade Counsel; Gregg Richard, Staff Director; and Colin St. Maxens, International Trade Policy Advisor.

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

The CHAIRMAN. The Finance Committee will come to order.

This morning, the committee is joined by Ambassador Tai to discuss the trade agenda for the year ahead. The Biden administration, from the get-go, had a difficult job to do with respect to trade. The Trump administration's chaotic approach turned some of our trade rivals into outright adversaries, and many of our friends into rivals. Now the United States needs to kick into a higher gear with a smarter, more innovative approach to trade which will deliver real results for American workers, farmers, and businesses.

There are certainly big issues to address. For example, China continues to put up barriers to American products and American values, while ripping off jobs, using forced labor, and undermining free speech. It's a discriminatory model, and I think my colleagues know this, unfortunately, is spreading. Even our allies in the European Union and Canada are drafting laws intending to limit our digital companies' ability to do business in their jurisdiction, while shielding their own companies.

Today, I am going to briefly outline a three-part strategy to get more Americans back in the winners' circle of trade. First, the administration needs to ramp up enforcement of the trade laws that are already on the books, and that means enforcement across the board. Let us start with the USMCA. Senator Brown and I fought for stronger, faster-acting enforcement tools like the rapid response mechanism. That is part of what makes the USMCA the most pro-labor trade agreement in American history.

Ambassador Tai has used the Brown-Wyden mechanism to get some key wins, to stop labor violations in Mexico, and she has worked to help Pacific Northwest dairy farmers get into the Canadian market. Now she has to go further and enforce every provision of every chapter of USMCA. For example, Mexico is flouting its USMCA obligations by shutting out our renewable energy providers. Bad news for the economy, bad news for the environment.

During last year's trade agenda hearing, I asked Ambassador Tai to take action. The U.S. did request consultations with Mexico in July 2022, but 8 months have passed. American clean energy producers, our companies in the Pacific Northwest, are still waiting for access. In my view, it is long past time to say "enough" and to make this a real dispute settlement case.

The administration also needs to set up enforcement beyond USMCA to defend American workers and businesses from unfair trade practices wherever they are happening. To that end, the administration has not yet brought a single case before the World Trade Organization. There is no doubt that the World Trade Organization needs reforms. But if you do not press your case, you are stuck on defense. I want to make it clear—and I think colleagues agree with this—the United States of America has got to play offense on international trade.

Next, the administration needs to make opening export markets a priority issue. This is imperative in terms of the administration's agenda. USMCA is proof that U.S. trade policy can raise the bar in labor and environmental standards and bust down the barriers to our exports. However, I have real concern that USTR is not doing enough to break down barriers our exporters face.

For example, there is just old red tape preventing eastern Oregon potato farmers from shipping fresh potatoes into Japan. Oregon potatoes are the very best in the Nation, and I intend to give my friend Senator Crapo equal time in order to make his case with respect to his agricultural sector. But kidding aside, we are talking about an estimated $150 million market. Pacific Northwest apples and pears are blocked from the behemoth Australian market. Oregon wheat, upwards of 90 percent of which is exported, suffers from high tariffs in the market around the Pacific Rim. Vietnam has a litany of restrictive digital practices that hurt our startups.

The administration ought to be taking every opportunity to fix these issues, but it is not even clear that USTR is discussing them as part of the whole effort with respect to the Indo-Pacific framework. So I want to draw a line here. The United States cannot conclude agreements with Japan, Indonesia, or the EU that leave issues facing our American exporters without remedies.

Third, getting trade right is going to require creative approaches to new challenges. Whether it is shoring up our supply chains, promoting access to critical minerals, or addressing climate impacts of leading industries, smart trade policies have to be part of the solution. I am glad Ambassador Tai and her team are thinking outside the box.

But what is needed here are real answers on how these proposals are going to work in practice. The administration has to deliver new markets. We are talking about, say the Middle East and Africa, and trading new products, say renewable energy and digital services, in a way that quickly pushes the American economy forward. Meeting that challenge requires that we strategize with our allies and we partner with the Congress.

That will bring me to one last point. The executive branch, in my view, has begun to embrace a go-it-alone trade policy, and I want to be clear on this point. Congress's role in U.S. trade policy is defined by the Constitution of the United States. It is right there in article I, section 8. It is black letter law, colleagues, and it is unacceptable to even frame the argument otherwise. It is my expectation that Ambassador Tai and the committee can begin to charter a new path forward when it comes to transparency, consultation, and ultimately, approval of trade agreements.

I also want to commend Senator Menendez of New Jersey for his leadership in the effort to promote these transparency reforms.

Ambassador Tai, thank you for being with us today. We look forward to this discussion.

Senator Crapo is next, who undoubtedly will have views on his potatoes.

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

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

Senator CRAPO. Thank you, Mr. Chairman, and of course we all know Idaho potatoes are the best. But we like the eastern Oregon efforts to try to catch up.

The CHAIRMAN. Oh, I see. The rivalry is launched.

Senator CRAPO. Welcome, Ambassador Tai. The members of this committee have very thoughtful ideas to advance the trade interests of the American people. For example, just yesterday, Senator Young was recognized by the National Foreign Trade Council for his leadership on digital trade. Critically—and I know this from personal experience—every Senator on the committee wants to work with you, Ambassador, on a bipartisan basis to execute a successful trade policy.

The challenge we face is how this administration approaches U.S. trade policy, both in terms of substance and policy. Substantively, the President's trade agenda emphasizes, quote, "the ground-breaking domestic investments enacted through the President's leadership." Respectfully, an American trade policy cannot rest on massive spending on subsidies. That approach borrows more from China's traditions than ours.

American trade policy unleashes our people's talent and productivity by removing foreign barriers through tough negotiations and enforcement. The potential of the American people is staggering. What the administration proposes as trade negotiations and an enforcement agenda is strikingly limited. A few examples are indicative.

First, American ranchers and farmers produce the world's best and safest food and exported $196 billion in 2022. They can accomplish even more if we eliminate the high tariffs and unscientific restrictions posed as safety measures. The only tariff reduction flagged in the President's agenda is that India will reduce its tariff on pecans to a still overly restrictive 30 percent. Instead of aggressively challenging non-science-based safety measures, the administration has only this month initiated technical consultations on Mexico's biotech restrictions.

Second, American workers are highly skilled at manufacturing, and have drawn nearly $1.9 trillion in foreign investment, including a major auto manufacturing facility in Spartanburg, SC; similarly in Smyrna, TN and Marysville, OH, to name just a few. That kind of investment, coupled with American workers' talent, should make us an export powerhouse.

But unreasonable product specification standards continue to keep our manufacturing out of many markets. Yet the administration chooses not to pursue a Technical Barrier to Trade chapter, or TBT, in this proposed Indo-Pacific Economic Framework, or IPEF. In contrast, the United States-Mexico-Canada Agreement, USMCA, had a robust TBT chapter and explicit commitments that Mexico would continue to accept U.S. cars built to U.S. Federal safety standards.

Third, our innovators and artists develop lifesaving products, and films and music that spread American values. Copyright industries alone generate $1.8 trillion in economic output. Yet, instead of working to strengthen U.S. intellectual property rules, the administration actually waived U.S. intellectual property rights for COVID vaccines under the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights, or TRIPS agreement, and is even now considering expanding that waiver to diagnostic and therapeutic products.

While we all agree that one of China's most pernicious, mercantilist policies is the theft of American intellectual property, the administration does not pursue any IP rules in IPEF or elsewhere that could help ensure China does not benefit from its theft through sales to other countries.

Fourth, U.S. digital firms are a major contributor to U.S. economic growth, with the digital economy now compromising 10 percent of U.S. GDP. The administration has yet to press the European Union, through the Trade and Technology Council, on measures that unreasonably target the U.S. digital economy, even though it readily agreed to discuss the EU's concerns with the Inflation Reduction Act at the very same forum. We can do better, and we must do better.

One last example. Behind me is a chart comparing the respective tariff rates that the American, European, and Chinese products face entering Vietnam, a country of nearly 100 million. You will notice there is only blue on the chart. That is the tariffs that the United States faces. The red and the yellow are not there because we ran out of ink. They are not there, rather, because China and the European Union have entered into agreements that have reduced the tariffs on their products in Vietnam. China and the EU have concluded trade agreements to reduce their tariffs eventually down to zero, while signature American products like automobiles, apples, poultry, potatoes, milk, and others will continue to face high tariffs. While some of the tariff reductions in the EU and China deals will take time to phase in fully, we lose ground every day that we remain on the sidelines of real trade negotiations.

Given this dynamic, the administration needs to reconsider its decision not to pursue market access in IPEF or other trade arrangements. Unfortunately, the ability to take on these substantive challenges is compounded by one very fundamental problem: the administration's insufficient consultation with Congress. We saw this problem with the negotiation for the TRIPS waiver, and they still continue. In the case of IPEF, the administration refuses to share their views with the same congressionally established advisory committees that assist Congress in determining whether a proposed trade agreement will assist Americans.

This chart shows the statute. The text of this statute is crystal clear, that such information must be shared with designated members of Congress. The administration also refuses to share attributions of which countries support or oppose particular provisions in IPEF, even though the Trump administration provided such information during the USMCA consideration. This attempt to bypass Congress is unnecessary. Our trade policy is strongest when the administration and Congress work together.

And mirroring what Senator Wyden said, the administration should accordingly partner with Congress and the American people, not try to cut us out, because under the Constitution it cannot.

Thank you, Mr. Chairman.

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

The CHAIRMAN. I thank my colleague.

Ambassador, as you and I have talked about several times, the members of this committee have very, very strong views on these issues, as you can tell. We welcome your testimony and look forward to questioning. There can be differences of opinion on these issues, but I think certain issues—for example, the constitutional imperative of this committee's involvement—are areas that not only do we feel strongly about, we think are very clear. Welcome.

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

Ambassador TAI. Thank you so much, Chairman Wyden, Ranking Member Crapo. I am really looking forward to a good back and forth with both of you and members of this committee, and as always, doing so respectfully, out of respect for the institutions and for each of you and Senators and people. Members of the committee, let me begin by affirming that Congress is our constitutional partner on trade. I appreciate the opportunity to discuss the President's trade agenda with you this morning.

Under President Biden's leadership, this administration is writing a new story on trade, one that puts working families first and reflects more voices across the American economy; one that advances our global priorities and strengthens democracy here at home and abroad. Whether you have a college degree or not, whether you have five employees or 500, whether you are in rural Ohio or in the heart of Baltimore, whether you are a small dairy farmer in Michigan or a steelworker in Pennsylvania, we are restoring fairness to our trade and economic system for you.

This means vigorously enforcing existing commitments to reestablish confidence and trust in trade, and this starts with the USMCA, which Congress passed on a strong bipartisan basis. We are pressing Canada to ensure that U.S. dairy farmers are treated fairly finally, and we are urging Mexico to address our concerns with the energy sector and with agricultural biotechnology.

On the latter, we recently requested technical consultations with Mexico under the USMCA, and we will continue to consider all options available under that agreement to fix this problem.

Restoring fairness to the system also means empowering workers to compete fairly. We are using the USMCA's rapid response mechanism to promote workers' rights in Mexico, and we are seeing real change and success for workers and independent unions. In the last year, we have secured wins for workers at four different facilities. We have ongoing open cases, and we will continue to work with the Government of Mexico. We are also working with the European Union, Japan, Canada, and Mexico to eliminate forced labor from global supply chains.

Farmers, ranchers, fishers, and food manufacturers are also key to our trade agenda. We have secured real wins over the past few years, and U.S. agricultural exports have reached a record $202 billion in 2022. We brought into force an agreement with Japan to export more U.S. beef. We signed a Tariff Rate Quota agreement with the EU to open markets for U.S. rice, wheat, corn, shellfish, and beef, and we have opened access for pork and pecan exports to India. We have a nimble USTR team that is opening markets, and we will continue to work with Congress to find additional opportunities for as many of our stakeholders, especially the small and medium-sized ones, as we can.

Speaking of new opportunities, the United States is leading with a positive economic vision around the world, and our partners and our allies are joining us. The Indo-Pacific Economic Framework is a major priority this year, and we are making significant progress. This framework will level the playing field for American workers and businesses, create more resilient supply chains, boost agricultural exports, build an inclusive digital economy, and help businesses compete in the region. We also kicked off the Americas Partnership for Economic Prosperity with 11 countries in our hemisphere. Regionalization is an integral part of building resilience in the world economy. By strengthening our relationships with our closest neighbors, we can drive sustainable economic growth and bolster our collective prosperity.

We are also deepening ties at the bilateral level. Taiwan is an essential partner, and our U.S.-Taiwan 21st Century Trade Initiative is moving forward. We launched the U.S.-Kenya Strategic Trade and Investment Partnership. We continue to work with the EU through the Trade and Technology Council to promote shared economic growth—and importantly, to coordinate our actions against Russia and Belarus.

We are making progress on the world's first sectoral arrangement on steel and aluminum trade. This will tackle both emissions and non-market excess capacity, including from the PRC, which threatens American workers and businesses.

On the multilateral front, our administration worked with WTO members to deliver tangible outcomes during the last ministerial conference, the first time in a decade, including on COVID–19 vaccines, fishery subsidies disciplines, and food insecurity. We are committed to transforming the institution to be more responsive to the rapidly changing global economy and the needs of everyday people. We are also taking full advantage of our APEC host year to build a more durable, resilient, and inclusive Asia-Pacific region.

Another component of our trade agenda is realigning the U.S.-China relationship. This means making groundbreaking investments here at home to compete from a position of strength. That also means renewing our engagements with partners and allies to develop new tools to address the challenges posed by the PRC and its economic policies. The comprehensive 4-year review on section 301 tariffs is a part of this realignment. We are taking a deliberate and strategic look at how we can serve our economic interests, in light of the PRC's continued unfair policies and practices.

Lastly but certainly not least, USTR will also continue to implement our equity action plan and work with the U.S. International Trade Commission to better understand the distributional effects of trade on American workers.

I want to close where I started. Congress is our constitutional partner on trade. The success of our initiative depends on a robust partnership with all of you. Since last year's trade agenda hearings, USTR has held over 380 congressional consultations, including more than 80 on IPEF alone, and your feedback has been incredibly helpful in informing our work. I have also heard your concerns about Congress's role on trade and transparency with the public, and I have asked my team to make further enhancements. That includes making it easier for congressional staff to review our negotiating texts, releasing public summaries of that text, and holding public stakeholder meetings, especially with groups who traditionally have not been involved in the process. Moving forward, I will continue to work hand in hand with members of Congress, their staff, and the public to develop effective trade policy together.

I look forward to continuing this work in the year ahead. Thank you very much, Mr. Chairman.

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

The CHAIRMAN. Thank you, Ambassador, and I think we are going to have a good discussion.

I have been seeing news reports, Ambassador, that as part of the Inflation Reduction Act implementation, the administration is looking at negotiating critical mineral agreements with Japan and the European Union. I understand that these negotiations may be finished soon. So I want to begin today with the question, will your office make these agreements public before they are signed?

Ambassador TAI. Well, Chairman Wyden, I hope you are relying on more than news reports, because we have also been briefing your staff very intensively, and very recently as well, on our efforts here. You are right that we are engaged in negotiations with the

European Union and Japan, and the substance of what we are talking about, we have also taken great pains to make available to members of your committee and to their staffs. In terms of——

The CHAIRMAN. Respectfully, Ambassador, telling the staff is not the same thing as telling the American people. And one of the reasons I say that is I do all these town meetings, go to every county every year, because it is about building trust and confidence. So it is helpful that there are discussions at the staff level, but if you walked into a town hall meeting in rural Oregon and said that the people who find out are the staffers but not them, they will say "uh-uh." We are the people who give you all on that committee an election certificate.

So the question is, will the American people know what is in a minerals agreement before it is signed?

Ambassador TAI. Well, Senator Wyden, you and I also have a responsibility to the American people, and you and I have also talked about these negotiations. To the extent that you are comfortable sharing with your constituents what we have talked about, I would also be comfortable sharing with your constituents what we are talking about.

The CHAIRMAN. I still am trying to get an answer to my question. I want to be clear, to me, what I believe transparency is all about. First, your office needs to release detailed publicly available negotiating objectives before discussions start with foreign governments, and to just hear about it in the news or have staff discussions is not the same thing. The people up here get election certificates. We need to make sure that there are detailed negotiating objectives before negotiations start.

Second, Congress and the public need a chance to vet trade agreements before they are signed. In the TPA, I pushed hard to ensure trade agreements were public for 60 days before signing.

Finally, Congress needs a final say on any of these agreements. Do you support those transparency standards?

Ambassador TAI. Well, Senator Wyden, as you know, because you have been involved in trade policy for a long time as a member of this committee and also Ways and Means when you were a House member——

The CHAIRMAN. I was not on the Ways and Means.

Ambassador TAI. Oh, you were not on Ways and Means. Well, you have been here for a long time, long enough to be chairman certainly, and I know how much you care about trade. Yes, I care deeply as well about transparency. I know that this is a core principle and value of yours, and I have committed to you to work with you on bringing transparency to our trade practice.

I hope that you will recognize that we have taken steps forward, including, as you have acknowledged, in our work with Senator Menendez over the course of the past year. You also know that in terms of USTR's day-to-day work, everything that we do on a daily basis is some form of a negotiation and some form of an enforcement activity.

With respect to TPA, those were guidelines that applied to a very specific set of negotiating projects, and as you know, we have been in close consultation with you and your staff about the guidelines that USTR continues to adhere to, which are very similar if not go further than the guidelines that were memorialized now 8 years ago.

The CHAIRMAN. I want to make clear so everyone on this committee knows how strongly I feel. I think minerals agreements, critical minerals agreements, ought to be made public before they are signed, and we will continue to stress that with the administration.

One other question really quickly, and that is about helping American exporters. We have got to compete with China. We all understand that. The Internet is the ball game for small business. Senator Cardin chairs the Small Business Committee. We want to make sure that red, white, and blue American products can get all over the world, and too many of our trading partners put up barriers to our exports, exports for example in the digital area, but plenty of other areas as well.

So our small businesses want to be able to export using digital trade. We want to help them do that. What are you all doing at your office to attack these digital trade barriers abroad that rip off small American companies in particular?

Ambassador TAI. Well, Senator Wyden, I want to go on the record and affirm my commitment to a pro-competition digital agenda, and in terms of what we are doing, as you know, we are negotiating digital terms and rules in our trade negotiations in many different contexts, including in the Indo-Pacific. This is an incredibly important area and also an area that is new to trade negotiations around the world, and also one where we want to take sure-footed steps because there is a lot of debate and legislative activity up here in the Senate and the House on our own domestic regulations.

The CHAIRMAN. My time has expired. I just want again to express my concern about where things stand as it relates to helping American exporters. I continue to read these news reports that Indo-Pacific provisions on digital will not remove the barriers that our companies face, particularly small businesses. We have been clear about where we want to go. We want to use the standards from the USMCA. Those were the toughest, smartest digital rules. I hope that they will be used in future administration efforts.

Senator Crapo?

Senator CRAPO. Thank you, Mr. Chairman.

Ambassador Tai, the administration has not yet responded to this committee's letter of December 1st, signed by 20 members of this committee, noting that IPEF agreements need to be approved by Congress. Many of us are assuming that means the answer to the question is "no." But could you clarify to me: is it the administration's position that you will enter into IPEF agreements without submitting them to Congress?

Ambassador TAI. Well, Senator Crapo, my first turn of the head was to check on the status of our response to that letter. We take our congressional correspondence, as part of our consultations to the Congress, extremely seriously. So let me just first update you on the status of that letter. We have addressed—it was a letter, I believe, that was addressed to both myself and to the Commerce Department. Our draft has gone over to the Commerce Department, and I hope that you will receive the finalized letter soon.

With respect to the congressional-executive partnership on trade and negotiations, and including on the Indo-Pacific Economic Framework, let me just reaffirm again my commitment, to this committee in particular, of the need for robust partnership in shaping these negotiations. With respect to what happens with the results of those negotiations, we are following the precedent of established USTR practice in terms of the types of agreements that come to Congress. There are legal requirements here, but I do hear—and I want to affirm for all of you while we are all here together in person, that I do hear the concerns of the members of this committee. I commit to working with you to see how we can address those.

Senator CRAPO. Well, I did not get a clear feeling from your answer that the answer to our question and our letter was "yes." So I will be looking very carefully for a prompt response to the letter that we have sent to you.

To date, we have not heard of an IPEF enforcement mechanism, including with respect to agriculture. Accordingly, it is critical to see compliance happen before any agreement is finalized, especially if it seeks to bypass Congress, to ensure that the commitments are respected.

Does the administration agree that before any IPEF agreement is finalized, the United States should see a number of existing trade irritants—particularly with regard to agricultural barriers that are inconsistent with proposed IPEF commitments—eliminated? For example, among those issues, I would include ensuring that Japan allows market access for all fresh potatoes, both eastern Oregon potatoes and Idaho potatoes——

The CHAIRMAN. The rivalry continues——

Senator CRAPO [continuing]. Including table stock potatoes. What is your position on that?

Ambassador TAI. Senator Crapo, I know how important potatoes are to this committee, not to just the chairman and the ranking member, but I know that Colorado has potatoes as well. Mr. Bennet is not here to speak on behalf of Colorado potatoes. Look, I would be delighted to raise the potato issues with our partners in Japan, through our bilateral channels, through our multilateral channels regardless——

Senator CRAPO. Well, my question went beyond potatoes, and it went beyond just raising the issue. It was: will we have assurance that these barriers to trade will be fixed before an IPEF agreement is reached?

Ambassador TAI. I think what we need to do is continue to acknowledge and recognize where the world economy is today, where and why we have designed the Indo-Pacific Economic Framework to be the way that it is. You are right: tariff liberalization and tariff reductions are not a part of this negotiation. Nevertheless, what we are doing is bringing together critical partners in the region to improve the interoperability and compatibility between our economies.

So I see that I am running down your clock, but let us continue to talk about this. Again, the agricultural barriers, the interests of our farmers, ranchers, agricultural producers are a top-line priority for our trade agenda, and I will be looking for opportunities to fix those problems in any context that I can.

Senator CRAPO. All right. I do not think I got the commitment I wanted, but we will continue this discussion.

The CHAIRMAN. It will definitely continue.

Senator Grassley is next.

Senator GRASSLEY. I do not understand your equivocation over whether or not these agreements ought to be submitted to Congress, because the Constitution is pretty clear that the power to regulate interstate and foreign commerce is a constitutional power. So, if you are not going to submit these to the Congress for consideration, it either comes from the laws that we have delegated to the President to do in the interstate commerce what we ask him to do, because Congress is not an institution that can do it, or you have to have some constitutional power to do it.

Now, I do not want to have that discussion with you, but I want you to know my opinion on that. When you were in Iowa, you heard about how concerned Iowa farmers are about Mexico's ban on biotech corn. I was glad to see USTR take action with technical consultations. It is now over 2 years since Mexico first published its decree. This seems to be an easy one, and that's why we included the dispute resolution process in USMCA.

With over 90 percent of the corn production in the United States planted with biotech seeds and Mexico being the number one purchaser of U.S. corn, farmers deserve a sense of urgency from your administration on this. Now, after 2 years and consultation, you put in place this first step that it takes to get the agreement going, and I thank you for doing that, and you did it very timely.

Now, after you said that all options are on the table when you had your opening statement, there is only one option, and on April the 7th—that is, after 30 days—I would expect you to file a formal dispute settlement. Are you going to do that?

Ambassador TAI. Well, Senator Grassley, you speak on this issue loud and clear, and I hear you in terms of your expectations. We are in the process of the technical consultations. And just to be clear about what technical consultation means, that means sitting down at the table with Mexico and pressing Mexico to come forward with the scientific basis for the aspects of its decree that impact our biotechnology agricultural exports.

So, Senator Grassley, I will keep you apprised of how the current consultations are going, but you are absolutely correct about rules under the USMCA, and that 30 days after the filing of the technical consultations, we have the option of moving forward. Let me stay in very close contact with you about next steps.

Senator GRASSLEY. Well, if you do not let the Mexican Government know right now that you are going to institute that, you are going to continue these conversations for the 2 years that they have already gone on, and they are never going to end. You have a process that has an end to it, and that process needs to be instituted, and it needs to be instituted on April the 7th. We have been talking for 2 years.

Ambassador TAI. You are absolutely right that we have those tools for a reason, and I assure you that it is not my intention to allow this to go on indefinitely.

Senator GRASSLEY. On to another matter. In your testimony, you mentioned that your agency will monitor the practices of other trading partners to ensure U.S. agricultural products are not subject to unfair, unjustified, and discriminatory restrictions. Last month, I led a letter with nine other Senators around President Biden's meeting with the president of Brazil.

Just a week prior to that meeting, Brazil reinstituted a 16-percent tariff rate on U.S. ethanol. While Brazil may want more sugar access, they already have access to the U.S. with duty-free ethanol imports that qualify for renewable fuel standards in California's low-carbon fuel program. This is unfair, it is unjustified, and yet President Biden made no mention whatsoever that I know of about the new tariff when he had the chance.

So, I am happy that you are focused on a worker-centric trade policy. Then can you work with me to end the unjustified increase in U.S. ethanol tariffs?

Ambassador TAI. I would be happy to. I also would like you to know that I was in Brazil 2 weeks ago, and that my Chief Agricultural Negotiator will also be following up on this particular issue, and I most certainly did raise this on my trip to Brasilia.

Senator GRASSLEY. In regard to whether or not you are going to have free trade agreements or not—and I do not understand why those three words are something that the administration never wants to utter—but you are talking about having certain talks with Kenya, the UK, and a couple of other countries, and you call them robust discussions. Robust discussions are not good enough. So my last question is, do you plan to pursue concrete market access commitments in any of the frameworks and initiatives that you are pursuing?

Ambassador TAI. So, Senator Grassley, I would like to take this opportunity to say that I remain, and we remain, open-minded with respect to the more traditional approach to trade agreements. However, with respect to each individual partner that we negotiate with, and with respect to the U.S. economic and world economic situation, we want to make sure that our trade policies are tailored to the needs of the relationship and the needs of our economies.

At this moment, we do not have tariff liberalization negotiations going on with a partner. However, I want to indicate to you that I remain open-minded, that when it is fit for the partner and the times, that we are happy to do the right thing by the U.S. economy.

Senator GRASSLEY. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Cardin is next, the chairman of the Small Business Committee.

Senator CARDIN. Well, thank you Mr. Chairman. Madam Ambassador, I want to start by thanking you for the openness that we had in our personal communications. I did serve on the Ways and Means Committee before coming to the Finance Committee. I could not get on the Commerce Committee, so I had to go to the Ways and Means Committee. But I do appreciate the availability of meeting with you and your staff, to go over a lot of the issues we have in our State and our concerns about our trade policies in this country.

But I just really want to underscore the concerns I have moving forward. We have gone through the transition of Congress delegating to the executive branch trade policies, and we went through a transition and came to Trade Promotion Authority as a way in which Congress could direct the administration on the priorities that they need to achieve in trade agreements and the consultation process, with the ability to approve trade agreements by the fast-track authority.

That was thought to be the proper way for us to be able to get our input. It took me many years to be able to get, as a principal trade objective, good governance and anti-corruption issues and to deal with enforcement mechanisms, and now, as chair of the Small Business Committee, to deal with small business issues. And we have had success through the negotiations and the passage of the Trade Promotion Authority to get that type of direction to trade agreements.

What worries me now is, we are going down a path in which you are using these framework agreements, bypassing the formal relationship with Congress, and it may be difficult in future administrations. We saw the previous administration do a lot of initiatives that we thought went over the edge, and now we see this in the Biden administration.

So for those of us who are concerned about Congress directing the trade objectives, the principle objectives of our trade negotiations, that is being very much diminished by the process as you are going forward. So I will ask you specifically on the areas of my priorities, how do I assure good governance, anti-corruption protection for small businesses and enforcement of those issues?

The problem with good governance is, you can get all the commitments you want from a country, that they are going to do all these good things on anti-corruption. We then enter into the framework, they do not do it, and there is no enforcement, because you do not have any trade sanctions that you could impose, which are the way that we enforce these agreements. Can you ease my concerns about where we are heading as far as being able to direct our trade policies to congressional objectives?

Ambassador TAI. Certainly. Senator Cardin, I know that you have been a leader in all of these areas within the trade agenda, and I want to commend you, in large part because I share the respect for how important these are, economically and also in the larger picture as well.

So let me begin by pointing out then, in each of the active negotiations that we have going, anti-corruption, good governance, small business promotion, bringing small businesses into the formal economy, into the international economy, are highlighted objectives in areas where we are actively negotiating. On your question about the enforceability, here I also want to commit and make very clear that in my entire career, because of all the work that I have done, I know that for our members of the Senate and House, for the American people, for our economy, what we negotiate has to be more than just words on a page, that it has to be meaningful.

And so, in our new initiatives, which are structured very differently, we are going to have to bring a new approach to enforcement, enforceability. We are going to have to look at different carrots and sticks. I commit to working with you and your team and the others on this committee to innovate in this area and our trade practice as well.

Senator CARDIN. Well, I look forward to those discussions, because we are trying to figure out how we can help in that regard. Enforcement is going to be critically important. In a traditional agreement, there is an enforcement mechanism that leads, ultimately, to significant economic sanctions if the provisions are not carried out. It is difficult to see how that is done in a framework agreement. So I look forward to those discussions.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague. Next is Senator Menendez. And colleagues keep coming in, so we are going to try to tell people how they can make the best use of their time.

Senator Menendez is next.

Senator MENENDEZ. Thank you, Mr. Chairman.

Ambassador, I have been hearing from many New Jersey businesses about the importance of GSP, which Congress has unfortunately failed to renew since it expired in 2020. In the past 2 years alone, GSP expiration has cost importers in my State an estimated $120 million, with national impact being estimated to be over $2.3 billion. What have you been hearing from businesses about the importance of GSP renewal?

Ambassador TAI. Senator Menendez, I also hear from businesses that have made use of the GSP program that they would very much like for it to be reauthorized.

Senator MENENDEZ. Yes. Well, it is not just important because of the cost savings for American businesses. It also helps reduce our reliance on China, by making it more cost-effective to import from low- and middle-income countries. Would you agree that GSP renewal is also a way to incentivize businesses to diversify their imports away from China?

Ambassador TAI. Senator Menendez, what you have described makes a good amount of sense to me. I also would just take GSP back to its roots, which is that GSP is a fundamental part of our trade and development program, and a main part of the GSP objectives also is to stimulate and foster economic development with our developing country partners.

Senator MENENDEZ. Well, I agree, and I hope that renewal and retroactive relief can be one of the priorities for the committee.

Now, one of the great privileges that we afford any country is preferential access to the U.S. market. There is a long list of governments that want a free trade agreement with the United States. When I was in Ecuador, I heard very much from the Ecuadorians. They unfortunately missed out because their previous President had a different view of the United States.

This one is aligned with us, but at the time that the countries in the region got a trade agreement, they were excluded by their own actions. Yet we offer this benefit to a limited number of countries that are willing to meet our standards, and that share our commitment to democratic values. For this simple reason, I believe we cannot ignore when one of our free trade partners, specifically Nicaragua, becomes a brutal dictatorship.

This month a United Nations investigative team concluded that Nicaragua's Ortega regime was responsible for crimes against humanity. In describing these atrocities, one U.S. investigator equated Ortega's abuses to crimes committed by the Nazi regime in Germany. A week later, Pope Francis similarly linked the brutality of the Ortega regime to that of Hitler's dictatorship. I do not take those similarities very lightly. I think when they are used, you really have to think about when you use them, but they did.

These shocking characterizations underscore the urgency of ending a business-as-usual approach with Nicaragua. Do you think, Ambassador, the Ortega regime deserves preferential access to the United States market?

Ambassador TAI. Senator Menendez, I think this has been a topic of broader administration deliberation and concern. I think you are absolutely right. When regimes turn, we have to reconsider how we treat them across the board, and it has been a question for us as well around how to respond accordingly.

Senator MENENDEZ. Well, I cannot think of any other dictatorship, specifically one committing crimes against humanity, that we willingly provide duty-free benefits to. So I look forward to working with you and the administration to suspend Nicaragua's market access under CAFTA. It is just absolutely outrageous.

Finally, I want to thank you and your team for the diligent work in negotiating the U.S.-Taiwan Initiative on 21st Century Trade. Taiwan is a key trading partner with whom we have a strategic relationship that is intimately intertwined with our economic security, particularly as it relates to the trade in semiconductors. It is a model global citizen, a key stakeholder in the Indo-Pacific economic community, and a vibrant democracy that respects the rule of law.

As you approach the end of the negotiations, what is your plan for submitting an agreement to Congress for approval, so that businesses in the United States and Taiwan have certainty that the agreement that you are currently negotiating will set durable standards into the future?

Ambassador TAI. Well, Senator Menendez, let me also refer to the work that we have done together on transparency, and I would note that I think it was last week that we published publicly, public summaries of the proposals that we put forward in our first round of negotiations with Taiwan.

Let me say this. I agree with you across the board in terms of how you have described our economic and strategic relationship with Taiwan, and I also want to be clear with all the members of this committee that when the members have spoken here, Senators, also House members, on supporting Taiwan's economy, we hear you. We are thinking about how we can make this relationship, using our economic tools, as strong as possible.

With respect to the parts that we are negotiating right now, let me continue to stay close with you and members of this committee on our progress, and take up your question in that context.

Senator MENENDEZ. I look forward to hearing that, and I would be happy to work to find the appropriate mechanism to effectuate whatever agreement that you may come to.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Bennet?

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

Ambassador Tai, I wanted to talk about a subject that I think has received less attention than it should have, and that is the Uyghur population in China. The GDP of Xinjiang is about $260 billion, roughly the size of New Zealand's economy. The region produces about 90 percent of China's cotton and over 20 percent of the world's cotton. About 20 percent of all cotton clothes on American store shelves have fiber from Xinjiang.

Almost half the world's polysilicon comes from this region, which is one more reason we have to strengthen our domestic solar manufacturing. And I for one am very pleased that this administration is the first one, really since Ronald Reagan was President and outsourced everything to Southeast Asia, to start bringing something back to the United States.

All of these consumer products and solar products are happening on the backs of over a million Uyghurs who are imprisoned in forced labor camps. There are numerous reports of torture, of sterilization, of people being placed under 24–7 surveillance, with every move and every utterance monitored by the CCP, including in their own homes. That is what is happening in Xinjiang, and there are still many American companies that are operating in the region.

I recognize that we passed the Uyghur Forced Labor Prevention Act, which is now law. But I remain concerned about American businesses and other multinational companies with supply chains that run through the region. So, Ambassador Tai, I would ask you to tell us what you would say to American companies that continue to operate in China or elsewhere with supply chain exposure to the Uyghur region, and what do you say to our global allies and partners about the importance of not enabling the Chinese Government's systemic oppression of the Uyghur people?

Ambassador TAI. Thank you for your question, Senator Bennet. We have had a lot of conversations with American businesses about this, and I appreciate that, for a long time, we did not pay attention to where our supply chains went, and how the supply was being produced. But today in 2023, given all the challenges that our world economy is facing, these are critical questions we have to ask, especially when it comes to building a world economy that is not premised on the exploitation of our fellow human beings.

In conversations with business, I understand and appreciate that they may not know, and often that they do not know how far their supply chains go or what the answers are in terms of who is producing and under what conditions. But the issue is that they have the responsibility to know, and in terms of working with our trading partners, eliminating forced labor from global supply chains is something that we cannot do alone. It is something that we must all work together to do.

I have been getting very good cooperation and collaboration with the European Union, Japan, Canada, as well as Mexico. We are galvanizing efforts to make progress in this area. We have the UFLPA. A lot of our partners are working on due diligence legislation, exactly to put the burden on their businesses to know who is in their supply chain and how their supply is being produced.

Senator BENNET. Well, I would encourage you to continue that work, to galvanize that effort, and I will turn, with the remaining moment that I have, to other work that you are doing in the name of regionalization, which you talked about earlier today. I am deeply concerned about China's growing influence across Latin America and the Caribbean.

China is South America's top trading partner. It is South America's top trading partner, and a major source of both foreign direct investment and lending in energy and infrastructure, including through the Belt and Road Initiative. Last year during this hearing, I asked you about the opportunities you saw with our own trade policy to improve relations with key economies in the Western Hemisphere.

Since then, the Biden administration announced the Americas Partnership for Economic Prosperity back in June, and you held its first ministerial, I think, this past January. How could our trade policies help us either reshore or ally-shore critical supply chains away from China, especially those that run through the Uyghur region, but others as well that may have for the last 30 years or so felt that that was the right place, but now maybe have the opportunity here?

Can you talk about specific opportunities that you are targeting with our allies and partners across the Western Hemisphere and in this region, about what some of the opportunities are and some of the obstacles you are facing? I am out of time, but I will bet you the chairman will give you 30 seconds to answer.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes.

Ambassador TAI. Thank you both. Yes, the Americas Partnership is an engagement that we at USTR are partnering with State on, precisely to bring an economic engagement to our own neighborhood that is regionally based. In the Latin America region and in the Western Hemisphere, we actually have the most existing FTAs that we have in any region.

So you will see that of the 11 partners included—that is us and 10 other partners—with eight of them we already have FTAs, but that is not a limiting factor in participating in the Americas Partnership. We have two with whom we do not have an existing FTA. I have looked at the trade statistics. I know what you are talking about.

Our partners in our own neighborhood nevertheless tell me that we are their most important trading partner, and the task for us is to work with those partners, but also to work with Congress on enhancing those relationships and bringing that regional prosperity that we have been wanting for a very long time and continue to aspire to.

The CHAIRMAN. I thank my colleague.

Senator Cantwell is next.

Senator CANTWELL. Thank you, Mr. Chairman. Ambassador Tai, good to see you. Thank you for your hard work.

I wanted to raise a couple of issues. First, we have raised issues with you about the incredible tariffs in India on our apples, and you raised the concerns with Minister Goyal, and we appreciate that. Washington exports to India have declined quickly after they placed retaliatory tariffs in June 2019.

So the market declined from a $120-million market to a $3-million market in 2022. We raised these issues with Prime Minister Modi earlier this month, and I guess, not to my surprise but to my great interest, he said the U.S. and India should consider a free trade agreement or something similar to what they did with Australia.

So I hope that you could respond on what you think we should do next. My colleagues here brought up the general GSP issue. I want to know if you are thinking about India as—all I know is that the retaliatory tariff environment is hurting our farm economy, and we need relief.

Ambassador TAI. Senator Cantwell, I agree with you entirely. Thank you for raising these issues directly with Minister Goyal and with the Prime Minister himself. I have ideas that my team and I are working on. We would like to follow up with you. I agree with you that GSP is relevant here, and that there is a lot more work that we can do to tap the potential in this relationship, which we have struggled for years to be able to tap.

But let me just start by saying "thank you" for the work that you have done here. I look forward to continuing to partner with you, whether tag-teaming or doing things even more jointly to improve this situation.

Senator CANTWELL. Great; thank you so much.

The Indo-Pacific Economic Framework—as you know, I am a strong proponent of opening of markets for U.S. companies, from agriculture to high-tech. I would be interested in hearing more about how this negotiating platform can be used to address trade barriers.

One specific thing, even though we are a close partner with Japan and have great trade relationships, there is one sector where I feel like we are facing types of non-trade barriers. For example, I am told that Sony controls a monopoly of 98 percent of the high-end game market, yet Japan's Government has allowed Sony to engage in blatant anticompetitive conduct through exclusive deals and payments to game publishers—establishing games that are among the most popular in Japan—not to distribute the games on other platforms.

And so, Japan's federal trade commission has failed to investigate these exclusionary conducts. So what do you think we can do to more address these issues and create a level playing field with the IPEF on something as important as this issue?

Ambassador TAI. Senator Cantwell, the Indo-Pacific Economic Framework provides us with a lot of opportunities, and I think you are absolutely right that the economies that we are engaging with right now are all focused on expanding participation in their economies and looking at trade policies that also promote and support competition.

So we have that particular outlook. We also have an ongoing digital negotiation as well. What you have described is something that I expect may very well come up in the intersection of those two perspectives, being pro-competition and also engaging on the digital economy. That is absolutely an area that we are primed to address. This one is new for me, but let me take this back, and I am happy to follow up with you and your team on this.

Senator CANTWELL. If they were blocking access, that would be of great concern, yes?

Ambassador TAI. If they were, or are they?

Senator CANTWELL. If they—well, I am saying they are, but you said you were looking into it. I just want to make clear you view this as a problem.

Ambassador TAI. Yes. I think monopolistic behavior is something that is a drag on economic growth and development.

Senator CANTWELL. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

I believe Senator Cassidy is next.

Senator CASSIDY. Thank you, Mr. Chairman, and, Ambassador, thank you for the meeting yesterday. I appreciate it.

In the past, I have asked you about shrimp. To cut to the chase, the EU puts phytosanitary standards upon Indian shrimp, and a lot of those shrimp fail, and so India then dumps them on the U.S. market. They subsidize, et cetera. So we are getting stuff that doesn't pass European phytosanitary standards, that is subsidized, that is dumped onto our market, and my shrimpers are hurting, among many other problems that they have had in recent years.

In the past, you have mentioned you have raised this, but it still seems to be an issue. Other agencies such as the FDA are addressing this. Can you speak to what USTR is doing?

Ambassador TAI. Senator Cassidy, I suspected that you were going to raise shrimp, and so I wanted to come as prepared as I could be. We continue to raise this concern with India. I actually just had an exchange with Senator Cantwell about her concerns with respect to apples and other aspects of our agricultural trade with India.

On this, what I would say is, I will commit to you that I will continue to raise our concerns, and that I will also work with you as closely as I can, to continue to try to find ways to tap the potential in the U.S.-India relationship, including around some of these thorny agricultural barriers that we face.

Senator CASSIDY. May I? There is nothing like a hanging to sharpen a person's mind, as Samuel Johnson said, and there is nothing like a tariff to suddenly dislodge a barrier. Is it time to review the tariff schedule on the shrimp that is coming from India, and why do we not?

