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NOMINATION OF ROBERT E. LIGHTHIZER

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

ON THE

NOMINATION OF

ROBERT E. LIGHTHIZER, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, EXECUTIVE OFFICE OF THE PRESIDENT

MARCH 14, 2017

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NOMINATION OF ROBERT E. LIGHTHIZER, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, EXECUTIVE OFFICE OF THE PRESIDENT

TUESDAY, MARCH 14, 2017

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

The hearing was convened, pursuant to notice, at 2:14 p.m., in room SD–215, Dirksen Senate Office Building, Hon. Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Grassley, Crapo, Roberts, Cornyn, Thune, Portman, Toomey, Heller, Scott, Cassidy, Wyden, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, and Casey.

Also present: Republican Staff: Chris Campbell, Staff Director; Everett Eissenstat, Chief International Trade Counsel; Douglas Petersen, International Trade Counsel; Shane Warren, International Trade Counsel; Tony Coughlan, Tax Counsel; Rory Heslington, Professional Staff Member; and Nicholas Wyatt, Tax and Nominations Professional Staff Member. Democratic Staff: Joshua Sheinkman, Staff Director; Elissa Alben, Senior Trade and Competitiveness Counsel; Jayme White, Chief Advisor for International Competitiveness and Innovation; Michael Evans, General Counsel; Greta Peisch, International Trade Counsel; and Ian Nicholson, Investigator.

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The hearing will come to order.

Welcome, everyone, to this afternoon's hearing. Today we will consider the nomination of Mr. Robert Lighthizer to be the U.S. Trade Representative.

The last time this committee considered a nominee for USTR was in July of 2015. Unfortunately, under the last administration, failure to promptly nominate appointees to leadership positions at USTR became the norm. As a result, it is a sad truth that the office of USTR has not had a fully confirmed bench of nominees since Ambassador Kirk resigned in January 2013. That is pathetic. The difficulty USTR had during the past 4 years in advancing an ambi-

tious pro-growth trade agenda was in no small part due to the lack of leadership.

As chairman of this committee, I hope that we will be able to change that starting today. All told, this committee must consider and report six positions at the Office of the U.S. Trade Representative. Unfortunately, as with most of President Trump's nominees, we are off to a slow start. I hope that with today's hearing we can begin the process of moving these trade nominees more quickly.

Mr. Lighthizer is indisputably qualified to serve as USTR, and I believe he has a strong base of bipartisan support. If we keep this process focused on Mr. Lighthizer and the position he has been nominated to fill, there is no reason he should not be approved by this committee and confirmed by the Senate in short order.

Unfortunately, there have been suggestions that extraneous issues, issues that are entirely unrelated to Mr. Lighthizer, might be attached as conditions to the Senate's consideration of the nominee. Let me address this briefly before returning the discussion to the nominee's qualifications and the sizeable agenda and challenges facing the next USTR.

Mr. Lighthizer has spent almost his entire career in public service, including as staff director for this committee and as Deputy USTR, and in private practice, fighting against unfair imports. In 1995, Congress passed an amendment that prohibits an individual from serving as U.S. Trade Representative or Deputy U.S. Trade Representative if that person has "directly represented, aided, or advised a foreign entity" in "any trade negotiation or trade dispute with the United States."

While in private practice, Mr. Lighthizer represented a small number of foreign clients in the late 1980s and early 1990s, well before passage of the 1995 amendment. Because of this work, some of our Democratic colleagues have argued that Mr. Lighthizer requires a waiver to serve as USTR.

Mr. Lighthizer does not believe that his work falls within this statute, nor do I. The Office of Legal Counsel at the Department of Justice has indicated that they share that opinion, so it is not at all clear that a waiver under the 1995 statute is necessary in Mr. Lighthizer's case.

This is not the first time the committee has had to deal with this type of question, and in the past we have always been able to work through it. In 1997, President Clinton nominated Deputy U.S. Trade Representative Barshefsky to serve as USTR. This committee was chaired by Senator Roth, and Chairman Roth and the Republican majority worked constructively to support President Clinton's nominee.

Chairman Roth was not certain that this statute applied to Ms. Barshefsky, but he agreed to work with Senator Moynihan to consider a waiver so that Ambassador Barshefsky might assume her position as U.S. Trade Representative without controversy.

As far as the record shows, there were no extraneous conditions attached to the waiver, and it passed on the floor by a vote of 98–2.

Similarly, in 2007, President Bush nominated Deanna Tanner Oakun for the position of Deputy U.S. Trade Representative. Although neither she nor the General Counsel at USTR believed that

the statute covered her prior work, Chairman Baucus and Ranking Member Grassley worked in a bipartisan fashion to advance a waiver through this committee in order to ensure that all necessary bases were being covered. No extraneous conditions were demanded in exchange for approving the waiver, and it was approved by the committee by voice vote.

Today we are faced with very similar circumstances. Once again, it is not clear that the statute applies to Mr. Lighthizer's work in the 1980s and 1990s. In fact, we have what appears to be a well-researched opinion from OLC that it does not.

Nevertheless, Democratic committee members are asserting with absolute certainty that Mr. Lighthizer needs a waiver in order to be confirmed, and at the same time these same members are refusing to approve a waiver unless the committee also moves a piece of legislation that is entirely unrelated to Mr. Lighthizer or the Office of USTR.

Now, this kind of legislative hostage-taking certainly is not unheard of in the Senate, but in the context of consideration of a nominee for the Office of U.S. Trade Representative, it is totally unprecedented. I have stated publicly that I am willing to work with Ranking Member Wyden and others on the committee who believe a waiver is necessary, but I will be honest, at this point it appears that my colleagues' insistence on the waiver at the committee level has more to do with their demands for an unrelated ransom than any concern about the applicability of the statute.

I hope I am wrong about that. Let me be clear what is at stake here. By statute, the U.S. Trade Representative is the lead official for developing, coordinating, and implementing U.S. international trade policy, serving as the principal trade advisor to the President, leading international trade negotiations, and serving as the President's primary spokesperson on international trade. Moreover, the statute creating the position makes it clear that the Trade Representative is accountable not only to the President, but also to Congress.

There is a lot of debate today about the direction of U.S. trade policy. In fact, the President is currently considering some of the most significant trade policy decisions in decades, including whether and how to upgrade the North American Free Trade Agreement, whether and how to launch additional trade negotiations with parties to the former Trans-Pacific Partnership, and whether and how to continue negotiations for a Trade in Services Agreement, an environmental goods agreement, and an agreement with the European Union, and he is doing so without the advice of his chosen USTR, not because the nominee is unqualified, but because some Democratic Senators see the nomination as an opportunity to advance a wholly unrelated legislative priority.

Moreover, at a time when Congress is demanding greater input into trade policymaking and stronger enforcement, our principal liaison in the administration is being blocked from even assuming the office. I do not think anybody has any real objections to Mr. Lighthizer, so it seems crazy to keep playing this game.

Once again, this is unprecedented. It is time to move this nomination. Actually, to be blunt, it is well past time. It has been more than 50 days since Mr. Lighthizer was nominated by the President.

This is the longest gap between nomination and committed consideration of a USTR since at least 2001.

Before concluding, let me briefly touch on some trade priorities I expect the next USTR to address. It will not be surprising to many of you, but I expect a nominee in this administration to be a strong advocate for U.S. intellectual property rights. Intellectual property is the backbone of our economy. It affects large and small companies across America. It is a key part of our economic growth. In my home State of Utah, for example, half a million jobs and 67 percent of our exports are connected to intellectual property. It must be a higher priority.

Second, I expect quick and effective use of Trade Promotion Authority, or TPA. President Trump benefits significantly by coming into office with TPA already in place. As a country, we have a unique opportunity to lock in strong trade agreements that meet the high standards of TPA, but trade negotiations are long-term endeavors, and, to be successful, we need to begin soon.

As the administration updates existing agreements and negotiates new ones, I hope that they will be able to re-balance the Obama administration trade agreement template. In my view, President Obama continually sacrificed U.S. commercial interests at the negotiating table in favor of a liberal social agenda.

Some of the areas that I believe need higher priority include the need to reflect a standard of protection for U.S. intellectual property rights, similar to U.S. law; seek the elimination of price controls; work for better market access for our farmers and ranchers, including stronger provisions on sanitary and phytosanitary measures; include enforceable provisions ensuring greater transparency and accountability in government reimbursement regimes; negotiate strong and enforceable provisions on anti-corruption; provide greater protection for trade secrets; and include provisions that help strengthen good governance, transparency, the effective operation of legal regimes, and the rule of law.

Finally, we must do a better job of holding our trading partners accountable. More effective monitoring of our trading partners' existing commitments, along with full implementation of these commitments, is critical to maintaining political support for a robust trade agenda here at home.

Mr. Lighthizer, I want to commend you on a stellar career in international trade. It is my hope that you would use your expertise to advance a strong U.S. trade agenda that can help grow our economy and instill faith in the American people in the ability of international trade and trade agreements to provide new opportunities for working Americans. I look forward to hearing your testimony today.

So with that, I will turn to my friend, the ranking member, Senator Wyden, for his opening statement.

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

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you very much, Mr. Chairman. Mr. Chairman and colleagues, after several weeks, during which the

only insight the public has gotten into Trump trade policy has come in head-scratching 140-character bursts, today's hearing gives us a chance to get some specifics. I had a good conversation with Bob Lighthizer in the office, and I want to welcome him today as his nomination is considered.

I hope that by the end of this hearing Americans will have heard more detail about how the Trump administration plans to meet the extensive promises that were made in the 2016 campaign.

Before digging into policy issues, there is another issue the committee has to address. As a legal matter, Mr. Lighthizer's previous work for foreign governments makes him ineligible to be appointed as the U.S. Trade Representative, pursuant to the Lobbying Disclosure Act. The facts are clear, but as was the case with Secretary Mattis, this administration and others before it has worked with the Congress, when appropriate, to make exceptions.

Speaking for Democrats, we are willing to work with Republicans to provide a statutory exception for Mr. Lighthizer, but we also insist that Republicans work with Democrats to provide a lifeline to America's hard-working miners who are now facing the possible loss of health care and retirement benefits.

Mr. Lighthizer has an understanding about the impact of unfair trade on America's manufacturers and workers that, in my view, could be a valuable asset to the country. The country needs a USTR who is going to stand up for our rights on behalf of our workers and our businesses at the World Trade Organization, who is going to partner with U.S. Customs and Border Protection, the Department of Commerce, and the full range of agencies that are responsible for trade enforcement, to crack down on the rip-off artists, the cheats, who hurt our workers and our businesses here at home.

After a campaign of shouting that the North American Free Trade Agreement could be the worst deal ever, the President came into office and said our trade relationship with Canada, a NAFTA member, only needed, in his words, "tweaking." The President spent the campaign talking tough about China, but his administration has largely been quiet on their plans when it comes to China's flagrantly unfair trade practices.

So when I say that our trade policy needs to deliver results and not just talk, that is why we need to get into specifics today. My own view is that the agenda has to start, particularly in this season of March Madness, with a vigorous, full-court press for tough trade enforcement.

In my view, there are two prongs to effective trade enforcement. The first is to fully enforce the trade laws here at home. Foreign subsidies and dumping that harm American workers have to be identified quickly and remedied, and that requires strong enforcement at the border by Customs officials. Goods made with forced labor have to be barred from entering our country. Trade in stolen timber and other natural resources that damage the environment and edge out hard-working Americans in the forestry sector have to be stopped.

I particularly want to thank a whole host of my colleagues who are here today who pushed very hard for toughening our country's trade remedy laws, because now we are in a position to have trade

remedy sanctions that are more responsive to our American producers who have been besieged by trade cheats.

The second prong of effective trade enforcement is holding other countries to their commitments under deals that are already on the books. That means enforcing labor obligations, protecting the environment, or stopping countries from applying discriminatory policies that block out our digital goods and services.

So when it comes to aggressive trade enforcement, the U.S. Government cannot deploy a full-court press with only half a team. That is why a number of Senate Democrats have thought that the hiring freeze was so short-sighted, because it leaves resources on the sideline and suggests that the tough talk on trade is not going to be much more than talk. So I hope that the forthcoming budget does not put more trade enforcers on the sidelines, because doing that would endanger good-paying American jobs just to fund more than a $50-billion give-away to defense contractors.

In order to maximize economic opportunities for our exporters, our trade policy cannot end with effective enforcement of existing rules. It also has to reach overseas to dismantle foreign trade barriers that prevent American goods and services from competing on a level playing field.

Here are the stakes: 140 million people are joining the middle class every year, many of them in Asia. The fact of the matter is, trade jobs in that part of the world provide us an opportunity to pay better wages. They reflect a higher level of productivity and value added.

What we say is—and I have heard many of my colleagues here say it—what we are doing is growing things here, we are making things here, we are adding value to them here, and then we ship them somewhere. These opportunities are missed if we stay on the sidelines while other nations negotiate trade deals that advantage their exporters over ours.

This is especially true now in the Asia-Pacific region. That is exactly what happens as we sit here this afternoon. As we sit here today, Pacific Rim countries meet in Chile to discuss trade in the region. The question is: where is U.S. leadership?

With that said, whether it is through re-negotiating NAFTA, looking to Asia, or working on any other trade deal, transparency with the public and the Congress is essential. The previous Congress passed a law that requires critical actions to ensure that the public and its representatives in Congress are active partners in efforts to negotiate and implement future trade agreements.

But with the American people sitting in the dark with respect to the specific actions the President intends to take on trade, the first months of this administration leave Mr. Lighthizer, if confirmed, with a steep hill to climb on transparency. It is critical that the American people know whether the President is advocating for trade policies to create red, white, and blue jobs or, very frankly, to help his own business interests. That is why I introduced, with a number of colleagues from both chambers of Congress, the Presidential Trade Transparency Act. The bottom line is, the administration has talked mightily when it comes to trade, and so we have now reached the time for action. That means more transparency,

a full-court press on trade enforcement, and playing offense every single day in the tough global markets that we are facing.

Mr. Lighthizer, I look forward to your testimony. I enjoyed our meeting.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

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

The CHAIRMAN. Today I am being relieved of the duty to introduce our nominee, although I think very highly of him. Instead, we have two current Finance Committee members, both from the State of Ohio, who will introduce Mr. Lighthizer. However, before that we will hear from a very distinguished friend and former chairman of this committee. I want to welcome our good friend, former Finance Committee Chairman and Senate Majority Leader, Senator Bob Dole. Good to see you today, Senator Dole. We are glad to have you here.

[Applause.]

STATEMENT OF HON. ROBERT DOLE, FORMER U.S. SENATOR FROM KANSAS

Senator DOLE. Jiminy, maybe I will take the job, I do not know. [Laughter.]

Well, 35 years ago I was chairman of this committee when we passed the 1981 Reagan tax bill, and Bob Lighthizer was by my side. I would say to my fellow Kansan Ron Wyden, and of course Pat Roberts, if you need somebody who is aggressive and a bulldog, he is seated on my right. His name is Robert Lighthizer from the great State of Ohio, also the State of my great-grandfather, who was raised on a farm in Montpelier, OH.

But I want to thank the committee for this hearing. I have had the honor a number of times of introducing people to various committees, and it has been bipartisan. I remember introducing Vice President Senator Mondale to be Ambassador to Japan. We both served on the Finance Committee, and we had different views, but we were friends. It made a big difference.

So I am particularly honored today to introduce—he does not need any introduction—someone I have worked with and someone I know. I have watched his children grow up, and I know him to be a man of complete honesty and integrity and, as I said, a bulldog when it comes to getting things done.

He made me look good—hard to do, but he did it—because of his work as director of this committee's staff in the late 1980s and the early 1990s. We had great success on many difficult issues, and most of them—I would say 90 percent—were resolved in a bipartisan way.

Bob Lighthizer did not work for me. No one worked for me; they worked with me, for the people of our respective States. I am certain that is the way you consider the outstanding members of your staff. But this is a singular honor for me. I am older than the total age of all of the committee. [Laughter.]

So I have been around a while. I have listened to arguments and debates, and we have political parties, and certainly we have different views. Neither party has all the wisdom. But I think in this

case, if you are looking for someone who really understands what he is about to enter into, with your approval, that is a fellow named Robert Lighthizer. So I thank the committee for permitting me to be here and to say a good word about my friend and my staff director.

So I hope that any—I do not understand some of the problems raised, but I hope they can all be resolved, because trade is important. I come from a farm State, Kansas, as Pat Roberts knows, who is seated next to Senator Grassley. I know all of you—I think most all of you—there are farmers in every State. I do not care what crop it is, whether it is vegetables, cotton, or wheat.

We would be lost without a strong advocate for agricultural trade. Bob Lighthizer has listened to that speech for 40 years, I think—not quite 40—so he understands the importance, but it is not only agriculture, it is steel, which is important to the Ohio delegation, both on the committee here, and other States, whatever State it is.

Bob was a Deputy USTR, as the chairman has pointed out. He was very successful. Many times when the Trade Representative was then Senator Bill Brock from Tennessee, Bob Lighthizer would attend Cabinet meetings. I have always felt that the Trade Representative was a little underrated when it came to the pecking order in the Cabinet, because none of us can say we do not need trade in our States.

What we need is someone, as Ron Wyden has pointed out and the chairman pointed out, who will hustle and get things done and work out the differences. Again, that is my friend Bob Lighthizer. Thank you.

[Applause.]

The CHAIRMAN. Well, thank you, Senator. Thank you, Senator Dole.

Mr. Lighthizer, you could not have a better person come and refer to you and support you than Senator Dole. We all love and respect him.

We will turn to Senator Brown now at this point, then to Senator Rob Portman.

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

Senator BROWN. Thank you, Mr. Chairman.

I am not sure why Rob and I are doing this after the distinguished Senator Dole did such a good job of introducing him. Senator Dole, thank you so much. It was a pleasure to get to hear about Montpelier, OH. Rob and I were both hoping we would get to mention it first, that your great-grandfather was born in Montpelier.

I appreciated the comments of the ranking member, and I want to take a moment, before introducing Mr. Lighthizer, to acknowledge the coal miners in my State and across the country who are on the verge of losing their health care and the retirement they earned over a lifetime of back-breaking work. What have we done about it in Washington? Pretty much nothing. Many of these miners were scheduled to be in this room today until the snowstorm hit. These are the people we work for.

Right now, Congress is failing them. Two and a half months into this year, this committee has yet to hold so much as a hearing on this mine worker issue; I know it matters to Senator Portman, Senator Toomey, Senator Casey, and Senator Warner on this committee. These miners cannot afford to wait. We must act sooner rather than later.

Today we are here to consider Robert Lighthizer's nomination to be a U.S. Trade Representative. Mr. Lighthizer is eminently qualified, as Senator Dole said, for this job. He has a long history of fighting on behalf of American manufacturers and, I would add, American workers. Mr. Lighthizer is a native of my wife's hometown of Ashtabula, OH. Somehow, Bob Dylan, in a song, rhymed Ashtabula and Honolulu. [Laughter.] But Bob Dylan can do things like that, I guess.

Mr. Lighthizer is familiar with the industrial heartland America; he knows the steel industry, as Senator Dole said, inside and out. He understands how critical manufacturing is to our economy. He knows that for too long, failed trade policy hurt Ohio communities and left too many workers all over this country behind. I look forward to working with him to chart a new trade agenda that puts American workers first.

In addition to his time as a staffer on this committee and for the USTR, Mr. Lighthizer has represented the U.S. steel sector. He has defended American steel companies and their workers against unfair trade practices, and I considered it an honor to work with him on behalf of them over the years.

He understands the kind of trade policy we need, not only to help our steel companies, but all American manufacturers and their workers. Steel over-capacity must be a top priority for the USTR. We note China has the capacity to make about half the world's steel. It is something the administration has yet to address; I am confident that Mr. Lighthizer will.