Ambassador TAI. Senator Cassidy, I will take that as a suggestion and a request, and let me just say that I have noted it.

Senator CASSIDY. Let me ask as well—Mexico under USMCA, they are supposed to be treating our energy producers similarly to their domestic. It is clearly not happening, with specific incidences of where the Mexican Government is clearly discriminating against our energy producers. Can you kind of address those issues and how we are trying to get the Mexican Government to live up, not only to the spirit but the actual letter of USMCA?

Ambassador TAI. I would be glad to do this as well, because this is a really important issue for our economy, and it is also a really important challenge that we have in our relationship with Mexico, which is longstanding and close. So, as you will know, last July we requested consultations with Mexico regarding various of its energy measures. We have met with over a dozen companies and industry groups to discuss the issues they face.

Last August and also September, we held consultations with Mexico, also in cooperation with Canada, which is also raising its concerns with Mexico. From December to February, the United States, Mexico, and Canada have engaged in a series of sessions to discuss specific concerns raised in the consultations request. We are engaging with Mexico on specific and concrete steps that Mexico must take to address the concerns set out in our consultations request. In addition, we also expect ongoing monitoring and discussions between the U.S. and Mexico on these issues. This is still very much a live issue.

Senator CASSIDY. And what do we have to leverage their cooperation?

Ambassador TAI. Well, I think that a large part of it is Mexico's own self-interest in terms of the strength of its energy market, and the integration of that market in the North American——

Senator CASSIDY. But they seem to have a kind of nationalistic viewpoint, in which they are willing to sacrifice efficiency and tolerate corruption in order to have the pride of owning their own business. This seems to be an ideological viewpoint; in which case it seems like it has to move beyond their apparent self-interest and to something which is living up to the letter of the law. Does that sound right?

Ambassador TAI. Let me just say that all sounds right to me, and we know that all of the tools in the USMCA are there for a reason.

Senator CASSIDY. Okay.

And lastly, just to build upon our conversation yesterday, just any thoughts as to how we can reset or rebalance our trading relationship with China, seeing how they are not enforcing baseline environmental rules? They are polluting the international commons with pollutants flying over into Oregon and other west coast States but lowering their cost of manufacturing and incentivizing our manufacturing to move there, hurting our workers.

Ambassador TAI. Senator Cassidy, yes, absolutely. Every single day on this job I am thinking about China in one way or another, in terms of our footprints in the global economy and in terms of how we relate to each other to bring about a better version of globalization. I know that you are a leading thinker on economic policies and tools that we could bring to bear.

I am very interested in continuing to work with you on those items, and in terms of the way that you see the competition and the way that you think about how we need to move beyond past practices and tools, and to evolve and bring about new ones. I look forward to continuing this conversation with you and to working with you.

Senator CASSIDY. Thank you, Madam Ambassador.

I yield.

The CHAIRMAN. I was only smiling, Ambassador, because on this committee, there are lots of Senators who believe that they are being big economic thinkers too. So I just wanted to stick up for them.

Senator Tillis?

Senator TILLIS. Thank you, Mr. Chairman. Ambassador, I first want to start by saying that I agree with Chair Wyden and the concerns of my colleagues about transparency. I think the lack of collaboration with the American public—and even more importantly the Congress—on trade-related activities is, let us say unwise. I also believe, and correct me if I am wrong, that the USTR has tried to assert classified privileges on documents that do not contain classified material, in an effort to require SCIF access and limit accessibility. That seems to be counter to the idea of transparency.

Correct me if I am wrong on that, but I have a more basic question. As you are negotiating some of these agreements, it would seem to me that you would need to tell the negotiating partner that these agreements may only be valid for 18 months, depending upon the outcome of the presidential election, or 6 years. Because, like the JCPOA and other things that I think would have done well by going through a treaty ratification, they go the way the winds blow.

And we see how winds blow on trade policies. TPP was on the brink of being signed, which I think would have been far superior to the Indo-Pacific Economic Framework, and then the two candidates at both ends of the aisle used their opposition to TPP to pretty much end those negotiations back in that presidential cycle.

So why would anybody on the other side of the agreement think that these unilateral agreements that are skirting Congress—likely to be subject to lawsuits after an injured party asserts that the administration has gone beyond its constitutional authority—why should they look at these as something that could have enduring quality and value?

Ambassador TAI. Well, Senator Tillis, let me begin by addressing part of your lead-up to the question around classification of documents. And I want to let you know, if you do not already, that in some of the materials and documents recently, we have made a point of not classifying them so as to facilitate access to them.

Senator TILLIS. Well, that is great. So there would be no requirement for any briefings related to this that would require us to be in a classified setting going forward?

Ambassador TAI. No, that is not what I said. But what I wanted to make clear is that we are doing everything we can to not bring an ideological approach, with a view of transparency and to be as forthcoming as possible.

Senator TILLIS. I want to move on to some detailed questions.

Ambassador TAI. But let me just also make a point——

Senator TILLIS. What about the staying power and enduring value of these agreements?

Ambassador TAI. Yes. The durability of our trade engagements with our trading partners and with all of you motivates almost everything that we do every single day. The TPP example is paramount, and so I want to make clear that with respect to the concerns that I am hearing up here, it is—I completely respect the concerns around whether or not and when the Congress gets a vote.

But I also want to make it very, very clear that we are leaning very hard in consultations with Congress so that there are no negotiations that we are doing that are significant, that you do not know about.

Senator TILLIS. Okay. I will take that at face value, because I want to ask a few more detailed questions. I do want to make a point that I will be contacting your office about what I consider to be illegal taking of a quarry and a port down in Mexico. That is completely unacceptable, and that puts me in a posture of doing nothing more positive with Mexico until that is resolved, and we will educate the American public and more members as we go on.

I am very concerned. We are at the end of the public health emergency with COVID, and yet the administration's posture is still to move forward with TRIPS, and not only move forward with TRIPS, but expand the focus to also include diagnostics and therapeutics. We had a hearing yesterday about this subject, and if the administration wants to create an environment where there are fewer therapeutics, less investment in small molecule research, and lost American jobs in the biotech space, go forward with that policy, because that is exactly what is going to happen.

I will be able to come back before this committee, as I did yesterday with Eli Lilly and several others, who are simply saying they are exiting research and development that saves people's lives first, improves the quality of their life, and employs American workers. I think it is a dangerous policy.

I am going to submit several questions for the record, and, Chair and Ranking Member, I did have to let you know, since you all did the unseemly thing of politicizing potatoes, I will also have questions for the record on sweet potatoes, where you have a one-in-two chance if you are eating a sweet potato, it was grown in North Carolina, and we have trade issues there as well.

The CHAIRMAN. The heat intensifies around the potato issue. Okay.

Ambassador TAI. Chairman Wyden, would you give me just 10 seconds to respond to Senator Tillis on the TRIPS issue and the extensions?

The CHAIRMAN. Yes, sure, sure. Yes, sure, of course.

Ambassador TAI. Because I want to make sure that, Senator Tillis, you hear from me exactly what we are doing with respect to the extension question that has been raised by the WTO. We think that it is a legitimate question and there are legitimate interests that are being expressed at the WTO around access worldwide to diagnostic therapeutics, et cetera.

What we have done is to say this is something that we need to consider and deliberate on as a serious policy matter. We have asked the International Trade Commission to run one of their very public processes with integrity, to invite comments from the world, actually stakeholders, and to inform us about what we should do next.

Senator TILLIS. But if we are weeks away——

The CHAIRMAN. We are going to have to move on——

Senator TILLIS. But if we are weeks away from it being a national health crisis, and we are still moving forward on things that were driven by the health crisis, I would really like to get a briefing on that, because you cannot use it as a pretext and then do that.

The CHAIRMAN. The time of the gentleman has expired.

Senator Thune is next.

Senator THUNE. Thank you, Mr. Chairman. No potato questions. [Laughter.] Ambassador Tai, welcome back to Congress.

As you know, the United Kingdom is one of our Nation's largest trading partners and closest allies. The UK is America's fifth largest export market and our largest services trading partner in the world. The U.S. and UK are also each other's largest foreign investors. While our two countries have a substantial foundation in trade and investment, it is clear there is room to strengthen those ties and deepen the special relationship, in particular with a comprehensive free trade agreement.

A new U.S.-UK trade agreement would build upon the common values and interests of our two countries, and in doing so help reduce costs for American consumers, improve supply chain resilience with a trusted partner, and open new markets for U.S. producers, including products in my home State of South Dakota. Important groundwork has already been laid—including the bilateral negotiations initiated by President Trump toward a trade agreement, and the U.S.-UK dialogue on the future of the Atlantic trade initiated by President Biden—to improve economic cooperation.

There is also bipartisan support for this effort, as Senator Coons and I recently introduced a bill to kickstart trade negotiations with the UK. With the recently announced Windsor Framework, which provides a pathway on post-Brexit trading arrangements in Northern Ireland and which President Biden supports, the timing could not be better to reengage with the UK on a trade agreement.

But as with any trade agreement, it will require presidential leadership and a committed USTR to move the ball forward. So my question, Ambassador, is, will you commit to strengthen the U.S.-UK trade relationship, in particular by undertaking steps to negotiate a comprehensive trade agreement with the UK?

Ambassador TAI. Senator Thune, on the first part of your question, I absolutely commit to working to strengthen this relationship and have been doing so for the last 2 years. On the second part of your question with respect to a free trade agreement negotiation, let me just say I remain open-minded. I will reinforce what I said earlier, which is, we look at each one of our trade relationships and we look at the overall situation in the global economy, what our economy needs, to make sure that what we do is tailored.

You have mentioned a lot of developments in the UK. We are tracking all of them, and I had a conversation with my new counterpart, the Trade Secretary Badenoch, just last week. So I am happy to continue to stay in touch with you as we build that relationship and continue those conversations.

Senator THUNE. Good. So you are in conversations with them?

Ambassador TAI. We are in conversations.

Senator THUNE. I appreciate that commitment, and I strongly, strongly encourage USTR and the President to make a trade deal with UK, one of our closest allies, a top priority. It is something that can and really just needs to be done.

The USTR continues to push the Indo-Pacific Economic Framework. You heard some of my colleagues talk about that, which is presumably about reinforcing America's presence in the region and offering an alternative to China's influence. The problem is that IPEF does not achieve much of either, and while there may be areas of potential, what remains glaringly absent, in my view, are tangible benefits related to market access. If the U.S. does not meaningfully engage in the Indo-Pacific, I am concerned that South Dakota farmers and ranchers, and all American businesses, simply will not be able to compete on a level playing field. Without market access, enforceable commitments, and a binding approval from Congress, IPEF partners may also start to question America's commitment to trade and look elsewhere. Meanwhile, China is aggressively pressing forward a trade agenda, whether it is in the Asia-Pacific, Africa, Latin America, or just earlier this week, reaffirming economic ties with Russia, which again entails a lot broader significance.

So, given the economic and geopolitical interests at stake, I again strongly urge USTR to be more ambitious to bolster America's presence in the region. And I would ask: what is the administration doing to counter China's economic assertiveness and its apparent increasing alignment with Russia, and when will we see tangible progress?

Ambassador TAI. Well, in terms of the Indo-Pacific Economic Framework—and I am conscious of the time that I have left—let me just make a couple of points. One is that we are making quite a bit of progress there. Since launching this last May, we have had a ministerial in-person in September, and we just concluded our second negotiating round in Indonesia, with a third one announced in Singapore in 2 months.

To your point about—and let me just reinforce that our partners are extremely excited to have us back in the region, and they are very, very deeply engaged. On your market access point, let me just make this comment, which is that the traditional approach to free trade agreements being comprehensively tariff-liberalizing, has led to winners and to losers. While it has been, I believe, in general, very good for our agricultural producers, the other swaths of our economy very much feel like the playing field is not level.

When we look at the brittleness and the vulnerabilities, especially with respect to concentrations of supply in our supply chains, we are keenly aware of the need for us to bring a more resilient approach to our trade engagements, and that is exactly what we are doing in this particular region. So I am happy to continue this conversation with you, but I want to let you know that we are not driven by an ideology about this. We are deeply practical about how we engage with our partners, how we make each other more resilient. That is a guiding principle for the IPEF, and it will continue——

Senator THUNE. And it has got to be about results, and ultimately, to me at least, when you look at the number of free trade agreements China has, particularly in the region, and how we are absent, we have to get free trade agreements. And the best way to do that is get Trade Promotion Authority, and we have had this conversation before. I wish the administration would do something about it.

Thank you.

The CHAIRMAN. I thank my colleague. Senator Lankford is next, and I hope my colleagues will then let Senator Warner go next, so we can get both of them in before the vote.

Senator Lankford?

Senator LANKFORD. I am going to stall as long as I can to keep Senator Warner from getting up then, if that is the goal. [Laughter.]

Katherine, thanks for being here again. I appreciate your availability to this committee, to be able to talk to the issues on this. We have talked before about free trade agreements, and that this has not been a goal, to go get new free trade agreements at this point. It is trying to work with executive agreements and not bringing them back to this committee to be able to work through the process.

I think you have heard bipartisan—we want to continue to stay engaged through the administration, to be able to work on free trade agreements, and we want to have a bipartisan conversation about the responsibility of Congress to do this. That is an older conversation we had. I was surprised to read that there is discussion at least about a new type of free trade agreement with Japan and with Germany, to try to deal with energy and climate issues that is also not coming back here. I cannot figure out how it gains market access and how it is an FTA.

So help me understand this conversation about a free trade agreement that is not a free trade agreement, that does not really increase market access for American goods that way, but is increasing access for goods coming this way. What is this?

Ambassador TAI. So, you and I are going to have a conversation around the free trade agreements issue, which we have done before. I just want to put a bit of clarification on, when I talk about free trade agreements—and I should make this clarification more often—I am talking about our traditional free trade agreement approach.

Senator LANKFORD. Right.

Ambassador TAI. I believe that there could be an approach that promotes resilience in a much better way, and in a way that our traditional approach has not. Your second question relates to, I think, critical minerals, and the interpretation of a free trade agreement in the Inflation Reduction Act. There, what I would have to do is really point to the guidance from the Treasury Department in the implementation of the Inflation Reduction Act, and note that that is an interpretation that the Treasury Department has made in its work that is part of, I would say, a different context than the one strictly that you and I have been in, where we have been talking about the free trade agreements.

Senator LANKFORD. The one that has always been recognized.

Ambassador TAI. Traditional.

Senator LANKFORD. I think when everybody writes "free trade agreement," there is an assumption of what that means, and suddenly free trade agreement does not mean free trade agreement. Even when it is in statute, it does not actually mean what everyone has understood. When you say "traditional," I do not know of an exception to that. If there has been an exception to that, I would be interested to be able to hear it.

But there seems to be a way to work around Buy American, and to be able to now define things that are in Japan and Germany as American for the sake of the Inflation Reduction Act requirement of Buy American. Now suddenly Japanese products and critical minerals are going to be declared American to be able to come through the process. It seems like a very odd way to be able to do this, this workaround that is being developed in this new definition.

So all I am trying to figure out is, if we are going to do critical minerals and we are going to try to gain additional critical minerals here in the United States, Japan has the same issue with critical minerals with China that we do. It does not help to then just declare China part of the United States, and then say we are just going to get it from there and declare it American when it is actually Chinese. Does that make sense?

Ambassador TAI. So let me just say, I think that there are a lot of things that we agree on in your presentation, which is that critical minerals are critical. They are critical to our future and our economy——

Senator LANKFORD. Right.

Ambassador TAI [continuing]. And we have significant supply chain challenges with respect to our access to critical minerals and where critical mineral deposits are right now actively being exploited and being made available to the world market. And what I would say is that in terms of addressing our supply chain vulnerabilities with respect to critical minerals, it is something that we cannot do alone, that we have to do with our partners. That is what we are trying to do with respect to the current exercise.

Senator LANKFORD. So, I would agree that we have to be able to expand to friends and relationships and all those things. That is a good thing. I just have a hard time declaring suddenly a new definition of free trade agreement that does not have market access, and then saying this meets the Buy American standard when it is actually not done in America. That just seems a little odd to me in that.

Can I ask a separate question? I know we do not have much time on this. It is about the Abraham Accords. It is one of the things we have talked about extending to our foreign policy, also extending to our trade policy. What are we doing actively right now to expand our input and trade relationships with those in the Abraham Accords?

Ambassador TAI. So, we have a number of existing free trade agreements from 15 to 20 years ago with countries in the Middle East. We have in the last months and weeks, I think most recently just a week or two ago, been engaging with those partners through our TIFA agreements and arrangements, and also through the committee set up in our FTAs. And so, as part of our work to be part of the foreign policy toolbox, we are bringing our tools to bear.

Senator LANKFORD. Great; thank you. Please keep doing that.

The CHAIRMAN. I thank my colleague, and as he knows—Senator Warner knows as well—I feel very strongly about expanding the Abraham Accords and, particularly, bringing more economic opportunities to Palestinians, because I think this is one of the best ways to get a two-state solution moving once again.

Senator Warner is next.

Senator WARNER. Thank you, Mr. Chairman. I am glad my friend from Oklahoma managed to use his whole 5 minutes. Wait until he gets back into Intel. [Laughter.]

Let me—I have a bunch of questions. I want to also quickly say I agree with Senator Thune on the UK free trade agreement. We need to move on that, and I am not, Mr. Chairman, going to talk potatoes. But, Madam Ambassador, let us talk turkey.

Yes, Virginia is one of the biggest States in poultry, both broilers and turkeys, about—what is their number?—17,000, 18,000 direct jobs, $6 billion in economic direct interest, much more of that indirect. The chairman and I, with a group of members, were recently in India, and I am chair of the U.S.-India Caucus, all for increased trade.

But India is one of the most challenging places I know. I think colleagues have raised apples, and I am concerned about apples as well—we have Virgina apples. But on poultry, you know, they have tariffs up to 100 percent. So can you talk about, in your conversations with our Indian friends, whether poultry has gotten onto the agenda and what we can do to make sure we get more access to that market?

Ambassador TAI. Certainly, agriculture and India—agriculture is always on the agenda for our conversations. And as you have noted, for all of the potential in this relationship, we still have to work very, very hard at unlocking the economic potential. So it has been part of our conversations. We will continue to raise it. We will raise it more loudly and more vociferously.

Senator WARNER. Well, I really think we need to focus on this poultry issue. It is not just a benefit for Virginia. I know my friend from Delaware—let me jump line—this is an extraordinarily important issue for him as well, and I hope we can elevate that.

I want to move continents and go over to Ethiopia. I understand the administration's decision about taking Ethiopia out of AGOA. I do think we have had a relatively stable peace agreement with the Ethiopians since November.

I know Secretary Blinken was recently in the country. You know, I think stronger ties and getting Ethiopia back into AGOA need to happen, and I would like you to give me a brief update on how those conversations are going and when we might see a movement from the administration.

Ambassador TAI. Certainly. The decision to remove AGOA benefits from Ethiopia was not an easy one, especially while seeing what was happening in Ethiopia. But the AGOA program is structured the way it is. It has criteria and conditions, as all of you know, because you created AGOA, and we are where we are now.

As part of that, we have been working with the Ethiopian Government, with a list of benchmarks that we will be looking at very closely in terms of tracking progress. I know that there have been important developments. This is something that the administration is looking at across agencies. But we are working very closely with the State Department.

Senator WARNER. But can you share, Ambassador, with me after the fact, what those benchmarks are and what the timeline is for getting Ethiopia back in? I think it is an extraordinarily important relation. Most all of us in this committee are concerned about Chinese investment. Our walking away from Ethiopia has provided opportunities for the CCP to make inroads. I know we need to take action on telecom in Ethiopia.

So, I would like to get—I appreciate your comments. But I need specifically what those benchmarks are, what the timeline is, and then if they meet that, when Ethiopia can rejoin AGOA.

Ambassador TAI. We will be happy to share that.

Senator WARNER. Okay. I want to stay on Africa, because—and again I want to commend the administration for having the summit with African leaders in December. I think this is an area where we need to pay a lot more attention from a population standpoint, from a rare earth minerals standpoint, from the fact that there is an opening again. Under the notion of Belt and Road, a lot of countries went down that route with China. They did not get the jobs. They ended up with products or infrastructure that were pretty shoddy, and at levels of debt that are unprecedented. But we have to be more assertive.

Talk to us about, in your remaining 25 seconds, the U.S.-Kenya circumstance. I think we need a free trade agreement with Kenya. Where does that stand? What can we do to help move that along?

Ambassador TAI. Certainly. So we are very proud of the strategic trade and investment partnership work that we are doing with Kenya right now. We have met, I think, once already. The next round of negotiations is happening in April in Kenya, and I hope that that is public already. But if not, it is now. So we are moving along with a very, very good partnership with the Kenyans. We are motivated on both sides.

Our focus really in this engagement is to bring to the engagement and the economic program those things that Kenya has told us that it really is prioritizing. One is making Kenya a preferred destination for foreign investment, and also looking at capacity building to ensure that Kenya has the equipment and the tools to take advantage of the economic opportunities that we are engaging with them to create.

Senator WARNER. Thank you, and thank you, Mr. Chairman. I also want to thank my colleague from Delaware for letting me jump line. But we did talk turkey with the Ambassador, and I know that is an issue of importance to you.

The CHAIRMAN. All right. Here is where we are. We are going to have to do some juggling, but we can definitely get Senator Carper and Senator Young in before the end of the vote, and then I would just like my colleagues, on both sides of the aisle, to let us know about their schedules, because we are just going to try to keep this moving.

In fact, it technically goes Carper, Young, Whitehouse—and then we have our colleagues as well who want to do it. Senator Whitehouse is going to get back, and I appreciate it.

Senator Carper and then Senator Young.

Senator CARPER. Thanks, Mr. Chairman. And, Ambassador Tai, great to see you, and thanks not only for joining us today; thank you for serving our country in so many different ways over the years.

Last month, as you may or may not know, I led, along with Senator Hassan, a bipartisan bicameral codel to Mexico, to Guatemala, to Honduras, to explore how we can better address the root causes of illegal immigration to this country, and also expand economic opportunity throughout Central America.

The delegation saw firsthand how increased investments, including those spurred by the Biden administration's call to action initiative, can create good-paying jobs, while also advancing our humanitarian and security goals. While this is, I believe, a good start, it is clear that we can do more, and frankly the folks down there can do more to support the rule of law.

I like to say that the main thing is to keep the main thing the main thing. As far as I am concerned, the main thing for economic development, for stemming illegal immigration, is rule of law and to create jobs, particularly jobs in the private sector. But how can we strengthen our trade and investment policies and facilitate greater economic cooperation throughout Central America and across the Western Hemisphere, in your view?

Ambassador TAI. Well, Senator Carper, thank you for leading that bipartisan and bicameral codel. I do a lot of travel as part of my job. You learn so much by being on the ground, seeing with your own eyes and having conversations and establishing relationships directly. So I am delighted that you and colleagues have done that with three very important delegations.

Senator CARPER. Our President likes to say all politics is personal, all diplomacy is personal, and he is right.

Ambassador TAI. I completely agree with you. You know, I had mentioned earlier that Latin America is one of the regions where we have the most existing FTAs, and yet even with partners with whom we have an existing traditional free trade agreement, we are hearing from them that in this moment in the global economy, that they are looking for something more, and that they are looking for something more in their relationship with the United States.

So, whether it is with partners with whom we have an FTA, or with partners with whom we do not yet have an FTA, we are very focused on the parts of an economic engagement that are relevant to the challenges that we all have today, and this is coming after several years of economic turbulence—the pandemic, supply chains, Russia's war against Ukraine.

So I completely agree with you with respect to the rule of law. Establishing stable environments where economies can grow—and you know, this is the President's vision of growing our economy from the bottom up and the middle out. It may be surprising to you—or not—how many of our partners have leaders who are also looking to cultivate that broad-based economic growth and support in these countries. We also see that. So that does inform the trade policies, the economic engagement policies that we are bringing, which are really key to achieving sustainability and resilience, right now especially, and also inclusiveness.

Senator CARPER. Good; thank you.

Senator Cornyn and I have the privilege of leading the Trade Subcommittee of this committee, and we had a hearing not long ago exploring the importance of digital trade and economic growth and job creation. One of the key takeaways was how digital trade can benefit workers and unlock new opportunities for businesses of all sizes across a wide range of industries. As you negotiate the digital chapter in the Indo-Pacific Economic Framework, how are you creating new opportunities and promoting economic growth for small businesses?

Ambassador TAI. I think this is a great question and key to my previous answer around looking for opportunities, working with our partners to find opportunities to work together to unlock that economic space for the smalls, the mediums, for regular people. That is really, really critical to our vision for how we engage with our trading partners.

So, with respect to digital especially, we see the potential for digital to reach so many people, ordinary people, and to give them a gateway for interacting with not just their own economies, but the world economy. At the same time, we also know that there are structural barriers in this type of economy, just like in the more traditional economy, that can stand in the way of creating that economic growth.

And so, in our engagements—whether it is in the Indo-Pacific Economic Framework or in other negotiations where we have scoped active digital conversations—our focus is to make sure that the approach that we bring to these negotiations is as broad-based as possible, and that we are bringing in stakeholders from as broad a basis of our economy as possible, so that it is an agreement that will set us up for, again, a growth trajectory over the years, especially as our domestic regulators, our domestic legislators, continue to develop a vision for how regulation comes in contact with the digital economy.

Senator CARPER. Great. Thanks for that thoughtful response. Great to see you again. Keep up the good work. Thanks so much.

The CHAIRMAN. I thank my friend.

Senator Young?

Senator YOUNG. Welcome, Ambassador Tai. Good to have you before the committee, and I am going to pick up on Senator Carper's thoughts about digital trade. He and I are working together on a digital trade resolution. In the absence of kind of Trade Promotion Authority and some bolder action on market access, we have identified this area of potential bipartisan agreement, to send a signal to the world that the United States is leaning into the trade agenda, especially in this area, and the chairman and ranking member, I know are supportive of this effort.

Specifically, the resolution calls out China for manipulating digital trade rules to benefit themselves, while undercutting American industries. We just cannot let China dictate the standard in digital trade. It is not just an economic issue; this will shape our values if we have not embedded it in the technologies of the future and the services that are provided through digital means. If those rules are shaped by the Chinese Communist Party, then they are going to have outsized cultural access, and their values will permeate the digital economy. So this is really important. It should be to every American.

I understand the text of the Indo-Pacific Economic Framework is still in draft form, but could, Madam Ambassador, you tell me how IPEF will raise the standard for digital trade, and speak specifically to how countries, especially developing countries, will make meaningful progress to improve their digital trade practices under IPEF provisions?

Ambassador TAI. Certainly; I would be happy to do that, Senator Young. As we shift our thinking to a trade system that aims to promote inclusiveness, resilience, sustainability, we have to apply this to the rapidly evolving digital economy that includes new and emerging technologies such as AI and a heavy reliance on using data for economic activity.

In today's economy, trade increasingly occurs through the movement of data and information across international borders. First, we must pursue rules that promote a comprehensive vision of digital trade; that is, digital trade that is inclusive, that protects the privacy of consumers and workers, and supports U.S. values like freedom of expression, freedom from discrimination, and that supports the environmental sustainability goals as well.

Second and very, very importantly, as we engage with our partners, we know that we must make sure that governments have the regulatory space to tackle the challenges arising from the rapid growth of the digital economy.

Third, we need to develop rules that prevent some countries from moving in what we consider to be the wrong direction—specifically, the direction of a government-controlled repressed Internet, where the government sets rules that disadvantage U.S. businesses, workers, especially small businesses. And, unlike the biggest companies, small businesses cannot absorb the costs that those rules impose.

Senator YOUNG. Thank you for that summary. When can we expect the IPEF framework to be publicly released so we can kind of scrutinize some of the details?

Ambassador TAI. Certainly. So the proposals are available to you, and I have had this conversation with Chairman Wyden at the top of the hearing, and I think that today is Thursday. Two days ago, we released a public summary of the text that we have put out there.

Senator YOUNG. Excellent.

Ambassador TAI. So you can begin talking about it with your constituents.

Senator YOUNG. Okay. We will look forward to dialoguing with you if we have any concerns about that as well.

I am glad that Senator Warner asked a question about AGOA and the benefits, or lack thereof, given to Ethiopia. Can you give me an update about any other countries, particularly South Africa? I do not think the South Africans, if they are watching—and I hope they are—should assume that they will continue to enjoy AGOA benefits.

They have been very closely aligned with Russia and China. It appears that that relationship is getting even closer. I am struggling—and I will continue to work on this issue—to divine why they should continue to enjoy AGOA benefits. So maybe give me an update on your thinking as it relates to that or commit to me here that you will follow up on that matter. But I would love to work with you and others in the administration on this issue.

Ambassador TAI. So, on South Africa in particular, I know that these are challenging geopolitical times, very, very challenging. I also see a lot of potential in this particular relationship and have built a very strong relationship with my counterpart there, where we can talk a lot about a lot of things constructively. So, I commit to following up with you on South Africa in particular, and on Africa overall.

I will just highlight last December when the African leaders were here in Washington, that the Secretary General of the African Continental Free Trade Area and I signed an MOU. We have an opportunity to bring a form of partnership with the countries in Africa that can be new, that can be forward-looking, and that can help make each of us stronger.

In terms of the demographics that Senator Warner talked about, by 2050 one in four people in the world will be African, and they will be overwhelmingly—there will be a lot of opportunity there.

Senator YOUNG. Listen. There have to be consequences for not being a good friend, partner, and the South Africans have not been. It is manifestly true, and something has to give. I mean, this is a high form of naivete if we continue to offer special trade benefits to a country that is unfriendly to the United States. Why? I think it is nice to revisit our principles and the intention of this program.

So, let us continue to dialogue about this important issue. But I do not want to—forward-looking means as we look forward, there ought to be consequences. That is what I think. If the administration is taking a different view, then we should be very clear about that. I will give you the last word.

Ambassador TAI. I am happy to follow up with you on this important issue.

Senator YOUNG. Thank you, Ambassador.

Senator WHITEHOUSE. Am I up? I guess I am the chairman, as well as the next one up for the moment. How are you, Ambassador?

Senator YOUNG. The gentleman is recognized.

Senator WHITEHOUSE. Thank you.

I want to talk about carbon border adjustment for a moment with you. The EU has announced a CBAM. They have pretty well defined it. It is coming at us. I hope very much that that will be seen as a welcome step by the administration and one that we can try to meet and match. I think the EU CBAM opens the prospect of us joining into a common carbon border agreement.

Canada, I am told, is eager to join. The UK has done a hard left, which is the carbon price. The tariff part is relatively easy. So we are within plausible reach of a carbon pricing agreement among the UK, U.S., Canada, EU, who knows, perhaps Australia. I worry in this context that the steel-aluminum arrangement that you are working on gets proposed as an alternative and is used as a stick, to stick in the spokes of progress on carbon border adjustment.

So I am eager to make sure that that does not happen. We have reports showing that the carbon border adjustment has huge value to American industries, big ones like steel and pharma and cement and aluminum. One study shows that the iron and steel sector alone could have over a million jobs added in the U.S. if we have a solid carbon border tariff, because of the enormous tariff differential between us and China, and the relocation of jobs and construction to the United States.

There is a bipartisan conversation about this happening in the House, and I commend to you the CCES recent report supporting carbon border tariffs in the House. I can get it to you if you do not have it handy. And it has been announced by Senator Cassidy of this committee that he is going to announce his own carbon border bill fairly soon, and I have had one for a long, long time as part of my carbon pricing measure.

So there is bipartisanship on both sides of this building on this. I will tell you that when I have been challenged over the IRA at the Egypt Comp, at the Munich Security Conference, in meetings with EU officials, I have taken a very strong line that I believe is consistent with what the administration wants, which is basically tough bounce. You catch up, meet us or beat us. Nothing prevents you from stepping up the same way that we did, and I think Minister von der Leyen has also moved in that direction as well, and the EU is moving in that direction.

So it puts me in a very, very awkward position if the EU makes the reciprocal argument to us, which is, "Okay, we have a carbon border adjustment. Instead of whining and complaining about it, you ought to step up and meet us and agree on something, so that there is no tariffing between the two of us." I do not want to have to say, "No, no, no, that step up and match us is only true when we are telling you you have to match us. But when it is the other way around, when the shoe is on the other foot, then we should get some kind of like special pass." So, if it is the administration's position to try to steer away from the EU CBAM rather than to meet it, please expect my vehement adverse activity to prevent that from being the outcome for two reasons.

First, there is no chance in the world that the aluminum and steel arrangement will create anything like the emissions reductions of a proper carbon border tariff. It just is inconceivable. So we would have an enormous emissions reductions loss if we went that route. And then the second thing, of course, is consistency. I do not think we can tell our EU friends to basically go pound sand and match us with respect to our incentives, but then when they have their own plan, we try to weasel our way out of it.

So please, please, please, lean into that as much as you can, and thank you for not talking about marine litter in the IPEF negotiations. That is a pathetic phrase from the USMCA. It is pollution, it is plastic, it has a cause, it has a source. It is not litter.

Thank you.

Ambassador TAI. Thank you so much, Senator Whitehouse, and in the time that I have, again I want to reassure you that in terms of——

Senator WHITEHOUSE. I think it is just us, so you can take all the time you need. [Laughter.]

[To Senator Hassan.] Sorry, sorry, sorry.

Ambassador TAI. In the global steel arrangement negotiations——

Senator WHITEHOUSE. Be brief.

Ambassador TAI [continuing]. I want to assure you that the Europeans agree that this arrangement has to deal with carbon intensity as well as the distortive global overcapacity in steel and aluminum. So we see this very much consistent with the EU's approach to CBAM. But we also need to address the larger market challenges around steel and aluminum. So there is an overcapacity piece to what we are negotiating as well.

Your views are very, very clear, and I just want to be as effective as I can be to persuade you that we are not working at cross purposes.

Senator WHITEHOUSE. Terrific. Thank you.

Senator Hassan?

Senator HASSAN. Well, thank you. And, Ambassador, it is good to have you here, and thank you for spending a long morning here at the Finance Committee. We really appreciate it.

I know you just heard from Senator Carper a little bit about the codel that we took. We joined several of our House colleagues on a bipartisan congressional delegation trip to Mexico, Guatemala, and Honduras. We met with Presidents and Ministers from those countries, U.S. officials on the ground, but also leaders from business and civil society, as well as community organizers and workers and survivors of human trafficking.

In our meetings, both U.S. and Mexican Government officials said that the USMCA is having a really positive impact. To be sure, there are still trade issues between our two countries. No one agreement can solve everything. But what we heard is that we now have strong mechanisms in place to resolve those issues under the new agreement.

So, does USTR share that assessment of the USMCA? Does USTR believe that the agreement has been important to improving our relationships with Mexico, for instance with respect to trade, and working together to improve regional stability?

Ambassador TAI. Senator Hassan, thank you very much for sharing that feedback from your trip. It is really incredibly valuable to us. I think that the fact that we just went through a bit of a wild ride in renewing, updating, and correcting for the balance in the North American economic relationship, that having done that, having brought the USMCA into force to replace the NAFTA, that we have made progress in building trust between the countries and also with our stakeholders, especially with our workers.

So I think that the USMCA remains a bedrock foundation for our vision of a worker-centered trade policy. To your point that you made very effectively, it has not solved all of our problems. New problems come up and, you know, it was negotiated before COVID certainly. But there is a lot that we can do here. We remain committed to implementing the promise of the USMCA. The relationships may be falling short, but we remain committed to working through the USMCA to improve them.

Senator HASSAN. Well, thank you, and I certainly heard from workers on the ground there. They feel new hope and new capacity in their strength too. So it is not without its challenges, obviously.

Let me turn to another issue. In its 2022 report to Congress, the U.S.-China Economic and Security Review Commission recommended that the U.S. more proactively monitor and publicly identify industrial subsidies provided by the Chinese Government. This would help the U.S. respond to these harmful and distortive trade practices, which really pose a risk to domestic production and employment.

So, Ambassador, how does the USTR currently monitor Chinese industrial subsidies, and how can we work together to proactively protect U.S. workers and supply chains from these harmful trade practices?

Ambassador TAI. I am aware of that report, and it contains a lot of very useful analysis. We have also taken note of the recommendations that that Commission made to Congress. In terms of monitoring subsidies practices in China, I will tell you that we have dedicated personnel who are doing that research every single day. But I will also say that we should not have to be expending those types of resources, because all members of the WTO have an obligation to declare their support to the WTO.

The fact that we have to actively monitor and search out these types of policies and practices is part of the challenge that we have in the competitive relationship with China, but also one of the challenges that we have in pushing for reform at the WTO.

Senator HASSAN. Sure, and I think the first step there is doing our own monitoring. We can show the WTO either what it is missing or really push them on what they are woefully not doing, right? So whichever one of those things it is.

I only have a little bit of time left, but I wanted just to touch on trade and domestic manufacturing policy, because it is obviously really important to our economy and our national security, as we rebuild our domestic manufacturing base for critical goods and strengthen our supply chains from allied and partner nations. So can you talk about how we should be thinking about trade policy as part of our larger strategy to build production capacity in the U.S.?

Ambassador TAI. Absolutely. Trade policy and manufacturing policy are connected. You trade for the things that you either do not have or you have decided not to make, and in order to make things, you have to have access. It is all part of the same economic ecosystem. A lot of what we are doing is making sure that trade policies are not, on the one hand, bleeding out the benefits and the rebuild from investments that all of you have made possible working with President Biden, whether it is with respect to infrastructure, CHIPS and Science, or the push for that innovation and clean technology and clean energy. So for us, that does mean bringing a new approach to trade, to make sure that we are working in concert with the needs of our economy, and I really appreciate this particular question, because I think that it is lost on a lot of people.

Senator HASSAN. Well, thank you very much, and thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Blackburn is next.

Senator BLACKBURN. Thank you, Mr. Chairman. Ambassador, thank you for your generous time today. We appreciate it.

Now, I am not talking potatoes or apples or turkeys, but you know I am going to talk to you about Tennessee whiskey, and we have some great ones when you look at Jack Daniels and George

Dickel and the Nelson brothers and Uncle Nearest. I thank you for the work you have done on those issues, and I wanted to see if you could give me an update of where we are in the process. We are concerned about India's 150-percent tariff. We are concerned about the barriers this presents. You were just talking about how manufacturing, production, and trade go hand in hand. So if you would, give us a little bit of an update there.

Ambassador TAI. So, with respect to India and the challenges that we face there, I will just refer to the commitments that I made to the other members on their issues. I make that commitment to you as well, Senator Blackburn, to work hand in glove with you on tapping that potential with India, and making progress with respect to barriers, in this case on Tennessee whiskey.

The other note I would make is that Tennessee whiskey and our producers got very much caught in the crossfire of tariffs and retaliatory tariffs a couple of years ago. I just want to provide a status update, that with respect to the European Union and our lowering of tariffs as part of the Boeing Airbus dispute, we gave ourselves 5 years to create a framework where we can figure out how to work with each other better, to take on challenges that we share. I would like you to know that we are doing very good work as a part of that framework.

As well, in the steel and aluminum context with the European Union, they took down their retaliatory tariffs. We converted them from being subject to a tariff to duty-free trade with some guard rails for 2 years, and we are facing down a deadline at the end of this year to conclude our global steel and aluminum arrangement, where we can avoid having to get back into that situation.

Senator BLACKBURN. So let me ask you about that, because on the 301s, you think that your timetable is by the end of this year. Is that——

Ambassador TAI. The steel and aluminum with Europe is 232. 301s are with respect to China, and that is a separate issue.

Senator BLACKBURN. Okay, okay. So then you do not have an update. You have opened that portal?

Ambassador TAI. I can give you an update on the 301s as well. So, we have started a process; we opened that portal. We invited, at the request of our U.S. economic stakeholders, a review of the 301 actions from a couple of years ago, and those were the tariffs.

Senator BLACKBURN. Okay.

Ambassador TAI. The portal closed a couple of weeks ago, so we are in receipt of thousands of responses. We have taken a very responsible, deliberate approach. We will be reviewing those, and we will be undertaking a process for assessing the 301 tariffs over the course of the next weeks and months.

Senator BLACKBURN. Okay. Let me ask you—we have talked a little bit internally in our office about protecting IP. And when we look at China, when we look at what happened to Iran, COVID vaccines, and the WTO—along with the support of the Biden administration—reached a 5-year waiver on COVID vaccines last, I think it was June. And then the administration supported a limited waiver in 2021, but then they supported the final WTO decision.

So as a result of that, we fear that this is going to be something that hampers and slows innovation and U.S. competitiveness. So talk a little bit about what is happening with this administration in protecting American IP in these trade agreements.

Ambassador TAI. Certainly. So in 2021, what we did was lean into the negotiations at the WTO, to make sure the WTO would address this issue of whether or not intellectual property modifications needed to be made during COVID. The result was in 2022, a negotiation concluded with 164 members of the WTO to make modifications to the IP rules, similar to what we had done in the early 2000s around HIV treatments and therapeutics. There is now an open question at the WTO around whether or not modifications should be made also to COVID therapeutics and diagnostics, and that is a question that we have put to the International Trade Commission here, an independent agency, to run a robust process of consulting with stakeholders and inviting commentary. That is something where the ITC will be concluding its report later this year.

In terms of intellectual property, we are very proud of being an extremely innovative economy that is really quite often the envy of the rest of the world. And that is also part of the reason why we are leaning into it, to bring it back to the beginning of our conversation, revitalizing manufacturing in America as well, because manufacturing is a very intimately connected part of that innovation cycle. I want to——

The CHAIRMAN. The time of the gentlewoman has expired, and we are going to have to move on, because we have colleagues who still have not had questions.

Senator Cortez Masto?

Senator CORTEZ MASTO. Thank you, Mr. Chairman. Ambassador, it is great to see you again, and I know it has been a long morning for you, so I have just a couple of questions for you.

One of them has to do with solar tariffs. So last year, the Commerce Department announced a 2-year pause on tariffs that would have hit solar panels coming from Southeast Asian countries. This pause allows our solar industry to continue to ramp up as the Department conducts its circumvention investigation. The pause is extremely important. Right now, the U.S. has the capacity to manufacture only about a third of domestic demand for solar panels.