Mr. Lighthizer is the man to do this job, to design a new trade policy that keeps President Trump's promises to American manufacturers and American workers. The issue of his waiver needs to be addressed. I hope this issue is resolved before the mark-up.

As a fellow Ohioan, I am honored to introduce Robert Lighthizer to this committee. Bob, thank you.

The CHAIRMAN. Well, thank you, Senator Brown.

Last, but not least as a witness, I will call on Senator Portman, our distinguished colleague on this committee. So, Senator Portman, if you will proceed.

OPENING STATEMENT OF HON. ROB PORTMAN, A U.S. SENATOR FROM OHIO

Senator PORTMAN. Thank you, Mr. Chairman. I too join my colleague, Sherrod Brown, in being very pleased to be introducing you, Bob, along with the Honorable Senator, Leader, Chairman Bob Dole. I thought it was particularly fitting that everybody in the room applauded, Senator Dole, when you said you thought USTRs were underrated. That is right, you did not say all of them. [Laughter.]

But as a former USTR, I am delighted that Bob Lighthizer is willing to step up and take this job. I know we will have to work

out something, it sounds like, but we need him. I actually think that the ranking member made some good points about the urgency of this task, so I am glad that you are willing to do it.

I am glad that we are here. You are a guy—although you are a Floridian now—who does hail from the Buckeye State, and Ashtabula is one of those parts in Ohio that has been hit hard by unfair trade. You stood up, both in your roles in government and in the private sector.

There are a lot of reasons that you would be good. One is, you bring the experience that is needed right now. So you have the Hill experience. You also have the experience at USTR and the experience of working with the private sector on some of these tough trade issues.

You are a Georgetown Law graduate, which we will not hold against you, and you launched yourself into quite a respectable private-sector career. I know you were at a big law firm here when Senator Dole called up and said, "Hey, I am looking for a young, bright conservative to come join me here on the Hill." You have been Deputy U.S. Trade Representative under Ronald Reagan and USTR Bill Brock, one of the great USTRs. He was underrated.

In that role, you got the whole view, because at that time the deputies at USTR really had a broad panoply of responsibilities, where now it is divided more in geographic areas; there is a separate deputy for agriculture and so on. But when you were there, you had to look at all the issues, and I think that is a great experience.

You have been an advocate for balanced trade—and the importance of trade exports was talked about today, and that trade expansion is critical to middle-class jobs in my home State of Ohio. Twenty-five percent of our factory workers have export jobs; we want more of them. They are better-paying, 18 percent on average more, with good benefits. But you have also understood the importance of having balance: in other words, rigorously enforcing our trade laws and trade enforcement. I think that is the right balance now. Your work, particularly on behalf of our steelworkers, I think, gives you that sensitivity to know that we have the best workers in the world; we can compete, but it has to be on that level playing field. I think that experience is critically important right now.

It is a difficult issue, trade; lots of politics around it. And even around this committee, looking at who is here today, there is a different point of view represented by every seat here. Obviously it is an issue that came up during the campaign. It comes up in every campaign. There is a lot of misinformation out there, in my view, about trade.

Again, someone who has experience and credibility in enforcing trade laws and stepping up for people, like those steelworkers you stepped up for, I think, has some credibility to be able to promote the right kind of trade policy.

I have also noticed that members of the new administration have some strong views on trade. Sometimes those views are not always the same, I have noticed too. Frankly, I think in my view, they are going to benefit from having someone with your experience and your perspective to be able to help coordinate that effort and be a better bridge to Capitol Hill, because that is a critical part of this

job. USTR was created by this committee, the Ways and Means Committee, and by the Congress. It has a unique relationship and responsibility to these committees, including being able to pass trade agreements.

I know you have negotiated a few yourself and have had to negotiate also, therefore, with Capitol Hill. So Bob is tenacious, he is creative, he is seasoned, he is knowledgeable, and I very much look forward to working with him as our next U.S. Trade Representative.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you, Senator.

Welcome, once again, Mr. Lighthizer. Before giving your opening statement, would you like to introduce any family members who are here with you today?

Mr. LIGHTHIZER. Well, thank you, Mr. Chairman. I actually have my daughter and my brother here today.

The CHAIRMAN. Well, great. We welcome then.

Mr. LIGHTHIZER. I would say, when I was before this committee a long time ago to be Deputy USTR, my daughter was about 18 months old and spent part of the hearing sitting in my lap. She heard me sitting there and walked up and crawled into my lap.

Senator DOLE. Bob, would you yield?

Mr. LIGHTHIZER. Absolutely.

Senator DOLE. Mr. Chairman, I am going to excuse myself, but put your money on the Jayhawks. [Laughter.]

The CHAIRMAN. Senator Dole, it has been a privilege to have you here, as always. So, God bless you. It has been a blessing to have Senator Dole once again up here in the Senate. We all respect him.

Mr. Lighthizer, you can proceed.

STATEMENT OF ROBERT E. LIGHTHIZER, NOMINATED TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Mr. LIGHTHIZER. Mr. Chairman, Ranking Member Wyden, members of the committee, it is a great honor for me to appear before you today as President Trump's nominee to be the U.S. Trade Representative.

I am particularly pleased to be in this hearing room, where I have so many fond memories, and to be here with my former boss. It is fair to say that I had my formation working for Senator Dole and this committee in the 1970s and 1980s. I was able to work for truly exemplary U.S. Senators on matters of great importance.

In addition to trade, I assisted on tax policy, Social Security reform, budget cuts, welfare bills, and much more. I would be remiss if, in addition to Senators Dole and Grassley, I did not mention Senators Long and Moynihan—all truly great men.

After I left here, I became Deputy U.S. Trade Representative. I worked for President Reagan and Senator Bill Brock, another wonderful boss. I have often thought how lucky I am to have had such mentors and role models.

While at USTR, I worked on agricultural issues, industrial issues, services, and trade policy. I negotiated several trade agree-

ments. Yes, mostly they were bilateral. Those also were exciting times.

For the last many years, I have practiced international trade law. The vast, vast majority of my work has been representing U.S. manufacturing companies opposing unfair trade in this market and opposing the non-economic expansion of production capacity around the world.

As many of you know, I have written and talked often about the challenges facing U.S. companies and workers and have espoused strong enforcement of our trade laws. I have also worked to preserve U.S. policies at the WTO and the OECD.

I agree with President Trump that we should have an "America first" trade policy and that we can do better in negotiating our trade agreements and be stronger in enforcing our trade laws.

I further believe we need an international trading system that functions the way it was negotiated and that the United States must be ready to work with like-minded trading partners to ensure fair trade and to encourage market efficiency.

If confirmed, I hope to work with this committee, with the Ways and Means Committee, others in Congress, President Trump and those in the administration, and all stakeholders to develop and implement a policy that increases trade, grows the economy, and makes trade freer and fairer, but most importantly, that improves the economic well-being of our workers, farmers, ranchers, and businesses, large, medium, and small. If confirmed, I hope in the end to be judged by whether I aided all of you in accomplishing this goal.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Lighthizer appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Lighthizer. We appreciate your willingness to take on this really difficult assignment.

Now, I have some obligatory questions that I ask of all nominees.

First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. LIGHTHIZER. There is not, Mr. Chairman.

The CHAIRMAN. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. LIGHTHIZER. I do not, Mr. Chairman.

The CHAIRMAN. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Mr. LIGHTHIZER. I do. I do.

The CHAIRMAN. Let me just ask one other question. Finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?

Mr. LIGHTHIZER. I do, sir.

The CHAIRMAN. Well, thank you, sir. I appreciate it.

Let me begin the questioning. In the 28 years USTR has published the Section 301 report, India has received the worst or second-worst designation every year. Similarly, the U.S. Chamber's

International IP Index has ranked India worst or second-worst every year it has been published. Now, what can you do differently to secure real intellectual property rights protection in the country of India?

Mr. LIGHTHIZER. Mr. Chairman, let me say first of all that, if I am confirmed, I promise a very robust protection for intellectual property rights. I realize this is very important to the chairman and the members of this committee. I think anything less stifles innovation and science and really compromises what is a competitive advantage of the United States, that is to say, innovation and science. I think we need a policy that is as aggressive as we can have.

There are a whole lot of areas where we are at risk in intellectual property protection, including with India: slow and inefficient patent protection, theft of intellectual property, short patent protection, insufficient property protection. I expect to work with the committee in any way I can with respect to India. Specifically, I would like the thoughts of the committee and the staff. I realize the importance of the issue, and I am fully committed to protecting intellectual property rights.

The CHAIRMAN. Well, thank you. I remain disappointed that under the last administration not a single intellectual property case was brought under the WTO or our bilateral agreements, despite well-documented examples of failures by a number of trading partners to live up to their commitments. If confirmed, will you commit to finally taking steps to not only identify, but effectively address these trade violations?

Mr. LIGHTHIZER. I absolutely will. I expect that we are going to have a very rigorous enforcement policy. I expect to bring as many actions as are justified, both at the WTO and in our bilateral agreements. I mean, this will be a point of emphasis. I think the President asked me to do this job, in part, because of my enforcement background. I expect to do it across the board.

The CHAIRMAN. Well, thank you. It is well documented that Canada refuses to enforce intellectual property rights for the in-transit cargo destined for the United States. In fact, the USTR's most recent national trade estimate has documented this issue as well. Do we have your commitment to address this issue in your discussions with Canada, and will you ensure that other U.S. departments and agencies are made aware of the importance of the issue in their engagements with Canada, including the ongoing discussion between Canada and the Department of Homeland Security regarding cargo pre-inspection?

Mr. LIGHTHIZER. Absolutely, Mr. Chairman. I am totally committed. I really do believe that innovation is the central nervous system of the modern economy, and I am fully committed to bring every action that is justified across the board. I will certainly make sure that other departments in this government realize how committed we are to this area.

The CHAIRMAN. Well, thank you.

Senator Wyden?