Now, we need to continue to support domestic manufacturing for the long term; I support that. But in my home State of Nevada, the solar industry is booming right now, and our demand for solar outpaces our ability to manufacture it. So when the threat of tariffs was in place, nearly 75 percent of domestic solar projects experienced cancellations or delays, and we saw that in my home State. That threatens jobs not just in Nevada, but across the country, and those are union jobs. Those are union jobs in my State.

And so, I am concerned about this. So let me just ask you this. I am concerned by the effects of undoing the President's actions on this issue, and in the process needlessly reinjecting turmoil into the solar marketplace. Can you assure me that the administration does not support abruptly abandoning the President's approach?

Ambassador TAI. Senator Cortez Masto, I take note of your observations around the solar industry and our needs, and the jobs. I think you noted at the beginning as well that the 2-year pause was part of a Commerce action. So I know you have asked me about the administration's position. I will have to get back to you, because this is primarily something that is enacted in Commerce's jurisdiction.

From where I sit at USTR, let me just say that if I look at the big picture, the challenge around solar, where we are—which is only being able to provide one-third of our demand—is one of these situations where, if we looked back 20 years ago, we had a burgeoning solar industry that was innovative and growing, and we lost it. And in the wake of losing industries like this, which are so strategic and important, including to our climate goals, we find ourselves fighting each other around the jobs and the production and tariffs, in ways that are really heartbreaking for me and really inform, from USTR's perspective, how we need to be approaching our trade policy, to try to prevent this type of thing from happening again.

On your specific question though, let me get back to you with more specifics.

Senator CORTEZ MASTO. I appreciate that; thank you.

Let me ask you this. The other concern of mine is international standard-setting when it comes to emerging technologies. International standards have considerable impact on international trade and global economic development. Senator Portman and I have passed legislation to study the impact of the Chinese Government's influence on international standard-setting bodies, and that study outlined a number of notable concerns about Chinese attempts to dominate international standards and set the terms in ways that are favorable to them.

Can you speak to your view on this issue in the context of trade negotiations, and any efforts USTR is undertaking? And let me just clarify and add to this. Based on the legislation that we passed, a study came out. We asked NIST to do a study. One of the recommendations that they have put forward is to ensure—let me find it really quickly—that when it comes to trade, that we clarify existing export control regulations that could accidentally discourage U.S. companies from participating in standards development.

So, I just want to put that on your radar as well, because this is such an important issue for us to address right now. So please, if you would give me your thoughts on it.

Ambassador TAI. Certainly. With respect to standards, we know how critical they are to, if you will, the interoperability between our economies, whether it is recognizing each other's standards, whether it is in terms of standard-setting, creating advantages. So it is something that we are very conscious of as we engage our trading partners, and something that we are working towards, which is a better compatibility between our economies.

On the NIST study and the recommendation, that is really very interesting. I know that export controls are an area of active collaboration in the context of the Trade and Technology Council between the U.S. and the EU, and it is something that I will take back. I am sure my team is aware of it. It is an area where, to the extent USTR works here, we partner very closely with Commerce.

Senator CORTEZ MASTO. Thank you.

The CHAIRMAN. I thank my colleague.

Senator Warren is next.

Senator WARREN. Thank you, Mr. Chairman.

So, giant corporations lobby to rig the laws in their favor, but if it looks like someone in government might actually rein them in, they have a second bite at the apple. They try to rig the trade deal to lock in more favorable regulations. In other words, if a government tries to break up your monopoly or crack down on your price fixing, just call it illegal trade discrimination and keep right on going with those business practices.

Now, this is not a theoretical concern. Ambassador Tai, I was concerned to see reporting just yesterday that you have used meetings with your Canadian counterpart to criticize Canada's effort to make big tech pay for the news content that big tech uses to make huge profits. That proposed Canadian law, by the way, looks a lot like pending U.S. legislation that right now has bipartisan support. So, Ambassador Tai, if that report is true, it would be wildly out of step with President Biden's whole-of-government order, to prioritize policies that promote competition in the economy.

Do you agree that we should support our allies when they step up to regulate big tech, including supporting them in the way that we write and enforce digital trade deals?

Ambassador TAI. Senator Warren, the short answer is, "yes," I do agree with your statement. The second piece, if I may interject on the basis of that reporting, which was brought to my attention yesterday. I think this is probably based on a readout of a meeting that I had with my Canadian counterpart, and I have in fact raised these Canadian bills that are in question with my Canadian counterpart, to ask more and to learn more about them.

What I would like to do is to understand—especially in this realm where digital and trade intersect—what the motivations are of our trading partners.

Senator WARREN. Oh, okay. And just so I am clear on this, you were not patting the Canadians on the back for reining in big tech, I take it, which is what we would like to see happen. You were not telling them to back off regulation, however. Is that right? I just want to be clear on this.

Ambassador TAI. The basis of the readout—and this is me going a step further from the readout—I raised the question to say I would like to learn more about this.

Senator WARREN. Okay. And this is critically important because as U.S. Trade Rep, you do not just enforce existing trade rules. You are also currently leading negotiation on digital rules in the Indo-Pacific Economic Framework, new rules that big tech lobbyists also want to rig in their favor, to undermine President Biden's competition agenda, and to undermine the work of Congress and regulators like the FTC and the DOJ. Ambassador Tai, can you assure me that the IPEF digital trade text you are currently negotiating will not impede in any way those efforts to stop big tech's anticompetitive practices like gobbling up competitors, or abusing monopoly power to jack up prices?

Ambassador TAI. It is absolutely correct that it is not our intention to use these negotiations to impede. And I would also like to repeat for you comments that I made earlier in the hearing, that it is our vision—in terms of what we are negotiating in the Indo-Pacific Economic Framework, including in the digital areas—that we are bringing with us a pro-competition outlook that is meant to enable as many participants in the economies as possible.

Senator WARREN. I am very glad to hear that, but I want to explain that I have real concerns here, because the text is classified. And that means, even though I may see it and my staff may see it—we are among the few members of Congress who have access—I cannot even talk with you right now about it in this hearing, on any of the specific issues in the text.

This means that the American public cannot know what is in the text. But just last week, U.S. negotiators were in Bali discussing exactly this text with representatives from foreign countries. Who else got access to the text? Well, so-called non-government advisors, which includes Amazon and Google lobbyists. Now, Ambassador Tai, that is just not right. This text should be public, and the next tranche of digital text that you are planning to discuss with partners next month should also be public.

Ambassador Tai, will you commit that, going forward, you will at the very least publish detailed summaries of digital negotiating text for public feedback, and do so before sharing further texts or having further discussions with our partner countries?

Ambassador TAI. Senator Warren, in engagements with you and other members of this committee, I have heard a very clear desire for more transparency. I made a commitment that we would publish public summaries of the proposals that we have made, and on Tuesday we published a summary of the texts that we have tabled, I believe going into the first round of negotiations.

Let me just share with you, we are moving at a slower pace than I would like, and part of it is because we are doing something new. So I do commit to you that we will keep working on improving our practices, and your feedback and the feedback from this committee on how we can do this better is valuable and will inform our work.

Senator WARREN. Well, I appreciate that. I know I am over time. I just want to say that when deals like the IPEF are negotiated in secret, it means that members of Congress who are trying to pass laws to rein in big tech cannot tell what you are or are not giving away. It means regulators like the FTC and DOJ cannot do it. So, I very much hope you will be transparent.

Sorry, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Casey is next.

Senator CASEY. Thank you, Mr. Chairman. Ambassador Tai, thanks so much for being here today and for your public service.

I want to talk about two issues. One is gender equity in trade, and the other is manufacturing. I want to thank you and your office for all the work you are doing to lay the groundwork for trade policy that advances the rights and economic interests of women.

This is an issue I have worked on in the Senate with Senator Cortez Masto, and a group of us led by her. Too often women are left out and often left behind when we and other countries negotiate trade deals that govern the global economy. We both know that only one of our free trade agreements has binding provisions on gender equity in trade, and only a handful of our 62 trade framework deals with other countries even contain provisions on women and trade.

So I strongly encourage you and your team to continue to promote both gender equity and equality and women's economic empowerment in trade through every avenue available, but especially as you negotiate trade deals with countries in the Indo-Pacific, the Americas, and across the globe. So my question is, how do you envision the current trade agenda benefiting U.S. leadership on gender equity and equality?

Ambassador TAI. Well, Senator Casey, I want to thank you and Senator Cortez Masto for your leadership on these issues, ensuring that the growing conversation in international trade circles around empowering women and advancing women's participation in the economy and the global economy will be more than just a conversation, and connecting the dots to things that we can do in trade policy, and frankly addressing structural challenges that women face in different economies.

I want to share with you and highlight something that I think you already know about. At USTR, we requested the U.S. International Trade Commission to undertake a study to look at the distributional effects of our trade policy so far. I think that we have put a lot of faith in our trade policies that they will raise tides and that those tides raise all boats.

But we have long suspected, and we have long had our economic stakeholders, including important stakeholders like our workers, tell us that the system does not work the way that we think it does or that it is intended to. The ITC came back and said first of all, it is clear we are not tracking the data that really will give us a crystal-clear picture of what we are doing. But in terms of the data that we do have and the studies that have been done, we see that women, communities of color, and also non-college-educated White men have not benefited from our trade policies the way that others in our economy have. That has been really critical to our thinking about a new approach to trade that is more inclusive, that is more sustainable, and that carries out the promise of trade as a positive force in the economic toolbox.

Senator CASEY. I appreciate that. I look forward to working with you on it.

I want to talk about manufacturing. It is obviously a strong and vibrant sector of our economy in Pennsylvania, everything from semiconductors that power our computers and cars to skill that supports the bridges in our State. The President's 2023 trade agenda indicates that the manufacturing sector is responsible for 11 percent of U.S. GDP. It is a key driver of exports and, of course, employs so many Americans. But non-market economies like the People's Republic of China know the strength of our manufacturing sector and seek to force their way to global dominance by skirting trade enforcement, using forced labor, and committing unfair trade practices.

Can you tell us what workers in our State of Pennsylvania, as well as other States, understand? Tell us how the current trade deals being negotiated will benefit them.

Ambassador TAI. Certainly. I think it starts with recognizing the playing field is not level, and that is something that, depending on which part of the economy you are in and represent and who you are talking to, is not always apparent. It is because we have a very large economy, and this economy is shaped differently in different parts. But we know that in terms of the international playing field, we are operating in a world economy that has changed a lot in the last couple of decades and has led to a lot of fragilities for us and an erosion of our manufacturing base, as well as a kind of deindustrialization that we have experienced. By the way, we are not the only ones who have experienced this.

So, in terms of the worker-centered trade policy and what we are doing in trade, we are looking at all of the things that we need to do to strengthen ourselves, to rebalance and to level that playing field. That does mean leaning into enforcement. That does mean embracing the investments that we are making in ourselves, our infrastructure, our people, and ensuring that our trade policies are reinforcing that.

So, I think that there is a lot of work that we have also been doing to make our trade relationships more resilient, to produce more options in terms of our manufacturing supply chains, in terms of how global trade flows. All of that is about leveling the playing field and bringing us back to where we would like to be.

Senator CASEY. Thanks very much. Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Daines?

Senator DAINES. Mr. Chairman, thank you. Ambassador Tai, thanks for coming here today.

I think about 95 percent of our world's consumers live outside the United States, and here is a guy who represents a State where agriculture is the number one economic driver. It is very important that we get market access for agriculture, for the sake of our jobs. And I do not think it can be overstated, the importance to think about the future of agriculture.

Ambassador Tai, the U.S.-China Economic and Security Review Commission recently published recommendations on how to counter China's growing abuse of intellectual property. I think it is stating the obvious here, but protecting American IP is something I have long fought for, including introducing this bipartisan Protecting IP Act to give the USTR more tools so you can be more effective to push back against China's abuse.

I plan to reintroduce this bill to include some of USCC's recent recommendations. You will be seeing that soon. The question is, what actions have you taken to implement USCC's recommendations, and how have you worked to counter China's growing intellectual property abuses?

Ambassador TAI. So, Senator Daines, I may need a brush-up on the USCC's mandate, but I know that the USCC, unlike the other commission, is here to advise Congress, as opposed to advising both the Congress and the executive.

That said, I do stay apprised of this commission's work, and deeply respect the diligence and the rigor that they bring to their work. In terms of intellectual property, this is actually the basis for the section 301 action that the Trump administration took in 2018. As you may know, we are currently undertaking an exercise at USTR, a comprehensive 4-year review of the actions taken pursuant to that 301, with respect to how effective we have been in securing improvements in behavior. That is something that we are doing right now.

Senator DAINES. So, I do have a concern. The USTR is not enforcing some existing agreements—and I will talk in just a moment here regarding Japan—agreements that support U.S. companies, U.S. products, U.S. intellectual property. In Japan, they will take antitrust action against American tech companies, but then they will support policies that crowd out competition from the United States, despite commitments that have been made in the Japan digital trade agreement. We see this in the gaming market, where Japan appears to ignore some of these anticompetitive actions from Japanese companies, which suppress some of our major U.S. providers.

I think this is a violation of its digital trade commitments, but yet we have not seen action from the USTR. Perhaps you can settle that here. Ambassador Tai, will you commit to raising this imbalance with Japan, and commit to increasing enforcement in support of U.S. companies, and gaming is one example?

Ambassador TAI. Senator Daines, this is the second time this particular issue has come up in today's hearing, and so I am sure that I have team members who are already working on this and pulling information for me. Let me take this back and learn more about it, and I will get back to you.

Senator DAINES. Okay; great. That is a fair answer, and that is one of the purposes of some of these hearings, to raise these issues and work together here to accomplish better outcomes for U.S. companies.

Lastly, I have called on Presidents of both parties—this has been a bipartisan challenge, whether it has been a Democrat President or Republican President—to reengage on the Trans-Pacific Partnership. I believe that is a strategic, important direction we should head, both for economic benefits, but I think it is also part of our strategy to counter China in the Indo-Pacific region, as it has been advancing alternative agreements without the United States. I am concerned about the current administration's lack of ambition as it relates to its trade agenda, and the absence of market access commitments to, as you said a few times, level that playing field and increase opportunities. I look through the lens here representing Montana for farmers, ranchers, and small businesses.

So just a closing statement. This will not be a question. I just urge you to shift course, prioritize reducing some of these unfair tariffs and other barriers to trade in IPEF, and pursue some more ambitious trade agreements with partners around the world. I think it is a great opportunity. You see it, and thanks for being here today.

The CHAIRMAN. I thank my colleague.

Senator Brown really showed the Congress over the years how to come up with responsible enforcement practices, so that we could say we are for trade, we are for good-paying jobs, we want to open up markets. And Senator Brown said, "You bet. Just make sure you enforce the laws on the books." So I want to recognize him and thank him for all he has done all these years on enforcement.

Senator BROWN. Thank you, Mr. Chairman. Thank you for the partnership that you have helped to lead. So important, always putting workers at the center. Ambassador, it is a new day with the United States Trade Rep. No one has done what you have done in terms of putting workers at the center of our trade policy. It has usually been trickle-down. It has been corporate interests. It has been all that.

Foreign competitors, as you know, undermine the goal—in too many cases, undermine your goals. We will not be able to realize the President's vision of a new American industrial policy without stronger trade enforcement. You have talked about the need to update. I have heard you—and I have been in and out today—but I heard you twice use the term "our trade toolbox," noting that many of our trade enforcement tools have not been updated. Foreign companies and governments routinely circumvent these laws. Cheating is part of their business strategy.

Last week I spoke with Jim Proctor from McWane, Incorporated. It has a large facility in Coshocton, OH. He discussed the game of Whack-A-Mole that we face, where countries caught cheating will just route their goods through a third country, and companies need more tools to fight back. I introduced, with Senator Tillis, the Fighting Trade Cheats Act to increase penalties.

Will this legislation, with its private right of action, help combat unfair trade practices that harm manufacturers in the Midwest?

Ambassador TAI. Senator Brown, I am aware of the legislation that you have introduced, and let me just highlight something that you said that I really wholeheartedly agree with, which is that a lot of our trade tools come from legislative acts from 1974 and 1988 and 2002. And the need to update them to reflect the challenges that we have and all of the lessons that we are learning around where Whack-A-Mole happens and where leakage happens is really critical.

So let me just say that I am tremendously supportive of the improvement and the development of the toolbox and adding new tools to it.

Senator BROWN. Thank you.

For years, I have heard from manufacturers across Ohio, including Cleveland-Cliffs, a major steel manufacturer, forced to compete with foreign companies that have learned to avoid AD/CVD orders by country-hopping, transshipment, and other circumvention schemes. The Leveling the Playing Field Act 2.0 I will be introducing with Senator Young would update U.S. trade laws. Will this legislation help curtail this kind of cheating?

Ambassador TAI. I think that we do need to curtail that kind of seepage, and I very much hope so. I am very encouraged by the fact that you are continuing to work on this.

Senator BROWN. Thank you, and we will do that together.

I also hear from Ohio steel companies concerned about the surging level of steel imports from Mexico. That undermines the agreement that exempted Mexico from section 232 measures, with a condition that Mexico adhere to historic levels of trade in steel. It is not happening.

Last month, Senator Cotton and I led a letter signed by 10 of our colleagues on the surge of conduit entering the United States. But it is not just about conduit. It is also wire and wire rod. Do you plan to raise this concerning import surge with Mexico the next time you meet with them?

Ambassador TAI. Senator Brown, I received that letter and read it with a very, very deep concern. I will absolutely raise this the next time I meet with my Mexican counterpart.

Senator BROWN. And if they are not cooperative, section 232 tariffs should be reimposed. I ask that you and the Commerce Secretary recommend that the President take action to do that.

Last, turning to the Indo-Pacific Economic Framework, one of my first votes and one of my proudest votes, other than voting against the Iraq War, was against the North American Free Trade Agreement. I have fought for binding enforcement of labor and environmental rules. Workers in Zanesville and Toledo and Ashtabula in my State especially were impacted by that. It is why I refused to support it. And so the chairman was talking about this previous President's NAFTA renegotiation until we made it better for working people. As a result, the Brown-Wyden labor enforcement rapid response mechanism set the new floor from which any future U.S. pacts must build. How are you applying the lessons from USMCA generally, and the Brown-Wyden rapid response mechanism specifically, to your work on the Indo-Pacific Economic Framework?

Ambassador TAI. Certainly. The Indo-Pacific Economic Framework is itself structured and designed very differently from our traditional free trade agreements. That said, the Brown-Wyden rapid response mechanism shows results to us every single day, has helped us to turn the narrative on its head, where we are using a mechanism in a trade agreement to help workers secure more rights.

This is something that we very much are looking to replicate in our onward trade engagements. So, because it is a different kind of arrangement that we are negotiating, we are looking at how we can adapt all of the innovative elements of the Brown-Wyden mechanism to this particular structure with these particular partners. And it is something where I think we will really need to be in close partnership with your office, as well as others. I look forward to being able to engage with you on that.

Senator BROWN. Thank you. That was Chairman Wyden's and my hope from the beginning, so thank you.

The CHAIRMAN. I thank my colleague.

First of all, Ambassador, thank you for being here to answer all of the members' questions. I want to note that so often what happens is somebody says, "Well, I have only X amount of time," and then everyone has to figure out how to deal with that. You never said that. You were here. You answered everyone's questions, and I thank you for it.

A couple of just quick points, and then we are going to liberate you and let you get on about your day. With respect to enforcement, I continue to believe, as we have talked about, that the gold standard are the provisions from the USMCA. That needs to apply to the clean energy side, it needs to apply to the digital side. We have heard all this talk about big tech. You know, I am probably as involved in these issues as much as any member of Congress. My interests are the people who do not have power and do not have clout. From the beginning, we focused on their interests, because we could democratize the Internet. That was essentially what section 230 was about. So I feel very strongly about speaking up for those small businesses that depend on digital and that are digital companies in and of themselves and need those kinds of protections that Congress agreed to in the USMCA. I hope they will continue to apply.

Now let us talk about this transparency issue, just so we are clear about what we are dealing with on the minerals issue, because I talked with the staff during the break and got this whole thing unpacked for me. This committee was the lead author of the clean energy tax credits. The reason I know something about it is because we spent well over a decade trying to break the gridlock on climate—you know, nothing was working. You could not do cap and trade; you could not do carbon tax. Nothing was working, and so, when Senator Manchin invited us to come to West Virginia after Waxman-Markey went down, I went, and we started talking about using the tax code. It is simple, it is linear. That is why we feel so strongly about these kinds of issues, and that is the backdrop of it.

Now, when I asked you about the staff negotiations, I think I did not really go into specifically what our concerns were about. So I asked the staff during the break. What we have gotten as of this point, with respect to the negotiations, is an initial offer that our country made to Japan with respect to critical minerals. That is why I am so concerned. So I look forward to working with you. We are not going to go back over all of this again. But to build the kind of trust that you and I want—because we share so many of the same views on these kinds of issues—we are just going to have to get people more than an initial offer on an issue that is so central right now to making sure that we get implemented what we worked on for well over a decade.

A lot of members of this committee, as you know, Madam Ambassador, really cast a lot of gutsy votes. They did not know anything was going to happen, but they wanted to do it because it was right, and we wanted to break decades of gridlock. So we do not need to go through that anymore. But I just wanted to put that in context.

Also, members on both sides know that questions for the record are due March 30th at 5 p.m., and the last word for the morning, Ambassador, is again our thanks, because I think you showed your commitment to working with us this morning, just by saying, "I am going to be there; I am going to answer your questions." And I am sure some of this was not the most fun to be part of. We will be looking forward to working closely with you in the days ahead.

With that, the Finance Committee is adjourned.

[Whereupon, at 12:41 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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

Thank you, Mr. Chairman. Welcome, Ambassador Tai.

Members of this committee have very thoughtful ideas to advance the trade interests of the American people. For example, just yesterday, Senator Young was recognized by the National Foreign Trade Council for his leadership on digital trade.

Critically—and I know this from personal experience—every Senator on the committee wants to work with you, Ambassador, on a bipartisan basis, to execute a successful trade policy. The challenge we face is how this administration approaches U.S. trade policy, both in terms of substance and process. Substantively, the President's trade agenda emphasizes "the groundbreaking domestic investments enacted through the President's leadership."

Respectfully, however, an American trade policy cannot rest on massive spending on subsidies. That approach borrows more from China's traditions than ours. American trade policy unleashes our people's talent and productivity by removing foreign barriers through tough negotiations and enforcement. The potential of the American people is staggering; what the administration proposes as a trade negotiation and enforcement agenda is strikingly limited.

A few examples are indicative.

First—American ranchers and farmers produce the world's best and safest food, and exported $196 billion in 2022. They can accomplish even more if we eliminate the high tariffs and unscientific restrictions posing as safety measures.

The only tariff reduction flagged in the President's agenda is that India will reduce its tariff on pecans to a still overly restrictive 30 percent. Instead of aggressively challenging non-science-based safety measures, the administration has only this month initiated "technical consultations" on Mexico's biotech restrictions.

Second—American workers are highly skilled at manufacturing and have drawn nearly $1.9 trillion in foreign investment, including in major auto manufacturing facilities in Spartanburg, SC; Smyrna, TN; and Marysville, OH, to name a few. That kind of investment coupled with American workers' talent should make us an export powerhouse, but unreasonable product specification standards continue to keep our manufacturing out of many markets. Yet the administration chooses not to pursue a "technical barriers to trade" chapter, or TBT, in its proposed Indo-Pacific Economic Framework (IPEF).

In contrast, the United States-Mexico-Canada Agreement (USMCA) had a robust TBT chapter and explicit commitments that Mexico would continue to accept U.S. cars built to U.S. Federal safety standards.

Third—Our innovators and artists develop lifesaving products, and films and music that spread American values. Copyright industries alone generate $1.8 trillion in economic output.

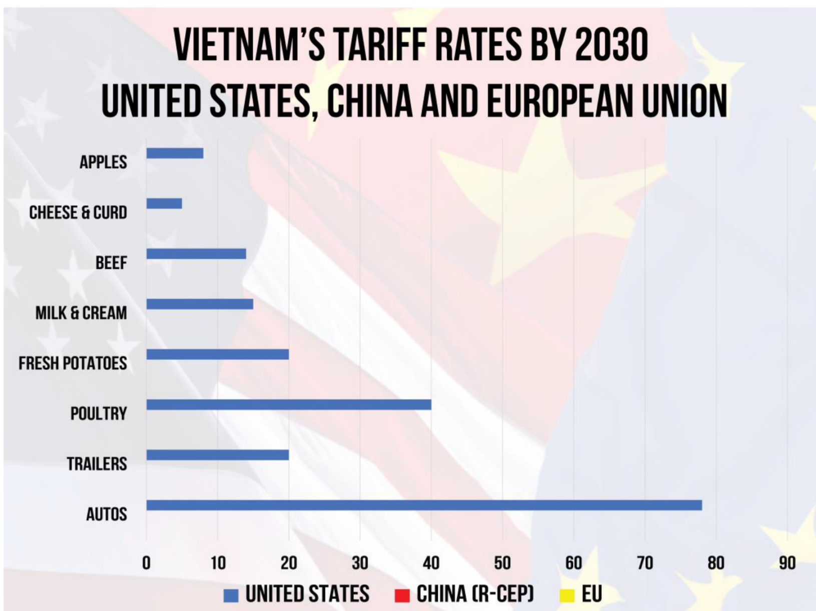
Yet, instead of working to strengthen U.S. intellectual property rules, the administration actually waived U.S. intellectual property rights for COVID vaccines under the World Trade Organization (WTO) Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, and is even now considering expanding that waiver to diagnostic and therapeutic products.

And, while we all agree that one of China's most pernicious mercantilist policies is the theft of American intellectual property, the administration does not pursue any IP rules in IPEF—or elsewhere—that could help ensure China does not benefit from its theft through sales in other countries.

Fourth—U.S. digital firms are a major contributor to U.S. economic growth, with the digital economy now comprising 10 percent of U.S. GDP. The administration has yet to press the European Union, through the Trade and Technology Council, on measures that unreasonably target the U.S. digital economy, even though it readily agreed to discuss the EU's concerns with the Inflation Reduction Act at the very same forum.

We can do better. We must do better.

One last example: below is a chart comparing the respective tariff rates that American, European, and Chinese products face entering Vietnam, a country of nearly 100 million.



The reason there is no red or yellow ink to reflect the tariffs that Chinese and European producers face is not because the Senate print shop ran out of ink. China and the EU have concluded trade agreements to reduce their tariffs eventually down to zero, while signature American products, like automobiles, apples, poultry, potatoes, milk, and others, will continue to face high tariffs.

While some of the tariff reductions in the EU and China deals will take time to phase in fully, we lose ground every day we remain on the sidelines of real trade negotiations. Given this dynamic, the administration needs to reconsider its decision not to pursue market access in IPEF or other trade arrangements.

Unfortunately, the ability to take on these substantive challenges is compounded by one, very fundamental problem: the administration's insufficient consultation with Congress. We saw this problem with the negotiations for the TRIPS waiver, and they still continue.

In the case of IPEF, the administration refuses to share the views of the same congressionally established advisory committees that assist Congress in determining whether a proposed trade agreement will assist Americans. The text of the relevant statute is below, and it is crystal clear that such information must be shared with designated members of Congress.

19 U.S. Code § 2155 - Information and advice from private and public sectors

(i) Consultation with advisory committees; procedures; nonacceptance of committee advice or recommendations

It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

(1) significant issues and developments; and

(2) overall negotiating objectives and positions of the United States and other parties; with respect to matters referred to in subsection (a).

The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this subchapter, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

The administration also refuses to share attributions of which countries support or oppose particular provisions of IPEF, even though the Trump administration provided such information during USMCA consideration. This attempt to bypass Congress is unnecessary. Our trade policy is strongest when the administration and Congress work together.

The administration should accordingly partner with Congress and the American people—not try to cut us out—because under the Constitution, it cannot.

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

Thank you, Chairman Wyden, Ranking Member Crapo, and members of the committee. I appreciate the opportunity to be here today to discuss the President's Trade Agenda.

President Biden promised to build the economy from the bottom up and the middle out, and he is delivering on that promise.

Unemployment is at its lowest rate in over 50 years. Manufacturing is rebounding faster than it has in almost 40 years. We are seeing the strongest 2 years for small business applications on record with 10.5 million new businesses created. Wages are rising, especially for lower- and middle-income workers. We have seen more jobs created in 2 years than any other administration has seen in four.

Trade is an integral part of this pursuit of durable and inclusive economic growth.

Our administration continues to believe that trade can be a force for good. We are writing a new story on trade. One that puts working families first and addresses today's pressing issues. One that brings more people in and reflects more voices across the American economy. One that advances our global priorities and strengthens democracy here at home and abroad.

Whether you have a college degree or not, whether you have five employees or five hundred, whether you are in rural Ohio or in the heart of Baltimore, whether you are a small dairy farmer in Michigan or a steelworker in Pennsylvania—we are restoring fundamental fairness to our trade and economic system.

We are leading on the world stage with this vision. We are collaborating with partners and allies to create broad-based economic growth and to continue the strong, united response to Russia's brutal invasion of Ukraine.

I am pleased to tell you today that we are making significant progress on these goals. Let me give you some examples of what this looks like.

ENGAGING WITH KEY TRADING PARTNERS AND MULTILATERAL INSTITUTIONS

President Biden has said that the United States is opening an era of relentless diplomacy to address the challenges that matter most in the lives of all people. Trade is an important part of this relentless diplomacy. Over the last year, we have been leading with a positive economic vision around the world, and our partners and allies are joining us.

We launched negotiations on the Indo-Pacific Economic Framework for Prosperity to deliver real opportunities for our people throughout the region. We are focusing on priorities like labor standards, the environment, science-based and transparent regulatory systems, and an inclusive digital economy. We had successful rounds of negotiations in December and earlier this month, and we are looking forward to a busy 2023 to make further progress. We also kicked off the Americas Partnership for Economic Prosperity with eleven countries in our hemisphere.

We already have deep economic ties in the region, including free trade agreements with eight of our initial partners. Regionalization is an integral part of building resilience in our economy. By strengthening our relationships with our closest neighbors, we can drive sustainable economic growth and bolster our collective resilience.

We have also been busy on the bilateral front. Through the Trade and Technology Council, we are collaborating with the European Union on imposing economic costs on Russia and Belarus, addressing economic coercion and non-market policies and practices, facilitating trade in emerging technologies, protecting workers' rights, and strengthening our supply chains.

We are also negotiating a Global Arrangement on Sustainable Steel and Aluminum. This will drive decarbonization while also limiting anticompetitive and non-market practices that contribute to worldwide excess capacity, including from the People's Republic of China (PRC), which threatens American workers and businesses. It also shows that effective climate action can also support good-paying jobs here at home.

We also launched new initiatives with key partners in other important regions. Taiwan is a vibrant democracy and an important trading partner in East Asia, and we started the groundbreaking U.S.-Taiwan 21st Century Trade Initiative last June.

Our teams have been working diligently to deliver high-standard commitments and economically meaningful outcomes, covering everything from trade facilitation and good regulatory practices to services domestic regulation and anticorruption.

Another important region for us is sub-Saharan Africa. Like I said during the U.S.-Africa Leaders' Summit, I believe the future is Africa, and we are ramping up our engagement to deepen our partnership with the continent.

Last July, we launched the U.S.-Kenya Strategic Trade and Investment Partnership. We held our first round of conceptual discussions in February, and we will continue conversations this year to discuss important issues, including agriculture, digital trade, and supporting participation of women, youth, and others in trade.

We also signed an MOU with the African Continental Free Trade Area Secretariat, which will facilitate greater cooperation on trade and investment between the United States and the continent.

On the multilateral front, our administration has been clear that we are committed to the WTO. We continue to believe that the organization can be a force for good and address global challenges as they arise. This was demonstrated when we worked with other WTO members to deliver meaningful outcomes during the last ministerial meeting, including on COVID–19 vaccines, fisheries subsidies disciplines, and food insecurity.

Speaking of fisheries subsidies, I was in Oregon last April with Senator Wyden and Senator Merkley to meet with fishers, and I also toured a groundfish vessel. We spoke about how our fishers are disadvantaged by unsustainable fishing practices, including illegal fishing and harmful subsidies. The WTO outcome is a step in the right direction to empower these fishers to compete on a level playing field and succeed.

These were important outcomes, but the WTO must change to be more relevant and address the challenges of our time, including on dispute settlement and other areas. This administration has—and will continue to—work with other members on reform.

Lastly, we are excited to serve as the APEC host this year, with the theme of "Creating a Resilient and Sustainable Future for All." This demonstrates our commitment to the Asia-Pacific, and we are taking full advantage of our host year to collaborate with partners to build a more durable and resilient global economy. That includes lifting up workers and women entrepreneurs, empowering small businesses to enter the market, grow, and compete, and unlocking economic opportunities for those who have been underrepresented in all of our populations.

Going forward, USTR will remain in close coordination and consultation with this committee and Congress to keep you updated as we develop our frameworks and initiatives.

ADVANCING A WORKER-CENTERED TRADE POLICY

Workers are at the center of our trade policy. American workers can compete anywhere if the competition is fair. That is why we have been laser-focused on using trade to defend workers' rights, both at home and abroad.

We have been using the USMCA's rapid response mechanism (RRM) diligently to bring tangible changes and defend the right of workers to freedom of association and collective bargaining. From March 2022 through February 2023, we secured wins for workers at four different facilities. We have an open case and are working with Mexico to address violations at that facility, and just last week, the Government of Mexico accepted our request to review yet another case. This is important because it drives a race to the top by elevating labor standards across the region.

In September, we launched the Trade and Labor Dialogue with the European Union, to bring labor, business, and government representatives to address forced labor in supply chains. We will also expand this work to address the needs of workers and employers in navigating the digital transformation of our economies and workplaces.

In January, we launched a task force with Japan to work on forced labor issues, and USTR is crafting our first-ever trade strategy on forced labor and conducting an interagency review of our existing tools to address this issue.

We also recognize that farmers, ranchers, fishers, and food manufacturers are key to our worker-centered trade policy. Last August, I visited Spellman Farm, a sixth-generation family farm in Woodward, IA growing corn and soybeans. Sam Spellman was explaining how he is focusing on sustainable farming, including researching the effects of cover crops and no-till on Iowa's soil and nutrient retention. I could sense the immense pride he took in his work, not only for his own farm, but in educating fellow farmers.

That is what our work is about: restoring pride and dignity for our workers. Empowering them to compete and thrive. And we have achieved several economically meaningful wins for our agricultural sector over the last year.

We brought into force an amendment to Japan's beef safeguard mechanism under the U.S.-Japan Trade Agreement, which will provide more predictability for U.S. exporters to meet Japan's growing demand for high-quality beef.

We signed the U.S.-EU Tariff Rate Quota Agreement to provide certainty to U.S. exporters and open markets for U.S. agricultural products such as rice, wheat, corn, and beef.

We also opened access for U.S. pecan exports to India, following a 70-percent cut to tariffs. This was a big win for farmers and was a result of the successfully revitalized United States-India Trade Policy Forum.

We have a nimble USTR team that is opening markets for our agricultural sector, and we will continue to work with Congress to find additional opportunities.

REALIGNING THE U.S.-CHINA TRADE RELATIONSHIP

Another component of our trade agenda is the realignment of the U.S.-China trade relationship. This relationship is one of profound consequence. As the two largest economies in the world, our bilateral engagement affects not just the two participants, but the rest of world.

We recognize that the relationship is complex and competitive. And yet, American workers, farmers, producers, and businesses should not have to compete against the PRC's state-led policies, labor rights suppression, weak environmental regime, or other distortions that put market-oriented participants out of business.

While we continue to keep the door open to conversations with the PRC, including on its Phase One agreement commitments, we must also vigorously defend our values and economic interests from the negative impacts of the PRC's unfair economic policies and practices.

That means making groundbreaking investments here at home so that we can compete—and collaborate—from a position of strength. That is exactly what our administration is doing. We are fixing our roads and bridges through the Bipartisan Infrastructure Law, bolstering our capacity for critical technologies through the CHIPS and Science Act, and incentivizing the manufacturing of clean energy technology here at home through the Inflation Reduction Act.

That also means coordinating with our partners and allies to confront policies and practices that are fundamentally at odds with a global trading system based on market competition. An example of this is the U.S.-EU Cooperative Framework for Large Civil Aircraft. We held a ministerial meeting last December. We are analyzing the PRC's non-market policies and practices in this sector, and we are considering tools needed to effectively counter them. We are also exchanging views on the long-term risks posed by the PRC's state-directed industrial dominance goals to market-oriented sectors.

We are working to deepen our understanding of the PRC's state-directed industrial targeting goals and to more effectively defend our market-oriented aerospace workers and companies.

In May 2022, USTR also commenced a comprehensive 4-year review process of the section 301 tariffs on imports from the PRC. We are mindful of the effects that trade actions can have on American businesses and workers. At the same time, we are taking a deliberate and strategic look at how our economic interests can be served in light of the PRC's continued unfair policies and practices.

PROMOTING CONFIDENCE IN TRADE POLICY THROUGH ENFORCEMENT

Doing trade the right way means standing up to the forces that have harmed and undermined workers, producers, and communities to not just thrive but sometimes also to survive. That is why the Biden administration remains fully committed to vigorously enforcing our trade agreements. We will continue to use all of the tools at our disposal to combat unfair, non-market practices, defend American jobs, and create broad-based economic prosperity.

As I mentioned earlier, we have been diligently using the USMCA's RRM to defend workers' rights in Mexico. But our enforcement under the USMCA does not stop there.

We established a dispute settlement panel to address our concerns with Canada's revised dairy restrictions. We are also consulting with Mexico to address our concerns with measures that undermine American energy companies. We also continue to engage with Mexico to address concerns regarding agricultural biotechnology.

Mexico's policies threaten to cause serious economic harm to U.S. farmers and stifle innovation that can promote global food security. On March 6th, the United States requested technical consultations with Mexico under the USMCA. If our concerns are not resolved through technical consultations, we will consider all options to fix this problem, including by taking additional steps under the USMCA.

We are also upholding the eligibility requirements in our preference programs, in line with our worker-centered agenda and in accordance to the statutory eligibility criteria. In November 2022, after using all diplomatic measures available to induce the government to remediate the issues, President Biden announced the termination of Burkina Faso's eligibility for the African Growth and Opportunity Act (AGOA) trade preference program, due to concerns with the unconstitutional changes in government in the country. We remain committed to working with Burkina Faso to meet the statutory benchmarks that would enable it to be reinstated in the AGOA program.

We recognize that many of our existing trade tools may not adequately address the challenges posed by today's economy, so we will continue to work with Congress to identify areas where new tools may be needed.

PROMOTING EQUITABLE, INCLUSIVE, AND DURABLE TRADE POLICY AND EXPANDING STAKEHOLDER ENGAGEMENT

I want to close where I started: on how our new story on trade strives to bring more people in and reflect more voices across the American economy. This administration is promoting inclusive and durable trade policy for all Americans.

Last month, along with Senator Durbin, I had the opportunity to visit a welding class in Chicago, with a group of local tradeswomen. Listening to their stories, I was reminded of what President Biden said during his State of the Union Address—that he ran for President "to fundamentally change things, to make sure the economy works for everyone so we can all feel pride in what we do."

Fairness and equity must be bedrock principles in trade policy. That means having diverse voices at the table—especially underserved and marginalized communities that have been historically left out of trade policymaking—and incorporating their priorities into our policies. That is why USTR released our Equity Action Plan last April. We developed this plan in accordance with President Biden's Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Not only that, I have had the honor to serve as the co-chair of the White House Initiative and President's Advisory Commission on Asian American Native Hawaiian and Pacific Islanders, and as a member of the Gender Policy Council and White House Council on Native American Affairs.

In January, the White House convened Federal Government officials and community leaders to release the Biden administration's first-ever National Strategy to Advance Equity, Justice, and Opportunity for AA and NHPI Communities. This includes detailed plans from thirty-two Federal agencies, including USTR, which build on the administration's previous actions to promote safety and equity for AA and NHPI communities.

I am incredibly proud to be a part of this important work, but we know there is more that we can do to make trade policy more equitable and inclusive. So, we are continuing to work with the U.S. International Trade Commission on the distributional effects of trade on American workers and sustaining our engagement with diverse communities across our country.

This engagement includes Congress and this committee. You are our constitutional partner on trade, and the administration recognizes Congress' important role in crafting trade policy. We will continue this partnership through regular briefings with you and your staff.

Two years into this administration, we are leading with a positive economic vision in key parts of the world, and we are already starting to see results. None of this is possible without the devotion and professionalism of our USTR staff, and I am grateful for their expertise and dedication as we press forward to finish the job.

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

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

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. The U.S. potato industry estimates that Japan has the potential to be a $150-million market annually for U.S. fresh potatoes, much of which is expected to come from Pacific Northwest farmers. However, the Japanese Government has long denied market access for U.S. fresh potatoes due to concerns regarding pests. The United States has formally requested market access for table stock potatoes, and Japan has formally recognized the U.S. request. Yet, despite multiple attempts by USDA to supply Japanese officials with information, as well as site visits, the Japanese government has made little progress on a pest risk assessment (PRA) on U.S. table stock potatoes.

What is the status of USTR's efforts to obtain market access for U.S. table stock potatoes in Japan, including by pressing Japan to complete its PRA? Is USTR engaging on this market access request in the context of the Indo-Pacific Economic Framework (IPEF) negotiations?

Answer. USTR continues to raise the market access request for U.S. table-stock potatoes under the U.S.-Japan Partnership on Trade to advance the request in a timely and science-based manner. In the context of the Indo-Pacific Economic Framework, USTR envisions that the agriculture negotiations will enhance market access for U.S. agricultural exporters by, for example, advancing the implementation of science-based policies and improving transparency in the development of import rules and regulations.

Question. Oregon's dairy farmers produce top-of-the-line dairy and dairy products, exports of which achieve the twin goals of increasing economic competitiveness in Oregon and supplying the growing demand for U.S. dairy products abroad. However, our trading partners are increasingly misusing geographical indications to limit the use of common food names, leading to unfair results for Oregon's dairy farmers.

What is USTR doing to ensure common food names can be utilized on labels and advertisements in priority export markets, beginning with our existing FTA partners? Is USTR raising this issue in the context of the Indo-Pacific Economic Framework (IPEF) negotiations?

Answer. USTR has been pressing trading partners on their geographical indication policies and pushing trading partners to keep their markets open for U.S. agricultural products that rely on the use of common food names. For example, in the context of IPEF, we are working bilaterally with certain partners, including Australia, the Philippines and Singapore, seeking to preserve long-term market access for U.S. cheeses and meats that are important to dairy farmers in Oregon and across the United States. In addition, we are engaging other FTA partners such as Chile, to effectively address and mitigate concerns regarding geographical indication policies.

Question. With respect to the EU, what is USTR doing to address this trade irritant?

Answer. USTR remains concerned regarding the European Union's (EU), and some other trading partners' efforts to seek automatic protection for certain cheese, meat, and other food terms as geographic indicators (GIs), which imposes barriers on market access for U.S.-made goods relying on the use of common names. USTR is pushing for transparency and procedural fairness concerning the protection of GIs and to ensure that any granting of GI protection does not deprive U.S. industries of their ability to use common names in the marketing of food products.

Question. The United Kingdom is now free to move away from the many protectionist practices of the European Union that have created an imbalance in agricultural trade across the Atlantic. But the UK remains under pressure from the EU to continue to align its practices with the EU's non-scientific, overly burdensome approach to agricultural trade. That poses a significant problem, as those existing EU policies have led to a deep Transatlantic agricultural trade imbalance.

How is USTR leveraging the joint U.S.-UK Dialogues on the Future of Atlantic Trade to encourage the UK to reduce trade barriers to U.S. wheat and other agricultural products and ensure any sanitary and phytosanitary regulations are science based?

Answer. USTR is working with the UK to deepen our bilateral trade ties. In bilateral discussions, we have emphasized the need to reduce restrictive tariff and non-tariff barriers and to allow U.S. products to fulfill demand within the UK, especially given rising global food prices. We have stressed, in particular, the need for the UK to ensure that sanitary and phytosanitary measures are science-based.

Question. Additionally, both the EU and UK maintain prohibitive tariffs on U.S. wheat under 13.5-percent protein, which is the majority of Oregon wheat production. By contrast, the United States has long allowed EU and UK wheat to enter the U.S. duty-free.

Recognizing that you are not pursuing traditional free trade agreement negotiations, are there opportunities for discussion on reducing tariff barriers to U.S. agricultural exports in potentially large markets such as the EU and the UK?

Answer. We have emphasized to all our trading partners, both bilaterally and multilaterally, the need to reduce restrictive tariff and non-tariff barriers and to allow U.S. products to fulfill demand, especially given rising global food prices. We continue to make this point to both the UK and the EU. The United States continues to raise concerns with the EU at the WTO to ensure that the EU complies with its international obligations.

Question. Oregon's wheat growers are highly dependent on international trade and market access, as approximately 90 percent of Oregon wheat production is exported into an increasingly competitive global market. India is an important market for Oregon wheat exports, though exports to India have been stymied by a number of trade barriers from the Indian government, including domestic subsidies. I appreciate the steps that the United States Government has taken to hold India accountable for its unfair trade practices that harm U.S. farmers, including filing an additional counter-notification with the World Trade Organization (WTO) in April 2023.

What other actions is USTR taking to ensure India makes the necessary changes to comply with its WTO commitments? Is USTR considering pursuing a formal dispute settlement case against India?

Answer. We appreciate that India is a notable competitor for U.S. farmers, including Oregon wheat farmers, and its agricultural policies impact our ability to export grains and other products to both India and world markets. The United States is actively coordinating with a growing number of WTO members who are also deeply concerned about India's trade-distortive measures, including its domestic subsidies. The next step is for the counter notification, which is co-sponsored by four WTO members in addition to the United States, to be on the agenda for the June 27th–28th WTO Committee on Agriculture meeting where we expect a robust discussion of India's policies. We will continue to closely monitor India's policies and actions and continually assess our options for holding India accountable to its WTO commitments.

Question. Japan is a critical market for frozen blueberries from the Pacific Northwest. The U.S.-Japan Trade Agreement eliminated tariffs on frozen blackberries, raspberries, and strawberries, but not on frozen blueberries. As a result, Pacific Northwest blueberry growers currently face a 6- to 9.6-percent tariff on frozen blueberry exports to Japan, putting them at a disadvantage with respect to growers in Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) countries, who can trade freely with Japan on all blueberry products.

Is USTR seeking to address this trade barrier for Pacific Northwest blueberry growers, either through a technical amendment to the U.S.-Japan Trade Agreement or through other venues for dialogue?

Answer. While tariff negotiations are not being considered at this time under IPEF, USTR envisions that IPEF's Trade Pillar will enhance market access for U.S. agricultural exporters by, for example, advancing the implementation of science-based policies and improving transparency in the development of import rules and regulations. USTR is not currently considering reopening the U.S.-Japan Trade Agreement tariff negotiations, but may request that Japan consider unilaterally reducing its tariffs for frozen blueberries on a most favored nation basis.

Question. Pacific Northwest growers continue to face barriers to tree fruit export in the Indo-Pacific, including sanitary and phytosanitary (SPS) measures. These measures are ostensibly imposed to protect health and safety, but in reality are often a protectionist tool used to keep U.S. products out of export markets. For instance:

- Since 2017, Pacific Northwest apple growers have sought non-fumigated access to the Japanese market. Currently, Japan requires fumigation, which damages fruit quality, rendering apple access to Japan not commercially viable. U.S. industry estimates that with non-fumigated access, Japan could develop into a $20-million market for U.S. apple exports.
- For decades, Pacific Northwest growers have sought access to the Australian market for apples and pears, but phytosanitary issues continue to impede market access. U.S. industry estimates that Australia could become a $16-million market for apples and a $4.5-million market for pears.
- South Korea has long prohibited the importation of apples and pears from the United States due to phytosanitary concerns. U.S. industry estimates that resolving the phytosanitary barriers in South Korea for apples and pears would result in yearly sales of $10 million to $25 million.

Will the Indo-Pacific Economic Framework (IPEF) include binding commitments requiring parties to implement science-based measures and eliminate non-tariff barriers that prevent American producers from accessing markets in the region? If yes, how does USTR plan to make these commitments enforceable?

With respect to the trade concerns described above, is USTR seeking to resolve them through the IPEF?

Answer. Within the trade pillar of IPEF, the United States will encourage partners, including Japan, Australia, South Korea and others, to implement measures that are consistent with U.S. regulatory practices and international standards to minimize and eliminate nontariff barriers, issues which prevent American producers from accessing markets in Indo-Pacific countries where demand for U.S. food and agricultural products is rapidly increasing. To address specific barriers of concern and produce tangible benefits for U.S. agricultural producers, USTR will seek to promote the use of science- and risk-based decision making to maintain and expand market access for U.S. agricultural exports.

Under the U.S.-Japan Partnership on Trade, the United States has been requesting that Japan allow for import of U.S. apples using a systems approach, which would remove fumigation requirement through other mitigation methods. This is a priority issue for USTR and we will continue to engage with Japan on the matter.

We continue to press Australia to uphold their FTA commitments and build fair, non- discriminatory and science-based regulatory frameworks. Apples are a top priority issue for USTR in these discussions and we will continue to engage with Australia on the issue.

In addition to our regular bilateral engagements, the United States engages with Korea annually on SPS issues through the KORUS SPS Committee and the KORUS Committee on Agriculture, where we continue to press Korea to adopt predictable, transparent, and science-based standards.

Question. Last year, USTR began its statutory 4-year review of the section 301 tariffs imposed in response to China's forced technology transfer and intellectual property theft. I continue to support these tariffs, as well as other efforts to address China's rampant unfair trade practices. That said, certain tariffs have had negative impacts on American businesses and workers, particularly those that need inputs to goods manufactured in the United States. I continue to support a comprehensive, fair, and transparent exclusion process to allow U.S. producers, manufacturers, and importers to request case-by-case relief from these tariffs.

Please indicate whether you are considering opening an exclusion process, whether as part of the 4-year review or otherwise.

Answer. Within the 4-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed. USTR continues to consider additional exclusion processes, as warranted.

Question. On November 30, 2022, you met virtually with Mary Ng, Canada's Minister of International Trade, Export Promotion, Small Business, and Economic Development. According to the public readout of the meeting,[1] you "expressed concern about Canada's proposed unilateral digital service tax and pending legislation in the Canadian Parliament that could impact digital streaming services and online news sharing and discriminate against U.S. businesses." Yet, when asked about the meeting during the Finance Committee's hearing on March 23, 2023, you testified that you only raised the Canadian policies to "understand what the motivations are of our trading partners" and that you "raised the question to say [you] would like to learn more about this."

As you are aware, Canada's pending Online Streaming Act and Online News Act both contain discriminatory aspects that disadvantage U.S.-based entities, both large and small. These appear to be inconsistent with trade commitments undertaken by Canada as part of the USMCA and WTO.

During your meetings with Canadian officials, did you clarify that laws and regulations with a discriminatory impact on U.S. entities, regardless of sector, raise concern under Canada's trade obligations?

Answer. As I stated at the Senate Finance Committee Trade Agenda hearing, during my meeting with my Canadian counterpart, I raised questions about the Online

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[1] *https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/november/readout-ambassador-katherine-tais-meeting-canadas-minister-international-trade-export-promotion.*

Streaming Act and the Online News Act in order to learn more about the legislation and the motivations behind them.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. The President's Agenda states it will conclude its "paradigm-shifting" Global Arrangement on Sustainable Steel and Aluminum, this year. Congress has not been informed of key details regarding this initiative.

What methodology does the administration propose to determine the carbon intensity of a particular steel or aluminum product? Please include any information regarding any aspect of the methodology that may consider upstream or downstream impacts.

What legal authority does the administration intend to rely on to enact the Global Arrangement? If the administration plans to ask Congress for authority, when will Congress receive the administration's legislative proposal?

Answer. Under the Joint U.S.-EU Statement on Trade in Steel and Aluminum, the United States and the EU recognized their shared commitment to take "joint steps to defend workers, industries and communities from global overcapacity and climate change, including through a new arrangement to discourage trade in high-carbon steel and aluminum that contributes to global excess capacity from other countries and ensure that domestic policies support lowering the carbon intensity of these industries."

As envisioned by the administration, the Global Arrangement would eventually cover all direct (scope 1) and certain indirect (scope 2 and scope 3) emissions. Due to current data availability limitations across economies, the initial types of emissions considered for assessing the emissions intensity of the imports may be limited to direct emissions for steel and direct and certain indirect (scope 2) emissions for aluminum. As data improves over time, this would expand to include more complete emissions data, including additional data on indirect emissions (scope 2 and 3).

As negotiations are ongoing, we are still considering the authority(ies) that may be necessary to conclude and implement the Global Arrangement. This will depend on the structure and content of the instrument we announce with the EU. We have been consulting closely with and will continue to consult with Congress as the negotiations advance.

Question. USTR is not sharing foreign government proposals related to the Indo-Pacific Economic Framework with the Finance Committee. Instead, USTR proposed that it would eventually provide consolidated texts that would contain some of the proposed language. The administration thus undercuts a practice established under USMCA by its failure to provide country attributions in these proposed consolidated texts. As a result, Congress is left in the dark about who supports which foreign proposal. Based on conversations held with foreign governments, none object to Congress knowing this information, particularly since they still want congressional support for a final product to make sure it is durable.

Will you provide foreign government proposals and attributions?

Answer. I have worked to ensure that Congress is engaged in the IPEF negotiation process and is both aware of partner country views and able to provide input on partner country feedback. USTR has provided the Finance and Ways and Means committees with consolidated text that shows edits to negotiating text requested by partner countries. USTR has provided the trade committees these consolidated texts in conjunction with negotiating rounds and staff from the Ways and Means and Finance committees have traveled to each IPEF negotiating round. During these rounds, USTR has met with committee staff to discuss consolidated texts and has provided country attributions for specific edits. In addition, these on-the-ground meetings during negotiating rounds allow congressional staff to hear partner country views directly from those negotiators. USTR provides its views on partner country feedback and USTR has facilitated meetings between congressional staff and partner countries at negotiating rounds so congressional staff can hear directly from partner countries and share their views directly with them. Moving forward, USTR will continue ensuring Congress is meaningfully engaged in the negotiating process.

Question. One of the key elements of our digital economy is the creative content that we make available through streaming and other digital services. Unfortunately, international piracy remains a major problem for this industry.

Do you agree that modern digital trade agreements need to incorporate baseline copyright protections, such as those reflected in the WIPO Internet Treaties?

Answer. The World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), collectively known as the WIPO Internet Treaties, have established norms for copyright protection around the world, particularly with regard to online delivery of copyrighted content. The treaties provide for certain exclusive rights and require parties to provide adequate legal protection and effective legal remedies against the circumvention of technological protection measures (TPMs), as well as adequate and effective legal remedies against certain acts affecting rights management information (RMI).We will continue to press trading partners to join these critical treaties.

Question. The administration proposes negotiating critical minerals agreements with countries aggrieved by the clean vehicle credit in the Inflation Reduction Act. There is strong interest in Congress to expand production of critical minerals to end U.S. supply chain reliance on China.

What new binding commitments—not reaffirmations—can you point to in the Japan Critical Minerals Agreement to stimulate production and trade in critical minerals? Please provide any economic data or analysis that supports your position.

The Inflation Reduction Act includes the term "free trade agreement," which should mean an agreement that actually frees trade. Indeed, the USTR webpage, which identifies free trade agreements, lists precisely these types of agreements. What, if any, restriction does the administration see in its ability to deem any trade or environmental agreement a "free trade agreement?"

Answer. The Japan Critical Minerals Agreement contains new binding commitments relating to trade in critical minerals with respect to export duties, measures to address non-market policies and practices of non-parties, best practices regarding investment reviews, efforts to address supply chain disruptions, and activities to strengthen labor rights enforcement and protect the environment. Building on the 2019 United States-Japan Trade Agreement, the Japan Critical Minerals Agreement will strengthen and diversify critical minerals supply chains and promote the adoption of electric vehicle battery technologies.

The criteria governing Treasury's recent proposal to treat Japan as a "country with which the United States has a free trade agreement in effect" are found in its recent Notice of Proposed Rulemaking, see section 30D New Clean Vehicle Credit, 88 Fed. Reg. 23370, 23376 (April 17, 2023). This proposal was based on the Japan Critical Minerals Agreement, in the context of other elements of the U.S.-Japan trade relationship, as explained in the Notice.

Question. The administration has yet to respond to the Finance Committee's December 1st letter to the President calling for congressional approval of IPEF. Meanwhile, our IPEF partners indicate capacity building assistance is required before they can commit to IPEF. The President's current budget flags $50 million to advance IPEF for just this year. Presumably, much more funding will be needed. USMCA needed $843 million to enforce the labor and environmental provisions, and IPEF has a dozen more countries.

When will Congress receive a cost estimate for IPEF technical capacity building?

Answer. Throughout the course of the negotiations, USTR and partner countries have discussed potential technical assistance needs. Ultimately, technical assistance needs will be assessed by USTR and the Parties based on the outcomes of negotiations of the Trade Pillar (Pillar I). The administration, including USTR, will keep Congress apprised of any potential funding needed for IPEF, including, technical assistance and capacity building, through our regular President's Budget process.

Question. American leadership on digital trade is critical, particularly at a time when China works hard every day to establish its own standards and rules in the field.

Do you agree that the United States must make it a top priority to renew the Moratorium on Customs Duties on Electronic Transmissions, well ahead of its expiration, next February?

Answer. The United States continues to support the practice of not imposing Customs duties on electronic transmissions. USTR remains committed to developing rules that govern the emerging and evolving digital economy that support workers, consumers, and businesses.

Question. Do you agree that the United States must consider all appropriate enforcement tools to protect its rights if the moratorium expires and countries decide to adopt tariffs on U.S. electronic transmissions?

Answer. While we remain committed to working with other WTO members to build further support for the extension of the moratorium, as well as pursuing a robust discussion about the future of the moratorium and the impact of the digital economy on developing members, we will consider all options to address barriers to digital trade that negatively impact our workers, consumers, and businesses.

Question. Do you agree that the United States must press for digital trade rules that combat forced disclosures of proprietary computer source codes and algorithms?

Answer. The United States remains concerned with the harms to U.S. companies that can result from actions by foreign governments to force access to or the transfer of the source code of software. It is also clear that the use of artificial intelligence and algorithms in the United States and its impact on all aspects of society will continue to grow. We are continuing to evaluate the appropriate approach to these issues in IPEF at the same time as we follow the debates on this taking place in the Congress.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. Thank you for the attention you have placed on working to relieve India's retaliatory tariffs on American products- and particularly Washington apples. You mentioned that you and your office are thinking through ways to get these issues resolved. I would like to stay coordinated with you to ensure we are effective.

Can your staff follow up with my staff about the measures you are considering? And please mention any areas where we can be helpful to your efforts.

Answer. On June 22nd, I announced that the United States and India have finalized an agreement resolving several outstanding trade issues, including the termination of six WTO disputes and the removal of retaliatory tariffs on certain U.S. agricultural products, including chickpeas, lentils, almonds, walnuts, apples, boric acid, and diagnostic reagents.

The agreement, which was reached during the Official State Visit of Prime Minister Narendra Modi of the Republic of India, reflects the growing strength of the U.S.-India bilateral economic and trade relationship.

Question. Pacific Northwest seafood processors have remained at the same competitive disadvantage in accessing China's market for the past several years. Other seafood-producing nations can access China without retaliatory tariffs, and they are reaping the benefits of China's increasing demand while U.S. producers are effectively sidelined. Chinese imports of non-U.S. seafood are up 122 percent while their import of U.S. products are down 26 percent from 2017—despite purchase commitments.

Whether part of USTR's section 301 tariff review or through another process, what are USTR and collaborating agencies doing to quantify and evaluate the impacts of China's retaliatory tariffs on Pacific Northwest seafood producers and exporters?

More generally, can you provide an update on USTR's section 301 tariff review?

Answer. The China section 301 tariffs are currently undergoing a 4-year statutory review. As part of this review, USTR requested public views on the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies and practices related to technology transfer, intellectual property and innovation, other actions that could be taken: and the effects of the actions on the United States economy, including U.S. consumers. USTR also sought views on the impact of the actions on U.S. workers, U.S. small businesses, U.S. manufacturing, critical supply chains, U.S. technological leadership, and possible tariff inversions. USTR expects to complete the 4-year review in the fall of this year.

More generally, USTR is committed to using all available trade tools to ensure that U.S. fishers and other workers in the fisheries sector can compete on a level playing field. For example, we know our fishers have to compete with significant subsidization by other countries, particularly China. Through extensive U.S. engagement and leadership, WTO members were able to achieve the WTO Agreement on Fisheries Subsidies in 2022. The agreement contains several important disciplines, including prohibitions on subsidies to vessels or operators engaged in illegal, unreported, and unregulated (IUU) fishing; for fishing regarding overfished stocks; and for fishing on the unregulated high seas. The United States was among the first WTO members to accept the agreement, and USTR will continue to pursue additional, ambitious disciplines through the continuing negotiations to help improve the lives of our fishers and workers.

Question. As you know, I am totally focused on reopening and making gains in huge markets like India. When our delegation met with Prime Minister Modi earlier this month, he expressed interest in a free trade agreement with the U.S. He's concluded FTAs with Australia and UAE.

I understand that there is no appetite to start such a process, and doing so would be a longer-term impact. But the U.S. has taken steps in other markets to reduce section 232 tariffs on steel and aluminum, such as the imposition of quotas under 232 as a way to reduce tariffs.

With the steel and aluminum tariffs on the table, in addition to GSP, you would have some options to resolving retaliatory tariffs on our agriculture.

What does the U.S. need to do to get India to eliminate its retaliatory tariffs against U.S. products? Could you see the U.S. negotiating a reduction of 232 tariffs, or the use of quotas?

In the process of working through India's retaliatory tariffs and other barriers to U.S. trade, could the U.S. negotiate a tariff-rate quota or use a similar tool to make our point about steel and aluminum overcapacity, but work towards increasing trade—especially agricultural trade?

Answer. On June 22nd, I announced that the United States and India have finalized an agreement resolving several outstanding trade issues, including the termination of six WTO disputes and the removal of retaliatory tariffs on certain U.S. agricultural products, including chickpeas, lentils, almonds, walnuts, apples, boric acid, and diagnostic reagents.

The agreement, which was reached during the Official State Visit of Prime Minister Narendra Modi of the Republic of India, reflects the growing strength of the U.S.-India bilateral economic and trade relationship.

As the U.S. Department of Commerce administers the section 232 process, I would encourage you to engage Secretary Raimondo on this matter. USTR is working to address the market distorting measures that have led to non-market excess capacity in the global steel and aluminum markets, including through a new Global Arrangement on Sustainable Steel and Aluminum that we are currently discussing with the European Union. We continue to push India to help address the actions that have led to non-market excess capacity, including reengaging in the work of the Global Forum on Steel Excess Capacity.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. It is my understanding that the U.S. International Trade Commission (USITC) will provide a report to USTR on its investigation entitled, "COVID–19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities" (Inv. No. 332–596) on October 17, 2023.

Will you share a copy of the report with the committee as soon as you receive it from the USITC?

At what point do you expect the report to be made public?

Will you consult with the committee prior to making a decision on whether to expand the TRIPS waiver to diagnostics and therapeutics?

Answer. We expect that, in accordance with its established practice, the USITC will transmit the report to USTR on October 17, 2023 and then post it online 30 days later. USTR will continue to consult with Congress, as well as a wide range of stakeholders, as we continue to gather the necessary facts to inform our position on the question presently at the WTO, whether or not to extend the ministerial decision on the TRIPS Agreement that covered COVID–19 vaccines to also cover COVID–19 diagnostics and therapeutics.

Question. I understand U.S. companies are facing an issue in Japan's gaming market, where Sony appears to be blocking competition through exclusive deals and payments to game publishers not to distribute their games on other platforms. Japan's equivalent of the Federal Trade Commission has failed to investigate this conduct, which appears to act as a non-tariff barrier to entry to Japan's market. This is particularly troubling because Sony has not adopted policies committing to non-interference in workers' right to organize like those at Microsoft, which has enabled Microsoft employees to freely and fairly organize to form unions.

Consistent with your focus on advancing fair trade conditions that benefit workers and create good jobs, will you bring this matter to Japan's attention?

Answer. We will continue to raise concerns with our trade partners on issues that may have a negative impact on our workers. In our 2023 National Trade Estimate report on foreign barriers, we noted that "U.S. unions and companies have expressed concern with regard to the enforcement of Japan's existing competition laws in digital market and technology sectors in which Japanese companies are significant participants."

We have encouraged companies to also raise these concerns directly with the Government of Japan, in particular the Japan Fair Trade Commission.

QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

Question. As the world leader in services, the U.S. services sector employs 80 percent of the American workforce, accounts for over 80 percent of U.S. GDP and U.S. exports of services directly supported 3.4 million jobs in 2021. However, U.S. services firms still face substantial barriers in foreign markets that hurt U.S. workers and the U.S. economy. Many services industries, including the financial services industry, face measures like limitations on the free flow of data across borders, bans on the use of cloud services, regulations that discriminate against U.S. firms and restrictions on a company's ownership in a given market.

How is USTR working to address these issues to help American companies compete on a more level playing field?

Answer. USTR is engaged globally to ensure that services and digital trade continue to fuel the growth and dynamism of the U.S. economy, and that workers and companies of all sizes benefit from and share in this growth.

Question. China's influence in the Western Hemisphere—including in expanded diplomatic ties and critical areas like infrastructure investment and critical mineral mining—continues to be an issue of concern.

How can we develop a more cohesive regional economic strategy, including a proactive plan to meaningfully counter China's activities and support sustainable investment in the region?

Answer. In USTR's engagements in the Americas, we consistently share our concern about China's influence and the risk it poses for the United States and our allies and partners. In the Americas, we have a strong network of existing agreements, including TIFAs and free trade agreements, to reinforce our economic ties and shared values. We are working with our regional partners to use these existing tools and develop new initiatives, including regional approaches like the Americas Partnership for Economic Prosperity, to build resilience and competitiveness in this hemisphere.

Question. Last year I joined Senator Portman and 39 of our colleagues on a bipartisan letter calling for the administration to establish a more comprehensive exclusion process for imports from China subject to tariffs under section 301 of the Trade Act of 1974. The letter was a follow up to an April 2021 letter in which Senator Portman and I joined 38 of our colleagues in requesting that the administration restart the tariff exclusion process.

We continue to hear from American businesses, including many who are working to implement key priorities, such as the Bipartisan Infrastructure Law and the Inflation Reduction Act, with concerns that the lack of an exclusions process is driving up costs, especially for products manufactured domestically using imported materials and components, and seemingly not achieving their original intended purpose in countering China's unfair trade practices.

In your opinion, would it be worthwhile to reevaluate the use of these tariffs to support the robust goals of the Bipartisan Infrastructure Law and Inflation Reduction Act, including tariffs impacting sectors and products that are contributing to the revitalization of our Nation's infrastructure and clean energy transformation?

Answer. As part of the 4-year review of the section 301 tariffs, USTR is reviewing the effectiveness of the tariffs in achieving the objectives of the investigation, as well as the effect of the tariffs on consumers, workers, and the U.S. economy at large. As part of this review, we are considering the existing tariffs structure and how to make the tariffs more strategic in light of impacts on sectors of the U.S. economy as well the goal of increasing domestic manufacturing. USTR continues to consider additional exclusion processes, as warranted.

Question. As WTO member countries continue to weigh a TRIPS waiver for COVID therapeutics and diagnostics, how are you considering the impact of a possible waiver on American jobs and competitiveness?

Answer. On December 16, 2022, I asked the U.S. International Trade Commission to launch an investigation into COVID–19 diagnostics and therapeutics and to solicit information on issues such as the relationship between intellectual property protection and corporate research and development expenditures, as well as the location of jobs associated with the manufacturing of diagnostics and therapeutics. We will take into account the USITC report, the information solicited by the USITC, and other information gathered through consultations with Congress, as well as a wide range of other stakeholders, to inform our position on the question presently at the WTO, whether or not to extend the Ministerial Decision on the TRIPS Agreement that covered COVID–19 vaccines to also cover COVID–19 diagnostics and therapeutics.

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

Question. Bolstering the U.S.'s supply chain resilience is a key element of the 2023 trade policy agenda. As noted within, "the concentration of our supply chains in China contributes to our vulnerability, especially for critical technologies." In your written testimony, under the topic of trade enforcement, you stated that "many of our existing trade tools may not adequately address the challenges posed by today's economy, so we will continue to work with Congress to identify areas where new tools may be needed."

Are there specific areas of trade enforcement that are of biggest concern to you, and where can Congress be of most help in your pursuit of enforcing trade agreements, combating unfair, non-market practices, and leveling the playing field for American workers?

As USTR engages with foreign trading partners to advance the U.S.'s resilience in critical supply chains, what is USTR doing to ensure pending trade agreements reflect U.S. national security interests, particularly regarding investments in critical capability sectors?

Answer. We would welcome an opportunity to engage further with Congress around priority areas of trade enforcement. We are actively reviewing our existing trade tools in this space and identifying ways to strengthen them, with the recognition that historically, trade agreements and tools might not have addressed the challenges we now face. We look forward to continued exchanges on this topic and to working together to craft solutions to these pressing challenges.

The Biden administration is committed to protecting our national security interests. More resilient supply chains can protect the United States from shortages of critical products and encourage investments to strengthen our national security, and resilience is a key part of our engagement with foreign trading partners. IPEF, for example, includes a pillar on supply chains, and the Japan Critical Minerals Agreement requires the parties to confer regarding best practices in investment reviews.

Question. The Global Arrangement on Sustainable Steel and Aluminum is one of the most consequential initiatives between the U.S. and the EU. It could be the umbrella under which the global steel and aluminum market operates for generations to come. Pennsylvanians know all too well the lengths to which non-market economies will go to manipulate and skirt U.S. trade enforcement. When non-market economies don't play by the rules, it costs American jobs and American industry—which produces some of the cleanest steel on this planet. Thousands of steel workers in the Commonwealth have lost their jobs as a result of China's unfair practices and hundreds of thousands of jobs nationwide are at risk if we cannot find a way to work with our allies to create a system that meaningfully and sustainably combats unfair trade. In some cases, non-market economies have found back doors into our Free Trade Agreements, importing goods free of duties that have a high percentage of inputs from non-market economies.

What kind of commitments will you be proposing in this agreement to ensure participants cannot overproduce steel and aluminum, leverage state subsidies, use forced labor, and artificially depress global steel price? How will you ensure there is not a back door into this agreement by creating strong rules of origin?

Answer. Under the Joint U.S.-EU Statement on Trade in Steel and Aluminum, the United States and the EU recognized their shared commitment to take "joint steps to defend workers, industries and communities from global overcapacity and climate change, including through a new arrangement to discourage trade in high-carbon steel and aluminum that contributes to global excess capacity from other countries and ensure that domestic policies support lowering the carbon intensity of these industries." As envisioned by the administration, membership in the global arrangement would depend, in part, on a country's policies with regard to restricting market access for steel and aluminum imports from sources of non-market excess capacity (NMEC). We are also envisioning membership criteria that take into account issues such as whether countries are, or at risk of becoming, sources of NMEC; the extent to which state-owned or state-controlled enterprises operate in a prospective member's economy; whether sources of NMEC are investing in a country; the extent to which countries are taking appropriate and effective measures to address the market distortive effects of NMEC; and the extent to which a potential member affords internationally recognized labor rights.

Question. Pillar 1 of the Indo-Pacific Economic Framework for Prosperity is expansive, containing language that will create the rules of the road on trade for one of the most sensitive and fastest growing regions on the global stage. I am encouraged that you and your staff have repeatedly expressed that the U.S. is seeking a high standards agreement, using the United States-Mexico-Canada Agreement as the basis upon which you will build. Meanwhile, the public, workers, and even some congressional staff have been unable to confirm this. I am particularly concerned with provisions contained in the digital chapter of Pillar 1. I am particularly concerned that rules surrounding cross border data flows may not consider implications for the full gamut of data types, such as data collected on employees by employers.

How is USTR planning to ensure rules around cross border data flows and data localization fully consider sensitive types of data? How have you engaged with the interagency and Congress on parallel efforts to address concerns regarding data collected on workers?

Answer. USTR recognizes that both Congress and regulators seek to preserve policy space to address questions around data, including privacy. We have worked closely with labor unions, including through our Labor Advisory Committee, to ensure that any digital provisions are consistent with advancing a worker-centered trade agenda. We look forward to continuing to work with members of Congress and the labor community on these issues at the same time as we follow the debates taking place in the Congress.

QUESTION SUBMITTED BY HON. MAGGIE HASSAN

Question. As part of its goal to revitalize domestic manufacturing and combat the climate crisis, the administration has been in discussions with the European Union to develop a partnership known as the Global Arrangement on Sustainable Steel and Aluminum. However, experts expect that most of the growth in global steel capacity in the coming years will come from producers in countries such as China that fail to meet the same kinds of emissions standards, that overproduce steel and aluminum, and have state-owned companies involved in producing these goods.

What steps does USTR plan to take to protect American manufacturers and curb global excess steel capacity originating from those countries?

Answer. Under the Joint U.S.-EU Statement on Trade in Steel and Aluminum, the United States and the EU recognized their shared commitment to take "joint steps to defend workers, industries and communities from global overcapacity and climate change, including through a new arrangement to discourage trade in high-carbon steel and aluminum that contributes to global excess capacity from other countries and ensure that domestic policies support lowering the carbon intensity of these industries." As envisioned by the administration, membership in the global arrangement would depend, in part, on a country's policies with regard to restricting market access for steel and aluminum imports from sources of non-market excess capacity (NMEC). We are also envisioning membership criteria that take into account issues such as whether countries are, or at risk of becoming, sources of NMEC; the extent to which state-owned or state-controlled enterprises operate in a prospective member's economy; whether sources of NMEC are investing in a country; the extent to which countries are taking appropriate and effective measures to address the market distortive effects of NMEC; and the extent to which a potential member affords internationally recognized labor rights.

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. During the hearing, I asked you if it was still the administration's position to support maintaining a 2-year pause on solar tariffs as the Department of Commerce conducts a circumvention investigation in the Auxin petition case. You indicated you would consult with that department and report back.

Can you please confirm that the administration's position remains the same?

Answer. In May, President Biden vetoed legislation passed by Congress that would have repealed the suspension of duties on solar cells and modules pursuant to the President's proclamation of June 6, 2022.

Question. As I am sure you hear a lot, there are a number of concerns that businesses are having with the 301 tariff exclusion process. A fair and efficient exclusion process can be a valuable part of our strategy to counter China's unfair trade practices.

As part of USTR's 301 review, do you have any additional thoughts on how the exclusion process can be improved?

Answer. As part of the 4-year review, we are considering whether adjustments to tariff structure may be appropriate, and this could include consideration of an exclusion process. We received a number of comments from the public on ways a future exclusion could be altered to be more effective, and USTR continues to consider additional exclusion processes, as warranted.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. The Mexican Government has sent no signal that they intend to return to a science-based biotech risk assessment. What are you hoping to accomplish in the technical consultations?

Answer. In these consultations and in all our engagement with Mexico, we continue to work to avoid any disruption to U.S. exports of corn or other agricultural products to Mexico and to urge Mexico to return to a science-based approach for all biotech products.

Question. If they do not commit to withdrawing their decree, will you file a formal dispute settlement?

Answer. If these issues regarding agricultural biotechnology are not resolved, we will consider all options, including taking further steps to enforce U.S. rights under the USMCA. On June 2nd, I requested dispute settlement consultations with Mexico under the United States-Mexico-Canada Agreement (USMCA).

Question. In your testimony, you say "our existing trade tools may not adequately address the challenges posed by today's economy, so we will continue to work with Congress to identify areas where new tools may be needed."

As you conduct the USTR's statutory 4-year review of section 301 actions taken to combat discriminatory Chinese trade practices, I encourage you to consider the important of the American Amino Acids industry.

Do you believe China's non-market practices in the amino acids industry warrant maintaining section 301 tariffs on existing amino acid imports from China, and expanding these tariffs to include lysine and threonine?

Answer. As part of the 4-year review, we are reviewing the overall product coverage to understand, among other things, the impact of the tariffs on consumers, workers, and sectors of the U.S. economy and industries. Our review will consider suggestions made during the public comment period to include products not currently covered by the action.

Question. By using its regulatory system to potentially discriminate against U.S. technology, China can limit U.S. farmers' access to new biotech products; products that can help our farmers address the challenges of a changing climate while enhancing global food security. This is not in the spirit of what was agreed upon in the Phase One commitments. It will be important to ensure China lives up to its Phase One commitments. If not, China's behavior could have profound negative impacts on the speed of deploying much needed agricultural innovation to U.S. farmers, the stability of U.S. agricultural exports and the American jobs that support them, the health of commodity markets and the ability of U.S. farmers to maintain their competitive advantage in the global market.

What is the administration's strategy with respect to Phase One enforcement, and specifically the implementation on the Phase One agreement as it relates to agricultural biotechnology?

Answer. The Chinese regulatory approval process for products of agricultural biotechnology creates significant uncertainty among U.S. farmers, developers, and traders, impeding farmers' access to innovative technologies and creating adverse trade impacts. China's commitments relating to agricultural biotechnology remain among the most significant commitments under the Phase One agreement for which China has yet to demonstrate full implementation. In our bilateral engagement with China, we continue to use the consultation mechanism set forth in the Phase One agreement as well as other bilateral engagement in an effort to secure China's full implementation of its commitments, including with regard to agricultural biotechnology.

Question. I have heard concerns that section 301 tariffs have put American manufacturers at an unfair disadvantage to foreign manufacturers in some situations. For example, a household appliance produced in Vietnam or Thailand using Chinese parts is not subject to 301 tariffs, while a U.S. manufacturer—such as Whirlpool that has nearly 3,000 employees in Amana, IA—must pay 301 tariffs if it imports those Chinese components and uses them in American manufactured products.

You acknowledged in your testimony that USTR's statutory review of the 301 tariffs on goods imported from China is ongoing. You've given no time estimate on when the review may be completed.

Is USTR still reviewing all comments received prior to the January deadline from all stakeholders? Have you received comments from harmed U.S. manufacturers indicating these tariffs may be having the opposite effect as originally intended? How are those situations being considered as the review continues?

Answer. The China section 301 tariffs are currently undergoing a 4-year statutory review. As part of this review, USTR requested public views on the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies, and practices related to technology transfer, intellectual property, and innovation; other actions that could be taken; and the effects of the actions on the United States economy, including U.S. consumers. USTR also sought views on the impact of the actions on U.S. workers, U.S. small businesses, U.S. manufacturing, critical supply chains, U.S. technological leadership, and possible tariff inversions. All comments submitted through the 4-year review are available on USTR's comment portal and will be given full consideration. USTR expects to complete the 4-year review in the fall of this year.

QUESTIONS SUBMITTED BY HON. JOHN CORNYN

Question. This month we learned from the International Trade Commission that U.S. importers bore nearly the full cost of the section 301 tariffs because import prices increased at the same rate as the tariffs. Specifically, the International Trade Commission estimated that prices increased by about 1 percent for each 1-percent increase in the tariffs under sections 232 and 301. In fact, the more than $173 billion in taxes collected by these tariffs effectively fell directly on American businesses, workers, and consumers.

I've previously joined my colleagues on a bipartisan basis on letters to your office urging you to restart and reform the section 301 exclusions process. I understand the administration is currently reviewing the use of these tariffs.

What will it take to restart an exclusions process?

Answer. With respect to the USITC report:

- The USITC report estimates at the impact on the prices faced by importers and downstream buyers, which are often businesses rather than consumers. The USITC's model does not address whether those businesses raised consumer prices in response to the tariffs.
- The price increases that the report attributes to the tariff actions tend to be relatively small on average.
- The report found certain benefits of the tariff actions, including outcomes consistent with the objectives of the investigations. The section 301 tariffs were estimated to have reduced the value of U.S. imports of covered products from China.
- The ITC identified 10 industries directly and most affected by the 301 tariffs. For all 10 industries, the report estimates that section 301 suppressed the value of imports from China by as much as 72.3 percent (semiconductors) and increased the value of U.S. production by as much as 7.5 percent (household furniture and kitchen cabinets).

Within the 4-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed. USTR continues to consider whether additional exclusion processes may be appropriate.

Question. According to the 83rd Annual Foreign-Trade Zone Board report, Texas continues to rank at the top in terms of merchandise received and exported out of FTZs. This valuable tool plays a vital role in promoting economic development in communities, not just in Texas, but throughout the U.S.

How can we bolster trade programs such as the American FTZ program which is designed for trusted partners and securing the supply chain to create and retain American jobs in manufacturing and distribution?

How can the American FTZ program's rigorous compliance process help companies diversify their supply chains and avoid offshoring American jobs?

Answer. The Foreign Trade Zone program supports manufacturing production and jobs throughout the United States by giving users of the program the opportunity to reduce import duty liability under certain circumstances. The program is administered by the Foreign Trade Zone Board, and USTR is committed to working with the Board and its member agencies to assist in advancing its mission. USTR notes that a newly issued report from the U.S. International Trade Commission confirms that FTZ-based duty savings can be substantial for firms producing in U.S. FTZs. For some such firms, cost savings from their FTZ usage drive decisions to increase production in the United States, thereby increasing investment, manufacturing output and employment.

Question. Electrical steel is a fundamental input to the distribution transformers required to power America's homes. The current supply of distribution transformers is critically low and is stalling or, in some cases, completely halting development. I've heard reports from constituents that lead times on distribution transformers range between 10 and 24 months. I'm concerned this is a result of restrictive trade policies with respect to electrical steel.

Electrical steel is a critical component in distribution transformers. As you know, there is only one remaining U.S. manufacturer of the specialty steel, grain-oriented electrical steel (GOES), used in distribution transformers.

Why have imports of GOES from our allies, particularly South Korea and Japan, fallen so precipitously in recent years?

Answer. The Biden-Harris administration is committed to working with U.S. trading partners to address the immediate supply chain challenges from this unprecedented economic recovery and building long-term supply chain resilience for the future. USTR is aware of the concerns you note regarding the availability of grain-oriented electrical steel for distribution transformers and will continue to work with the U.S. Department of Energy, the U.S. Department of Commerce, and other U.S. Government agencies, as appropriate, to ensure that U.S. stakeholders' views on this important issue are taken into consideration. The U.S. Department of Energy has been assessing the supply chain risks for grain-oriented electrical steel and other transformer inputs and is considering new rules to raise the minimum efficiency standards for certain types of distribution transformers.

Question. In July 2020, the U.S. Assistant Attorney General for National Security indicted Chinese hackers attempting to steal trade secrets from technology and biotech companies, including firms working on COVID–19-related treatment, testing, and vaccines. The U.S. described those intrusions as examples of China's "brazen willingness to engage in theft" of IP to advance their competitive edge. You yourself have acknowledged China's well-established track record of using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers. I remain concerned that last June's TRIPS waiver for COVID–19 vaccines is a giveaway of U.S. Government and private-sector-funded biomedical research to countries like China for free. I understand China is supposedly carved out, but I am not convinced. Now there are discussions to extend this misguided decision to COVID–19 therapeutics and diagnostics, and I understand that China has said that it would not be carved out.

Will you commit to not agreeing to any extension of the TRIPS waiver to COVID–19 therapeutics and diagnostics that could transfer U.S. technology to China or otherwise benefit China?

Answer. I appreciate your concern and will continue to consult with Congress on this issue. Under the June 2022 Ministerial Decision on the TRIPS Agreement, developed countries, a group that includes Russia, and countries with existing capacity to manufacture COVID–19 vaccines who have opted out from the decision, including China, are not eligible to benefit from this decision. In the discussions at the WTO, I will continue to be clear-eyed about potential risks.