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

Let me start, if I could, with lumber and forestry, Mr. Lighthizer. As you know, and as we talked about in the office, this has been

the longest-running battle since the Trojan War. It has gone on for decades and decades. The Canadians have subsidized their stumpage, they have used special procedures to force our trade agencies to weaken trade remedy orders on softwood lumber.

I would like to hear specifically—and 25 Senators, equally divided between Democrats and Republicans, have joined in efforts to get the executive branch to be serious about this. I will tell you, I thought it was unfortunate that the President-elect missed an opportunity when Prime Minister Trudeau was here when he said, gee, all we need with Canada is a tweak. How are you going to get tough with Canada with respect to softwood lumber and finally ensure that our workers in these key industries that pay good wages get a fair shake?

Mr. LIGHTHIZER. Well, Senator, first of all, I would say that I have heard a variety of issues with respect to Canada that have been raised by Senators as I have gone around and spoken with them, and certainly this is at the top of the list, but there have been a variety of things. I think there are a number of issues we have to address with respect to Canada.

Senator WYDEN. I want to make sure I heard that right. Did you say this would be at the top of your list as it relates to Canada?

Mr. LIGHTHIZER. That is what I did say.

Senator WYDEN. I like that answer. Go ahead, please.

Mr. LIGHTHIZER. Right now, as you say, there is a long history of this. There is a long history of litigation and memorandums of understanding and trying to work it out temporarily. It is a very serious kind of intractable sort of problem. It has enormous political consequences on both sides of the border.

Right now we are in the process of litigation, which is at the Department of Commerce, of course, not at USTR. But I expect to be involved. I expect to try to work out a solution. I know the basic parameters of it. I know that quantitative restraint is what the domestic industry wants, and wants in both parts of Canada. I certainly will work with the Senator and with his staff on that. I know the priority, I know the importance, and I know the history of it.

Obviously, if this litigation goes forward and if we have a negotiation, another negotiation, on this subject—I do not want to prejudge how the negotiation will come out, but I know in my mind that it is very important and that the last agreement really did not work the way it was supposed to work, and that we have to have a new one, either litigation or a new agreement, that does work.

Senator WYDEN. Let me get in one other question. I am going to be in rural Oregon this weekend having town hall meetings, and being able to tell them that the person who is being considered as the nominee for our U.S. Trade Representative has this at the top of the list makes a difference, and I appreciate it.

Let me turn to the question of digital trade, because the Internet sector alone accounts for more than 5 million American jobs. Here the challenge—and I think we touched on it in the office—is we have to tackle these foreign efforts to require American companies to store data where governments want the data stored, not where it makes sense for the private economy, not where it makes sense for economic or technological reasons.

I would like to hear your thoughts about how you are going to help this sector that accounts for 5 million American jobs get a fair shake in the digital arena overseas. As you know, these are not just cloud-based services, but a variety of other services. What are you going to do to make sure that digital trade, American digital trade, gets a fair shake in global markets?

Mr. LIGHTHIZER. Well, Senator, first of all I would like to commend you for your long, long-term commitment in this area. I talked about innovation being the central nervous system. One wise U.S. Senator once referred to the Internet as "the shipping lane for 21st-century goods and services." Does that sound remotely familiar to you?

Senator WYDEN. I know that guy! [Laughter.]

Mr. LIGHTHIZER. I say that by way of emphasizing how important I think this area is. I think there has been headway that has been made, and Ambassador Froman gets credit for that.

In terms of the negotiation—and you and your colleagues in terms of putting pressure on it—it is essential to moving forward that we have free flow of data and that you can store the data where it makes sense economically. So I am fully committed. I expect to use trade agreements to pursue this goal and the WTO, where appropriate. So I understand. I think it is very important, and it is the sort of thing that we have to include in our trade agreements.

When we talk about NAFTA and other agreements that need updating, this is something that did not even exist when these agreements were first negotiated. So I really do think this is important. I commit to you that it will be something that we will prioritize.

Senator WYDEN. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Stabenow?

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

Mr. Lighthizer, welcome. I enjoyed very much our conversation in the office. It is good to see you again. I look forward to seeing your waiver worked out on a bipartisan basis. I am very appreciative of your work and comments you have made in the past. We have some important issues on trade to address that affect our workers.

We talked about Michigan and both making things and growing things: agriculture, manufacturing, all of our businesses. I have a saying that, as we talk about trade, we should export our products, not our jobs. I think that is something that you would agree with, so I appreciate that very much.

I have to say, though, I think you have a very tough job, and I want to talk to you about that, because as USTR you are responsible for coordinating, monitoring, and enforcing trade issues, existing trade agreements, future trade agreements.

We in Michigan want a level playing field on trade, from intellectual property rights—as the chairman talked about with China—or trade barriers with Japan, or currency manipulation, which you have spoken extensively about in the past.

But here is where I am deeply concerned right now. You are out, fighting for American workers and businesses, if you are confirmed.

But your future boss, President Trump and his family, have business interests all over the world.

My constituents and I are very worried about what happens when the interests of American workers and businesses, in terms of enforcing our trade laws, are put at odds with the business interests of our President or his family. I wonder if you might speak about how you stand up for American workers and businesses in that kind of a situation.

Mr. LIGHTHIZER. Well, thank you, Senator. First of all, in all my conversations with the President—I have been honored to have several—he speaks very strongly on enforcement and getting the best possible deals for American workers, American farmers and ranchers. His own business interests are never remotely referred to. I really do not personally know what they are. The President is completely committed to the "America first" agenda, which I subscribe to and which I believe the Senator subscribes to.

So I mean, I am honored to have this President nominate me for this job, and I think that working together, all of us and President Trump, we have a reasonable likelihood that we can change the paradigm and have it be better for all of our workers and all of our farmers. I have never seen any hint in any way of anything to the contrary. I think his motivations are absolutely spectacular.

Senator STABENOW. And I appreciate that very much. Here is my concern, and it is a very real, sincere concern. The President said on day one he would label China a currency manipulator. You have made very strong comments in the past: China engages in currency manipulation, China is by far our biggest trade problem. This is an issue that I have been working on for years, both with China and with Japan and other countries.

We have seen the President say that the grand champion of currency manipulation is China. But then we see, on February 24th, Secretary Mnuchin signals the White House is not sure what they are going to do on currency manipulation. But here is the concern that I have on that.

Last week, China, after 12 years in court, back and forth with Donald Trump and his family, has given provisional approval, in an uncharacteristically swift manner, to 38 new trademarks for the Donald J. Trump brand to be put on businesses, construction businesses, all kinds of businesses, all kinds of products in China, and we hear now that it is not clear what our administration is going to do about China.

So maybe one has nothing to do with the other, but it is very concerning to me. We have, in my judgment, a need to be very tough on China and what they have done. We have lost close to 5 million jobs in our country as a result of currency manipulation and related practices.

A good number of those were in my State of Michigan, and now we have a situation where the President is benefitting by business deals and new trademarks to put his name on businesses and products in China. How do you move forward on that? I mean, how do you make those calculations as to what to do? As you have said—and I appreciate very much and agree with the statements you have made in the past about China being a currency manipulator. So what do we do with this?

Mr. LIGHTHIZER. Well, Senator, first of all, in the past it is my judgment that China was a substantial currency manipulator, and I think we have lost a lot of jobs in the United States because of it. And by the way, it is not just China. There are other countries that have done it, as you know well and have experienced through your constituents.

Senator STABENOW. I agree, yes.

Mr. LIGHTHIZER. Whether China is manipulating the currency right now to weaken it is another question, so that is up to the Treasury Secretary. So I——

Senator STABENOW. And I understand that. I guess my question is, as you move forward in a very tough job—and I believe you are equipped to do that—how do you handle the situation at this point in time where we have the President, his family, with business interests in countries where we need to be tough on that country in order to protect American jobs?

Mr. LIGHTHIZER. Well, Senator, I do not know anything about the President's businesses or anything about trademarks or anything like that.

Senator STABENOW. Would it help if you did? I mean, in all sincerity there are proposals—Senator Wyden has one—that would require making that known. If you knew that, would it make it easier to be able to, from your perspective, do your job and make sure there was not a conflict?

Mr. LIGHTHIZER. Absolutely not. I do not want to know anything about it. I think, to be honest, with the time I have spent with the President, any suggestion at all that he would do anything that is not in the national interest first, middle, and last, is just not correct.

I would like, if I could, to have you and the ranking member, whatever things you have to worry about—and my job is tough; your job is tougher, to be honest. Your job is tougher, your responsibility is greater. This idea that this President would do anything untoward is so far out of the realm of possibility. I say this, and I mean it sincerely: it is an honor for me. This is a person who is completely committed to nothing but helping America and the American workers and farmers and ranchers. It is just——

Senator STABENOW. And I know my time is up, and I respect and understand. I would just say, he promised on day one that China would be labeled a currency manipulator. It is after day one, and that has not happened yet, but other things affecting his business have, and that is deeply concerning to me.

The CHAIRMAN. All right.

Mr. LIGHTHIZER. Let me say—if I could just say, Mr. Chairman, I believe that if your concern is that the President would somehow not defend America against China because of trademarks, I wanted to let you be assured that that is not the case.

I would also say that I will bet you, you and I will sit down in your office between now and the time I leave, and you will say, "Bob, you were right; he really is going to change the paradigm on China." I believe he is going to change the paradigm on China. If you look at our problems, China is right up there. So let me assure the Senator, this is not going to be a problem.

Senator STABENOW. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Roberts?

Senator ROBERTS. Thank you, Bob, for coming in to my office and having a nice visit. Thank you for the work that you have done on this committee. Thank you for your good work on behalf of a Kansas legend, a national legend, Senator Dole.

Last month, members of the Senate Finance Committee met with Mr. Peter Navarro and Mr. Steven Greenblatt. They are new members of a new White House Trade Council. They read to us the administration's marching orders for trade. They had four goals and 13 policy objectives. Since that meeting, the list has now grown to 24. On this list of goals, agriculture was listed as #3. Given the rough patch that we are in today, given a 16-year low in prices and other considerations, I believe it should be #1.