QUESTIONS SUBMITTED BY HON. TIM SCOTT

Question. A recent report from the International Trade Commission (ITC) concluded that the financial burden of sections 232- and 301-related tariffs are borne predominantly by U.S. consumers. Treasury Secretary Yellen at the G7 Summit in June 2022 said some section 301 tariffs harm American consumers and businesses and are not very strategic in the sense of addressing real issues we have with China; however, the Biden administration has signaled no change in course in its tariff policy—in fact, its trade agenda as a whole appears to be put on ice with respect to economic matters of any real consequence.

Do you agree with the ITC's and Secretary Yellen's comments?

Answer. The China section 301 tariffs are currently undergoing a 4-year statutory review. As part of this review, USTR requested public views on the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies, and practices related to technology transfer, intellectual property, and innovation; other actions that could be taken; and the effects of the actions on the United States economy, including U.S. consumers. USTR also sought views on the impact of the actions on U.S. workers, U.S. small businesses, U.S. manufacturing, critical supply chains, U.S. technological leadership, and possible tariff inversions.

With respect to the USITC report:

- The USITC report estimates at the impact on the prices faced by importers and downstream buyers, which are often businesses rather than consumers. The USITC's model **does not** address whether those businesses raised consumer prices in response to the tariffs.
- The **price increases** that the report attributes to the tariff actions tend to be **relatively small** on average.
- The report found **certain benefits of the tariff actions,** including outcomes consistent with the objectives of the investigations. The section 301 tariffs were estimated to have reduced the value of U.S. imports of covered products from China.
- The ITC identified 10 industries directly and most affected by the 301 tariffs. For all 10 industries, the report estimates that section 301 suppressed the value of imports from China by as much as 72.3 percent (semiconductors) and increased the value of U.S. production by as much as 7.5 percent (household furniture and kitchen cabinets).

Question. Will the Office of the United States Trade Representative (USTR) work with the Department of Commerce and other agencies to ensure that the interests of key U.S. steel producers and motor vehicle and component manufacturers are well-represented in U.S. trade policy to ensure sufficient U.S. production of key products like electrical steel?

Answer. The Biden-Harris administration is committed to working with U.S. trading partners to address the immediate supply chain challenges from this unprecedented economic recovery and building long-term supply chain resilience for the future. USTR is aware of the concerns regarding the availability of grain-oriented electrical steel for distribution transformers and will continue to work with the U.S. Department of Energy, the U.S. Department of Commerce, and other U.S. Government agencies, as appropriate, to ensure that U.S. stakeholders' views on this important issue are taken into consideration. The U.S. Department of Energy has been assessing the supply chain risks for grain-oriented electrical steel and other transformer inputs and is considering new rules to raise the minimum efficiency standards for certain types of distribution transformers.

Question. In 2020, the Department of Agriculture (USDA) and China's General Administration of Customs China (GACC) reached an agreement on a protocol for handling outbreaks of avian influenza, limiting China's highly pathogenic avian influenza (HPAI) bans for impacted U.S. States to 90-days post-virus elimination, disinfection, and cleaning. This was a huge win for the U.S. chicken industry, with China becoming its second-largest export market. However, China has failed to honor the 2020 agreement since August 2022, preventing eligible States such as Arkansas, Kentucky, New Jersey, Oklahoma, Delaware, and North Carolina from resuming exports. I am not aware of any real substantive concerns raised by GACC. Additionally, other leading chicken producing States are on track to become eligible in the next couple of months, and there are serious concerns that they will receive the same unfair treatment from China. This issue is critical for the industry, with many of the products exported from these States flowing through South Carolina's export infrastructure. It is concerning that the Office of the United States Trade Representative (USTR) may not be willing to fight for proper enforcement of our trade agreements and support constituents in this critical industry.

Can you tell me if you and other senior leaders have engaged China directly on this issue? If not, what is the plan moving forward with USTR and other agencies, including collaboration with USDA, to engage your Chinese counterparts?

Answer. In our bilateral engagement of China, we have been using the consultation mechanism set forth in the Phase One agreement as well as other bilateral engagement in an effort to secure China's adherence to its obligations relating to HPAI, including specifically the need for GACC to permit the resumption of imports of poultry from HPAI-free states, consistent with the terms of the Phase One agreement. USTR and other relevant U.S. Government agencies at various levels have participated in this engagement, which has focused on multiple Chinese Government agencies, including GACC.

Question. European leaders have made clear in public statements their intention to use the European Union (EU) digital regulatory agenda to preference European companies at the expense of American companies. This includes new rules and penalties that affect only a handful of U.S. companies while excluding EU competitors, new requirements that will prohibit U.S. cloud service providers from participating in the EU Government cloud services market—simply based on their headquarters location, and proposed rules to force U.S. companies to share sensitive and proprietary data with EU regulators and competitors. At a high level, the U.S. Government should demand the EU regulate its own companies in the same manner as American companies, such as in the Digital Markets Act and Digital Services Act and eliminate discriminatory aspects of pending measures, such as the EU Cloud Services Scheme and DATA Act.

What are you doing to secure commitments from the EU to ensure American companies can compete on a level playing field in Europe?

Answer. The Office of the U.S. Trade Representative has worked closely with the National Security Council and other Federal agencies to engage with the European Union on a range of issues related to EU digital economy regulation. One of the primary objectives of the Biden-Harris administration is to ensure that the transatlantic marketplace remains open and that both U.S. and EU digital service providers can continue to offer their services in each other's markets. We are also working to ensure that the EU honors relevant commitments that it has made within the World Trade Organization. My team and I will continue to engage with the European Union on these important matters.

Question. Americans for years have been shouldering the price burden of innovation for new prescription drugs while other countries around the world get a free ride.

Does the Biden administration see a role for the Office of the United States Trade Representative (USTR) in addressing imbalances on this front? What tools does USTR have to curb international free riding when it comes to prescription drug pricing, and how is USTR currently engaging other nations on this issue?

Answer. Access to health-care products can be hindered by domestic measures, particularly those that lack transparency, lack opportunities for meaningful stakeholder engagement, or appear to exempt domestically developed and manufactured medicines. USTR encourages trading partners to provide appropriate mechanisms for transparency, procedural and due process protections, and opportunities for public engagement in the context of their relevant health-care systems.

Question. According to the National Institute of Health's National Institute on Drug Abuse, the fentanyl trade into the U.S. resulted in 70,601 deaths in 2021. With the flow of fentanyl only increasing and the current public health emergency tied to opioids, I believe we need a whole-of-government approach to address this crisis.

Does the Biden administration see a role for the Office of the United States Trade Representative (USTR) in disrupting the international fentanyl trade? What tools does USTR have to bring to the international fight against fentanyl financing and flows, and how is USTR currently engaging other nations (including China) on this issue?

Answer. USTR recognizes that the illicit fentanyl drug trade constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and is committed to contribute to the U.S. government's holistic strategy to halt the rising toll of this epidemic on the American people.

USTR is working with interagency partners, including the Office of National Drug Control Policy, to support the Federal Government's response to illicit fentanyl trade. USTR is committed to using existing tools to target key vulnerabilities in the illicit fentanyl supply chain and is engaged, along with partner government agencies, to halt the flow of illicit fentanyl in close cooperation with private industry and international partners.

QUESTIONS SUBMITTED BY HON. JAMES LANKFORD

Question. As I read the text of the critical minerals agreement with Japan, I am concerned that much of the content of this agreement simply reaffirms existing commitments and will have little substantive impact on our supply chain vulnerabilities vis-à-vis China. In order to pivot from China and diversify our sourcing of rare earths, we need to invest in alternative markets alongside our allies—not just sign documents about our intentions to work together. I recently introduced the Quad Critical Minerals Partnership Act with Senators Warner, Cornyn, and King in order to make those investments alongside Japan, India, and Australia.

What coordination is USTR doing within the interagency, including with the Department of Commerce and the Development Finance Corporation, to complement this new trade agreement with substantive economic development policies that will incentivize and accelerate alternatives to China for critical minerals?

In addition to this bilateral initiative with Japan, how does USTR plan to leverage the Quad to advance the President's trade agenda in the Indo-Pacific?

What are the administration's goals within the context of IPEF negotiations to bolster supply chain resiliency for critical minerals and rare earth elements?

Answer. Building on the 2019 United States-Japan Trade Agreement, the Japan Critical Minerals Agreement will strengthen and diversify critical minerals supply chains and promote the adoption of electric vehicle battery technologies. USTR coordinated closely with other agencies during negotiation of the Japan Critical Minerals Agreement, and we look forward to coordinating with Congress regarding economic policies that would increase our supply of critical minerals.

We are also coordinating with Quad members to align on trade priorities, including in the context of IPEF negotiations.

The IPEF seeks to advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness for the 14 IPEF economies. We look forward to working with like-minded partners on developing secure, resilient supply chains that will withstand shocks such as pandemics, but also wars and shipping bottlenecks. The Department of Commerce is leading negotiations for the supply chains pillar, while USTR is also working to bolster supply chain resiliency through the trade pillar. The smooth movement of goods and services across borders needed to create resilient supply chains among IPEF countries requires enhanced disciplines related to trade facilitation, transparency measures, and widely accepted good regulatory practices.

Question. The COVID–19 pandemic exposed our dependence on China for critical medical goods, including medical devices and personal protective equipment (PPE). One area of continued risk exposure is manufacturing for prescription drugs—both finished pharmaceuticals and pharmaceutical components, in some cases, more than 90 percent of those manufactured. This gives China undue leverage over the health security of the United States—and it also limits our ability to respond to any acts of aggression by the PRC in the days ahead.

What are the administration's goals within the context of IPEF negotiations to bolster supply chain resiliency for prescription drugs and active pharmaceutical ingredients?

What is the administration's strategy to leverage our existing free trade agreements and trade and investment framework agreements to reduce our risk exposure to China for pharmaceuticals and APIs?

Answer. The IPEF seeks to advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness for the 14 IPEF economies. We look forward to working with like- minded partners on developing secure, resilient supply chains that will withstand shocks such as pandemics, but also wars and shipping bottlenecks. The Department of Commerce is leading negotiations for the supply chains pillar, while USTR is also working to bolster supply chain resiliency through the trade pillar. Specifically, the smooth movement of goods and services across borders needed to create resilient supply chains among IPEF countries requires enhanced disciplines related to trade facilitation, transparency measures, and widely accepted good regulatory practices.

USTR is currently engaged in discussions pursuant to various trade and investment framework agreements (TIFAs) with different trading partners with a goal to increase supply chain resiliency in the pharmaceutical sector by enhancing regulatory alignment, decrease technical barriers to trade, and increase transparency with our trading partners. Additionally, USTR is reviewing its existing free trade agreements to identify ways to further create a trading environment that is more resilient and sustainable and with sources of goods that come from diversified locations.

Question. This administration has raised concerns about trade agreements because of jobs being shipped overseas to countries with low labor standards. While I understand those concerns, I do not believe they are relevant to a potential FTA with the United Kingdom. The UK has high labor standards and more restrictive climate standards than we do, so there is not that same risk of losing industry to a low-wage, low-standard partner after brokering a market access arrangement. If anything, an FTA would provide an opportunity to negotiate market access for our agricultural goods that the UK is currently blocking.

How do you square this concern about low-wage, low-standard economies with the UK's solid track record in these areas?

Why do you not view the UK as a natural fit for a trade agreement?

Answer. The United States Trade Representative (USTR) has been actively engaging with the UK on ways the United States and UK can advance our mutual international trade priorities and deepen our trade relationship in a more inclusive, resilient and sustainable manner. Under the U.S.-UK trade dialogues we have been discussing a range of issues, including labor, as well as the environment, trade facilitation, supply chains, and addressing China's non-market policies and practices and economic coercion. I remain open to the best mechanism to formalize this bilateral trade engagement between the United States and the UK, whether through a trade agreement or other tools.

Question. The administration has made "rebuilding alliances" a major focus of its foreign policy, yet I don't see anything in this trade agenda focused on negotiating new trade agreements as part of those alliances. I view USTR's task as twofold: negotiating new trade agreements, and enforcing the trade agreements we have on the books to make sure they're working. This administration has been weak on the negotiating side, which I think is a missed opportunity—particularly in regions with high levels of engagement by China, which has been identified in the administration's National Security Strategy and National Defense Strategy as our primary national security threat.

How does the 2023 trade agenda advance the objectives of the National Security Strategy and the National Defense Strategy?

Answer. The pandemic, followed by the unprovoked Russian invasion of Ukraine, exposed flaws in the traditional approach to trade. That approach prioritized trade liberalization, particularly through tariff elimination, and led to concentrated supply chains that failed to take into account geopolitical risk. In the United States, manufacturing had been deprioritized. As a result, Americans confronted shortages of a range of goods, including personal protective equipment for frontline workers. In response to the exposure of these flaws, the United States is leading the way in working with partners and allies to advance an approach to trade that prioritizes sustainability, resilience, and inclusion. This approach supports our national security and national defense strategies by recognizing geopolitical risk, diversifying concentrated supply chains, and building better economic relations with like-minded countries. In addition, USTR's trade engagements—including the U.S.-EU Trade and Technology Council, the U.S.-UK Dialogue on the Future of Transatlantic Trade, the Indo-Pacific Economic Framework, and the Global Sustainable Steel and Aluminum arrangement—are strengthening our relationships with our allies and are helping build new bridges in regions that are important to our economic and national security interests.

Question. The administration made the decision to not include Taiwan in IPEF negotiations, which was disappointing. However, USTR has pursued the U.S.-Taiwan 21st-Century Trade Initiative, which recently concluded its third round of negotiations.

What outcomes can you share from the latest negotiating round with Taiwan?

Answer. The United States and Taiwan, under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), have held one negotiating round for the U.S.-Taiwan Initiative on 21st-Century Trade in Taipei, Taiwan, from January 14–17, 2023. The negotiations were productive and on May 18, 2023, USTR announced that the United States and Taiwan, under the auspices of AIT and TECRO, had concluded negotiations on a number of chapters outlined in our negotiating mandate, and published the proposed agreement text. Those chapters are Customs and Trade Facilitation, Good Regulatory Practices, Services Domestic Regulation, Anticorruption, and Small and Medium-Sized Enterprises. The proposed agreement was signed by AIT and TECRO on June 1, 2023.

Moving forward, U.S. and Taiwanese officials, under the auspices of AIT and TECRO, will continue negotiations on other chapters under our negotiating mandate.

Question. Last week, Honduras became the latest country to end diplomatic relations with Taiwan in favor of the PRC.

What is your plan to include Taiwan in international trade forums alongside other nations to ensure our friends in Taiwan have a seat at the table?

Answer. The administration is committed to finding ways to deepen our economic and trade relationship with Taiwan and to negotiate trade agreements with Taiwan, just like the United States does with other trade partners. The administration also continues to be highly supportive of Taiwan's participation in international trade forums, including at the WTO and in APEC.

Question. Following Russia's invasion of Ukraine, the United States revoked Russia's most favored nation trade status.

If China were to invade Taiwan in the future, would the administration support revoking China's preferential trade status as well?

Answer. The administration supports cross-Strait peace and stability and opposes any unilateral changes to the status quo. In the event of a unilateral change in the status quo, the administration has a wide range of responsive actions to consider.

Question. The International Trade Commission submitted a report to Congress earlier this month finding that nearly all of the costs of tariffs imposed during the Trump administration—both the 232 tariffs on steel and aluminum and the 301 tariffs on Chinese imports—were passed along to U.S. importers and had little to no effect on the exporter.

Does the administration agree with this finding? Why or why not?

Answer. The Commission's modeling suggests that the tariffs were passed along to U.S. importers in the short term. The model also finds that as those prices rose, the quantity of affected imports from China declined, leading to a significant decrease in their import value.

The ITC identified 10 industries directly and most affected by the 301 tariffs. For all 10 industries, the report estimates that section 301 suppressed the value of imports from China by as much as 72.3 percent (semiconductors) and increased the value of U.S. production by as much as 7.5 percent (household furniture and kitchen cabinets).

Question. The biggest challenge we've faced since the administration took over is the migrant crisis at our southern border. CBP encountered more than 300,000 migrants last month.

What strikes me is that many of the migrants coming to our border are from countries with whom we have a free trade agreement. For example, all three Northern Triangle countries are parties to the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), which was negotiated by the Bush administration. Clearly, the potential of this partnership has not been fully realized.

What mistakes have we made over the last 15 years that have inhibited CAFTA from having a bigger impact on the prosperity and stability of the Northern Triangle countries?

How can we better utilize CAFTA as presently written to promote stable and resilient economic development in this region?

During the Trump administration, we renegotiated NAFTA to update the provisions and adapt to modern challenges. Is the Biden administration open to renegotiating CAFTA and seeking to revise it as part of our strategy to get to the root causes of migration in the Northern Triangle?

Does the administration support preserving Nicaragua's preferential trade status under CAFTA in light of human rights abuses committed by the Ortega regime?

Answer: While trade has increased under the CAFTA-DR, global economic downturns—most recently from the pandemic—frequent natural disasters, and security issues such as narcotrafficking and gang violence have had severe negative impacts on the economies and development of partners in the region. Several CAFTA-DR countries, particularly in northern Central America, suffer from protracted social crises, extreme violence, and inadequate investment in education and infrastructure.

Trade policy alone cannot deliver sustainable economic development, poverty alleviation, and social stability, but the CAFTA-DR is an integral part of the administration's efforts to address the root causes of migration.

USTR is contributing to the Biden administration's whole-of-government effort to address irregular migration at our southern border, to improve security, governance, human rights, and economic development in the region to meet longer-term challenges and create hope for a better future for Central Americans in their home countries.

USTR engagement with CAFTA-DR partner countries has focused on trade capacity building (primarily in the areas of textiles and apparel and agricultural trade and climate resiliency) to strengthen regional supply chains, build sustainable and inclusive trade and economic opportunities and formal sector employment in the region. Capacity building and promoting better CAFTA-DR implementation help address shortcomings in Central American trade infrastructure and policy implementation that have undermined the CAFTA-DR benefits for the region. Through Central America Forward, USTR is also working with the Department of Labor and other agencies to advance protection of labor rights in the region to more comprehensively address the root causes of migration.

With respect to Nicaragua, we share concerns about the crisis of democracy under the Ortega regime and have taken a number of actions, including withholding support for Nicaragua's participation in trade capacity building and technical assistance initiatives, and will continue to exclude Nicaragua from these benefits of CAFTA-DR and other initiatives.

In addition, President Biden's October 2022 executive order provides new authority to sanction any person who operates or has operated in the gold sector of the Nicaraguan economy and any other sector as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The EO also provides a framework to implement future measures that prohibit new U.S. investment in certain sectors in Nicaragua, the importation of certain products of Nicaraguan origin into the United States, or the exportation of certain items to Nicaragua.

USTR has been and will continue to be an active participant in interagency deliberations on trade-related aspects of our approach to Nicaragua. We will continue to actively monitor the situation in Nicaragua, while also recognizing that the CAFTA-DR is critical to the well-being of the people of Central America.

Question. When considering Trade Promotion Authority legislation in 2015, the Senate unanimously passed an amendment requiring USTR to raise religious liberty issues as part of trade negotiations conducted under TPA auspices. Although TPA has expired, I hope USTR is continuing to prioritize the promotion of religious freedom for all in its engagements with trading partners—including in multilateral forums such as IPEF. Of the countries involved in IPEF, at least one of these countries is on the Special Watch List for religious freedom concerns by the State Department.

How is your team raising religious freedom with countries that are part of IPEF?

How is USTR advocating for religious freedom with countries holistically?

Answer. The Ministerial Statement for IPEF Pillar 1 (Trade) establishes that the partners will pursue provisions and initiatives that benefit workers and ensure free and fair trade that contributes to promoting sustainable and inclusive growth for IPEF countries and the Indo-Pacific region. For the United States, inclusive trade discussions comprise advancing the benefits of the IPEF for underserved communities, including religious and ethnic minorities.

Consistent with the President's trade agenda and USTR's strategic plan, USTR strives to "develop equitable trade policy through inclusive processes." This entails identifying and striving to address barriers in order to achieve the consistent and systematic fair, just, and impartial treatment of all individuals, including those who belong to underserved communities. For the United States, "underserved communities" includes religious and ethnic minorities. In addition, USTR's expanded engagement includes building relationships and listening to the concerns of faith-based, community-based organizations.

USTR also continues to monitor and fully enforce laws prohibiting the importation of goods made by forced labor and remains committed to fighting against the economic exploitation and human rights abuses committed against Uyghurs and other ethnic and religious minorities in the People's Republic of China (PRC).

Questions Submitted by Hon. Steve Daines

PROTECTING U.S. IP

Question. In May of 2021, I joined my colleagues in expressing our concern to you over the TRIPS waiver for COVID–19 vaccines. This waiver—which you supported—gave China, Russia, Iran, and other countries access to highly advanced U.S. IP without the consent of U.S. companies.

Your support of this waiver gives me serious concerns about your regard for the long-term health of our Nation's innovations across industries, particularly in biopharmaceutical innovations, and your dedication to protecting sensitive U.S. IP as you consider expanding the TRIPS waiver to include additional products.

What specific industries and products are you considering including in a proposed expansion?

What data are you collecting to inform this decision?

What specific analyses are you conducting to ensure that any expansion of this waiver would not threaten our country's economy, our biopharmaceutical innovation, and our national security?

What steps are you taking to protect American IP, whether from pharmaceuticals and defense, to small innovators and universities, from being stolen and abused by foreign adversaries?

Answer. Under the June 2022 ministerial decision on the TRIPS Agreement, developed countries, a group that includes Russia, and countries with existing capacity to manufacture COVID–19 vaccines who have opted out from the decision, including China, are not eligible to benefit from this decision. The ministerial decision also does not apply to Iran, as Iran is not a member of the World Trade Organization (WTO).

The ministerial decision, included a commitment to decide by December 17, 2022, whether or not to extend the decision to the production and supply of COVID–19 diagnostics and therapeutics. The WTO General Council later extended this deadline at its December 2022 meeting.

Over the course of the 5 months after the ministerial decision, USTR officials held robust and constructive conversations with Congress, government experts, a wide range of stakeholders, multilateral institutions, and WTO members. USTR published a summary of the diverse views heard during the 5-month consultation period on December 6, 2022. In addition, on December 16, 2022, I asked the U.S. International Trade Commission (USITC) to conduct an investigation and prepare a report of available data and information regarding access to COVID–19 diagnostics and therapeutics.

My request to the USITC specifically asks that they solicit information on issues such as the relationship between intellectual property protection and corporate research and development expenditures, as well as the location of jobs associated with the manufacturing of diagnostics and therapeutics.

With respect to advancing the interests of America's innovators and creators, among other things, USTR issues a Special 301 report each year. This report provides an opportunity to put a spotlight on foreign countries and the laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers, which, in turn, harm American workers whose livelihoods are tied to America's innovation- and creativity-driven sectors.

INDIA

Question. What is USTR doing through the U.S.-India Trade Policy Forum or otherwise to address longstanding agricultural market access issues with India, including pulse crops?

Answer. Addressing barriers to agricultural trade continues to be a priority for U.S. engagement with India. Through the U.S.-India Trade Policy Forum's Working Group on Agricultural Goods we are seeking to address a broad range of trade barriers in order to expand access to the Indian market for U.S. agricultural products, including pulse crops. The United States also continues to raise pulse crop access issues alongside other trading partners at the WTO.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. The Government of Mexico's action to ban genetically modified corn and other biotech products is concerning for a host of reasons. The U.S. exported 15 million metric tons of corn to Mexico last year, and nearly all of it was genetically modified. This has implications not only for row crop farmers, but for livestock producers who depend on a grain supply to feed their animals, and then rely on stable market access. Jeopardizing access to the Mexican market will have rippling and detrimental effects on agriculture in Indiana, particularly in the corn and hog sectors.

With the announcement of formal technical consultations with Mexico to address this action, how will you ensure that American farmers can depend on access to the Mexican market?

How will you convey what is at stake with ignoring the science around biotechnology?

Have you considered how other countries will look at Mexico's lack of science-based decision-making and decide to follow suit?

Answer. On June 2nd, I requested dispute settlement consultations with Mexico under the United States-Mexico-Canada Agreement (USMCA). We continue to press for a science-based approach for all biotech products and transparent and predictable market access in Mexico. Products of agricultural biotechnology, including corn, have been safely used for human consumption and animal feed around the world, including in Mexico, for decades. We urge all our trading partners to follow a science-based approach to biotech products, which help farmers respond to pressing climate and food security challenges.

Question. Related to supporting agricultural biotechnology, I am concerned with South Korea's regulations. Korea is the U.S.'s fifth largest agricultural export market, last year importing over $10.2 billion worth of American corn, rice, wheat, soybeans, beef, dairy, pork, and other food and feed products. Korea has a history of an inefficient risk assessment system for biotechnology, and is extremely unpredictable. Because of this, South Korea is positioning to be the preeminent global threat to the introduction of new biotechnology traits and the adoption of new agricultural technologies.

Under the U.S.-Korea Free Trade Agreement, how are you compelling South Korea to reform its current biotech risk assessment process, and to put in place a rational regulatory framework for gene-edited products?

Answer. USTR has been engaging with Korea on biotechnology for several years through various channels, including the KORUS Committee on Sanitary and Phytosanitary Measures. USTR has consistently raised concerns over Korea's burdensome biotechnology approval process and urged Korea to adopt a more science-based, risk-proportionate approach to genome editing. USTR will continue to engage with Korea to enhance transparency, predictability, reliability, and efficiency, and to ensure its regulatory approval process is science- and risk-based.

Question. I continue to hear concerns from my constituents regarding China's incessant circumvention, and all the tactics they use to mask the true origin of inputs and products so they can continue transnational subsidies. Luckily, the United States has an AD–CVD process to crack down on circumvention and help domestic enterprises compete with unfairly subsidized products. Unfortunately, our current process has limits and circumvention still occurs. I am currently working with Senator Brown on legislation to provide more tools to the Commerce Department so that we can more efficiently stop bad actors before their products are released into U.S. commerce.

Do you agree that our current AD–CVD process has limits? What tools would enable agencies to better assist with exposing and limiting circumvention?

Answer. USTR acknowledges that both circumvention and duty evasion schemes deployed by producers and exporters subject to U.S. AD–CVD measures are challenging to address in the U.S. system. Both the U.S. Department of Commerce and U.S. Customs and Border Protection have taken vital steps to enhance their efforts to combat these schemes, and USTR has also been supportive of those agencies efforts and using its negotiating authority to ensure that they have the necessary resources to address these issues. For example, in USMCA, the United States was successful in negotiating first-in-kind provisions regarding duty evasion cooperation, which allow U.S. Customs and Border Protection to conduct duty evasion verification visits in Canada and Mexico. USTR is actively involved in expanding this capability with other trading partners and looks forward to announcing future endeavors once negotiations are completed.

Question. The proposed waiver of TRIPS protections for American-made COVID–19 treatments and diagnostics will hand valuable U.S. technologies and IP to China and other foreign adversaries. China claimed that it will not avail itself of the TRIPS waiver for COVID–19 vaccines, and you have unfortunately trusted this claim. Regardless, China has made no such promise with respect to the proposed waiver for treatments and diagnostics.

How will you ensure that the administration will reject any expansion of the TRIPS waiver that includes China or other major foreign competitors as a beneficiary?

Further, how can you guarantee that waiving TRIPS protections for COVID–19 therapeutics and diagnostics would never result in any indirect transfer of U.S. intellectual property (IP) to Chinese- or Russian-owned entities in developing countries, thus opening a backdoor for China and Russia to access American IP?

Answer. I appreciate your concern and will continue to consult with Congress on this issue. Under the June 2022 ministerial decision on the TRIPS Agreement, developed countries, a group that includes Russia, and countries with existing capacity to manufacture COVID–19 vaccines who have opted out from the Decision, including China, are not eligible to benefit from this Decision. In the discussions at the WTO, I will continue to be clear-eyed about potential risks.

Question. I welcome your work on the Indo-Pacific Economic Framework but remain concerned that the end product will have very limited benefits for the United States if market access is excluded. Our exporters will continue to fall further behind their competitors from the many countries still actively negotiating tariff reduction agreements in the region, and the ambition level of IPEF's non-tariff provisions may suffer if market access is excluded.

Do you contemplate IPEF leading to market access negotiations? If so, why not have those negotiations now?

Answer. At this time, the administration is not seeking to address tariff liberalization. However, in the trade pillar, we are working to include a mix of high-standard commitments and principles to address many longstanding non-tariff barriers that can, in practice, affect market access for U.S. enterprises, including MSMEs, seeking to operate abroad. We intend for the trade pillar to include clear and strong regional rules and standards that reflect our common interests and values and that promote our competitiveness and inclusive prosperity.

Question. The issue of critical mineral supply is becoming increasingly more important as countries around the globe are putting in place strategies and policies to maximize their production or procurement. While the United States has a well-developed framework focusing on the security of critical minerals and rare earth elements, more needs to be done to lower China's hold on the entire value chain.

How are you working with other Federal agencies, such as the Department of Energy, Department of Defense, and Department of the Interior, to develop a coordinated strategy to address critical mineral supply chain vulnerabilities?

Answer. We coordinated with other agencies, including the agencies identified above, when negotiating the recently concluded Japan Critical Minerals Agreement, and have also sought their input in the negotiations with the EU announced by the White House on March 10, 2023.

We will continue to liaise with other agencies in any critical minerals-related efforts that may implicate U.S. trade policy or engagement with our trading partners.

Question. While I welcome your recent work and coordination with Japan to sign a critical minerals agreement on March 28th, I want to stress the importance of expanding our reach.

How are you collaborating with allies and trading partners to establish a more secure and sustainable global supply chain for critical minerals? Are there other ongoing efforts to establish or participate in multilateral forums or initiatives aimed at addressing critical mineral supply chain challenges?

Answer. We are mindful of the importance of diversifying our global critical minerals supply chains, given China's present dominance. The Japan Critical Minerals Agreement is an important step, and is meant to complement other bilateral and plurilateral efforts. For instance, both Japan and the United States are members of the Minerals Security Partnership, an initiative launched in 2022 that aims to strengthen critical minerals supply chains. Additionally, as the White House announced on March 10, 2023, we are now engaged in negotiations with the EU regarding a critical minerals agreement.

QUESTIONS SUBMITTED BY HON. JOHN BARRASSO

Question. The administration is currently engaged in a number of trade initiatives: the Indo-Pacific Economic Framework; the Americas Partnership for Economic Prosperity; the U.S.-Taiwan Initiative on 21st-Century Trade; the U.S.-Kenya Strategic Trade and Investment Partnership; expansion of the World Trade Organization TRIPS Waiver; and the Critical Minerals Agreements with Japan and the EU.

Article I, section 8 of the Constitution gives Congress clear authority over international trade. Despite Congress's clear constitutional authority over trade matters, the administration does not intend to seek congressional approval for any of these initiatives.

Can you confirm that none of these initiatives will come before Congress for approval?

Why doesn't Congress's constitutional authority over international trade apply to any of these initiatives?

And do you believe partisan executive agreements are more durable and meaningful than bipartisan initiatives approved by Congress?

Answer. USTR does not anticipate concluding our negotiation in any of these initiatives in a way that would require Congress to change U.S. law. As such, USTR plans on following its longstanding practice of relying on its authority granted by Congress in 19 U.S.C. 2171 to negotiate and enter into agreements with these foreign partners on behalf of the United States as USTR has done on numerous occasions across administrations for at least the last 30 years.

Congress is USTR's constitutional partner on trade, and I am committed to working with Congress on all of these initiatives. In this regard, USTR has embarked on an unprecedented level of transparency and consultation with Congress with regard to all of these initiatives. In particular, USTR has consistently engaged—on a bipartisan basis—with Congress throughout the development of all these initiatives with members, their staff, and the staff of our congressional committees of jurisdiction. USTR has further consulted with our congressional committees of jurisdiction on all draft U.S. negotiating text proposals prior to sharing them with stakeholders outside the U.S. Government and with foreign partners. USTR has continued to consult with Congress during the course of negotiations so Congress is engaged as USTR negotiates with partners.

In conjunction with working with Congress on these initiatives, USTR has regularly engaged with the public, including by: seeking public comment from Federal Register notices; publishing ministerial statements and public summaries of proposed U.S. texts; and holding public stakeholder engagement sessions during negotiating rounds. We will continue outreach to the public, encouraging, in particular, the participation of stakeholders who have not traditionally had a voice in trade and economic policy.

We seek such extensive input from Congress, stakeholders, and the general public not just because it is an important thing to do but because these agreements will be durable and meaningful only if they are the product of broad-based input.

Question. The President's 2023 trade agenda is full of dialogues, frameworks, and lofty aspirational goals. But there's no mention of seeking new free trade agreements (FTAs) with our allies despite their clear benefits to U.S. farmers, ranchers, manufacturers and consumers. Instead of exporting American beef, energy, agriculture products or technology.

The administration continues to be hyper-focused on exporting labor, social, and environmental policies via frameworks and dialogues. Just like last year, a very notable omission from the trade agenda is market access reform. Members on both sides of the aisle have raised concerns about market access reform, but those concerns have been routinely ignored.

Why does the administration refuse to seek market access reform?

And are members of Congress wrong in calling on the President to do so?

Answer. USTR has produced agreements that increase market access for American manufacturers, farmers, and ranchers and continues to work on new initiatives that will support American businesses access markets.

For agricultural producers, USTR has secured real wins over the past few years, and U.S. agricultural exports reached a record $202 billion in 2022. Recent tangible market access outcomes for agriculture include bringing into force an agreement with Japan to export more U.S. beef, signing a tariff-rate quota agreement with the EU to open markets for rice, wheat, corn shellfish, and beef and opening access for pork and pecan exports to India.

In addition, USTR reached agreement in 2021 with the European Union (EU) related to the section 232 steel and aluminum tariffs which resulted in the EU suspending tariffs on U.S. products. USTR also reached agreement with the EU and the United Kingdom on the 17-year-old large civil aircraft dispute, which protected American jobs and addressed distortive practices non-market practices that undermine the aviation sector.

USTR has launched the Indo-Pacific Economic Framework, the U.S.-Taiwan Initiative on 21st-Century Trade, and the U.S.-Kenya Strategic Trade and Investment Partnership, among other initiatives. Tariff liberalization is not currently being considered as part of these initiatives but these new engagements present opportunities to enhance trade and investment. In addition, USTR is negotiating to include provisions in these agreements to combat non-tariff and regulatory barriers that limit access to markets. To address specific barriers of concern and produce tangible benefits for U.S. agricultural producers, USTR will seek to promote the use of science- and risk-based decision making to maintain and expand market access for U.S. agricultural exports.

Moving forward, USTR will continue expanding market access for American manufacturers, farmers, and ranchers.

Question. Russia's illegal, unprovoked invasion of Ukraine showed the world how energy can be wielded as a geopolitical weapon. Countries around the globe continue to scramble to find new energy supplies to replace Russian oil, coal, natural gas, and nuclear fuel. President Biden's 2023 Trade Agenda once again fails to outline a strategy to help our allies be more energy secure.

America is a global energy superpower. We should act like it, especially through trade. Wyoming has an abundance of coal, oil, natural gas, and uranium. The U.S. can provide our allies around the world with reliable, affordable, and secure energy resources. I see no plan or urgency to do this in the President's Trade Agenda. This is a mistake.

How can we leverage American energy in international trade to counter our adversaries like Russia who use their own energy exports as a weapon?

Answer. USTR shares your concern about the effects of Russia's illegal, unprovoked invasion of Ukraine on our energy security and the energy security of our allies. We actively support the growth of the U.S. energy industry and the export of U.S. energy products, technologies, and services all over the world to help our trading partners meet their energy security, energy access, and climate goals. Coordinated policy actions, strategies and response mechanisms can effectively help in ensuring and promoting diversified, risk-free, resilient, and secure supply of energy sources and critical raw materials. Universal energy access, accelerating adoption of innovative and zero-emission energy technologies, promoting domestic and overseas investments, and enhancing transnational grid connectivity and mitigating market volatility are key to reducing market volatility, improving energy security, and leveraging American energy to counter our adversaries.

Question. Thank you for initiating consultations with Mexico on energy issues affecting American companies. As you know, Mexico started discriminating against American private energy investment in Mexico almost as soon as the U.S.-Mexico-Canada Agreement (USMCA) was enacted. Mexico's actions deliberately disadvantage American energy investments and jobs. To me, these are clear, flagrant violations of USMCA. It is my understanding that the U.S. was able to request a dispute resolution panel in October but that has not happened. At this point, it seems clear to me that Mexico has no intention of changing their behavior and I believe the time to request a formal dispute resolution panel is overdue.

Why haven't you requested a dispute resolution panel with respect to Mexico's actions against American energy?

And is this a step you intend to take in the near future?

Answer. I share your concerns that certain of Mexico's energy measures undermine U.S. companies and U.S.-produced energy in favor of Mexico's state-owned electrical utility and state-owned oil and gas company. That is why in July 2022 I requested USMCA chapter 31 consultations with Mexico regarding those measures. We are engaging with Mexico on specific and concrete steps Mexico must take to address the concerns set out in our consultations request. It remains our goal to seek a solution with Mexico that addresses our serious concerns. However, should Mexico prove unable or unwilling to address our concerns through these consultations, the United States can make use of enforcement options under the USMCA.

Question. I have long been skeptical of the effectiveness of the section 301 tariffs on over $300 billion in Chinese goods. American families and businesses are all struggling with inflation and the high cost of goods and services. While I understand the need to crack down on unfair Chinese trade practices, I believe these tariffs are simply making a bad situation worse for all Americans. I don't see where these tariffs have significantly altered Chinese behavior.

When will USTR's statutory review of the section 301 tariffs be complete?

Answer. As part of the 4-year review, USTR requested public views on the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies and practices related to technology transfer, intellectual property, and innovation; other actions that could be taken; and the effects of the actions on the United States economy, including U.S. consumers. USTR expects to complete the 4-year review in the fall of this year.

Question. Why hasn't USTR reopened an exclusion process for these tariffs?

Answer. Within the 4-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed. USTR continues to consider additional exclusion processes, as warranted.

Question. The U.S. imports more beef from Brazil than any other country according to the U.S. Department of Agriculture. In January 2023, U.S. beef imports from Brazil are already up 4.83 percent from 2022. On February 22, 2023, there was a confirmed case of atypical bovine spongiform encephalopathy (BSE) in the northern state of Para, Brazil. BSE in the U.S. is still heavily regulated to assure consumers and our international trade partners that U.S. beef is safe. The test samples were submitted to the World Organization for Animal Health (WOAH) but the World Organization for Animal Health report indicates that the event started on January 18, 2023. That is a difference of 35 days where BSE was not confirmed in Brazil. Brazil has a history of delayed reporting of atypical BSE cases, with two other instances in 2021. This delay in reporting of BSE cases raises serious concerns over the credibility of Brazil's food safety and animal health systems. Especially with an increase of Brazilian beef imports into the U.S. in the last year. The impacts that these concerns can have on U.S. cattle herds and public health are severe.

Has the United States addressed this issue with the government of Brazil?

How is the administration holding Brazil accountable for its failure to comply with World Organization for Animal Health standards?

How is Brazil's Government working with the U.S. on beef products imported into the U.S. since their case of atypical BSE on February 22, 2023?

Answer. It is critical that beef imported from Brazil meets U.S. requirements. We will continue working with the U.S. Department of Agriculture (USDA) Animal Plant Health Inspection Service (APHIS) and the Food Safety Inspection Service (FSIS) to ensure that Brazil follows relevant international standards and guidelines and that the beef it exports to the United States complies with U.S. animal health and food safety requirements.

Question. With the rising costs of health care and the continued need to secure our medical supply chain, U.S. policies should not contribute to making these two ideals harder to achieve. Under your leadership, USTR has extended 301 exclusions for certain medical devices and components related to the COVID–19 pandemic.

Is USTR doing anything to ensure medical devices and medical device components unrelated to COVID–19 are granted exclusions from these tariffs?

Answer. The China section 301 tariffs are currently undergoing a 4-year statutory review. As part of this review, USTR requested public views on the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies, and practices related to technology transfer, intellectual property, and innovation; other actions that could be taken; and the effects of the actions on the United States economy, including U.S. consumers. Within the 4-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. To that end, through the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed. Additionally, USTR continues to consider additional exclusion processes, as warranted.

QUESTIONS SUBMITTED BY HON. MARSHA BLACKBURN

Question. In May 2022, the USTR began its statutory 4-year review of the section 301 actions taken against China. As part of this review, the USTR solicited responses from the domestic industry as to whether the tariffs should be continued. A portal was also opened to allow other interested parties to submit comments regarding the effectiveness of the tariffs, the effect on the economy and consumers, and other potential actions that could be taken.

Will you provide a detailed timeline on when you expect this review to be completed?

Answer. USTR expects to complete the 4-year review in the fall of this year.

Question. Companies granted another exclusion in March 2022 could only receive tariffs reimbursements back to October 12, 2021, even though the tariffs had been reimposed on January 1, 2021.

Do you, or this administration, have any thoughts on including retroactivity provisions in future rounds of exclusions?

Answer. As part of the 4-year review, we are considering the effectiveness of the tariffs and their current structure. We are also looking at the impacts of the tariffs on consumers, U.S. workers, and the economy, among others. If appropriate, we will consider whether an additional exclusions process may be warranted, and what that process might look like based on the findings during the review on impacts to consumers, workers, and U.S. industries.

Question. Does Customs and Border Protection have the administrative authority to suspend liquidations and provide full retroactively for 301 tariffs?

Answer. For this question, I would have to refer to CBP and to the Department of Justice. The question is subject to litigation regarding the section 301 tariffs.

Question. Can you provide a timeline on when USTR plans to implement the USMCA Dispute Settlement Panel's unanimous decision on Automotive ROO/RVC Calculations?