Mr. Chairman, before I ask a question, I would like to submit the administration's list of 24 trade priorities for the record.

The CHAIRMAN. Without objection.

[The list appears in the appendix on p. 117.]

Senator ROBERTS. I think you have the experience; you know this. Most trade agreements I have worked on since I have had the privilege of public service have been over-criticized and they have been over-sold and somewhere in between, while we tried to work them out. But on this list of 24, there are several I could mention, but the one that really stuck out to me was Country of Origin Labeling.

That is a tough issue in the Agriculture Committee and in the agriculture issue list. But we have been down this road before. We fixed the issue of COOL in 2015. We do not need to go down that road again. We narrowly escaped about $4 billion, somewhere between $3.5 and $4 billion, in retaliatory tariffs against the United States.

I do not think that we need a constantly changing list of key elements of a model trade agreement. That may be a good thing to talk about if we had time to talk about it. We do not. What we need is a U.S. Trade Representative confirmed—that is you—and in place who will embark on a robust trade policy. That is you. You have the experience, you have the talent, and you have the commitment.

Now, the U.S. has withdrawn from TPP and the President has expressed major concerns with NAFTA. The administration stated it plans to start to negotiate bilateral trade agreements that you refer to. It seems to me that we need to move very quickly. I want to make it very clear to you and to the administration: agriculture must be a key part of these conversations.

When I met with you last January, you assured me that you would defend agriculture as trade problems arise. I would like to remind you that I told you, just take it a step further: be the champion of agriculture from the start so we do not get into these problems.

Now last month, as chairmen of the Agriculture Committee, we—Senator Stabenow and myself—chaired a field hearing. We had 21 witnesses. Every one brought up the issue of trade. Last year, the U.S. exported over $103 billion in agriculture goods. In 2016, agriculture exports accounted for approximately 20 percent of the agri-

cultural production. Agriculture had a global trade surplus of $20 billion.

Understanding the importance that trade has on the agriculture industry and the rough patch we are in, will you be a champion for agriculture and get commodities moving on the global market?

Mr. LIGHTHIZER. Yes, Senator, I will. I have a long history with agriculture. I worked on it when I was at USTR. As the Senator knows, I negotiated the Reagan administration grain agreement with the Soviet Union in 1983. You will also recall that President Carter cut off grain sales to the Soviet Union, and President Reagan decided to re-implement those sales, and I was called on to negotiate that agreement and did do it.

My 30- or 40-year contact with Senator Dole is some indication—and I had a variety of very memorable meetings with Senators, and it was a joy to go around and meet so many Senators and talk to them about the issues that matter to them.

But I heard one very memorable comment that one Senator made, which was, "As you go through doing your job, remember that you do not eat steel." That is something that stuck with me. So I assure you that we will prioritize steel. We will prioritize agriculture, both in terms of maintaining what we have and in terms of getting additional market access.

Senator ROBERTS. I cannot imagine the Senator actually stating that to you. I just cannot imagine who that might be.

We have grain on the ground out in Kansas. If we do not sell agriculture commodities over the next several months—we are at a 16-year low in prices—we will have a problem on our hands. We all will have a problem on our hands.

If you are confirmed, can you tell us right now what countries you will be having conversations with to sell not only what our country makes, but also what we grow?

Mr. LIGHTHIZER. Well, I think that there are a variety of priorities in terms of what our negotiations are, but it is clear that agriculture would have been a beneficiary of TPP.

I think that as we move forward and negotiate new agreements, we have to go to those countries, among others, and I would list, of course, Japan as being a primary target for a place where increased access for agriculture is important.

It is hard for me to understand why we tolerate so many barriers to agriculture trade when America is the number-one producer of agricultural products. We are the best in the world. If you believe, really, in trade and market efficiency, you just have to believe agriculture should be even more of a positive than it is. It is market distortions that are keeping that from happening, so I think opening up markets, more markets for agricultural sales, is a very high priority for us.

Senator ROBERTS. I appreciate that.

My time has expired, Mr. Chairman.

The CHAIRMAN. Thank you, sir.

Senator Menendez, Senator Cardin was here and has agreed to allow Senator Toomey, who has to leave, to question. Would you be willing to do that?

Senator MENENDEZ. Yes.

The CHAIRMAN. Senator Toomey, then. Thank you. Thank you for your kindness. I appreciate it.

Senator TOOMEY. Thank you, Mr. Chairman. I want to thank the Senators from Maryland and New Jersey for their kindness. I do appreciate that.

Mr. Lighthizer, welcome, and thank you. I enjoyed our chat earlier. There is no question, you have a terrific background for this job and a great deal of expertise and knowledge. I would like to focus very briefly on a couple of narrow, specific issues and then on a big macro issue that I think is important and I am concerned about.

The former are the two primary reasons that I was not able to support TPP in the form that it had. One was the lack of protection for intellectual property, especially of biologics, an incredibly important new field, an area where we need to get this right. Intellectual property is a form of property that should not be stolen, like any other kind of property, so I hope we will do a better job in the future on that.

I would like you to add an item to your list of Canadian priorities, and that is, as I am sure you know, the Canadians are very resistant to allowing in American dairy products. Pennsylvania is a big dairy-producing State, and we could do quite well selling dairy products to Canada, so I would just ask you to consider putting that on your list.

The macro thing I would like to address is some worrisome signals that I perceive from the administration. I think Peter Navarro, who is the Director of the National Trade Council, has been pretty clear that one of, if not the primary goal of trade policy, is going to be to reduce trade deficits.

Now, if you become the U.S. Trade Representative, of course you will be responsible for negotiating the deals that accomplish whatever these goals are. I am concerned that this is the wrong top priority. I am concerned because I do not believe that trade deficits are inherently a serious problem.

I think if you choose to address reducing deficits by expanding American exports, that is great, and I am sure that will be one of your goals. We certainly want to tear down barriers to American products.

The problem is, we have also gotten very clear indication, at least from Mr. Navarro, that there will be an effort also to reduce imports, which is another way to reduce the size of the trade deficit, and I think that would be a big mistake, for several reasons.

One is, it would invite retaliation. It would almost certainly result in retaliation that would diminish American exports, and that would certainly be very bad for us. Second, whatever mechanism one uses to reduce imports, whether it is quotas, tariffs, or bureaucratic hurdles that foreign exporters cannot get over, the net result is fewer choices for American consumers—higher costs, fewer choices, fewer options.

Finally, I would just stress that the fact is, historically, trade deficits do not harm manufacturing, broadly speaking, and they do not cause unemployment. I have a chart here that illustrates this point, I think, pretty well.

The red line is the line of U.S. manufacturing output, adjusted for inflation. And as you can see on the far right, the red line is back up to its all-time high, which is to say that the United States of America is manufacturing more today than we ever have in the history of the Republic.

Now, we do it with fewer people, which is mostly a function of automation, but manufacturing is at an all-time record high. What is even more stunning, though, is that there is no correlation between a reduction in manufacturing and an increase in the trade deficit. In fact, it is the exact opposite.

The blue line on this graph, as it descends from the upper left, reflects increasing deficits. As you can see, it happens at the same time that manufacturing output is going up. Then when the blue line reverses and the deficit gets smaller, as the blue line goes up, the red line of manufacturing output goes down.

So there is this pretty consistent inverse relationship, actually, between the size of our trade deficit and manufacturing output. I think it is probably because when the economy is strong, we are manufacturing more, and when the economy is strong we are also buying more products.

The second chart I want to show illustrates a similar point with respect to unemployment. Again, you notice it is the exact same blue line. That is the trade deficit line, again, the deficit getting larger as the line goes downward to the right.

As you can see from the period from 1992 to roughly the recession around 2001, as the trade deficit was growing, the unemployment rate was declining. Again, the relationship continues: when the trade deficit has diminished, as it did significantly in 2009, unemployment went through the roof. Then once again, the unemployment rate has declined in recent years while the trade deficit was roughly level.

So we have learned there is a way to reduce the trade deficit: have a recession and you will reduce the trade deficit. I know that is not what you want. I know that you do want to increase our opportunities to export and sell our products overseas.

I would just urge you to consider making the higher of the priorities not the reduction in the deficit, but rather the mutual elimination of trade barriers, the expansion of trade, and certainly, of course, opening up foreign markets for our products.

The CHAIRMAN. Thank you, Senator. Your time is up.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman. Ambassador Lighthizer, congratulations on your nomination. Let me ask you—I am one who believes that we should not compromise our values in order to get a trade agreement. If anything, we should be using those agreements to further our values internationally.

As you may know, when this committee was debating Trade Promotion Authority legislation 2 years ago, it passed my amendment that barred fast-track procedures for any trade agreement with a country on Tier 3 of the State Department's Trafficking in Persons Report, a group of countries that fail to take any action to combat sex trafficking and forced labor, and that was a bipartisan vote on the amendment.

Now, following that amendment, from my view, we saw an unprecedented politicization of the TIP report, where countries were upgraded based on unrelated factors, one of those being trade, in my opinion, instead of their efforts to combat human trafficking.

Can you commit to us that, if confirmed, you will not take any action to attempt to influence the Trafficking in Persons report?

Mr. LIGHTHIZER. Well, I would say first of all, Senator, I obviously condemn human trafficking. I know that you have been involved with this. I know that Senator Cardin has also been involved with it. I believe it will be the strong policy of this administration—although it is not in my area—to do what they can to stop human trafficking.

In terms of what priorities I have in negotiating trade deals, I can guarantee that I will work with you and with Senator Cardin and other interested members of the committee to make sure that as we move forward, your specific views on this issue are reflected in the sorts of things that I——

Senator MENENDEZ. I appreciate that. Let me, since my time is limited and I have several topics, pose a very narrow question: will you commit to the committee that you will not use your position as the U.S. Trade Ambassador to try to affect the Trafficking in Persons Report?

Mr. LIGHTHIZER. I will make that commitment.

Senator MENENDEZ. All right. Thank you.

Do you believe that the administration will seek to negotiate trade agreements with a country currently or recently on Tier 3 of the TIP report?

Mr. LIGHTHIZER. I do not know the answer to that. I will be guided by the opinions of this committee and the Ways and Means Committee, as well as the President, on what our targets are for negotiations.

Senator MENENDEZ. Well, the reason I asked that question is because the law is clear: we are not supposed to be engaging with a country that is on Tier 3. So if there is an intention to do so, it would be in violation of the law, unless again the report is manipulated to allow a trade agreement to take place, even in the face of human trafficking going on in that country to the level of a Tier 3. So I would hope that that would not be the case.

I know that the chairman raised the issue of India with you, and I want to echo his concerns. I think that there is a great opportunity for us to build greater economic ties with India, but I have a real problem with their lack of protection of intellectual property rights, and for the United States that is a critical element, whether in the technology field or in my home State of New Jersey, which is the medicine cabinet to the world in terms of a growing biotech and pharmaceutical industry. So in that regard, on multiple occasions I have raised the issue of ensuring regulatory protection of biologics in our trade agreements.

The Trade Promotion Authority requires U.S. trade negotiators to ensure "that the provisions of any trade agreement governing intellectual property rights reflect a standard of protection similar to that found in the United States under U.S. law."

Such a level of protection enjoys strong bipartisan support from Congress, as our highly innovative biopharmaceutical industry, as

well as the broader high-tech industry, supports millions of high-quality jobs, including hundreds of thousands in my State of New Jersey.

Will you ensure that any U.S. free trade agreements meet this Trade Promotion Authority requirement, raising global standards to those of the United States?

Mr. LIGHTHIZER. I am familiar with the issue, and that certainly is my position. I will do everything I can to have new trade agreements reflect that standard, that objective.

Senator MENENDEZ. I appreciate that answer. Given that the U.S. law provides for 12 years of data protection for biologics, would you commit to pursuing an equivalent level of protection in future trade agreements?

Mr. LIGHTHIZER. I have had conversations with several members. I know that there is a split on this. I am certainly with the chairman on this issue, which is to say, yes, that would be my objective.

Senator MENENDEZ. And I would just simply say that in my view that is in line with what Trade Promotion Authority says under the law, to bring it up to a standard under U.S. law, which is 12 years. So, thank you for your answers.

The CHAIRMAN. All right. Let me just see here. I think it is Senator Cardin next.

Senator CARDIN. Thank you, Mr. Chairman.

Mr. Lighthizer, welcome. Mr. Chairman, I have known Mr. Lighthizer for a long period of time. I have a great deal of confidence in his ability to negotiate and to stand up for enforcement of American trade laws. So I thank you for your willingness to take on this extremely important public service. I know it is a sacrifice, and we thank you very much for being willing to do this.

I will comment that we do need a strong USTR to enforce our antidumping laws and to deal with illegal subsidies. Although you cannot eat steel, it does provide good jobs. If we had more steel jobs, our entire economy would be stronger, including the agricultural sector.

So I thank you for your efforts on behalf of American steel, and I hope that you will use that talent to deal with a fair trading system for all of America's producers, manufacturers, and farmers.

I would also point out in that regard—and I would say one other thing, if I might, Mr. Chairman, on a personal basis. Bob's brother Jim is here. Jim Lighthizer is a distinguished public servant in Maryland. He held the office of county executive in Anne Arundel County, one of our largest counties, so it is a family of public service, and it is wonderful to see his family members here.

The CHAIRMAN. Well, we certainly welcome the family, every member.

Senator CARDIN. As Senator Portman pointed out, the USTR and our trade laws are a delegation by Congress to your office, and we express ourselves through TPA. And we announce several principal negotiating objectives, and we expect the USTR to comply with the delegation and the objectives given to you by Congress. Let me go over a couple of those.

In the most recent Trade Promotion Authority bill, we put, as a principal negotiating objective, compliance with anti-corruption commitments. Of course, we were negotiating TPP. We were deal-

ing with countries that are not democratic countries, and we were very concerned about good governance and anti-corruption.

We now have seen a spread of corruption among many countries in the world. Do you commit to carry out the Trade Promotion Authority direction that in trade agreements we will carry out anti-corruption commitments within the trade agreement?

Mr. LIGHTHIZER. Absolutely.

Senator CARDIN. Thank you.

We also passed, in the Trade Promotion Authority, an amendment that was offered by Senator Portman and me as it relates to our European partners. It is called the anti-BDS provision, which requires the Trade Representative to get commitments from our trading partners in Europe that they will not sponsor any boycott, divestment, or sanction efforts against the state of Israel.

Do you also commit that you will comply with that principal negotiating objective that was included in the congressional act?

Mr. LIGHTHIZER. Absolutely, Senator.

Senator CARDIN. Thank you for that.

Third—and this has been commented on by many of us—there is now currently an effort to try to change our tax code so that we can get a border adjustment which would be fairer to American manufacturers. We have always included in our Trade Promotion Authority an effort by the USTR to get border adjustment comparable to what our trading partners have on products that enter their market for our products entering their market. The difficulty, of course, is that we have not harmonized with the international community in the use of a consumption tax.

I have introduced a progressive consumption tax that is patterned after what is accepted internationally as a border-adjusted tax. It is difficult to see us winning too many cases in the WTO with something that is an income tax that we call a consumption tax, so I just urge you in your position to give a realistic assessment to those of us in Congress as to what is likely to be border-adjusted so that at long last we can try to set up a level playing field for American manufacturers and producers in the international marketplace as it relates to tax burdens.

Mr. LIGHTHIZER. Right. Thank you, Senator. Yes, I have spent a lot of time on this issue over the years. I was involved in DISC and FSC and all these things at various times. I do not know what the right answer is, but it is a problem, in my judgment, this disequilibrium between direct and indirect taxes.

I do not view it as having any real economic or legal basis. I think it is so serendipitous and unfortunate from the point of view of the United States, so I would look forward to working with you.

Senator CARDIN. I appreciate that.

The last point I would make, Mr. Chairman, is that we do not do so well in the World Trade Organization on a lot of these legal cases. We have not done well on border adjustment with the manufacturing credit that you referred to, and I do not know how well we could do on the tax proposal we are talking about.

I do know, though, on enforcing our antidumping laws, it would be very helpful if, in the bilateral agreements, we had specific references to the enforcement of U.S. law in that bilateral rather than relying on a case within the WTO. So I would just encourage you,

as you do these trade agreements, knowing your reputation for enforcement, that we include enforcement sections in these bilateral agreements.

Mr. LIGHTHIZER. I agree completely with you, Senator.

Senator CARDIN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Grassley?

Senator GRASSLEY. Sorry I missed your opening statement, because I had to go to the floor to speak about the Supreme Court justice hearing we are having next week.

So I thank you, Mr. Chairman, for holding this hearing, and I am glad that we are moving forward with Mr. Lighthizer's nomination. We need to get him in place at the USTR, because it is a very important job and a lot of negotiations are coming up. I have enjoyed working with this agency over the years and respect their unmatched expertise on trade issues.

As everyone on this committee knows, Congress set negotiating objectives for trade agreements when we passed TPA 2015. It is a very important piece of legislation for getting our trade agreements through the Congress, so I have just a few questions—and I was told that Senator Roberts touched on part of what I was going to ask.

So with your many years of experience in trade, I have no doubt that you appreciate the requirements in TPA to keep Congress informed on negotiations and the need for agreements to meet negotiating objectives set by Congress that enable agreements negotiated by this administration to receive a single up-or-down vote.

Now, following on what Senator Roberts asked you, as you know, I represent a State that has tremendous agricultural production. Exports are extremely important to Iowa agriculture, whether it be corn, soybeans, cattle, or hogs. The equivalent of one out of every three rows of soybeans, as an example, will end up being exported to China alone.

Clearly, these exports are very important to the price of commodities. President Trump and others in his administration have indicated a desire to modernize and update NAFTA. I am not opposed to that on the surface, but I do have concerns about potential outcomes.

Mexico is the number-one market for U.S. corn and soybean meal. Mexico and Canada represent the number-two and -three markets respectively for U.S. beef, and finally, pork exports to Mexico are 12 times larger today than when NAFTA was implemented.

Could you assure the committee that you and President Trump's administration fully understand what is at stake for U.S. agriculture in renegotiating NAFTA?

Mr. LIGHTHIZER. I do, Senator. Yes.

Senator GRASSLEY. I cannot stress enough that there will be real and immediate economic consequences for farmers if we lose exports and probably want to emphasize that when we are retaliated against, often it is done through countries taking action against our agriculture exports.

The second question: the administration has indicated it prefers bilateral negotiations for free trade agreements. Will President

Trump's administration be approaching NAFTA modernization as two new bilateral agreements or an update of NAFTA which is, by definition, a trilateral agreement?

Mr. LIGHTHIZER. I do not think that decision has been made at this point, Senator. The administration has not made a decision whether to update it as a trilateral agreement or to make it two bilateral agreements. We just do not have a position on that.

Senator GRASSLEY. All right. I noticed in your testimony that you spent time representing U.S. manufacturing, opposing non-economic expansion of production capacity around the world. I have heard a great deal from the U.S. steel industry about China's extreme over-capacity for steel production. What do you think is the most effective way that the United States can deal with problems like excess production capacity in any country, but particularly China?

Mr. LIGHTHIZER. Well, Senator, this is a very difficult and sort of intractable problem, and it goes beyond steel, right? It is a model that the Chinese use in a lot of different industries. To me, the answer is, (1) you have to engage bilaterally and multilaterally wherever you are, and there are a variety of forums where you can engage with the Chinese to try to specifically encourage them to reduce this non-economic capacity, this state-encouraged capacity. I think there are several forums, which we can talk about, where that is appropriate and where progress can be made.

Then the next thing is, you want to make it less economic. It seems to me, that is ultimately where it has to come down: it has to be more difficult for them to maintain non-economic capacity. That means enforcing our trade laws. To me it means encouraging other countries where they could ship product to enforce their trade laws, then to try to think of more imaginative solutions—the WTO and other places where you can actually bring litigation.