Answer. We are actively engaging with Mexico and Canada regarding the panel's decision in the USMCA Autos ROOs dispute. Among other issues, we are discussing ways to gain insight into the impact that implementation of the panel's decision would have on investment and jobs in North America. Our discussions with Mexico and Canada on these issues will progress.

Question. In 2018, Meco, a charcoal grill manufacturer located in Greenville, TN, submitted a comment to the USTR to levy a 25-percent duty on charcoal grills in response to the announcement of the 301 tariffs. In response, duties were levied on two components Meco purchased to produce the Americana Walk-A-Bout grill. However, duties were not levied on finished charcoal grills being imported from China. A 25-percent duty was put on gas grills and electric grills. In 2022, during the USTR's 4-year statutory review of the section 301 tariffs, Meco again submitted a comment asking for a 25-percent duty to be levied on imported charcoal grills. Furthermore, Meco has been subject to intellectual property theft since 1999 and has filed multiple suits against intellectual property right thefts. To make matters worse, they have provided evidence of their grills being shown in showrooms in China and online retailers such as Alibaba.

How are you addressing this situation as you continue your 4-year review?

Answer. China has a well-established track record of conducting unfair trade practices to acquire U.S. technologies and intellectual properties. The 4-year review will include an examination of the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. USTR will also consider other actions that could be taken to achieve the objectives of the investigation. Additionally, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. To that end, as part of the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions, removed, or added.

Question. How are you dealing with intellectual property theft from Chinese companies, and what are your plans to curb this ongoing abuse?

Answer. We continue to press China to address a range of intellectual property (IP) enforcement concerns, including forced or pressured technology transfer and trade secret theft. China remains on the Special 301 Priority Watch List in 2023 and is subject to continuing monitoring pursuant to section 306 of the Trade Act of 1974, as amended (19 U.S.C. § 2416). Under section 301 of the Trade Act of 1974, as amended (19 U.S.C. § 2411), we have been taking action to address a range of unfair and harmful Chinese acts, policies, and practices related to technology transfer, IP, and innovation. We intend to use the full range of tools we have and develop new tools as needed to defend American economic interests from harmful policies and practices.

Question. Do you commit to reviewing Meco's comments thoroughly and providing them with complete and detailed answers to their questions?

Answer. All comments submitted as part of the public comment process will be reviewed and given full consideration.

PREPARED STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

This morning the Finance Committee is joined by Ambassador Tai to discuss the trade agenda for the year ahead.

The Biden administration, from the get-go, had a difficult job to do with respect to trade. The Trump administration's chaotic approach turned some of our trade rivals into outright adversaries, and many of our friends into rivals. Now the United States needs to kick into a higher gear with smarter, more innovative approaches to trade, which will deliver real results for American workers, farmers, and businesses.

There are big issues to address. For example, China continues to put up barriers to American products and American values, while ripping off jobs using forced labor and undermining free speech. Its discriminatory model is spreading. Even our allies in the European Union and Canada are drafting laws intended to limit our digital companies' ability to do business in their jurisdictions while shielding their own companies.

Today, I'm outlining a three-part strategy to get more Americans back in the winner's circle. First, the administration needs to ramp up enforcement of the trade laws that are already on the books—across the board.

Let's start with USMCA. Senator Brown and I fought for stronger, faster-acting enforcement tools like the rapid response mechanism. That's part of what makes USMCA the most pro-labor trade agreement in U.S. history. Ambassador Tai has used the Brown-Wyden mechanism to get some key wins to stop labor violations in Mexico. And she's worked to help Pacific Northwest dairy farmers get into the Canadian market.

Now Ambassador Tai needs to go further and enforce every provision of every chapter of USMCA. An example: Mexico is flouting its USMCA obligations by shutting out American renewable energy providers. It's bad for the economy and the environment. During last year's trade agenda hearing, I asked Ambassador Tai to take action. The U.S. did request consultations with Mexico in July 2022, but 8 months have passed. American clean energy producers are still waiting for access. In my view, it's long past time to say enough is enough and escalate this into a real dispute settlement case.

The administration also needs to step up enforcement beyond USMCA to defend American workers and businesses from unfair trade practices, wherever they are happening. To that end, the Biden administration has yet to bring a single case before the WTO. There's no question that the WTO needs reform, but if the U.S. doesn't press its case, we're stuck on defense. I want this country playing offense on trade.

Second, the administration needs to make opening export markets a priority. USMCA is proof that U.S. trade policy can raise the bar on labor and environmental standards—and bust down barriers to American exports at the same time.

However, I have real concerns that USTR isn't doing enough to break down barriers our exporters face. For example, there's old red tape preventing eastern Oregon potato farmers from shipping fresh potatoes into Japan. That's an estimated $150 million market. Pacific Northwest apples and pears are blocked from the behemoth Australian market. Oregon wheat—upwards of 90 percent of which is exported—suffers from high tariffs in markets around the Pacific Rim. Vietnam has a litany of restrictive digital practices that hurt Oregon start-ups. The administration should be taking every opportunity to fix these issues—but it isn't clear USTR is even discussing them as part of its Indo-Pacific Economic Framework.

I'll draw a line here: the U.S. cannot conclude agreements with Japan, Indonesia, or the EU that leave issues facing our exporters unaddressed.

Third, getting trade done right will require creative approaches to new challenges. Whether it's shoring up our supply chains, promoting access to critical minerals, or addressing climate impacts of leading industries, smart trade policies can be part of the solution. I'm glad Ambassador Tai and her team are thinking outside the box, but what's needed are real answers on how her proposals will work in practice.

The administration must deliver new markets—like the Middle East and Africa—and trade in new products—like renewable technology and digital services—in a way that quickly pushes the American economy forward. Meeting that challenge will require strategy with our allies and partnership with Congress.

That brings me to my final point. The executive branch has begun to embrace a go-it-alone trade policy. Let me be clear: Congress's role in U.S. trade policy is defined by the Constitution. It's right there in article I, section 8. That is black-letter law, and it's unacceptable to suggest otherwise. It's my expectation that Ambassador Tai and this committee can begin to chart a new path forward when it comes to transparency, consultation, and ultimately, approval of trade agreements. I appreciate Senator Menendez's leadership to get us there.

I want to thank Ambassador Tai for joining the committee today, and I look forward to our discussion.

COMMUNICATIONS

ACT | THE APP ASSOCIATION ET AL.

March 20, 2023

The President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. President:

We write to you in advance of your upcoming visit to Ottawa to express our concerns about several measures that will undermine the ability of U.S. companies to fairly compete in the Canadian market. We urge you to raise these issues during your visit, with a view toward ensuring that Canada fully honors its international commitments.

The undersigned organizations strongly support the U.S.-Canada economic relationship. The United States, through many of our member companies, is Canada's largest investor, accounting for 44 percent of total FDI ($420 billion as of 2020).[1] Furthermore, Canada has long been a strong U.S. partner and ally, like-minded in its approach to evidence-based regulation and market-economy principles.

The United States-Mexico-Canada Agreement (USMCA) was a signature bipartisan effort, and your Administration has rightly called USMCA enforcement a top priority. This is particularly true with respect to modernized enforcement mechanisms and a robust digital trade chapter. We strongly believe that the USMCA can raise standards in many areas—agricultural market access, digital trade, environmental standards, labor rights, and services access.

However, we are concerned that Canada is pursuing a number of problematic proposals and actions that could significantly limit the ability of U.S. companies to export their goods and services and fairly compete in the Canadian market. It is critical for the United States to hold Canada accountable to its USMCA commitments to ensure the continued success of this important agreement. Relatedly, Canada's proposed policy approaches would impede ongoing efforts to drive North American economic competitiveness, including the North American Leaders' Summit and the Americas Partnership for Economic Prosperity (APEP).

Digital Services

Canada is a key market for U.S. digital services exports, as it generated $45.8 billion in 2020—which represented 86.7% of U.S. services exports to Canada that year.

Unfortunately, Canadian policymakers continue to threaten the introduction of a discriminatory and retroactive digital services tax (DST) targeted at U.S. companies, despite its endorsement of the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework, where 138 countries have agreed not to enact unilateral DSTs while negotiations on international taxation of digital services are ongoing (the "standstill"). If passed, this DST is estimated to collect upwards of $4 billion over five years, primarily from U.S. companies.[2] Canada's pursuit of

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[1] *https://www.state.gov/reports/2022-investment-climate-statements/canada/.*
[2] *https://www.pbo-dpb.ca/en/publications/LEG-2122-007-S--digital-services-tax--taxe-services-numeriques.*

a DST would set a harmful precedent for other Inclusive Framework participants to adopt similarly targeted taxes on U.S. digital services.

In addition to the DST, Canada has advanced other domestic initiatives that target U.S. technology companies and raise concerns under the USMCA, such as the Online Streaming Act (C–11), which seeks to compel U.S. streaming services and social media platforms to fund and/or promote Canadian content on their platforms via extraterritorial regulatory agency actions. Consequently, U.S. content creators—regardless of whether the content creator is an established publisher or an individual content creator—will be disadvantaged on platforms. Depending on the regulatory requirements for funding and technical requirements for promoting Canadian content, the cost of doing business in Canada will increase for U.S. online streaming services and social media platforms. This cost will ultimately trickle down to Canadian consumers, who will also experience less choice and personalization on the platforms.

Furthermore, by expanding regulatory schemes designed for the traditionally restricted world of broadcasting to the inherently open nature of the Internet, C–11 could have disastrous consequences for content production and distribution and could inspire other countries to implement similar content-preference schemes. This would have negative consequences for Canadian creators themselves who are prime beneficiaries of the investment and global distribution platform offered by U.S. suppliers. For these reasons, we are especially concerned with the Canadian government's insistence on including user-generated content within the scope of C–11.

Another bill, the Online News Act (C–18), likely would require a narrow range of U.S. digital companies to pay Canadian news organizations and broadcasters for the right to display news stories, headlines, snippets, and links. Canada's Parliamentary Budget Office estimates that in-scope companies would need to pay over $320 million annually to Canadian firms under this legislation, primarily to broadcasters.[3] There has been no indication that any Canadian, Chinese, or other non-U.S. digital companies will be subject to this measure. Therefore, this policy raises significant national treatment and performance requirement concerns under the USMCA.

Given the momentum behind each of these three proposed pieces of legislation, which could pass this year, urgent action is needed to review and mitigate any potential discriminatory effects on U.S. technology companies. As bipartisan members of Congress have argued, the U.S. government should ensure that the USMCA is enforced to avoid these negative outcomes for North American strategic interests.

Customs and Trade Facilitation

The Canadian Border Services Agency (CBSA) is pursuing several concerning changes to customs procedures and practices that may conflict with Canada's customs and trade facilitation obligations in the USMCA and the World Trade Organization's Trade Facilitation Agreement.

The CBSA Assessment and Revenue Management project, better known as CARM, is a multi-year initiative to change the Canadian importation process. While ostensibly implemented to streamline the border process, several aspects of the new CARM system require more complicated processes and increase the customs formalities required for informal entries. Canada is pursuing an aggressive implementation time frame (Oct. 2023) that could increase complexity at the border, with policies for low-value shipment clearance still largely undefined. The United States should encourage CBSA to extend the rollout and continue working with various stakeholders, especially U.S. small and medium-sized (SME) traders, with an eye toward truly simplifying customs procedures.

Last year's budget implementation bill (Bill C-19) made changes to Canada's Customs Act that will, among other things, require express carriers to take on new obligations and potential liabilities when delivering goods into Canada. These changes will have significant impacts, particularly for SME traders such as those who infrequently import small numbers of e-commerce shipments into Canada. For example, carriers in those instances could be liable for any additional taxes, duties, penalties, and other costs for up to four years after importation and would have to seek reimbursement from the shipper. As a result, shifting such significant financial and legal risk to carriers is likely to raise costs and cause unintended consequences for SMEs that rely heavily on these services. Taken together, in their current form these

[3] *https://www.pbo-dpb.ca/en/publications/RP-2223-017-M--cost-estimate-bill-c-18-online-news-act--estimation-couts-lies-projet-loi-c-18-loi-nouvelles-ligne.*

changes could further disrupt supply chains and increase costs for traders of all sizes on both sides of the border.

USMCA Implementation

We join with Senate Finance Committee Chairman Wyden and Ranking Member Crapo in commending USTR for its continued effort under the USMCA dispute settlement system to open Canada's dairy market to U.S. producers. The United States, Canada, and Mexico should work together to achieve full and timely compliance on other the full range of implementation issues so that the full potential of USMCA can be achieved. We encourage the Administration to continue to consult with industry and other stakeholders to identify implementation issues, develop an enforcement plan, and assess progress in addressing measures.

Regulatory Cooperation

Discussions with Canada should focus on enhancing regulatory compatibility, especially in how Parties are implementing related USMCA provisions. Such discussions should focus on risk-based approaches to the assessment of regulations, including assessment and risk management methodologies, tools, and models, and on the development of specific risk assessments. Stronger cooperation in this area would make an outsized impact relative to national approaches and would support further trade and investment in the North American economy. For example, last year Canada proposed new regulations on a type of flame-retardant (DBDPE) commonly used in a wide range of products including vehicles, aircraft, information and communications technology (ICT) equipment, and appliances. The restrictiveness of Canada's regulatory approach is not supported by the available science and would significantly disrupt U.S.-Canadian trade and impair supply chain resiliency in several critical sectors. In addition, further regulatory cooperation between the U.S. and Canada is necessary to ensure full implementation of USMCA provisions on combating marine litter, including plastics and microplastics. The principles of the risk-based approach need to be the prism through which both countries approach the international negotiations relating to plastic waste.

Conclusion

Timely engagement from U.S. political leadership is also particularly critical as Canada seeks to join the U.S.-led Indo-Pacific Economic Framework for Prosperity, and as work advances on APEP. Industry appreciates the work of the Administration to pursue high-standard agreements and reinvigorate multilateral initiatives to deliver the benefits of free and fair trade to workers and believes Canada could play a positive role in this initiative. Addressing these measures now will ensure that the United States and Canada can work together to model desired policy approaches in IPEF, APEP, and other multilateral efforts.

It is critical for the United States Government to hold Canada to its trade commitments and to underscore the negative global precedent that would be set if Canada implements these measures in their current form.

Sincerely,

ACT | The App Association
American Chemistry Council (ACC)
Coalition of Services Industries (CSI)
Computer and Communications Industry Association (CCIA)
Express Association of America (EAA)
Information Technology Industry Council (ITI)
National Foreign Trade Council (NFTC)
Software and Information Industry Association (SIIA)
TechNet
United States Chamber of Commerce

AMERICAN COATINGS ASSOCIATION, INC.
901 New York Avenue, NW, Suite 300
Washington, DC 20001
T 202–462–6272
F 202–462–8549
https://www.paint.org/

March 27, 2023

The Honorable Ron Wyden
Chair
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Re: Hearing on the Biden Administration's 2023 Trade Policy Agenda with United States Trade Representative Ambassador Tai on March 23, 2023 from American Coatings Association, Inc. (Heidi K. McAuliffe, Vice President of Government Affairs)

Dear Chairman Wyden and Ranking Member Crapo:

As you evaluate testimony from U.S. Trade Representative, Ambassador Katherine Tai on the Administration's 2023 Trade Policy agenda, the American Coatings Association (ACA) and the more than 315,000 employees in the paint and coatings industry, would like to highlight the importance of the "Miscellaneous Tariff Bill" (MTB) package. The MTB process has been stalled too long, and ACA urges Congress to take legislative action on the MTB package.

ACA is the premier trade association dedicated to advancing the interests of the coatings industry and represents paint and coatings manufacturers, suppliers, distributors, and technical professionals. Many of today's paints and coatings may go unnoticed by the consumer, but they play immeasurably valuable roles in delivering high-quality foodstuffs, durable goods, housing, furniture and thousands of other products to market.

As you know, the MTB will temporarily eliminate and reduce border taxes on a set of products that have been found through a transparent and rigorous process at the U.S. International Trade Commission (USITC) to not to be produced at all or in sufficient capacity in the United States. Many raw materials used in paint and coatings formulas are produced solely outside of the United States. Without passage of the MTB, American consumers will pay directly and/or indirectly hundreds of millions of dollars each year in government-imposed import taxes on products not made or available in the United States, including those needed by the paint industry.

Based on analyses by the National Association of Manufacturers, the MTB would eliminate import tariffs of more than $1.5 billion over three years (with full retroactivity to January 2021), bolstering manufacturers and other businesses in the United States, especially small and medium-sized manufacturers. This tariff relief translates into U.S. economic growth, as shown by the USITC, which reported that tariff relief under the previous MTB boosted U.S. GDP annually by as much as $3.3 billion and output annually by as much as $6.3 billion.

Thank you in advance for your consideration of this request. Should you or your staff have any questions or require additional information, do not hesitate to contact me at hmcauliffe@paint.org.

With kind regards,

Heidi K. McAuliffe
Vice President, Government Affairs

AMERICAN FARM BUREAU FEDERATION
600 Maryland Avenue, SW, Suite 1000W
Washington, DC 20024
p. 202–406–3600
f. 202–406–3606
https://www.fb.org/

The American Farm Bureau Federation, the nation's largest general farm organization, submits this statement for the Senate Committee on Finance hearing on the President's 2023 trade policy agenda. Trade is critically important to the current welfare and future prosperity of U.S. farmers and ranchers. America's farmers and ranchers depend on growing and stable export markets for the success of their businesses.

President's Trade Agenda for 2023

The Administration's approach on trade includes pursuing the Indo-Pacific Economic Framework; reducing trade barriers with Taiwan and Kenya; supporting agriculture; reducing trade barriers; promoting sustainable environmental practices; focusing on supply chain improvements; and promoting stability.

The Indo-Pacific Economic Framework (IPEF) was introduced as a part of the overall Indo-Pacific Strategy. It is a strong start to improve relationships and reach agreements with the region's countries. It should also be used to reach science-based standards that will assist exports. The inclusion of sanitary and phytosanitary (SPS) standards will reduce barriers and expand opportunities for our agricultural exports.

The IPEF can be significantly improved. It should include a strategy of expanding market access for agriculture by working to reduce tariff barriers. The Administration is also not proposing a reauthorization of Trade Promotion Authority nor a commitment to pursuing trade negotiations with binding and enforceable commitments. Farm Bureau supports trade agreements in the region as the most durable and effective means to improve market opportunities for farmers and ranchers.

The U.S.-Taiwan Initiative on 21st Century Trade was launched in 2022. For agriculture, this effort needs to resolve standards barriers by Taiwan that restrict U.S. exports. In 2022, $4.2 billion in agricultural products were exported to Taiwan.

Indo-Pacific Region Agricultural Trade

Current agreements in the region show the importance of moving forward with additional efforts to improve opportunities for U.S. agricultural exports.

U.S.-China

The U.S.-China Phase 1 Agreement resulted in improved agricultural trade and progress in the removal of barriers that impact the competitiveness of U.S. products in this market. In the Phase 1 Agreement, China committed to increase purchases of U.S. agricultural products.

While the purchase commitment has ended, the outlook for Chinese purchases of soybeans, corn, wheat, sorghum, beef, pork, and other products remains strong. China bought $36 billion of U.S. agricultural products in 2022.

China has also been addressing the commitments they made to improve and reform many standards in the Agreement. Long-standing barriers to the export of U.S. beef, pork, poultry, and other products have been or are being resolved, pursuant to the Agreement. As these barriers go down, the opportunity for increased U.S. commodity sales improves.

An ongoing trade relationship with China is critical for U.S. farmers and ranchers.

U.S.-South Korea

The U.S.-South Korea Free Trade Agreement (KORUS) entered in force on March 25, 2012. The agreement eliminated or reduced tariff and non-tariff barriers on agricultural and other products. U.S. agricultural exports to South Korea reached an all-time high in 2022 at $9.5 billion.

U.S.-Japan

The U.S.-Japan Trade Agreement went into effect on Jan. 1, 2020. The tariffs applied to U.S. products are now the same as those applied to the products of the other countries with a trade agreement with Japan. Tariffs are being reduced or eliminated on a variety of U.S. agricultural exports to Japan. The U.S. and Japan should continue talks on the remaining issues, such as SPS rules, which would help lead to a comprehensive FTA between the U.S. and Japan. The agreement on the operation of Japan's beef safeguard mechanism will help increase sales of U.S. beef products.

U.S. agricultural exports to Japan were over $15 billion in 2022.

USMCA

The U.S.-Mexico-Canada Agreement is important for the continuation and improvement of trade among the nations of North America. Canada ($28.3 billion) and Mexico ($28 billion) are the second and third largest export markets for U.S. agriculture. The implementation and enforcement of this Agreement will yield future growth for our exports.

Issues between the U.S. and Canada on dairy imports, and between the U.S. and Mexico on biotech corn, are currently in the dispute settlement system.

U.S.-United Kingdom

The U.S. and the United Kingdom (UK) reached an agreement to resolve the steel tariffs dispute between the two countries. This agreement removed the retaliatory tariffs on U.S. agricultural products placed by the UK after the U.S. placed tariffs on UK steel and aluminum.

We support a resumption of trade negotiations between the U.S. and the UK to deal with non-science-based barriers to our agricultural exports.

Trade Promotion Authority

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Trade Promotion Authority) ended on July 1, 2021. Farm Bureau recognizes the crucial importance of Trade Promotion Authority and supports its 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.

World Trade Organization

The Biden Administration will need to deal with various WTO reform issues such as the operation of the Appellate Body. For agriculture, we support working toward increased transparency through an improved notifications process. We do not support discussion of subsidy levels without a full discussion of market access initiatives.

Sustainability

U.S. farmers and ranchers look to be partners in addressing the challenges of our changing climate. Not only are agriculture's emissions low, American farmers and ranchers are taking active steps to make their footprint even smaller. This is best accomplished through policies that provide voluntary, incentive-based tools for farmers, ranchers, and forest owners to maximize the sequestration of carbon. This approach will also help achieve a reduction in greenhouse gas emissions; increase the resilience of the land; advance science-based outcomes and help rural economies adapt.

Conclusion

U.S. farmers and ranchers rely on export markets for over twenty percent of agricultural production. As Congress considers future discussions with the nations that are our most important export destinations, and those that have the potential to grow in importance, we need to consider how the proposed Indo-Pacific Economic Framework, and other initiatives, can most effectively expand agricultural exports to the benefit of the nation's farmers and ranchers.

AMERICANS FOR FREE TRADE

April 6, 2023

The Honorable Ron Wyden
Chairman
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Jason Smith
Chairman
U.S. House

The Honorable Richard Neal
Ranking Member
U.S. House

Committee on Ways and Means
Washington, DC 20515

Committee on Ways and Means
Washington, DC 20515

RE: Statement for the Hearing Record: The President's 2023 Trade Policy Agenda

Dear Chairman Wyden, Ranking Member Crapo, Chairman Smith, and Ranking Member Neal,

The Americans for Free Trade coalition, a broad alliance of American businesses, trade organizations, and workers united against tariffs, respectfully submits this written statement to include in the public record of the Senate Finance Committee and House Ways and Means Committee's ("the Committees") 2023 Trade Policy Agenda hearings, which took place on March 23 and 24, respectively. We appreciate the Committees holding hearings on this important matter.

By way of background, Americans for Free Trade represents every part of the U.S. economy including manufacturers, farmers and agribusinesses, powersports, retailers, technology companies, service suppliers, natural gas and oil companies, importers, exporters, and other supply chain stakeholders. Collectively, we employ tens of millions of Americans through our vast supply chains.

For more than 4 years, AFT has called for an end to the China 301 tariffs which have had a disproportionate economic impact on American companies, consumers, and workers and that have failed to change China's unfair trade practices relating to intellectual property rights, forced technology transfers, and innovation. We have also repeatedly called for the administration to find a new path forward to address the ongoing China trade issues. We believe it is time for a strategic realignment of the tariffs to focus on the original intent of the 301 investigation and seek alternate measures, including working with our allies, to achieve the necessary changes in China's behavior.

Until that time, we also believe that USTR should relaunch a fair and transparent exclusion process that is available to all HTS lines impacted by the 301 tariffs. Members of Congress have repeatedly urged USTR to institute a robust process, including through letters sent by House and Senate members to Ambassador Tai last year as well as through appropriations language. Yet, USTR has refused to reestablish such an exclusions process and, in fact, stated in its fiscal year 2024 budget request that it anticipates work relating to product exclusion requests to decrease. This suggests that USTR has no intention of administering a robust exclusions process in the next fiscal year. We therefore believe it is important for Congress to insist that USTR make a products exclusions process available immediately and for as long as section 301 tariffs remain in place.

I. American Businesses Pay the 301 Tariffs, Not China

Since April 2018, U.S. Customs and Border Protection has assessed more than **$173 billion**[1] in section 301 tariffs on American companies who import products from China. These taxes continue to create tremendous uncertainty, increase the cost of doing business in the United States, and place a financial burden on American businesses—negatively impacting their ability to invest in their companies, hire more American workers, innovate new technologies, and remain competitive globally. The tariffs also have an impact on consumers. While many companies have tried to absorb the costs of the tariffs, many have had to share the costs with final consumers.

AFT has argued for years that American companies, not Chinese companies, bear the economic brunt of the tariffs. Those who argue otherwise are simply ignoring reality. This was confirmed by the non-partisan, independent U.S. International Trade Commission (USITC) in its recent report entitled "Certain Effects of Section 232 and 301 Tariffs Reduced Imports and Increased Prices and Production in Many U.S. Industries."[2] The report states: "U.S. importers bore nearly the full cost of these tariffs because import prices increased at the same rate as the tariffs. The USITC estimated that prices increased by about 1 percent for each 1 percent increase in the tariffs under sections 232 and 301."

While we would have liked to have seen a more fulsome discussion in the USITC report regarding the 301 tariffs' impact on downstream industries and consumers, we welcomed the report and were pleased that it confirmed the economic impact of the 301 tariffs that we have been discussing for years. As part of the study, AFT

[1] CBP Trade Statistics, *https://www.cbp.gov/newsroom/stats/trade.*

[2] Economic Impact of Section 232 and 301 Tariffs on U.S. Industries, *https://www.usitc.gov/publications/332/pub5405.pdf,* March 15, 2023.

shared materials, including a list of Studies on Economic Impact of Tariffs—2018–2022 and a list of Articles on the Impact of Tariffs, which we have also included as part of this statement for the record.

During her testimony at the trade agenda hearings, Ambassador Tai noted that USTR is currently undertaking its statutory 4-year review of the China 301 tariffs. We continue to believe this review needs to be fair and transparent. We are disappointed that the review has not included a public hearing—something USTR offered when promulgating Lists 1–4 tariffs and that the USITC offered in crafting its recent economic impact report. While written comments are extremely important, they alone do not provide the same opportunity for companies to tell their story about the ongoing impact of the tariffs and answer questions from the Section 301 Committee as a public hearing would provide. That said, we encourage Members of Congress to insist that USTR use the 4-year review process to conduct a holistic assessment of whether the tariffs have achieved their stated objectives, as identified in the underlying section 301 report, and provide a full picture of the impact the tariffs have had to the U.S. economy, as well as American businesses, workers, and consumers. USTR should seriously consider whether the 301 tariffs truly provide leverage to elicit a change in behavior by China or whether they represent the best path forward given the current state of the U.S. economy.

II. 301 Tariffs' Impacts on American Businesses and Consumers

As part of the 301 4-year review, AFT provided USTR with feedback from a number of coalition partners regarding the negative impacts that the tariffs have had on their businesses, workers and consumers. We have provided some of those stories below.

a. Tariffs Make U.S. Manufacturers Less Competitive

Proponents of the section 301 tariffs claim that lifting them—and even offering a targeted product exclusions process—would harm domestic manufacturing. We strongly disagree with that sentiment. While protecting domestic manufacturing was never the stated purpose of the section 301 tariffs, they have been harmful to manufacturers by taxing inputs they need to produce more products domestically.

Consider the case of one manufacturer who has been producing speakers in the United States since 1949. This manufacturer produces speakers for nearly every audio application—mass transit, aerospace, medical equipment, professional audio, motorcycles, home audio, etc.

Because it is one of the last companies that still builds speakers in the United States, the company has been unable to find domestic suppliers who can produce the specialty parts required for the speakers. To be globally competitive, the company must buy its components primarily from China where their global competitors purchase their parts. Unfortunately, these parts are on List 3 and are subject to an additional 25% tariff. The company described this as "a direct addition of 25% to our cost of goods sold." The company further stated that its competitors who import completed speakers made in China only pay a 7.5% tariff. The company said this makes it "less competitive than [its] USA competitors who import complete products made in China with no USA labor content" and that it is essentially "penalized for building speakers in America."

Because of the significant impact to its ability to compete, the company said it is now "moving more manufacturing out of the USA." In other words, the tariffs have *disincentivized* manufacturing in the United States.

An information technology company told us something similar. This American business pays tariffs on parts and components listed on Lists 3 and 4a and initially paid over $350 million per year in section 301 tariffs. The company moved some of its supply chain from China to Mexico to reduce this duty burden by a little more than half, but these increased costs were eventually passed along to customers through price increases. The company previously sought product exclusions on key parts and components under the Trump Administration—a process which no longer exists—but was denied. Because the company cannot source the parts and components from anywhere other than China, it is now considering whether to move its manufacturing to Mexico and then import the products into the United States duty-free—putting 1,300 American jobs in jeopardy.

The tariffs have also prevented small American businesses from growing. We spoke with a company that produces home theater accessories, and it described the impact of the tariffs on its products—which are on List 3—as follows:

> The tariff impacted us in three major ways. 1. The best manufacturers are all located in China for our products. Finding new manufacturers, even here in the US, was difficult to secure due to the premium level of our technology and design. Also with COVID happening immediately after List 3 was released, traveling abroad to find other manufacturers was impossible. 2. If we did find a manufacturer that was at our standard, the additional cost of building new tools, that had already been made and paid for in China, was a very hard burden on our small company. Also, we have to certify a good portion of our goods and any new product created from a new tool has to go through recertification at a cost that was also unbearable to our small business. 3. Being a brand new business, we secured funding to build and grow our brand, and immediately 20% of the funding went to a cost via the tariff that I had slated for new technology and product development, employees, and programs with our retail partners. It stunted our growth. Though there are more, these three actions have cost us in multiple ways the ability to grow and compete with businesses that have been around much longer.

Another small business we spoke with imports industrial magnets from China that are incorporated into devices that work in vehicle engines to conserve fuel. The business owner produces these devices in the United States. The business owner told us that the section 301 tariffs have added a million dollars to his costs in the past several years. He described the impact as follows: "With this money I could have added at least one more engineer and support staff in the US. I also have European competitors who don't have the extra 25% cost. It's throwing money down a hole and makes no sense."

We spoke with another American manufacturer that produces a plastic material used in the development of U.S.-made parts for autos, farm equipment, transportation equipment and more. The value of the material comes largely from two key properties—hardness and rigidity. But to achieve these two key properties, the material must first be mixed with a specific chemistry that cures, or hardens, the final product. That essential hardening chemistry is not produced in the United States; it must be imported. Approximately 40 to 80 percent of the import is produced in China, with the balance produced in Japan and Taiwan. But there is not enough capacity in Japan and Taiwan to supplant the supply from China. Therefore, applying the section 301 tariff to this import does not hurt China—it hurts U.S. businesses which have no choice but to pay the tariff anyway to continue to enhance the competitiveness of their American made products.

These examples illustrate how the tariffs have both impacted small businesses and will continue to impact American businesses for as long as they remain in place. Consider the example of a small flower seed business that has paid "nearly $1.5 million in tariffs for seed produced in China." The company said that this money could have been used "for further investment in our technology, improving customer service or increasing seed quality." Because the seeds they cultivate "need that environment for cultivation purposes" (China), the business cannot readily shift production of additional seed to other locations to accommodate the tariffs. This small business also has European and Asian competitors who do not pay the tariffs, so it has been forced to absorb most of the costs to remain competitive. Most concerning, the business is considering moving jobs to China, which would also require transferring proprietary technology, to cope with the increased costs:

> We have been exploring options to make better use of the farm and are looking at shipping seed that is produced in China to other markets to avoid the tariffs. This is rather cumbersome because we need to manage separate inventories, we need to much more carefully plan what we can place in China and it has caused us to move some jobs from the US to China to deal with this. If we ramp the activity up we will need to transfer some proprietary technology from the US to China or other countries which we prefer not to do.

The section 301 tariffs have harmed, and continue to harm, U.S. manufacturers and make them less competitive vis-à-vis their competitors and China. They should be lifted immediately.

b. Tariffs Increase Costs for American Consumers and Contribute to Inflation

Proponents of the tariffs also ignore the very real contribution tariffs have had on inflation. While there are various contributing factors to inflation, lifting tariffs is one of the few tools that the Administration could utilize to bring down inflation.

At a time when inflation is at a 4-decade high, the Administration should be leveraging every tool at its disposal to combat this crisis, which is squeezing hard-working American families and businesses. Time and again, we have heard from businesses of all kinds that they were forced to pass along the increased costs associated with the section 301 tariffs directly to their customers. Consider the statements we received from coalition members below:

> There's a 25% supplemental tariff on our new product, [a type of lamp], we have to pass on the cost to customers (total tariff of 28%). We would lower the price right away if the Trump tariff were removed.
>
> —Consumer Electronics Company

> We were impacted by Lists 3 and 4a, initially paying over $350M per year in tariffs. Supply chain moves—mostly from China to Mexico—cut that to where we are paying just over $150M per year today (2022). We immediately passed on the costs to our customers through price increases, which of course, is inflationary.
>
> —Information Technology Company

> The 25% tariff (tax) has been nothing but that, a tax or penalty on us as a small US based business. The Chinese do not pay the tariff or any portion of it! We do not have the gross profit margins to absorb this tariff so as a result we need to incorporate this into what we charge our customer—more US based small businesses harmed by these tariffs/taxes.
>
> —Lighting Manufacturer and Distributor

> The tariffs on our China origin goods has [sic] directly impacted or [sic] business strategy regarding the place of production for certain vegetable seed crops such as Cucumber, Melon, Tomato and Watermelon seeds. Producing hybrid vegetable seeds takes years of experience and knowledge. Weather, climate, and drought conditions are major factors especially as we are facing the global climate crisis. There are very few options for qualified and trusted growers. Our Chinese suppliers have an excellent reputation and service levels sealed with production contracts that are reviewed by legal and signed each year. Who pays the price for these high tariff rates on China origin seeds? It is the American people who pay in the form of higher prices for healthy food in the US market place.
>
> —Vegetable Seed Business

c. Tariffs Disproportionately Harm Low-Income American Families

Tariffs harm American families by raising prices on consumer products, and this is felt most acutely by low-income families. A report by the Progressive Policy Institute found that tariffs on consumer goods are discriminatory and regressive because low-income Americans are disproportionately impacted by these tariffs, especially single-parent families and people of color.

We spoke with a small American business that produces baby products, including a portable crib that it developed to promote a safe sleeping environment for infants and that is also subject to the section 301 tariffs. The company has distributed thousands of these cribs to low-income families for over 20 years through a non-profit organization, directly contributing to the reduction in infant deaths from Sudden Infant Death Syndrome (SIDS) and Accidental Suffocation and Strangulation in Bed (ASSB). The company stated that all proceeds from the sales of these cribs go back into the non-profit so that it can continue to provide its "partners with the tools to educate their communities about the importance of infant safe sleep." When asked about the impact of the tariffs on its mission, the company said this:

> Until the tariffs were imposed, we prided ourselves on providing a safety approved crib . . . to our partners for under $50. Because of the 25% tariff and the increase in shipping from China, that was imposed on the [crib], we had to raise the price of our unit from $49.99 to $69.99, resulting in a decrease in the number of [cribs] that our partners were able to purchase since 2019 by well over 25%. What that means is 25% fewer infants have been able to sleep in a safe sleeping environment and babies lives have been put at risk. We know you can not effect immediate change in the high cost of shipping, however, by relieving us of the $25% tariff on our [crib] we will be able to reduce its price and assure that more babies lives will be saved from SIDS or ASSB.

This baby products company ended its testimonial with a plea that the Administration consider the request that the tariffs be lifted to help "low-income parents throughout the country, and of course, the babies!"

This example could not be starker. The tariffs are harming U.S. businesses and Americans in ways large and small, including impacting the ability of small businesses and non-profits to get life-saving baby products into the hands of low-income families.

III. China Strategy Moving Forward

We urge Members of Congress to call upon the Biden-Harris Administration to provide a clear and transparent China trade strategy. We know that this strategy goes well beyond the China 301 tariffs, but we believe addressing the tariff issues and China's unfair trade practices associated with them are important for the reasons we discussed above.

As a near-term path forward, with regards to the tariffs specifically, AFT suggests the following:

(1) **Realign the Section 301 Tariffs**—Through the strategic 4-year review process, USTR and the administration should strategically realign the tariffs away from consumer goods and manufacturing inputs and equipment that are currently unavailable in sufficient quantities from sources other than China. These tariffs harm American companies and consumers and are not related to China's Made in 2025 program or critical sectors. The realignment should provide the opportunity for the administration to refocus the tariffs and create better leverage to achieve changes in China's unfair trade practices regarding forced technology transfer and intellectual property theft. As part of this realignment, USTR should also include a new, fair, predictable, and transparent exclusion process available to all products subject to the 301 tariffs to ensure that American companies are not unduly harmed.

(2) **Use Targeted Tools to Hold Bad Actors Accountable**—There has been ongoing discussion about what tools other than tariffs can be used to achieve success regarding China's trade practices. USTR has discussed other "tools in the toolbox" and potentially the development of "new tools" but has stopped short of articulating what those might be. We believe these discussions are incredibly important and need to continue, with stakeholder input. We need to find the right set of tools that address China's unfair trade practices in a targeted way without causing disproportionate economic harm to American businesses, workers and consumers.

(3) **Support U.S. Supply Chain Resiliency and Competitiveness by Partnering with Allies**—AFT continues to call upon the administration to work with allies to address China's unfair trade practices. This includes work at the G20, G7, World Trade Organization, and other multilateral and regional institutions. The U.S. can be much more effective in addressing China's unfair trade practices by working in concert with allies.

(4) **Support Efforts on Supply Chain Diversification**—Congress and the Biden-Harris Administration should support the U.S. business community's efforts to further diversify supply chains. This includes developing an offensive trade agenda that supports supply chain diversification and ensures the U.S. does not cede global economic influence and international rulemaking to China. This should also include seeking new free trade agreements with our allies. Congress should also quickly act to retroactively renew expired trade preference programs including the Generalized System of Preferences (GSP), which provide sourcing alternatives to China, as well as the Miscellaneous Tariff Program (MTB), which provides temporary duty benefits for U.S. manufacturers and businesses.

IV. Conclusion

We appreciate the Committees' continued engagement and focus on ensuring that U.S. trade policy advances American values and boosts U.S. competitiveness. We urge the Committees to continue weighing in with the Biden-Harris Administration to ensure that destructive tariffs are lifted, and that a new and more effective approach to addressing China's unfair trading practices is adopted. We thank the

Committees for holding this year's trade agenda hearings and look forward to continuing to work with you.