But the overall theme, to me, has to be if a country is creating capacity—and as I say, it could be aluminum, it could be semiconductors, it could be a lot of things—through their industrial policy, we have to take it on head-on and go in every direction we can to make it more and more expensive to keep non-economic capacity which is having this negative effect on the global economy.

Senator GRASSLEY. Thank you, and congratulations on your appointment.

The CHAIRMAN. Thank you, Senator.

Let me see. Who is next here? Senator Scott.

Senator SCOTT. Thank you, Mr. Chairman.

It is good to see you again, Ambassador. Just to continue in the same vein that you heard from Senator Grassley as it relates to over-capacity, it will be a part of my questions specifically as we think about issues of aluminum, steel, and other issues. But thank you for coming by the office and spending some time. I think we had a good conversation about the value of trade and exporting to the South's economy.

We have done a really good job of becoming the home of over 6,000 companies that depend largely on exporting. We have about, I think it is $2.3 trillion of value that goes through our port. About half a million jobs in South Carolina are connected to the port, so about one out of every seven jobs is connected to the port.

So it is incredibly important that we continue the conversation that we had around new trade opportunities for our folks in South Carolina. But specifically, one of the challenges that we see at home is this conversation about over-capacity and how we deal with it, specifically the aluminum and the steel markets. It is suggested that there is over-capacity because of folks who just are not playing by the rules.

How would you continue the conversation that you started with Senator Grassley on how we specifically deal with that issue?

Mr. LIGHTHIZER. Well, thank you, Senator. I also enjoyed our conversation and look forward to working with you, if I am confirmed, on this and the other issues that you raised, because you raised a variety of issues that were very thoughtful.

To me, the key is to go into—in the case of steel, we have something called the Global Forum where you can actually sit down with the Chinese and talk about reducing capacity in the steel industry. You also have other places where you interact with them, enforcing our trade laws, getting other people to enforce their trade laws so that they cannot ship uneconomic capacity.

I think we have to see if there is some way we can affect what is called sort of upstream dumping, or third-party dumping, where they are actually taking non-economic capacity and putting it into another product and then shipping that product to us. A good example would be steel.

Senator SCOTT. If you look at the tools at your disposal, if you found WTO to be ineffective, are there other tools that you need, that you would recommend, if you are confirmed as our Trade Representative?

Mr. LIGHTHIZER. I have some ideas, but they are probably ideas that I am better off——

Senator SCOTT. Holding onto?

Mr. LIGHTHIZER [continuing]. Talking to you and talking to the staff about. It is a very, very serious problem for our economy.

Senator SCOTT. Yes.

Mr. LIGHTHIZER. I do not believe that the WTO is set up to deal effectively with a country like China and their industrial policy. I just feel it was never really intended to deal with those kinds of situations. So we have to use the tools we have, and then I think we have to sit down with members and find a responsible way to deal with the problem by creating some new tools.

Senator SCOTT. Excellent. I look forward to having that conversation, perhaps after your confirmation. I know that Senator Wyden mentioned the importance of soft lumber to his State. It is also very important in the South. I think we are responsible for almost one out of every four parts of that trade opportunity.

Specifically, there has been some conversation about our position where there is a free trade agreement. Some suggest that we have a surplus, others say that we do not. What is your position on that?

Mr. LIGHTHIZER. With respect to a surplus with——

Senator SCOTT. Where we have a free trade agreement in place.

Mr. LIGHTHIZER. If you analyze the sort of trade deficit situation with free trade agreements, you have maybe three categories, I would say. You have surpluses with Canada, Australia, and Singapore, and then you have a bunch of countries where it kind of goes

up and down and the numbers are not very large, and then you have Mexico and Korea, and those two are large deficit countries. So it kind of varies. With respect to some, it has on that basis been effective; with respect to others, it has been less effective.

To me, when I look at deficits, I try to ask myself, what is it telling me about the rules of trade as they pertain to that country? Because our objective is not just to get the trade deficit down. Our objective is to get more efficiency in the market, to get rid of trade barriers everywhere.

Everybody wins, and the United States producers really win to the extent we can break down trade barriers. So when I look at FTA deficits, I try to put them into categories, and I say, "What can I learn from this agreement versus that agreement?" In some cases, the rules do not seem to be working as well as with others. That is where I try to learn on that.

Senator SCOTT. I think my time is about up, but perhaps my last question will be, if you look at the TPP countries, I know that the administration has been very clear on staying away from multilateral agreements, that perhaps we are in a better position to go forward with bilateral agreements. Would you envision our country taking a lead in looking for ways to have bilateral agreements with some of the partners that would have been a part of the TPP?

Mr. LIGHTHIZER. Absolutely, Senator. That certainly is my view. I believe it is the view of the administration. Clearly, we want to have a series of bilateral agreements, and hopefully ones that take TPP and improve upon what was negotiated, in some cases, very well by Ambassador Froman.

Senator SCOTT. I think it would be certainly an important signal to South Carolina and the many companies that depend on opportunities to continue trade.

Thank you.

Mr. LIGHTHIZER. Thank you, Senator.

The CHAIRMAN. Thank you.

Senators Brown and Carper have allowed Senator Casey to go next. I should have said Carper and Brown. I apologize.

Senator CASEY. Mr. Chairman, thank you. I owe both Senators Brown and Carper something. I do not know what it is, but I am grateful that they did that.

I want to just preliminarily make a statement about the miners' health care and pension legislation. We know now that we have coal miners across the country, including many in Pennsylvania, who might be suffering from Black Lung, or cancer, or diabetes.

They began receiving notices on March 1st that their health care would be terminated. In Pennsylvania, that is almost 2,000 miners. These miners kept their promise, every promise they have ever made to the country, to their family, to their companies. It is time the Federal Government keeps its promise.

What we are saying on this side of the aisle to Republicans is, just get this Miners Protection Act done, and that of course involves in this case, from our point of view, making sure that we can get it done now. That would also, of course, move forward Mr. Lighthizer's nomination, which I think there is broad support for.

Coal miners and their families do not need to spend any additional time—in this case month after month—with the fear and the

uncertainty of not having health care or the pensions that they earned. So we just hope that the committee, as well as Majority Leader McConnell and the President, will join us in this effort to get both done.

Mr. Lighthizer, I am grateful that you are willing to put yourself forward for service again. We had a good discussion in my office a couple of weeks ago, and I am grateful for that discussion.

Just one preliminary question with regard to enforcement. If you are confirmed, will you work to enforce both labor and environmental obligations of trading partners as vigorously as any other obligation?

Mr. LIGHTHIZER. Yes I will, Senator.

Senator CASEY. I appreciate that.

I want to spend the remainder of my time on China. Despite promises from China in their WTO accession, China continues to exercise significant control over both their state-owned enterprises and factors of production. This has traditionally been executed through state subsidization of both manufacturing and exports like steel and aluminum. Rather than curbing these activities in response to trade cases, China has expanded their reach through new practices that run counter to market principles, for example, hacking or cyber-enabled economic espionage.

The cyber-theft of intellectual property and trade secrets can have a significant impact on both U.S. innovators and manufacturers. Now China, of course, wants market economy status at the WTO. Both administrations have not agreed to that. This administration, we are told, has said that it will continue the stance of the prior administration.

I am concerned, however, that allies of ours like those in the EU may amend their past position on market economy status. So, two questions: (1) will you work with the EU and other allies to defend the view that China is a non-market—non-market—economy?

Mr. LIGHTHIZER. Absolutely, Senator. I have spent a lot of time thinking about that, and I completely agree with you.

Senator CASEY. I appreciate that.

Also, what other areas do you think you will be able to work with the EU on with regard to curbing the impact of China's market-distorting practices?

Mr. LIGHTHIZER. Well, I think we have to engage across the board with the EU there. They are a potential ally on a whole variety of areas, particularly in the antidumping and countervailing duty area. So I hope to, if confirmed, spend a good deal of time with Europe and with the EU and to enlist them in support of the kind of program that you are suggesting.

Senator CASEY. Great. Thanks very much. I am yielding back 50 seconds.

The CHAIRMAN. Thank you, Senator.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman. Thank you, Senator Carper, too, for your always agreeableness. It is the Ohio State diploma that got you there, I am sure.

Thank you again, and thank you for the discussion in my office and discussions in the past on trade issues, and especially your

USTR interview, or whatever we call these meetings prior to confirmation.

You know about the steel over-capacity issue, as one of the country's experts in the steel industry and steelworkers. Ohio has lost 4,900 jobs in iron and steel. Last week, we received news that the U.S. steel plant in Lorraine, west of where you grew up on Lake Erie, went permanently idle. It is Number Six, quench and temper facility.

Our steel industry, our steelworkers, suffer because our trading partners do not play by the rules. China's state-owned properties have propped up its steel sector and flooded the global market, including our country, with unfairly made steel. The same is true, as you know, in aluminum.

My question is, what does the United States do to get China to implement a net reduction of its steel and aluminum capacity, and if China refuses to reduce its net steel and aluminum capacity, what steps do you take in response?

Mr. LIGHTHIZER. Senator, first of all, let me thank you for your kind words. I do appreciate that. I am proud to be from Ohio. I have been to Lorraine, to the Lorraine facility, absolutely, so I appreciate that.

I am glad that Ashtabula, besides your wife and me, has Urban Meyer. I am sure there are other people, but they do not come to mind. My brother; I guess, my brother.

We have talked a little bit about this issue of Chinese over-capacity in steel and aluminum, and it is something that is troubling to me not just because of those products, but because it is a model for the Chinese industrial policy. To some extent, we have sort of two models, two economic models: one is the one that we want and espouse and one is a different one, which is one of more state control and state involvement. In many cases, it is non-economic.

What I have said is, we have to have kind of a comprehensive approach on this. We have to, one, address, in the various forums that we have, the Chinese over-capacity issue and push back on that. Some of those discussions have possibilities for results. The global forum would be a good example, although personally I do not think that is going to be the only answer.