Sincerely,

Accessories Council
ACT | The App Association
Agriculture Transportation Coalition (AgTC)
ALMA, International (Association of Loudspeaker Manufacturing and Acoustics)
American Apparel and Footwear Association (AAFA)
American Association of Exporters and Importers (AAEI)
American Association of Port Authorities
American Bakers Association
American Bridal and Prom Industry Association (ABPIA)
American Chemistry Council
American Clean Power Association
American Down and Feather Council
American Fly Fishing Trade Association
American Home Furnishings Alliance
American Lighting Association
American Petroleum Institute
American Pyrotechnics Association
American Rental Association
American Seed Trade Association
American Specialty Toy Retailing Association
American Trucking Association
Arizona Technology Council
Arkansas Grocers and Retail Merchants Association
Association For Creative Industries
Association for PRINT Technologies
Association of American Publishers
Association of Equipment Manufacturers (AEM)
Association of Home Appliance Manufacturers
Auto Care Association
Beer Institute
BSA | The Software Alliance
Building Service Contractors Association International (BSCAI)
Business Alliance for Customs Modernization
California Retailers Association
Can Manufacturers Institute
Chemical Industry Council of Delaware (CICD)
Coalition of New England Companies for Trade (CONECT)
Coalition of Services Industries (CSI)
Colorado Retail Council
Columbia River Customs Brokers and Forwarders Association
Computer and Communications Industry Association (CCIA)
Computing Technology Industry Association (CompTIA)
Consumer Brands Association
Consumer Technology Association
Licensing Industry Merchandisers' Association
Los Angeles Customs Brokers and Freight Forwarders Association
Louisiana Retailers Association
Maine Grocers and Food Producers Association
Maine Lobster Dealers' Association
Maritime Exchange for the Delaware River and Bay
Maryland Retailers Association
MEMA, The Vehicle Suppliers Association
Michigan Chemistry Council
Michigan Retailers Association
Minnesota Retailers Association
Missouri Retailers Association
Motorcycle Industry Council
NAPIM (National Association of Printing Ink Manufacturers)
National Association of Chain Drug Stores (NACDS)
National Association of Chemical Distributors (NACD)
National Association of Foreign-Trade Zones (NAFTZ)
National Association of Home Builders
National Association of Music Merchants
National Association of Trailer Manufacturers (NATM)
National Confectioners Association
National Council of Chain Restaurants
National Electrical Manufacturers Association (NEMA)
National Fisheries Institute
National Foreign Trade Council
National Grocers Association
National Industrial Transportation League (NITL)
National Lumber and Building Material Dealers Association
National Marine Manufacturers Association
National Restaurant Association
National Retail Federation
National Ski and Snowboard Retailers Association
National Sporting Goods Association
Natural Products Association
New Jersey Retail Merchants Association
North American Association of Food Equipment Manufacturers (NAFEM)
North American Association of Uniform Manufacturers and Distributors (NAUMD)
North Carolina Retail Merchants Association
Ohio Council of Retail Merchants
Outdoor Industry Association
Pacific Coast Council of Customs Brokers and Freight Forwarders Associations Inc.
Pennsylvania Retailers' Association
PeopleforBikes
Personal Care Products Council

Council of Fashion Designers of America (CFDA)
CropLife America
Customs Brokers and Freight Forwarders Association of Washington State
Customs Brokers and Freight Forwarders of Northern California
Electronic Transactions Association
Energy Workforce and Technology Council
Experiential Designers and Producers Association
Exhibitions and Conferences Alliance
Fashion Accessories Shippers Association (FASA)
Fashion Jewelry and Accessories Trade Association
Flexible Packaging Association
Florida Ports Council
Florida Retail Federation
Footwear Distributors and Retailers of America (FDRA)
Fragrance Creators Association
Game Manufacturers Association
Gemini Shippers Association
Georgia Retailers
Global Business Alliance
Global Chamber®
Global Cold Chain Alliance
Greeting Card Association
Halloween and Costume Association (HCA)
Home Fashion Products Association
Home Furnishings Association
Household and Commercial Products Association
Housing Affordability Coalition
Idaho Retailers Association
Illinois Retail Merchants Association
Independent Office Products and Furniture Dealers Association (IOPFDA)
Indiana Retail Council
Information Technology Industry Council (ITI)
International Association of Amusement Parks and Attractions (IAAPA)
International Bottled Water Association (IBWA)
International Foodservice Distributors Association
International Housewares Association
International Warehouse Logistics Association
International Wood Products Association
ISSA—The Worldwide Cleaning Industry Association
Jeweler's Vigilance Committee
Juice Products Association (JPA)
Juvenile Products Manufacturers Association
Leather and Hide Council of America
Pet Food Institute
Pet Advocacy Network
Plumbing Manufacturers International
Power Tool Institute (PTI)
PRINTING United Alliance
Promotional Products Association International
Recreational Off-Highway Vehicle Association
Retail Association of Maine
Retail Council of New York State
Retail Industry Leaders Association
Retailers Association of Massachusetts
RISE (Responsible Industry for a Sound Environment)
RV Industry Association
San Diego Customs Brokers and Forwarders Association
Semiconductor Industry Association (SIA)
Snowsports Industries America
Software and Information Industry Association (SIIA)
South Dakota Retailers Association
Specialty Equipment Market Association
Specialty Vehicle Institute of America
Sports and Fitness Industry Association
TechNet
Telecommunications Industry Association (TIA)
Texas Retailers Association
Texas Water Infrastructure Network
The Airforwarders Association
The Fertilizer Institute
The Hardwood Federation
The Vinyl Institute
Toy Association
Travel Goods Association
Truck and Engine Manufacturers Association (EMA)
United States Council for International Business
United States Fashion Industry Association
U.S. Global Value Chain Coalition
U.S.-China Business Council
Virginia Association of Chain Drug Stores
Virginia Retail Federation
Virginia-DC District Export Council (VA–DC DEC)
Washington Retail Association
Water Quality Association
Window and Door Manufacturers Association
World Pet Association, Inc. (WPA)

Attachment 1—Studies on Economic Impact of Tariffs—2018–2022

1. May 2022, American Action Forum: *The Total Cost of U.S. Tariffs;* Tom Lee and Jacqueline Varas.
2. April 2022, Tax Foundation: *Tracking the Economic Impact of U.S. Tariffs and Retaliatory Actions;* Erica York.

3. March 2022, Peterson Institute of International Economics: *For Inflation Relief, the United States Should Look to Trade Liberalization;* Gary Clyde Hufbauer, Megan Hogan, and Yilin Wang.
4. January 2022, USDA Economic Research Service: *The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture;* Stephen Morgan, Shawn Arita, Jayson Beckman, Saquib Ahsan, Dylan Russell, Philip Jarrell, and Bart Kenner.
5. December 2021, Tax Foundation: *Who Really Pays the Tariffs? U.S. Firms and Consumers, Through Higher Prices;* Alex Durante and Alex Muresianu.
6. October 2021, National Bureau of Economic Research: *Illuminating the Effects of the US-China Tariff War on China's Economy;* Davin Chor and Bingjing Li.
7. May 2021, Moody's Investor Service Report, as reported in "U.S. companies are bearing the brunt of Trump's China tariffs," says Moody's, CNBC, Yen Nee Lee.
8. January 2021, IHS Markit: *Did the U.S. section 301 tariffs work?;* Yacine Rouimi.
9. May 2020, National Bureau of Economic Research: *The Effect of the U.S.-China Trade War on U.S. Investment;* Mary Amiti, Sang Hoon Kong and David Weinstein.
10. January 2020, National Bureau of Economic Research: *Who's Paying for the US Tariffs? A Longer-Term Perspective;* Mary Amiti, Stephen J. Redding, David E. Weinstein.
11. January 2020, National Bureau of Economic Research: *Rising Import Tariffs, Falling Export Growth: When Modern Supply Chains Meet Old-Style Protectionism;* Kyle Handley, Fariha Kamal, Ryan Monarch.
12. January 2020, Congressional Budget Office: *The Budget and Economic Outlook 2020 to 2030.*
13. December 2019, Federal Reserve Board: *Disentangling the Effects of the 2018–2019 Tariffs on a Globally Connected U.S. Manufacturing Sector;* Aaron Flaaen and Justin Pierce.
14. November 2019, United Nations Conference on Trade and Development, *Trade and Trade Diversion Effects of United States Tariffs on China;* Alessandro Nicita.
15. October 2019, Revised December 2019, National Bureau of Economic Research: *The Consumption Response to Trade Shocks: Evidence from the US-China Trade War;* Michael E. Waugh.
16. October 2019, National Bureau of Economic Research: *Tariff Passthrough at the Border and at the Store: Evidence from US Trade Policy;* Alberto Cavallo, Gita Gopinath, Brent Neiman, Jenny Tang.
17. September 2019, Board of Governors of the Federal Reserve System, *The Economic Effects of Trade Policy Uncertainty;* Dario Caldara, Matteo Iacoviello, Patrick Molligo, Andrea Prestipino, Andrea Raffo.
18. September 2019, Moody's Analytics: *Trade War Chicken: The Tariffs and the Damage Done;* Mark Zandi, Jesse Rogers and Maria Cosma.
19. March 2019, Revised October 2019, National Bureau of Economic Research: *The Return to Protectionism;* Pablo D. Fajgelbaum, Pinelopi K. Goldberg, Patrick J. Kennedy, Amit K. Khandelwal.
20. March 2019, National Bureau of Economic Research: *The Impact of the 2018 Trade War on U.S. Prices and Welfare;* Mary Amiti, Stephen J. Redding, David E. Weinstein.
21. February 2019, Trade Partnership Worldwide, LLC: *Estimated Impacts of Tariffs on the U.S. Economy and Workers;* Laura Baughman and Joseph Francois.
22. December 2018, National Bureau of Economic Research: *Macroeconomic Consequences of Tariffs;* Davide Furceri, Swarnali A. Hannan, Jonathan D. Ostry, Andrew K. Rose.

Attachment 2—Articles on the Impact of Tariffs

Date	Headline	Outlet
6/7/2022	Biden Must Roll Back the Tariffs Weighing So Heavily On the Economy	*RealClearMarkets*
5/17/2022	As Businesses Struggle, Tariffs Create Avoidable Challenges	*The Well News*
4/15/2022	End China trade war	*Times-Tribune*
3/26/2022	Supply Chain Issues Continue to Hurt Businesses. Lifting Tariffs Can Help.	*RealClearPolitics, The Center Square, Livingston Parish News*
3/24/2022	To Help Revive the U.S. Economy, the Biden Administration Must Lift the Tariffs	*RealClearMarkets*
3/20/2022	Tariffs Hurt Virginia Businesses	*The Gazette-Virginian*
2/25/2022	To Fulfill His Economic Vision, President Biden Must End Trump's Tariffs	*The Well News*
2/14/2022	Want to Stem Inflation? End the Trade War	RedState
2/14/2022	Trade War Continues to Batter New Hampshire Businesses	*NH Journal*
2/11/2022	2 Years Since Trade Deal with China, Tariffs Aren't Working for American Businesses	*Entrepreneur.com,* MSN
2/8/2022	Cutting Chinese tariffs would help Del. businesses	*Delaware Business Times*
1/25/2022	Keep Wisconsin moving forward	*WisPolitics*
12/13/2021	Amid Pressing Economic Crises, Biden Administration Must Lift Tariffs	*Townhall*
12/9/2021	Biden must end failed trade policy that has hurt Pennsylvanians	*Tribune-Review*
11/10/2021	It's Time to End the Trade War With China	*Newsweek*
11/3/2021	Post-Covid, the Federal Government Must Remain Committed to Helping Businesses	*Entrepreneur.com*
10/12/2021	U.S. tariffs on Chinese goods hurts Arizona's economic growth	*Arizona Daily Star*
9/29/2021	For Washington's Economy to Fully Recover, Biden Administration Must End Tariffs	*Kirkland Patch*
9/14/2021	Duane Garfoot: Continued tariffs still loom large following Biden's Wisconsin visit	*WisPolitics*
9/7/2021	Trade Wars Worsen Shipping Crisis	*Townhall*
7/22/2021	The time has come for Biden to repeal Trump's tariffs	*News Journal*
7/12/2021	Biden can help American workers and protect U.S. jobs by ending trade wars	*Washington Times*
6/23/2021	Ongoing trade war limits recovery for U.S. businesses	*Tribune-Review*

Attachment 2—Articles on the Impact of Tariffs—Continued

Date	Headline	Outlet
5/19/2021	As COVID–19 recovery begins, Granite State needs tariff relief	Manchester Ink Link
5/7/2021	Oregon businesses bear the brunt of the U.S. tariffs on China	*The Oregonian*
4/5/2021	Repealing Trump-era trade tariffs would throw a lifeline to struggling businesses	*Crain's New York Business*
3/25/2021	Repeal Tariffs to Boost the Economy, Help Small Businesses	*RealClearMarkets*
3/3/2021	Tariff relief must play a central role in Biden trade agenda	*Des Moines Register*
2/24/2021	Removing tariffs is key to economic relief	*Washington Examiner*
2/12/2021	Repealing tariffs should be one of Biden's first acts	*Wisconsin State Journal, Herald Times Reporter*
2/7/2021	Biden can save Americans billions of dollars by ending Trump's trade war with China now	*Business Insider*
12/21/2020	Trump Must Repeal Tariffs to Provide Americans Relief	*Inside Sources*
12/12/2020	If Biden Wants to Help Middle America, He'll Lift Tariffs	*RealClearPolitics*
11/21/2020	Prospect of Tariffs on Vietnamese Imports Jeopardizes American Recovery	RedState
10/31/2020	A Pledge To Repeal Tariffs Is Crucial For Both Candidates	*Townhall*
10/29/2020	Tariffs Continue to Hurt Wisconsin	*The Baraboo News Republic*
10/29/2020	Tariffs Must Take Center Stage in Leadup to Election Day	*NH Journal*
10/28/2020	WTO ruling and domestic lawsuits may boost Biden's chances of winning	*WisPolitics*
9/24/2020	Floridians Are Frustrated With The Trade War	*The Floridian*
9/22/2020	Trump's trade war has punished Americans more than China	*Laconia Daily Sun*
9/17/2020	Mike Duerst: Tariffs Prove to be a Key Issue for Wisconsin Voters	*WisPolitics*
9/16/2020	Path to White House Includes Repealing Tariffs	RedState
6/1/2020	President Trump's Tariffs Put Economic Recovery at Risk	RedState
5/26/2020	One Big Way To Help US Businesses Come Back After Coronavirus	*Townhall*
5/26/2020	More tariffs would bring Missouri to its breaking point	*Missouri Times*

Attachment 2—Articles on the Impact of Tariffs—Continued

Date	Headline	Outlet
5/7/2020	Stimulus is helpful, but tariffs are still threatening our livelihoods	*MinnPost*
4/4/2020	Trade War Damage Worsened by Global Health Pandemic	*RealClearPolitics*
3/6/2020	Trump's trade war threatens S.C.'s economy and workers—Democratic presidential candidates should vow to end it	*Charleston City Paper*
3/3/2020	Trade War Could Unravel President Trump's Economic Accomplishments	RedState
2/10/2020	The trade war with China has hurt my small business in Massachusetts	*Boston Globe*
2/10/2020	The Trade War Hurts President Trump's Re-Election Chances in New Hampshire	*NH Journal*
2/1/2020	The Trade War is Undoing President Trump's Economic Achievements | Cucciniello	*Save Jersey*
1/29/2020	Democratic candidates should talk more about Trump's trade war	*Sioux City Journal*
1/19/2020	I supported Trump's trade war. But now it's driving my industry out of business	*Star Ledger*
1/18/2020	Trump can win Wisconsin if he ends tariffs	*Wisconsin State Journal*
12/31/2019	The trade war has cost us over $500,000 dollars	*PennLive*
12/19/2019	In the Next Debate, Democrats Must Highlight Damage Trump's Tariffs Have Caused	LA Focus
12/4/2019	Trade war undermines strong Texas economy and Trump's reelection chances	*Houston Chronicle*
12/3/2019	Trump has been great for Black Americans, but the trade war could hinder the progress	*The State*
11/25/2019	Tariffs are slowly driving me out of business	*Concord Monitor*
11/7/2019	Tariffs Could Hurt the Holidays—and President Trump's Re-Election in 2020	*Iowa Standard*
10/15/2019	Enough Is Enough: Tariffs Are Damaging Ohio's Economy	*RealClearPolitics*
10/4/2019	How Tariffs Are Hurting Trump's Base—and His Chances of Re-election	*Save Jersey*
9/20/2019	Tariffs Could Hurt President Trump's Chances in North Carolina	*Townhall*
8/25/2019	How Tariffs Are Hurting My Business—And Your Wallet	*NY Observer*
8/14/2019	Tariffs Are Taxes Paid by New Hampshire Businesses and Consumers	*NH Journal*

Attachment 2—Articles on the Impact of Tariffs—Continued

Date	Headline	Outlet
8/4/2019	Trump's economy is booming—repealing tariffs will boost it even more	*The Hill*
8/2/2019	Tariffs Looming over 2020 Election	RedState
7/10/2019	Rohn Bishop: Wisconsin needs 4 more years of Trump's economic policies—minus tariffs	*WisPolitics*
7/9/2019	LTE: Tariffs should be removed	*Gettysburg Times*
6/19/2019	Tariffs hurting same Floridians Trymp is trying to help	*Sun Sentinel*
6/19/2019	Trump's tariffs endanger Wisconsin's booming economy	*The Cap Times*
6/13/2019	A Quick End to the Trade War Is the Key to Victory for President Trump in 2020	*Townhall*

CENTER FOR FISCAL EQUITY
14448 Parkvale Road, #6
Rockville, MD 20853
fiscalequitycenter@yahoo.com

Statement of Michael G. Bindner

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to submit comments to the committee.

Within the past week, Chinese President Xi met with Vladimir Putin to strengthen economic ties, although any direct help with the Russian aggression in Ukraine (not a regional conflict) was not disclosed. If such aid is found to exist, it is news to no one that this would be very bad for our trade relationship with China.

Barring such stupidity, an agreement between Russia and China on energy and resources is geographically inevitable, although its instigation by authoritarian regimes is problematic for anyone outside the ruling oligarchy on one side and the Communist Party on the other. Revolution in both countries is inevitable and may occur sooner than later—which would be good news for the Mongols, the Uyghurs and the Ukranians (and many others).

The continuing conflict in Ukraine is not good for the Belt Road initiative. If China acts in their own interests in this matter, rather than in the interests of the strongmen, development will be good for all.

Until sanity returns, a rapprochement between Russia and China is all the more reason to dust off plans for the Trans-Pacific Partnership (or whatever Ambassador Tai wishes to call it). We made our feelings about extra-legal provisions of trade treaties in regard to local law last year—and the years before. Global capitalism is bad enough. Global authoritarian capitalism is worse. Using right to work laws to leave American workers naked in the face of such power (including migrants to the United States) is a practice that must be ended if we wish to claim moral high ground in dealing with the Chinese.

The crisis on the border continues. The President is finding that dealing with it is not so easy as evicting Stephen Miller from the West Wing, which is why immigration reform must be part of the trade policy agenda. Workers who do not have documentation problems cannot be easily exploited—especially if they are able to unionize. This will also help level the playing field for American workers.

An analysis of how consumption taxes can improve our trade policy is found in our first attachment, as it was last year. We have updated our tax reform and debt papers, which are also attached.

Congress has recently passed corporate minimum taxes to come into compliance with the OECD's agreement on this subject. The President's budget includes further proposals in this area. I am no fan of corporate income taxation when value-added taxes (both GST/Invoice VAT and Subtraction VAT) are available.

Our proposal for an **Asset Value-Added Tax** will require international cooperation. Part of trade is moving money around—including financial assets. An asset VAT as a replacement for capital gains taxes and capital returns must go farther than the border. It is too easy to shift to offshore stock exchanges where such taxes do not exist. International agreements on rates and enforcement structures are vital for such a tax to work. The model for negotiating the CMT on a multi-national basis can be used for this effort. Again, please see the third attachment, which has been recently updated.

Given that there is still no agreement on extending (or eliminating) the debt limit, our national debt attachment is a must read for members of the Republican Conference. **It turns out that much of the national debt is held by managed fund accounts and bonds held by the wealthiest households. GOP donors need to make some phone calls, as they are the ones who will lose the most money the fastest in the event of a default.**

For more information on the debt, please see our study: *Settling (and Squaring) Accounts: Who Really Owes the National Debt? Who Owns It?* available from Amazon at *https://www.amazon.com/dp/B08FRQFF8S*. I can provide free copies of the prior version upon request and will distribute the latest edition once it is completed. The most recent bottom line estimates can be found in the second attachment. This shows who is on the hook for the debt and who benefits from it.

A main conclusion of our analyses is that the national debt is the leverage for capitalism to the extent that debt securities allow Wall Street to offer riskier assets, such as mortgage backed securities embedded in Exchange Traded Funds, as well as more traditional offerings. Wealth held by the few (and the attachment shows how very few we mean), provides management absolute control of most workplaces. Employee-owned firms would not need such an unbalanced economy leveraged by American Treasury holdings.

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

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 it's 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. Attachment Three further discusses employee ownership.

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—Tax Reform, Center for Fiscal Equity, March 24, 2023

Synergy: The President's Budget for 2024 proposes a 25% minimum tax on high incomes. Because most high income households make their money on capital gains, rather than salaries, an asset value-added tax replacing capital gains taxes (both long and short term) would be set to that rate. The top rate for a subtraction VAT surtax on high incomes (wages, dividends and interest paid) would be set to 25%, as would the top rate for income surtaxes paid by very high-income earners. Surtaxes collected by businesses would begin for any individual payee receiving $75,000 from any source at a 6.25% rate and top out at 25% at all such income over $375,000. At $450,000, individuals would pay an additional 6.25% on the next $75,000 with brackets increasing until a top rate of 25% on income over $750,000. This structure assures that no one games the system by changing how income is earned to lower their tax burden.

Individual payroll taxes. A floor of $20,000 would be instituted for paying these taxes, with a ceiling of $75,000. This lower ceiling reduces the amount of benefits received in retirement for higher income individuals. The logic of the $20,000 floor reflects full-time work at a $10 per hour minimum wage offered by the Republican caucus in response to proposals for a $15 wage. The majority needs to take the deal. Doing so in relation to a floor on contributions makes adopting the minimum wage germane in the Senate for purposes of Reconciliation. The rate would be set at 6.25%.

Employer payroll taxes. Unless taxes are diverted to a personal retirement account holding voting and preferred stock in the employer, the employer levy would be replaced by a goods and receipts tax of 6.25%. Every worker who meets a minimum hour threshold would be credited for having paid into the system, regardless of wage level. All employees would be credited on an equal dollar basis, rather than as a match to their individual payroll tax. The tax rate would be adjusted to assure adequacy of benefits for all program beneficiaries.

High-income Surtaxes. As above, taxes would be collected on all individual income taxes from salaries, income and dividends, which exclude business taxes filed separately, starting at $400,00 per year. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction.

Asset Value-Added Tax (A–VAT). A replacement for capital gains taxes and the estate tax. It will apply to asset sales, exercised options, inherited and gifted assets and the profits from short sales. Tax payments for option exercises, IPOs, inherited, gifted and donated assets will be marked to market, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed. As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax-free. These taxes will fund the same spending items as high income and subtraction VAT surtaxes. There will be no requirement to hold assets for a year to use this rate. This also implies that this tax will be levied on all eligible transactions.

The 3.8% ACA–SM tax will be repealed as a separate tax, with health care funding coming through a subtraction value-added tax levied on all employment and other gross profit. The 25% rate is meant to be a permanent compromise, as above. Any changes to this rate would be used to adjust subtraction VAT surtax and high income surtax rates accordingly. This rate would be negotiated on a world-wide basis to prevent venue seeking for stock trading.

Subtraction Value-Added Tax (S–VAT). Corporate income taxes and collection of business and farm income taxes will be replaced by this tax, which is an employer paid Net Business Receipts Tax. S–VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long-term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence-level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S–VAT will not be border adjustable.

As above, S–VAT surtaxes are collected on all income distributed over $75,000, with a beginning rate of 6.25%. replace income tax levies collected on the first surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Invoice Value-Added Tax (I–VAT). Border-adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S–VAT, then they would be funded by the I–VAT to take advantage of border adjustability.

I–VAT forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. As part of enactment, gross wages will be reduced to take into account the shift to S–VAT and I–VAT, however net income will be increased by the same percentage as the I–VAT. Inherited assets will be taxed under A–VAT when sold. Any inherited cash, or funds borrowed against the value of shares, will face the I–VAT when sold or the A–VAT if invested.

I–VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I–VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.25% to 13%).

Carbon Added Tax (C–AT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C–AT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels. This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

Attachment Three—Debt Ownership as Class Warfare, February 16, 2022

Visibility into how the national debt, held by both the public and the government at the household level, sheds light on why Social Security, rather than payments for interest on the debt, are a concern of so many sponsored advocacy institutions across the political spectrum.

Direct household attribution can be made by calculating direct bond holdings, income provided by Social Security payments and secondary financial instruments backed with debt assets for each income quintile.

Responsibility to repay the debt is attributed based on personal income tax collection. Payroll taxes create an asset for the payer, so they are not included in the calculation of who owes the debt. Using 2019 tax data and the national debt as of COB February 15th, 2022. the ratio is $19 of debt owed for every dollar of income tax paid. Note well that the adjusted gross income of the bottom 80% is just over that garnered by the top 10%.

Percentiles	Millions of Returns	AGI	Income Tax	Debt	Federal Reserve and Bank Debt Assets	Long Term Investment Debt Assets	Managed Fund and Bond Debt Assets	Social Security and Medicare Assets
Total with tax	104.01	11,210.1	1,581.4	30,040.3	6,806.6	3,276.5	6,419.1	3,186.5
Top .01%	0.02	659.0	163.2	3,100.2	820.6	378.8	2,519.8	0.0
.01% to 1%	7.26	1,427.9	185.6	3,526.6	1,736.9	844.4	1,652.5	10.2
1% to 10%	7.28	2,086.9	348.8	6,626.8	1,957.5	978.1	1,196.5	177.6
Top 10%	**9.00**	**4,602.44**	**987.23**	**18,754.0**	**4,515.0**	**2,201.4**	**5,368.8**	**187.8**
10% to 20%	13.08	1,788.34	200.3	3,805.1	921.5	644.9	583.2	463.7
Bottom 80%	81.92	4,829.22	393.6	7,476.6	1,370.1	430.3	467.2	2,534.9

The bottom 80% of taxpaying units hold few, if any, public debt assets in the form of Treasury Bonds or Securities or in accounts holding such assets and only take home one-third of adjusted gross income. Their main national debt assets are held on their behalf by the Government. They are owed more debt than they owe through taxes. The next 10% (the middle class), hold more in terms of long term investments and mutual fund and bond assets. They hold a bit under a fifth of social insurance assets.

The top 10% pay more than half of income taxes (the dividing line is about 97.5%—and has been for a while). Asset shares within the top 10% are estimated using the same breakdown as the entire population, that is, the top 1% hold 54% of Federal Reserve and Long Term Investment Assets and 77% of mutual funds and bonds as held by the top 10%. A similar fraction is used to estimate holdings by the top 0.01%—which is consistent to how much income they receive (note that I did not say earn).

This illustration shows who benefits the most from having a national debt, therefore who has the most to lose through default. The relative shares of debt ownership, however, are current as reflected in the 2019 Federal Reserve Survey.

CONSUMER TECHNOLOGY ASSOCIATION
1919 S. Eads St.
Arlington, VA 22202
703–907–7600
https://www.cta.tech/

In response to the March 23 and March 24 congressional hearings on the 2023 U.S. Trade Policy Agenda, the Consumer Technology Association (CTA)® respectfully submits this statement for the record on increasing the positive impact and ambition of U.S. trade policy.

CTA represents the $505 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. Our industry appreciates the Office of the U.S. Trade Representative's (USTR's) efforts to strengthen U.S. trade relationships with allies and key trading partners, deploy U.S. trade policy as a tool for supporting Ukraine against Russia, establish a worker-centric trade policy, and address important U.S. objectives like eliminating forced labor from supply chains. around the world.

The Biden-Harris Administration has created a solid foundation. However, it must adopt a more proactive and market-opening U.S. trade policy that strengthens U.S. ties with its allies. Ahead of Ambassador Tai's testimony and responses to questions, CTA urges USTR to work with the Congress and U.S. stakeholders on prioritizing the negotiation of free trade agreements and opening new markets to U.S. technology goods and services through tariff elimination.

CTA's statement offers recommendations to the Congress and the Administration to support American businesses and workers and create durable, beneficial, and resilient economic and trade ties with its allies. They also call for an honest reckoning of current policy that has caused more harm than good (*e.g.,* the section 301 tariffs on imports from China).

1. CTA Recommendations on a better trade policy to support U.S. technology, trade, and economic leadership in the face of competition with China

Our relationship with China is complex: China is our third-largest trading partner, our second-largest debt holder, and a key source of inputs for CTA members. More, China is also a world power with whom we must maintain peaceful relations and cooperate on global challenges like climate change.

At the same time, China is our main economic rival and has vowed to overtake us as the world technology leader. They routinely ignore and exploit international trade norms. They engage in sophisticated efforts to steal US intellectual property and national security secrets. They are a potential military threat to the United States and neighboring economies like Taiwan, and they aggressively repress their own people and ethnic minorities.

U.S. policies toward China should recognize this nuanced "competition" dynamic with China, and disincentive Chinese bad behavior without unduly harming our businesses, consumers, or U.S. innovation. Our policies should:

- Strengthen the international rule of law and the multilateral trading system, including through modernization of the World Trade Organization (WTO);
- Avoid tariffs on imported goods from China or other markets. As the U.S. International Trade Commission demonstrated in its March 2023 authoritative report,[1] tariffs are taxes paid by Americans that drive inflation and harm US businesses, not China;
- Promote trade agreements and economic cooperation between the U.S. and our allies and democratic societies. We should contain trade misbehavior by the Chinese Communist Party (CCP) and state-owned or controlled enterprises by leading and participating in regional trade agreements networks like the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP);
- Ensure that any export and investment restrictions are narrowly tailored to address national security issues, and do not unduly impact commercial export opportunities for U.S. businesses;
- Avoid sweeping product and company bans unless they are the final resort to address legitimate national security threats to U.S. businesses or consumers;
- Ensure any import restrictions based on forced labor practices in China or other markets are clear, transparent, and enable compliance by law-abiding American businesses;
- Support and adhere to the rulings of the WTO and other bodies that maintain international trade rules and norms; and
- Prioritize robust and sustained consultations with stakeholders on all trade and investment initiatives, negotiations, and proposed measures, consistent with U.S. agency obligations under the Administrative Procedure Act as appropriate.

2. CTA Recommendations on a better trade policy to support U.S. friends and allies

Our planet's history tells us that friendship among nations is to be cherished and nurtured. Too often countries have not served as good friends to others, particularly in the area of international trade, when we prioritize competition over friendship. In our view, we should view trade friendships as a means of protecting the future of our children and successive generations, who will inherit our planet and the promise of humanity.

[1] *https://www.usitc.gov/publications/332/pub5405.pdf?source=govdelivery&utm_medium=email&utm_source=govdelivery.*

We must act to ensure not only their economic health but their freedom and liberty. If free market liberty-loving countries increasingly isolate themselves from each other via trade barriers, we are hurting our ability to compete both economically and in innovation. Free trade among friends and allies is important as it greatly benefits each nation and gives us the best chance at staying ahead of authoritarian governments.

With these perspectives in mind, CTA launched a new white paper at CES 2023: "Top Ten Ways for Turning Trade Friends into Trade Best Friends Forever (Trade BFFs)." (Footnote: *https://cdn.cta.tech/cta/media/media/advocacy/pdfs/tradebff.pdf*)

We hope these ideas, which we excerpt from the white paper below, spark a necessary conversation among democratic and liberty-loving nations on leaving the self-serving measures of the 20th century behind and forging a stronger and like-minded free trade future for our children and successive generations. And we welcome ideas from the Administration, the Congress, and our friends and allies on what it takes to be a "Trade BFF" in our era of fierce global competition.

Trade BFFs should:

1. **Honor their commitments to each other.** Friendships are built on trust, which means Trade BFFs should bind and enforce their commitments to each other (trade pinky promises) through comprehensive, binding, and enforceable free trade agreements (trade friendship bracelets).
2. **Have each other's backs.** You look out for someone by helping them—not putting up barriers to their success. True friendships embody selflessness—not selfishness. For example, they should promise to spare their Trade BFFs from disruptive and harmful unilateral enforcement actions, including tariffs and import prohibitions.
3. **Work together.** Friends make each other better and push each other to live up to or surpass expectations. One way to do that is to collaborate on strengthening the World Trade Organization and on multilateral and regional trade and investment efforts.
4. **Share common values**—and stick to them. We value freedom, democracy, and the power of the free market. We can maintain and promote market economies by avoiding policies that intentionally displace or injure foreign competitors and making any incentives available to their domestic industries also available to industries in their Trade BFFs.
5. **Compete hard—but fairly.** Trade BFFs develop and implement regulations that allow companies located in their fellow Trade BFFs to compete fairly on a level playing field while encouraging a race to the top through high performance.
6. **Be empathetic and open to mutual, voluntary support.** Trade BFFs take measures to encourage but not coerce industries located in their fellow Trade BFFs to trade with or invest in their economies.
7. **Invest in and support each other's successes.** If one friend is an expert or good at something, they use that skill or expertise to help their friends. Trade BFFs invest in and support each other's successes, avoiding irritating and disruptive investment reviews or other restrictions on investment.
8. **Share openly with each other.** Trade BFFs take steps to allow data to flow freely across borders. They prioritize transparency and participation by interested persons in policymaking, including in their fellow Trade BFFs.
9. **Join forces to fight for their shared futures.** All countries sharing the values of democracy and liberty should work together and rip out trade barriers among like-minded friends. They can work together to confront trade bullies and provide more market access to each other in the face of bullying. They avoid policies that bully their fellow Trade BFFs.
10. **Communicate with each other clearly and often.** One key to any friendship is an open and honest level of communication. For example, Trade BFFs talk to each other regularly about issues like IP protection and enforcement and new trade rules that benefit our people and planet. They avoid unilateral measures, which can have unintended consequences on their friendships, companies, workers, and people.

3. CTA Recommendations on the Section 301 Tariffs on Imports from China

On January 17, 2023, CTA submitted comprehensive comments to USTR[2] in response to its request for stakeholder input under the statutorily mandated "necessity review" at the 4-year anniversary of the imposition of the Section 301 tariffs on imports from China. CTA's comments offered significant input on the negative economic impact of the tariffs, their ineffectiveness in meeting their stated and unstated objectives, and the possible alternatives to the tariffs that together or individually may be more effective in meeting those objectives.

In summary, CTA respectfully requested that USTR fully remove the HTS codes for consumer technology products and inputs in Annexes 1, 2, and 4 to this submission from Lists 1, 2, 3, and 4A. We urge USTR to avoid imposing tariffs on the HTS codes in Annexes 3 and 4 that are included on List 4B and on any consumer technology product or input not yet included on a Section 301 tariff list. Finally, CTA encouraged USTR complete the necessity review as quickly as possible and advocates for the initiation of comprehensive, transparent, and fair exclusions process with due process until the tariffs are removed.

Additionally, CTA made the following key points in its comment:

- The tariff actions are not now, and will never be, an effective tool for achieving the objectives of Section 301 to eliminate China's problematic acts, policies and practices.
- The tariff actions adversely affect the U.S. economy, including consumers.
- The tariff actions make the U.S. technology sector, and particularly the thousands of startups and small businesses in the sector, less competitive at home and abroad.
- It is counterproductive and inconsistent with other policies to maintain increased duty rates on consumer technology products and inputs.
- It is paramount that USTR permanently remove consumer technology products and inputs from the Section 301 actions and not target them or use them as pawns in future actions.
- Other actions would be more effective in addressing China's problematic acts, policies, and practices.
- USTR must be consistent in its policymaking and abide by its statutory procedural and transparency obligations during this review and any future use of its Section 301 authority.

Conclusion

CTA greatly appreciates the opportunity to submit these comments for the record. We look forward to continuing to work with the House Ways and Means and Senate Finance Committees and with the Administration to fight inflation, strengthen U.S. trade and economic ties with allies by opening new markets and negotiating high standard, binding and enforceable trade rules, and bolstering U.S. technology leadership and the innovation economy.

ENGINE ADVOCACY
700 Pennsylvania Ave., SE
Washington, DC 20003

April 6, 2023

U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg. Rm. SD–219
Washington, DC 20510–6200

Dear Chairman Wyden, Ranking Member Crapo, and Honorable Members of the Committee on Finance:

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Lowering barriers to trade unlocks markets for U.S. startups to expand, compete, and find success and is a vital part of promoting domestic technology entrepreneurship. Ac-

[2] *https://cdn.cta.tech/cta/media/media/pdfs/final-cta-comments-to-ustr-for-four-year-review-of-china-section-301-tariffs-20230117.pdf.*

cordingly, we appreciate the Committee holding a hearing to examine the President's Trade Agenda.

The Internet and digitization of world economies has enabled startups to reach markets beyond their borders. Through digital trade, startups are able to further the outsized contributions they make to domestic economic growth and job creation. And startups help others reach markets abroad too, whether they be artists, farmers, manufacturers, or others. As digital trade has grown,[1] barriers to digital trade have grown along with it. Startups encounter these barriers as they grow and scale beyond U.S. borders to serve users and clients abroad, and such barriers dictate where startups can feasibly reach users.[2] Startups accordingly need policymakers to pursue smart digital trade policies to lower barriers to entry, facilitate cross-border transfers of data, and promote uniform regulatory environments across jurisdictions.

Policymakers on the Committee and at the Office of the U.S. Trade Representative must recognize and harness the benefits of smart digital trade policies that enable startups to succeed by ensuring these provisions are included in current negotiations. Unfortunately, digital trade policies that lower trade barriers for U.S. businesses appear to be facing increasing skepticism from U.S. policymakers and others that claim forward-thinking digital trade policies only serve large incumbent companies.[3] Reducing barriers to digital trade helps all U.S. businesses, including "big tech," but it arguably stands to help startups the most.

Take, for instance, the invalidation of Privacy Shield in 2020, which created barriers to cross-border data transfers between the U.S. and Europe. This impacted all transatlantic businesses, but large companies were able to turn to other methods for transferring data, like Standard Contractual Clauses, while startups faced more existential business disruptions, increased costs, and lost clients.[4] Indeed, small businesses and startups comprised the overwhelming majority of companies that relied on free flows of data through Privacy Shield.[5]

Similarly, the EU's Digital Services Act will impact all content-hosting companies operating or looking to operate in Europe. Large U.S. technology companies will face significant new obligations under the law, but none of them are likely to exit the EU market or significantly revise plans to operate there. U.S. startups on the other hand will encounter elevated barriers to entering the EU market, significant new obligations, and compliance costs.[6]

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[1] *See, e.g.,* Table 3.1. U.S. Trade in ICT and Potentially ICT-Enabled Services, by Type of Service, Bureau of Economic Analysis (July 7, 2022), *https://apps.bea.gov/iTable/iTable.cfm?reqid=62&step=9&isuri=1&6210=4#reqid=62&step=9&isuri=1&6210=4.*

[2] *See e.g.,* Comments of Engine Advocacy Regarding Foreign Trade Barriers to U.S. Exports for 2023 Reporting, Engine (October 28, 2022), *https://engine.is/s/2022-Transatlantic-Business-Statement-on-EU-US-Data-Privacy-Framework.pdf.*

[3] *See e.g.,* Hearing on The President's 2023 Trade Policy Agenda: Hearing Before the Senate Committee on Finance, 118th Congress (2023) (Remarks of Senator Warren); Hearing on Opportunities and Challenges for Trade Policy in the Digital Economy: Hearing Before the Senate Subcommittee on International Trade, Customs, and Global Competitiveness, 117th Congress (2022) (remarks of Senator Warren); Cristiano Lima, Advocates urge U.S. not to offer 'Big-Tech-favored terms' in trade talks, *Washington Post* (March 15, 2023), *https://www.washingtonpost.com/politics/2023/03/15/advocates-urge-us-not-offer-big-tech-favored-terms-trade-talks/;* Webinar: Big Tech's Ploy to Undermine AI Accountability, Privacy and Anti-Monopoly Policies with Senator Warren, Representative Schakowsky, and Representative Takano, Rethink Trade (March 16, 2023), *https://rethinktrade.org/videos/webinar-big-techs-ploy-to-undermine-ai-accountability-privacy-and-anti-monopoly-policies-with-sen-warren-rep-schakowsky-and-rep-takano/.*

[4] *See e.g.,* Sean Davis, New Transatlantic Data Deal Can Reopen EU Opportunities for Startups, Engine (April 20, 2022), *https://engineadvocacyfoundation.medium.com/new-transatlantic-data-deal-can-reopen-eu-opportunities-for-startups-4a25e454572f;* #StartupsEverywhere profile: Mikel Carmenes Cavia, Co-Founder and VP of Engineering, Onfleet, Engine (May 7, 2021), *https://www.engine.is/news/startupseverywhere-sanfrancisco-ca-onfleet.*

[5] *See generally* Privacy Shield Participants, *https://www.privacyshield.gov/list.*

[6] Lauren Koop, The EU's Digital Services Act is one step closer to becoming law. How will it impact U.S. startups?, Engine (July 28, 2022), *https://engineadvocacyfoundation.medium.com/the-eus-digital-services-act-is-one-step-closer-to-becoming-law-how-will-it-impact-u-s-startups-7be702180582;* Daphne Keller, The EU's new Digital Services Act and the Rest of the World, Verfassungsblog (November 7, 2022), *https://verfassungsblog.de/dsa-rest-of-world/* (Explaining the comparative impacts of the DSA on small entities: "The other predictable global harm will be to competition. The DSA burdens even very small platforms with obligations that today's incumbents never shouldered, or else took on only much later in their development. Facebook, for example, first released a transparency report in 2013, when it was worth $139 billion. It first allowed users to appeal removals of photos, videos, and posts (but not comments) in 2018, when the company was worth $374 billion and had some 35,000 employees. Newer market entrants

In each of these examples, U.S. policymakers have intervened to try to reach solutions with their EU counterparts.[7] This work advances the interests of U.S. startups and should not be foregone merely because it also helps or is supported by "big tech." Likewise, trade frameworks that are currently being pursued and negotiated must advance the interests of U.S. startups, including through strong digital trade provisions.

Smart digital trade policy that promotes a free, open, and global Internet is needed to lower and keep low barriers to trade for startups. The recent U.S.-Mexico-Canada and U.S.-Japan Agreements enshrined commonsense digital frameworks and provide a template for smart digital trade policy that should be built upon in future trade negotiations, including the Indo-Pacific Economic Framework, for example. Inspired by these agreements, digital trade policy should embrace the following principles, which can support the success of U.S. startups looking to expand into foreign markets and engage customers abroad:

Facilitate cross-border data flows.

The Internet is inherently borderless and allows startups to reach foreign markets with little additional investment. Conversely, policies that restrict how and when data can be transferred across borders erect barriers to trade and increase costs that startups with limited resources have difficulty overcoming compared to their larger rivals.

Provide proportionate, tailored, and certain intermediary liability frameworks.

Balanced intermediary liability frameworks, like those found in the U.S. law (*i.e.,* 47 U.S.C. § 230 and 17 U.S.C. § 512), provide the legal certainty needed for startups with business models that rely on user content—whether it's comments, photos, reviews, etc.—to grow and thrive. Around the world, however, common methods for governing intermediaries are taking root that undermine a startup-friendly environment and create new uncertainties and costs for U.S. companies. Laws that subject startups to the same standards as their much larger competitors, require the appointment of local representatives, impose tight content takedown timelines, require automated filtering, require the removal of content that is not otherwise illegal, and threaten heavy fines create barriers to entry for startups and reduce the number of foreign markets reasonably available to them.

Foster innovation and regulatory consistency.

Extraterritorial regulations adopted in other jurisdictions, including around data privacy and emerging technologies, can limit innovation opportunities and market access for American startups. Because they often apply any time a business encounters a user in or from that jurisdiction, startups with relatively few users there are likely to forgo serving that jurisdiction because of the regulatory structure. U.S. policymakers should work through the appropriate fora to ensure American startups encounter a consistent and level playing field.

Avoid technology sector-specific levies.

While startups are rarely subject to digital services taxes (DSTs) themselves, they rely on the services of larger companies who are, to build their products and reach customers.[8] DSTs increase the price of these services, putting startups at a disadvantage in jurisdictions with them. Working through multinational fora to reach a global solution promises the best step toward a uniform

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will take on similar obligations at a much earlier stage: once they reach just €10 million and fifty employees.").

[7] *See, e.g.,* Fact Sheet: President Biden Signs Executive Order to Implement the European Union-U.S. Data Privacy Framework, White House (October 7, 2022), *https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/07/fact-sheet-president-biden-signs-executive-order-to-implement-the-european-union-u-s-data-privacy-framework/* (on resolving transatlantic data transfer issues); Chamber of Progress (@ProgressChamber), Twitter (December 8, 2021) (Remarks of Secretary Raimondo on the DSA: "We have serious concerns that these proposals will disproportionately impact U.S.-based tech firms and their ability to adequately serve EU customers and uphold security and privacy standards.").

[8] *See, e.g.,* Tools to Compete: Lower Costs, More Resources, and the Symbiosis of the Tech Ecosystem, Engine and CCIA Research Center (January 2023), *https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/63d2b8d5bec96f502264fd1f/1674754266044/FINAL_CCIA-Engine_Tools-To-Compete.pdf.*

tax environment, and Congress must do its part to advance the solutions arising from these negotiations.[9]

Prohibit duties on digital transactions.

The WTO moratorium on e-commerce is critical to fostering digital trade, and it is especially important for startups. Since 1998, member countries have agreed to not impose customs duties on electronic transmissions, but some countries have recently expressed interest in limiting or ending the moratorium.

As U.S. startups have previously told Congress,[10] smart digital trade policies are "critical to bolster the global competitiveness of U.S. startups," are necessary "to 'unlock' America's renowned startup ecosystem," and will further "the deployment of software and services around the world." U.S. trade policymakers must heed the advice of startups and pursue strong digital trade provisions in current and future negotiations and defend the ability of U.S. startups to provide their services to end users around the globe.

Engine appreciates the opportunity to submit this statement for the hearing record and the Committee's attention to digital trade issues important to startups. We look forward to being a resource for the committee on these and other issues in the future.

Sincerely,

Engine

FLEXIBLE PACKAGING ASSOCIATION
185 Admiral Cochrane Drive, Suite 105
Annapolis, MD 21401
Tel (410) 694–0800
Fax (410) 694–0900
www.flexpack.org

Statement of Alison Keane, Esq., IOM, CAE, President and CEO

My name is Alison Keane, and I am the President and CEO of the Flexible Packaging Association (FPA). FPA, which is the voice of U.S. manufacturers of flexible packaging and their suppliers, continues to be troubled by the President's Trade Policy, specifically with regard to aluminum foil tariffs.

At a time when sterile packaging for food, health and hygiene, and medical equipment is more important than ever, and as U.S. manufacturers are continuing to suffer from the worst economy in decades, the Administration should be looking at ways to alleviate supply chain burdens, not increase them. The flexible packaging industry is once again unfairly targeted with unwarranted trade actions on aluminum foil that not only threatens food, pharmaceutical, and medical security in the U.S.; but will also negatively impact domestic jobs and increase prices during a time of unprecedented inflation. A "self-initiated" case by the Department of Commerce (DOC) against suppliers of aluminum foil from South Korea and Thailand threatens manufacturers of flexible packaging with unwarranted duties on necessary aluminum foil for food, pharmaceuticals, and medical device packaging. On March 16, 2023, The U.S. Department of Commerce issued a preliminarily determination that imports of aluminum foil from South Korea and Thailand, using inputs manufactured in China, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum foil from China.

Flexible packaging represents $39 billion in annual sales in the U.S. and is the second largest and one of the fastest growing segments of the packaging industry. The industry employs approximately 85,000 workers in the United States and is deemed an Essential Critical Infrastructure Workforce by the Department of Homeland Security. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. Concerning the tariff impacts, alu-

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[9] *See, e.g.,* Jennifer Weinhart, Global tax deal continues to face hurdles, Engine (May 24, 2022), *https://engineadvocacyfoundation.medium.com/global-tax-deal-continues-to-face-hurdles-cbe2ddf71cd1.*

[10] *See, e.g.,* Statement for the Record of PILOT Inc. regarding hearing on Opportunities and Challenges for Trade Policy in the Digital Economy held November 30, 2022, PILOT, Inc. (December 14, 2022), *https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/639b267a1041a9585ced9704/1671112314829/Statement+for+the+record+-+Ben+Brooks%2C+PILOT.pdf.*

minum foil is used for packaging as it provides the barrier protection needed from oxygen, light, moisture, and bacteria that food, health and hygiene, and medical supplies need to ensure stable shelf life, freshness, and sterility.

Additional duties are not appropriate as the thin gauge foil used in these applications cannot be supplied by U.S. manufacturers. In 2017, the U.S. Government-imposed duties on aluminum products coming from China, including aluminum foil. In 2018, yet another administrative action was taken under Section 232 of the Trade Expansion Act and additional worldwide tariffs were imposed on aluminum products, including foil. Now, the DOC's preliminary determination of additional fees on imports of aluminum foil from S. Korea and Thailand is even more destructive, as the foil targeted by these duties and tariffs is not manufactured in the U.S. in the quantities needed, and flexible packaging manufacturers have no choice but to import it. In fact, the DOC already stipulated this truth by granting hundreds of exemptions to these manufacturers from the Section 232 tariffs.

The Section 232 investigation on aluminum, which resulted in the 10% tariff on aluminum, including foils produced from that aluminum, was initiated under the Trade Expansion Act of 1962, and was to determine what, if any, effects imports of aluminum have on national security. FPA is not aware of any impacts aluminum foil imports for use in the packaging industry has on U.S. national security and the Department of Commerce Report entitled "Effects of Aluminum Imports on the National Security," (report) did not specify any. Nevertheless, the tariffs were imposed and these import restrictions have had a significant negative impact on the flexible packaging industry and its employment in the U.S.

While FPA supported the adoption of exclusions from the tariffs where aluminum articles are not produced in the U.S. "in a sufficient and reasonably available amount or of satisfactory quality," the process for exclusions is arduous and slow, and in some cases, results in conflicting approvals and denials. Additionally, manufacturers must apply for the exclusion annually, regardless of whether or not there has been a change in circumstances. In the case of fine gauge aluminum foil used by flexible packaging manufacturers, the domestic supply of the product has only gotten scarcer. Despite the Section 232 tariffs, as well as the significant Anti-dumping and Countervailing (AD/CVD) duties placed on Chinese aluminum foil imports, one of the only companies in the U.S. supplying light gauge foil chose to close its doors.

As FPA stated in numerous letters and in its testimony to the Department, there was never sufficient supply in the U.S. of aluminum foil for flexible packaging to begin with, which is why imports were necessary. Instead of production moving back to the U.S., it simply moved out of China to other parts of the world. Flexible packaging manufacturers have in some cases moved away from foil, substituting non-foil barrier structures, which also does nothing to assist the aluminum industry in the United States. Given that there is not enough supply or quality of the foil to meet flexible packaging manufacturers need in the U.S. As a result, the exclusionary process is the only avenue with which to secure aluminum foil for the packaging that requires its use, especially at this time of national emergency when the public's health and safety are more important than ever.

Aluminum foil is critical to the flexible packaging industry, as it creates the ideal barrier to bacteria, odor, sunlight, and contamination and is essential to protect the domestic food, health, and medical product supply. Many of these products are ones that consumers use or purchase every day, whether in grocery stores, pet stores, retail stores, or restaurants, but also found in doctors' offices, hospitals, pharmacies, and universities.

Additional duties on aluminum foil will negatively impact consumers and the economy by:

- **Threatening Food and Medical Product Security:** When it comes to packaging for medical devices, food, and healthcare, sterility is critical—literally a matter of life and death. There is no ideal substitution for the barrier protection aluminum foil provides. Additional costs on these goods will increase supply chain disruptions and could result in a scarcity of these products.
- **Negatively Impacting the U.S. Domestic Jobs:** Many U.S. converting jobs have already gone offshore with the imposition of the Chinese and Section 232 duties and tariffs. If additional fees are imposed on foil from S. Korea and Thailand, more jobs and manufacturing will move out of the U.S. as foreign suppliers of finished goods do not have to pay the tariffs.

- **Increasing Prices During a Time of Unprecedented Inflation:** The loss of jobs to the American economy will not be the only negative consequence; the costs of goods and the increase in prices for consumers for products used daily, during this time of unprecedented inflation will be damaging. Products include food and beverage applications such as yogurt, ingredients, juices, pet food, and candy; health applications, such as over the counter drugs and nutraceuticals and COVID–19 testing kits; and medical device packaging, such as absorbable sutures and surgery kits.

The Flexible Packaging Association (FPA) and its members support efforts to protect domestic manufacturing and ensure national security. As such, the Administration should not continue to unfairly target domestic flexible packaging manufacturers. Imposing new duties on imports of aluminum foil is simply not the answer. Everybody loses in unfair trade cases, especially the American consumer. Just as in the initial Chinese foil case, new duties and costs to domestic flexible packaging manufacturers are not going to result in any benefit to domestic aluminum foil producers. However, the consequences will be huge for food and medical product insecurity, loss of jobs, and ever-increasing prices on the goods consumers use every day.

NATIONAL FOREIGN TRADE COUNCIL
1225 New York Ave., NW, Suite 650B
Washington, DC 20005
Phone: 202–887–0278
Fax: 202–452–8160
https://www.nftc.org/

U.S. Senate
Committee on Finance

INTRODUCTION

The National Foreign Trade Council ("NFTC") is pleased to provide the statement below on behalf of the Tariff Reform Coalition as part of the Senate Finance Committee hearing record for its hearing on the President's 2023 Trade Agenda.

About the Tariff Reform Coalition

The Tariff Reform Coalition ("the Coalition") is a broad-based coalition of more than 100 companies and associations, (whose member companies number at 1,000+) led by NFTC, which is dedicated to working with the Administration and Congress to ensure greater oversight and review of the Executive Branch's use of tariff authority. The Coalition brings together a broad array, large and small, of U.S. manufacturers, retailers, agricultural and food producers, and other supply chain stakeholders who have been adversely affected by the increasing use of tariffs in pursuit of various policy objectives. We welcome the opportunity to provide input on the impacts caused by the tariffs imposed under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) ("Section 232 tariffs") and section 301 of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) ("Section 301 tariffs").

About NFTC

NFTC is a broad-based business association for leadership, expertise, and influence on international tax and trade policy issues. We believe trade and tax policies should foster fair access to the opportunities of the global economy and advance global commerce for good.

SECTION 232 AND 301 TARIFFS HARM U.S. CONSUMERS AND PRODUCERS, ARE INEFFECTIVE AND SHOULD BE ELIMINATED

A. Section 232 and 301 Tariffs Raise Prices

Since March 23, 2018, additional tariffs of 25% and 10% have been imposed on certain imports of steel and aluminum, respectively under Section 232, which allows the President to take actions to adjust imports of goods if the Department of Commerce ("Commerce") finds that imports threaten U.S. national security.

Beginning in July of 2018, the prior Administration imposed tariffs in tranches on a series of Chinese-origin goods under Section 301, ranging from 7.5% (List 4a) up to 25% (Lists 1, 2, and 3). Section 301 authorizes the President to impose tariffs or take other trade actions when the United States Trade Representative ("USTR") finds that a trade partner is engaging in unfair trade practices. In this case, USTR found that China had been engaging in industrial policy which has resulted in the transfer and theft of intellectual property and technology to the detriment of the U.S. economy.[1]

Between March 23, 2018, and March 8, 2023, U.S. Customs and Border Protection ("CBP) collected over $188 billion in duties assessed under Sections 232 and 301.[2]

Category	Amount
Aluminum 232	$3.62 billion
Steel 232	$12.05 billion
China 301	$173.07 billion
Total	$188.74 billion

By way of comparison, the combined tariff cost imposed under Sections 232 and 301 exceeds:

- The annual cost of care for the 15 most prevalent types of cancer in the U.S. ($156.2 billion);[3]
- Total U.S. Federal spending on transportation in 2021 ($154.8 billion);[4]
- The annual gross domestic product of Morocco ($133 billion);[5] and
- The net worth of Bill Gates ($115.1 billion).[6]

According to one estimate, the combined cost of the 232 and 301 tariffs amounts to an estimated $50 billion additional tax on U.S. consumers each year.[7] A recent study of the economic impacts of the 232 and 301 tariffs by the U.S. International Trade Commission (USITC) found that U.S. importers bore nearly the full cost of these tariffs because import prices increased at the same rate as the tariffs. The USITC estimated that prices increased by about 1 percent for each 1 percent increase in the tariffs under Sections 232 and 301.[8]

The Section 232 and Section 301 tariffs have also impacted key U.S. industry sectors:

- The American beverage industry has paid nearly $1.9 billion in Section 232 aluminum tariffs since 2018;
- U.S. consumer technology companies paid approximately $43 billion in Section 301 tariffs between June 2018 and November 2022;
- Ford and General Motors disclosed that the 232 tariffs in just the first year they were in effect cost each company an estimated $1 billion (or $700 for each vehicle produced in North America);[9]
- U.S. chemical manufacturers paid $8.5 billion in Section 301 tariffs between June 2018 and December 2021; and

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[1] Press Release, Statement By U.S. Trade Representative Robert Lighthizer on Section 301 Action, July 10, 2018, *https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/july/statement-us-trade-representative.*

[2] U.S. Customs and Border Protection, Trade Statistics, *https://www.cbp.gov/newsroom/stats/trade,* Trade Remedy Enforcement.

[3] Swayne, Matthew, "Cancer costs U.S. more than $156 billion, with drugs a leading expense," Penn State College of Medicine (October 6, 2021), *https://www.psu.edu/news/research/story/cancer-costs-us-more-156-billion-drugs-leading-expense/.*

[4] *https://datalab.usaspending.gov/americas-finance-guide/spending/categories/.*

[5] *https://en.wikipedia.org/wiki/List_of_countries_by_GDP_(nominal).*

[6] *Forbes,* The Real-Time Billionaires List, *https://www.forbes.com/real-time-billionaires/#7a3171783d78.*

[7] Tom Lee and Jacqueline Varas, "The Total Cost of US Tariffs," American Action Forum (May 10, 2022) ("AAF"), *https://www.americanactionforum.org/research/the-total-cost-of-tariffs/.*

[8] U.S. International Trade Commission, "Certain Effects of Section 232 and 301 Tariffs Reduced Imports and Increased Prices and Production in Many U.S. Industries," Inv. 332–591, Press Release (March 15, 2023), *https://usitc.gov/press_room/news_release/2023/er0315_63679.htm* (ITC 232–301 Investigation).

[9] Michael Shultz, et al. "U.S. Consumer and Economic Impacts of US Automotive Trade Policies." Center for Automotive Research, February 2019, *https://www.cargroup.org/publication/trade-briefing-u-s-consumer-economic-impacts-of-u-s-automotive-trade-policies/?gclid=CjwKCAjwo_KXBhAaEiwA2RZ8hHoDteEBuInJuS1-rbqIrMi2EJ20IYXhNpOLwNPHNKJVhiOdmHswHRoCnDIQAvD_BwE.*

- U.S. apparel and related goods manufacturers paid $5 billion in Section 301 tariffs between 2019 and April 2022.

The Section 232 and Section 301 tariffs have distorted the market for products subject to the tariffs and increased the price of goods for consumers in the U.S. The price effect arises in part from the cost of duties themselves, which, as the data above shows, is significant. But prices of goods produced in the U.S. and third markets have risen as well.

Coalition members report record-high steel prices that have more than doubled since 2018 when the Section 232 tariffs were imposed.[10] Indeed, the 232 tariffs have even generated price effects for domestic steel as the protection afforded by the 25% tariff has allowed U.S. steel producers to increase prices well above those found in other markets. Manufacturers in some industries report that prices are increasing at such substantial rates they must purchase steel based on the price at delivery, not the price available at purchase.

In addition, the 232 tariffs have artificially increased the price of all aluminum sold in the U.S. market because of the unique way in which aluminum prices are set. Aluminum contracts are priced based on a benchmark known as the "Midwest Premium" price. Since the 232 duties on aluminum were put in place, the Midwest Premium price has been set as a "duty paid" price. That means all aluminum contracts in the U.S. are priced assuming the 232 duty applies—even if the imported material was covered by an exclusion or tariff rate quota ("TRQ"). The duty paid Midwest Premium price also applies even when a substantial portion of the aluminum product was sourced from scrap or recycled material.

It is also worth noting there have been price effects (*e.g.,* pass-through of higher material costs to intermediate users (*e.g.,* auto, beverage, and appliance manufacturers, etc.) and higher costs for consumers) from the 232 duties even for imports from countries no longer subject to the tariffs.

Price increases have also affected goods subject to Section 301 tariffs. While harder to quantify, companies have reported cost increases even when they have relocated production outside of China. Shifting production to new suppliers is often affected by reduced economies of scale, higher qualification and conformity assessment costs, duplicate tooling costs, production capacity limitations, and additional logistics costs, all of which increase prices to consumers.

In sum, prices have risen across the board in response to the 232 and 301 duties and those price increases are causing significant, negative effects felt by many Coalition members and U.S. consumers.

B. Price Increases Harm U.S. Manufacturing Competitiveness

The price increases associated with the 232 and 301 tariffs are making U.S.-produced goods less competitive than products from other markets. Manufacturers outside the U.S. can source primary steel and aluminum products at prices set on the global market, which (as explained above) are much more favorable than those available in the U.S. Compounding this competitive disadvantage is the fact that 232 tariffs do not apply to imported downstream products. That leaves U.S. manufacturers of a wide range of metal products doubly exposed to competitive disadvantage: their raw material prices are higher and foreign-made end products can be sold in the U.S. without any impact from the 232 tariffs. Indeed, the ITC 232–301 Investigation confirmed that the Section 232 duties "reduced production in downstream industries in the United States that use steel and aluminum products as inputs because of increased prices."[11]

Several Coalition members noted lost sales to producers in third markets because of higher materials costs in the U.S. and that once customers have qualified suppliers outside the U.S. they rarely come back. Another member stated that the Section 301 tariffs are encouraging U.S. manufacturers in their sector to move production to third countries where they can purchase Chinese inputs at a lower cost and sell the final, assembled products and more value-added inputs back into the United States.

By imposing additional costs on U.S. manufacturers, the 232 and 301 tariffs are distorting the market and picking winners and losers. While primary metals producers may be enjoying higher prices under the 232 tariffs, it is coming at the expense of

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[10] Lance Lambert, "Steel prices are up 200%. When will the bubble pop?", Fortune (July 8, 2021), *https://fortune.com/2021/07/08/steel-prices-2021-going-up-bubble/*.

[11] ITC 232–301 Investigation, Press Release.

downstream industries. According to one study, for each new steel producer job, steel firms earned $270,000 of additional pre-tax profits but steel users paid an extra $650,000 for each job created.[12]

C. Other Economic Impacts of the 232 and 301 Tariffs

In addition to price increases and competitiveness challenges, the 232 and 301 tariffs have had a range of other impacts that adversely affect Coalition members.

Availability: Among the most frequent concerns raised is the impact 232 tariffs have had on the availability of products subject to the tariffs. For purposes of obtaining an exclusion from the 232 duties, the Commerce Department defines a steel or aluminum product as "reasonably available" if a domestic producer can deliver the product within 8 weeks. However, current delivery time quotes for many steel materials are 16–20 weeks with some products not promised for delivery until 2023. Moreover, steel is not a monolithic market and for every type of steel in the market, there is a different profile of global production and a different level of capacity globally and within the U.S. As a result, the availability of products varies widely across different product lines.

For certain types of products, such as food-grade stainless steel, the lack of availability has been particularly acute. As demand for steel and aluminum grows, at least one Coalition member is predicting that it will become much more difficult to obtain specialty steel products as U.S. mills and service centers focus on supplying significant quantities of non-specialty steel to larger industry sectors like the automotive and aerospace industries.

Finding available supply is particularly difficult for small, family-owned businesses, which report that domestic steel suppliers often are unwilling to quote or fulfill orders because they do not meet minimum order requirements. Small companies—particularly those in underserved areas—are less able to hold significant quantities of material in inventory and do not have the resources to invest extensive time and money required to find suppliers who will fulfill their orders. In many instances, domestic producers have told Commerce they are capable of producing a particular product when opposing an exclusion request only to refuse to sell the material in a small quantity when it is subsequently requested.

Alternative Sourcing: Changing suppliers when materials are not available is not as easy as it may seem. The process for changing raw material suppliers varies depending on the type of product and end use. In the Section 232 context, some aluminum extruders use as many as 250 unique profiles (extrusion shapes) in their manufacturing process. To move the dies that are used to extrude those aluminum profiles would cost at least $7,500 per die alone. For products that are highly regulated for safety reasons, the raw material supplier is routinely specified in the contract based on testing performed to the customer's requirements. During the term of a contract, raw material suppliers typically cannot be changed without agreement from the customer and any potential new supplier must undergo a qualification testing and approval process that can take 12–18 months.

For Section 301 tariffs, some Chinese-origin inputs may be available from other markets but Coalition members have invested in complex supply chains that have taken years to develop and maintain. Requiring U.S. manufacturers to rebuild these supply chains drains vital resources and will take many years to source around these tariffs. Moreover, realigning supply chains is not without its own costs. Where alternative sources of supply can be found, often the total cost (price, quantity, quality) is higher than the price available in China, even when the 301 tariff is added to the Chinese good. Furthermore, goods subject to safety approvals like UL standards would be subject to retesting and relisting when the country of origin changed, which is an extraordinary expense that most companies, especially small businesses, cannot afford. As a result, many U.S. companies decided to pay the 301 tariffs, especially during the pandemic, rather than face the higher costs and uncertainty of realigning their supply chains.

More, with the expiry of the Generalized System of Preferences (GSP) program, U.S. companies now must pay higher tariffs to import from developing country markets

[12] "Steel Profits Gain, But Steel Users Pay, Under Trump's Protectionism," Peterson Institute for International Economics, December 2018, *https://www.piie.com/blogs/trade-and-investment-policy-watch/steel-profits-gain-steel-users-pay-under-trumps#:~:text=Steel%20Profits%20Gain%2C%20but%20Steel%20Users%20Pay%2C%20under%20Trump's%20Protectionism,-Gary%20Clyde%20Hufbauer&text=At%20the%20center%20of%20President,on%20nearly%20all%20steel%20imports* ("PIIE Report").

that could be good alternatives to China. In fact, some companies found that even with the Section 301 tariffs in place, it was still less expensive to import from China. The Coalition for GSP has detailed instances where sourcing moved back to China AFTER GSP expiry.

Exclusions: The Commerce Department's Section 232 Tariff Exclusion Process cannot mitigate the economic harm to U.S. steel- and aluminum-using manufacturers caused by the 232 tariffs. The exclusion process is supposed to allow companies to obtain exclusions to the tariffs if the product they need is not available in the U.S. in the quantities, quality, or form needed. However, the process has been broken from the start. It is lengthy and cumbersome and regardless of the numerous comments provided to the Commerce Department on ways to improve the process, it continues to favor domestic producers over consumers. Many Coalition members report an overall lack of transparency, predictability, and responsiveness to requests for information about why an exclusion request was not granted (in some instances despite having been previously granted and renewed). Commerce also counts imports covered by a duty exclusion against any available absolute quota volume or TRQ quantity until the allowed quantity is exhausted. In effect, importers are unable to use an exclusion unless the absolute quota or TRQ has already been filled. This requirement greatly limits the utility of the duty exclusion and should be terminated.

The 301 exclusions, when they were available, also generated significant internal and external costs for companies requesting an exclusion. These costs included administrative costs of filing the request, reviewing the requests that were granted to ensure they could be applied to the relevant goods, and broker costs for filing for duty refunds. Unfortunately, the 301 exclusions on the vast majority of products have expired and are no longer available to provide any relief from the duties, even though USTR had previously agreed the products were not available in the United States.

Uncertainty: The uncertainty that has surrounded the Section 232 and 301 since their inception adds to the expense of the tariffs and their ultimate costs to consumers. Businesses prioritize certainty because it allows them to adequately assess and account for risk. A growing body of economic literature has found there are real economic costs associated with trade policy uncertainty equivalent to a level of tariffs between 1.7 and 8.7 percentage points.[13] When considered in the context of the $500 million in trade subject to the 301 duties the "uncertainty cost" would amount to between $9.35 and $47.85 million annually. The uncertainty cost reflects money companies are not investing in innovation, research, wages, skill-building and many other critical areas.

Retaliation: In addition to raising costs for U.S. consumers, the Section 301 and 232 tariffs resulted in significant retaliation against U.S. exports by other governments. Canada, China, the European Union, India, Mexico, and Turkey imposed retaliatory tariffs ranging from 4 to 70 percent on many U.S. exports.[14] The retaliatory tariffs increased the price of U.S. exports in these markets relative to alternatives that were either domestically produced or imported from other international sources. In the agriculture sector alone, the retaliatory tariffs led to a reduction in U.S. agricultural exports to retaliating partners of more than $27 billion from the time the tariffs were imposed in 2018 through the end of 2019.[15] China accounted for approximately 95 percent of these losses ($25.7 billion).[16]

D. Economic Effects That Have Not Materialized

It is also important to note the anticipated direct economic effects that have not materialized as a result of the 232 and 301 tariffs. Under Section 232 an action taken by the President "must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security."[17] Similarly, Section 301 provides that USTR is authorized to take action, including imposing tariffs, "to obtain the elimination of" the "act, policy, or practice" that was the

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[13] Alberto Osnago, Roberta Piermartini and Nadia Rocha, "Trade Policy Uncertainty as a Barrier to Trade," WTO Working Paper ERSD–2015–05 (May 26, 2015), *https://www.wto.org/english/res_e/reser_e/ersd201505_e.pdf.*

[14] AAF, Table 5.

[15] Stephen Morgan, et al., January 2022. "The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture," ERR–304, U.S. Department of Agriculture, Economic Research Service (January 2022), *https://www.ers.usda.gov/publications/pub-details/?pubid=102979.*

[16] *Id.*

[17] 19 U.S.C. § 1862(c).

subject of the investigation.[18] There is no evidence that either the 232 or 301 tariffs are actually solving the problems they were adopted to address.

Steel producers have not significantly increased domestic production to ensure a reliable supply in a national security emergency. The ITC 232–301 Investigation reported an increase in domestic steel production of only 1.9 percent. Indeed, for certain categories of steel, domestic steel producers are shutting down, rather than expanding production. For example, the number of tin mill production lines in the U.S. continues to fall as U.S. Steel has idled its Gary Works mill and plans to close its Pittsburg, CA facility at the end of the year. Similarly, the domestic steel and aluminum industries are not seeing significant new job creation—by one estimate only 8,700 jobs have been created or saved as a result of the tariffs.[19] Further, the Federal Reserve's comprehensive estimate of U.S. steel and aluminum jobs remains lower than the pre-tariff baseline.[20] Moreover, imposing additional tariffs on U.S. imports does nothing to address the problem of global overcapacity.

A similar fact pattern emerges with respect to the Section 301 tariffs. The additional duties imposed on imports from China have had no identifiable effect on persuading China to abandon the kinds of intellectual property rights ("IPR") theft and forced technology transfer practices that were identified in USTR's Section 301 report. Moreover, there is no indication that the cost of the tariffs is affecting the Chinese government or Chinese companies. Rather, the burden of these tariffs is falling on US businesses and their customers who are effectively being punished for China's bad behavior.

If Chinese government IPR and technology theft is the crux of the problem targeted by the Section 301 investigation, then the remedy should focus on limiting export opportunities for those Chinese-origin products that have benefited from the government's actions (*e.g.,* through Section 337 actions to prohibit imports of those products). Instead, the Section 301 tariffs apply to nearly all products sourced from China.

By virtually any measure the 232 and 301 tariffs have failed to achieve their stated purpose.

CONCLUSION

Coalition members believe that neither the 232 nor 301 tariffs have been effective at achieving their intended objective and the President should eliminate them. At least some officials in the Biden Administration agree, calling the tariffs "poorly designed" and confirming they have increased costs for American families and small businesses.[21] One study showing that trade liberalization could deliver a one-time reduction in consumer price index (CPI) inflation of around 1.3 percentage points amounting to $797 per US household.[22]

Congress has provided for the automatic termination of Section 301 actions at the end of 4 years absent a determination that continuing them is still necessary. USTR has initiated the statutory review of the 301 tariffs, but the process and timetable for reaching a decision have dragged on for nearly a year. The Administration should accelerate this review and take bold action to end the 301 tariffs as soon as possible.

Unlike Section 301, there is no statutory process for ending or even reviewing the 232 tariffs. Absent efforts by both the government and U.S. steel and aluminum producers to increase the domestic supply of products needed for national security pur-

[18] 19 U.S.C. § 2411(a).

[19] PIIE report.

[20] St. Louis Federal Reserve Bank, "Employment for Manufacturing: Iron and Steel Mills and Ferroalloy Production (NAICS 3311) in the United States," FRED (accessed August 23, 2022), *https://fred.stlouisfed.org/series/IPUEN3311W200000000.*

[21] Sebastian Smith, "Biden Undecided on China Tariffs Ahead of Xi Call: W. House," Barron's (July 26, 2022), *https://www.barrons.com/news/biden-undecided-on-china-tariffs-ahead-of-xi-call-w-house-01658867406.*

[22] Gary Hufbauer, Megan Hogan, and Yilin Wang. "For Inflation Relief, the United States Should Look to Trade Liberalization," Peterson Institute for International Economics (May 2022), *https://www.piie.com/publications/policy-briefs/inflation-relief-united-states-should-look-trade-liberalization#:~:text=For%20inflation%20relief%2C%20the%20United%20States%20should%20look%20to%20trade%20liberalization,-Gary%20Clyde%20Hufbauer&text=With%20US%20inflation%20running%20at,calls%20anticompetitive%20behavior%20by%20corporations.*

poses, the continuation of the 232 duties simply amounts to a subsidy to domestic producers provided by consumers and U.S. manufacturers of downstream products.

Sincerely,

Tiffany Smith
Chair, Tariff Reform Coalition and
Vice President of Global Trade Policy, NFTC

NATHAN'S PAPERS, LLC
12725 SW Millikan Way, Suite 307
Beaverton, OR 97005
Phone: (541) 936–2896
https://nathanspapers.com/

March 21, 2023

The Hon. Ron Wyden Chairman U.S. Senate Committee on Finance 219 Dirksen SOB Washington, DC 20510	The Hon. Jason Smith Chairman U.S. House Committee on Ways and Means 1139 Longworth HOB Washington, DC 20515
The Hon. Mike Crapo Ranking Member U.S. Senate Committee on Finance 219 Dirksen SOB Washington, DC 20510	The Hon. Richard Neal Ranking Member U.S. House Committee on Ways and Means 1139 Longworth HOB Washington, DC 20515

Re: Hearing on the Biden Administration's 2023 Trade Policy Agenda with United States Trade Representative, Ambassador Katherine Tai

Dear Chairmen Wyden and Smith, and Ranking Members Crapo and Neal:

Please accept this letter as a written public submission from Nathan's Papers, LLC for the record for the U.S. Senate Committee on Finance and U.S. House Committee on Ways and Means, Hearing on the Biden Administration's Trade Policy Agenda with United States Trade Representative, Ambassador Katherine Tai.

Nathan's Papers is an Oregon-based company dedicated to researching and writing and planning events under the header In CONGRESS™ about the American Founding and governance. We are particularly focused on the foundations of American governing that were established in the years 1774 and 1775 prior to declaring independence. The critical actions that took place during this time period were the key elements that were necessary to put in place before the United Colonies could issue the Declaration of Independence. They were primarily related to trade, fiscal policy and establishing a treasury, setting up a system of defense, establishing lines of communication via a postal service, and international diplomacy.

This comment highlights the initial debates on trade from the First Continental Congress in 1774 and early days of the Second Continental Congress. We feel this important context can help inform the 118th Congress's work in collaboration with President Joe Biden's Administration on a trade policy agenda that will strengthen the United States' opportunities for international commerce in a highly competitive environment.

The future of American trade has been a top concern since the inception of Congress. The First Continental Congress included Delegates from twelve of the British colonies in North America that met in Philadelphia, Pennsylvania to discuss the growing tensions between the Colonies and the British government prior to the start of the kinetic phase of the American Revolution. The Congress convened on September 5, 1774 and adjourned on October 26, 1774. On September 6, 1774, the Congress created two committees—one to draw up rules and the other to "examine and report the several Statutes, which affect the trade and Manufactures of the colonies."[1]

The early debates on trade are illustrated through the diaries of the Delegates to the Congress, particularly Massachusetts Delegate and eventual first Vice-President and second President of the United States, John Adams. Delegates struggled with

[1] Continental Congress 1774, 1:26.

the disproportionate impact that a trade embargo would have on various colonies and whether the British government should have the authority to regulate the Colonies' trade. The question then became if not the British government who should regulate trade?[2] It was in the interest of trade that Delegates conceived the idea of an American legislature.[3]

The Colonies were split on whether they should cede the power to regulate trade during the First Continental Congress. Five colonies supported it, 5 were against it, and the Massachusetts and Rhode Island Delegates divided.[4] Delegate James Duane from New York outlined the reasons for allowing Great Britain to regulate trade. He noted it would be a gesture of peace and remove any concerns the Colonies sought independence. Those opposed to the regulation argued that the Colonies would be giving up a right and the British government may abuse the authority for taxation and oppression or as justification for assuming power in all matters.[5]

The Colonies ultimately decided to enter the Continental Association, the precursor to the Declaration of Independence. They agreed to implement a non-importation, consumption, and exportation agreement against goods from Great Britain that would begin in December 1775.[6] They also agreed to stop consuming certain luxury items and begin encouraging internal governance and manufacturing so that the Colonies would be less dependent on British goods. The Continental Association recognized the need to start putting processes in place so that the Colonies could begin to self-govern. The Delegates were not yet prepared to declare independence, but this formal association document expressed their intent to stand firm with the people of the Massachusetts Bay colony, which was under military government and extreme economic restrictions in retaliation for the Boston Tea Party, among other things, and not back down from their demands for fair and just treatment.

As the December embargo date approached, the Second Continental Congress reignited the trade debate. It convened on May 10, 1775 and would stay in session until the ratification of the Articles of Confederation in 1781. Wearied from prosecuting the war by printing a new paper currency called the "Continental Dollar," several Delegates advocated for trade. John Adams wrote in his notes "The Q. is whether we must have Trade or not. We cant do without Trade. We must have Trade."[7] Trade would support the credit worthiness of the Continental Dollar.[8] Despite this sentiment, the Congress voted to suspend all trade until March 1776.[9] John Adams indicated that he hoped this would allow more time to build defenses.[10] The Congress was also in the process of building out a naval fleet.

Thank you for your consideration.

Sincerely,

Lynn White

[2] "[Notes of Debates in the Continental Congress, 28 September 1774] ," *Founders Online,* National Archives, *https://founders.archives.gov/documents/Adams/01-02-02-0004-0006-0031.* [Original source: *The Adams Papers,* Diary and Autobiography of John Adams, vol. 2, 1771–1781, ed. L. H. Butterfield. Cambridge, MA: Harvard University Press, 1961, pp. 141–144.]

[3] *Id.*

[4] "1774 Thursday. October 13th," *Founders Online,* National Archives, *https://founders.archives.gov/documents/Adams/01-02-02-0004-0007-0014.* [Original source: *The Adams Papers,* Diary and Autobiography of John Adams, vol. 2, 1771–1781, ed. L. H. Butterfield. Cambridge, MA: Harvard University Press, 1961, pp. 151–152.]

[5] James Duane's Notes for a Speech in Congress. *Letters of Delegates to Congress, 1774–1789.* 1:189–191. Washington, DC: Library of Congress, 1976–2000.

[6] Continental Congress 1774, 1:75–80.

[7] "[Notes of Debates, Continued] October 5th," *Founders Online,* National Archives, *https://founders.archives.gov/documents/Adams/01-02-02-0005-0004-0002.* [Original source: *The Adams Papers,* Diary and Autobiography of John Adams, vol. 2, 1771–1781, ed. L. H. Butterfield. Cambridge, MA: Harvard University Press, 1961, pp. 192–194.]

[8] "[Notes of Debates, Continued] October 12th," *Founders Online,* National Archives, *https://founders.archives.gov/documents/Adams/01-02-02-0005-0004-0006.* [Original source: *The Adams Papers,* Diary and Autobiography of John Adams, vol. 2, 1771–1781, ed. L. H. Butterfield. Cambridge, MA: Harvard University Press, 1961, pp. 204–208.]

[9] Continental Congress 1775, 3:314–15.

[10] "From John Adams to Joseph Ward, 14 November 1775," *Founders Online,* National Archives, *https://founders.archives.gov/documents/Adams/06-03-02-0159.* [Original source: *The Adams Papers,* Papers of John Adams, vol. 3, May 1775–January 1776, ed. Robert J. Taylor. Cambridge, MA: Harvard University Press, 1979, pp. 296–297.]

PITTS ENTERPRISES INC.
5734 Pittsview Highway
Pittsview, AL 36871
334–855–4754
https://pittstrailers.com/

Hon. Ron Wyden, Chairman
Hon. Mike Crapo, Ranking Member
U.S. Senate
Committee on Finance
Dirksen Senate Office Bldg.
Washington, DC 20510–6200

Re: Urgent Help to Protect our Company and the American Supply Chain from an Attack by a Chinese State-Owned Competitor

Dear Senators Wyden and Crapo:

As an American businessman who is personally affected by an attack by a massive Chinese State-Owned entity, CIMC Intermodal Equipment—a unit of COSCO, I respectfully and urgently request your help to save our company.

I work for Pitts Enterprises, an American employee-owned and operated manufacturer based in Alabama. We are a significant supplier of truck trailer chassis (*i.e.,* cargo container-sized truck chassis) through our facilities in Alabama and with our manufacturing partner in Vietnam. However, our business has been stopped for over six months due to a meritless Customs and Border Protection (CBP) import evasion investigation, under the Enforce and Protect Act (EAPA) of 2015, against Pitts instigated by a massive Chinese State-Owned entity. This stoppage has cost us over $270,000,000.00 in sales and stopped shipping over 10,000 finished chassis to ports in America, all of which are needed to ensure the smooth and timely transport of American imports and exports. I am writing today in a desperate attempt to save the company I work for and to right a terrible wrong that has happened to us.

This same Chinese State-Owned company was found guilty of dumping by selling significantly below production cost and receiving Chinese government subsidies to put all American manufacturers out of business. Our accuser reports directly to the State Council of China, the highest level of China's government.

Our Chinese government-controlled accuser is using a distorted reading of the antidumping order from Commerce as their basis for the allegations. We are confident that this is a distorted reading as we have written support from the entire Coalition of American Chassis manufacturers, the companies along with ours that came together with us to maintain America's chassis manufacturing base, so that America does not become totally dependent on China for this critical equipment as we already are for ocean containers. The intent and purpose of the AD and CVD orders in this case for which we successfully petitioned was to stop the predatory business practices of a Chinese State-controlled organization so as to protect American businesses. China has historically killed American businesses through low pricing, driving out the competition, and having us at their mercy. Make no mistake; if this is not corrected, it will kill our company, our 275 American jobs, and the families they support, including my own.

As stated, we worked to implement the anti-dumping rules, the same ones being used against us by our Chinese government-controlled accuser. These rules were developed to stop the importation of Chinese subsidized chassis and prevent our accuser from skirting/circumventing these orders by manufacturing chassis in China and bringing them in subassemblies/multiple parts for final assembly in the U.S. Why, in God's name, would we spend hundreds of thousands of dollars to convince our government to impose trade rules that we purportedly violated ourselves? This misrepresentation of this ruling has caused CBP to investigate our company, and we are cooperating with the CBP investigation. This cooperation includes hosting a delegation of ten people from CBP to visit our partner's factory in the preferred trading nation of Vietnam, where it was demonstrated that all claims against Pitts are unfounded and that our products are outside of the scope of the AD and CVD order or evasion process.

Our products are not within the scope of the evasion process because Pitts products are manufactured in Vietnam. Pitts has provided countless pages of proof, including the video found at this link: *https://drive.google.com/file/d/13KKf5q1i-424LvXw2eKqFreBif6-cP5L/view?usp=drive_web*. The video shows over 100 steps to produce the chassis manufacturing for the Port of Charleston. This same port, with over

2,300 of these chassis sitting on their port, is now on customs hold. These chassis are needed badly, and I dare to estimate the cost to their port and state.

The manufacturing process demonstrated in the video is used to produce the chassis we have offered for use in many ports. Clearly, these chassis are manufactured from raw steel to complete marine chassis in the Vietnam factory, making them not covered merchandise subject to the anti-dumping duties.

Last week, on March 15, DOC accepted our request to clarify the scope of the anti-dumping order on chassis. Notably, DOC initiated this scope proceeding after requesting and receiving evidence that the components used in Vietnam are not subassemblies subject to the anti-dumping order. We are confident that DOC will confirm this clarification based on the mountains of evidence available to the Federal government.

Yet CBP continues with its EAPA investigation (1) despite the fact that DOC has primary authority over the anti-dumping and countervailing duty laws, (2) despite the clearly erroneous interpretation of the anti-dumping order scope language alleged by our Chinese government-controlled accuser, which was the basis for the initiation of the EAPA investigation, and (3) despite DOC's initiation of the scope proceeding.

This is critical, and I respectfully ask for your consideration and support. I am certain that the rules set by DOC to stop the dumping of Chinese products were never meant to cripple an American company and its American customers, and thusly the American supply chain. Yet if CBP does not recognize the primacy of DOC in matters of interpreting the scope of anti-dumping orders, our Chinese government-controlled accuser will indeed cripple us by using American trade laws against Americans. The EAPA procedure needs both immediate and long-term corrections to end what is happening to us and prevent it from being inflicted on others.

My company and I are ready and willing to cooperate with the Committee in any way and look forward to hearing from you.

Sincerely,

Ed Gill
Vice President—Sales
Dorsey Intermodal
Kingwood, TX 77345
317–376–2088
ed@dorseyintermodal.com

cc: Jeff Pitts—Owner and CEO, Pitts Enterprises
JP Pierson—President, Pitts Trailers and Dorsey Intermodal
Senator John Cornyn
Senator Ted Cruz
Senator Tim Scott
Senator Tommy Tuberville
Senator Katie Britt
Senator Cory Booker
Senator Robert Menendez
Senator Raphael Warnock
Representative Mike Rogers
Representative Bill Pascrell