The second thing is really going to be enforcing our own trade laws. The third thing I suggest is that we get others to enforce their trade laws, all with an effort to make the maintaining of uneconomic capacity and the creation of uneconomic capacity, which is, in the state of the field, massive. I mean, it is hundreds and hundreds of millions of tons of excess capacity, many times the United States' total capacity.

Then third, I think we have to sit down and have private discussions where we try to think about what other remedies we have. To me, the objective is to make it uneconomic, to make it expensive to do something that adds inefficiency in the market and has such a negative effect on the United States and, quite frankly, steel producers in other parts of the world.

So it is a multi-faceted approach that I would recommend, but I think part of it is going to be sitting down and deciding whether

we need new remedies ourselves and what those remedies would be.

Senator BROWN. And we would like to work with you to figure that out.

I have one other question. Two days after the election, I called my long-time friend Dan DiMicco, who is sitting here, but also was heading the President's trade team then for the transition, and talked about TPP and USTR and trade enforcement and renegotiating NAFTA, a whole host of issues, and followed up with a letter asking the administration to make it a priority to re-set U.S.-China trade relations.

First of all, should that be a priority in this administration with you as U.S. Trade Representative, and second, what steps do you take to make the U.S.-China trade relationship more balanced overall?

Mr. LIGHTHIZER. Well, first of all, the easy answer is "yes," it really should be a priority. If you look at our trade deficit as an indicator—not the only indicator but as an indicator—of what is going on in the global economy, China is a good part of our problem, a substantial part of our problem.

I think we have to engage China and we have to talk to China, but I think we also have to think about some new remedies. We have to strongly enforce our trade laws. That probably means self-initiating cases. We have done a pretty good job, I think, in the steel industry under Dan and others' leadership. But I think we have to do it in other products also, and then I think we have to think of a more systemic approach.

Some of that may be going to the WTO or taking other actions to engage. I think this President is very focused on this issue. I think his views on this subject—I mean, I do not know his views, but I believe they are very close to yours in terms of the degree to which this is a problem and how it has to be addressed.

So, I mean, I am eager to work with this committee and the Ways and Means Committee to find a responsible way to address this problem, this chronic imbalance.

Senator BROWN. Thank you.

Mr. Chairman, thank you.

The CHAIRMAN. All right. Senator Carper?

Senator CARPER. Thanks very much.

Welcome. Whenever I pronounce your name, I either want to call you Lighthowser or Budweiser. I just keep going between the two. [Laughter.]

Mr. LIGHTHIZER. I will tell you, Senator, you are not the first person who has had that problem.

Senator CARPER. Whatever we should call you, we are glad you are here. Thanks. It sounds like your voice is not as strong as it once was, and we are looking for you to have it be a strong voice to make sure that American exports make their way into markets all over the world.

Senator Brown mentioned that I was an Ohio State graduate. I was Navy ROTC there and graduated in 1968, right in the middle of the Vietnam War. I became a naval flight officer and headed to Southeast Asia and served about three tours over there with my compadres before coming home.

I was invited by the President—I actually went back to Vietnam. About 1991, I went back to Vietnam. I led a congressional delegation of Vietnam veterans to try to find out what happened to thousands of our MIAs and to try to get the truth out of the Vietnamese. The idea was that if they would provide information, that it would provide closure for thousands of American families. We moved toward normalized relations; they did and we did.

The President asked me to go back with him. President Obama asked me to go back with him last April, and I was honored to do that. I met with some of the people I actually met with all those years ago in 1991. The President announced when over there that we had decided to sell weapons to the Vietnamese so they would not have to rely just on the Chinese and just on the Russians.

The Vietnamese, for themselves, said they would like to buy a lot of our aircraft and they wanted to buy, oh, gosh, $10, $15 billion worth of aircraft, passenger aircraft, not weaponry, although they will probably buy some others that are more defense-related.

We have the opportunity to sell a lot of aircraft. Boeing has the opportunity to sell a lot of aircraft to another country with whom we have been at odds, and that country is Iran, as you know. Boeing has an opportunity to sell anywhere from—I have seen as little as $8 billion to as much as $15 billion in product to Iran, commercial aircraft to replace their badly deteriorated civilian airlines.

But also Airbus has the opportunity to sell another $10 billion to Iran, and a lot of the components, as you know, for Airbus products are made in America. All told, I am told there are enough aircraft that could be sold, between Boeing and Airbus, to employ tens of thousands of Americans.

My question of you is, is this something we ought to allow to happen? My view, quite frankly, as you might tell, is "yes," as long as they continue to abide by the P5+1 agreement that was struck. What is yours? Go ahead. Thanks.

Mr. LIGHTHIZER. I was going to say, my view is that the way to get rid of trade deficits and move the economy forward is through exports. I mean, exports, exports, exports. I think that is what we are hoping for. In terms of specific sales of airplanes to specific countries, I am not informed enough about what the administration's policy may be. As a general matter, I strongly agree with you. I think we have to encourage exports. Exports are the key to trade. Exports and enforcement, that is what we have to do.

Senator CARPER. All right. Thanks.

Well, my hope is that if you are confirmed—I suspect you might be—this is one that you will go to school on. I would urge you to do that. A lot of jobs are involved here, good jobs, as you know.

The second thing, and you and I were able to talk—and thanks for visiting me in my office several weeks ago when you had a stronger voice——

Mr. LIGHTHIZER. I did.

Senator CARPER. But one of the things we talked about was, do we need to renegotiate NAFTA all over again or can we look at the Trans-Pacific Partnership to see what was done in the context of TPP to renegotiate NAFTA? My suggestion was, do we go to school on what Ambassador Froman and his folks worked on, what they

accomplished, and see if maybe we can do a shortcut on a NAFTA redo? Your thoughts, please.

Mr. LIGHTHIZER. I agree completely with you on that. I think Ambassador Froman did a remarkable job in a variety of areas and that we should take advantage of that work. So I am in total agreement with you on that.

Senator CARPER. Good. Thank you.

A lot of people—there is a lot of talk these days about building a wall along our border with Mexico. A lot of people think that folks who are coming into the United States are Mexican. They are not. There are actually more Mexicans, as I think you know, going back from the U.S. into Mexico than are coming the other way.

NAFTA worked actually pretty well for the Mexicans, I am told. They have a more vibrant middle class than they did 20 years ago. I think Mexico is now maybe our top customer for American poultry in the whole world. Canada maybe is among the last, among the worst.

They slapped a tariff—I think it is something like a 200-, 250-percent tariff on poultry, and it takes away a lot of incentive to try Delmarva chicken when you have that kind of tariff. Your thoughts on fixing that kind of imbalance, if we have the chance to renegotiate NAFTA?

Mr. LIGHTHIZER. Well, I had not realized they had that high a tariff. I agree that it is something we should look at. I am sympathetic to anything that has the potential to lead to more U.S. exports. So I am in agreement with you, Senator. I think it is something that, when we sit down with Canada, we should raise, and a variety of other subjects which have been raised by various members of the committee during the course of this process.

Senator CARPER. All right. Thanks.

Mr. Chairman, am I done? Is my time expired?

The CHAIRMAN. Yes, your time is up.

Senator CARPER. Do you want me to ask one more?

The CHAIRMAN. I think you have asked quite a bit.

Senator CARPER. All right. We will talk some more about Vietnam, if we could, later on. I have in my pocket some Halls throat lozenges, and, as I leave here, I am going to leave them right beside you. If they come of some service, you can always thank me in the future——

Mr. LIGHTHIZER. Thanks.

Senator CARPER [continuing]. When we negotiate on chickens.

Mr. LIGHTHIZER. I appreciate that.

Senator CARPER. Thank you.

The CHAIRMAN. You had better take him up on that. They do not give very often, the Democrats, you know. [Laughter.]

I take that back. We have a lot of big spenders on this committee.

Senator Cassidy?

Senator CASSIDY. Thank you, Mr. Chairman.

Mr. Lighthizer, I enjoyed our conversation in my office. Now, one thing you have mentioned—I think you will know the numbers; I do not quite know them—is that when we signed NAFTA, we perhaps had a trade surplus of about $5 billion, and now it is a negative $60 billion, something along those lines. I mentioned that to

someone—and you spoke of the manufacturing jobs that have moved to Mexico.

I mentioned that to someone else, and they said the reason some of those car companies moved to Mexico is that Mexico has a trade agreement with both the EU and the United States that allows goods to move back and forth without tariff, and the United States does not. So for some of these vehicles, if they were produced in the United States, we could not export them to Europe because there would be a tariff upon them. Again, there is not one in Mexico.

So, as we hopefully move manufacturing back to the United States—which I am a big fan of—nonetheless, it does seem as if it is trade policy in Mexico that is advantaged relative to ours which is the driver of that, rather than another factor. Any thoughts on that?

Mr. LIGHTHIZER. I certainly think that we have to look at issues like that. I certainly agree with that, Senator. But I suspect that when we do the analysis, the vast majority of the cars that are made by American manufacturers in Mexico will end up right here in the United States.

Senator CASSIDY. So the duality of the market is less than it might seem because the lion's share is coming here?

Mr. LIGHTHIZER. That would be my guess. I have not studied the issue, but that would have been my guess, that the lion's share of the automobiles made in Mexico will end up coming to the United States. I think that is their business plan. But I say that without having specifically studied that issue.

Senator CASSIDY. As you might guess, there is a lot of existential anxiety among my agricultural producers, and they are afraid that if we modernize the NAFTA act—or put it this way: Mexico has made some statements which suggest that they would retaliate if we attempt to push them too far.

In the one sense, I understand that there is an international market for commodities, but I gather that things—products, say for example rice—are somewhat advantaged under NAFTA, and so it actually benefits them.

So what would you say to my rice farmer who is concerned that there will be retaliation and that they will now be competing against Vietnam, which might have a state-owned enterprise selling rice at a discount relative to what our rice producers can do?

Mr. LIGHTHIZER. Well, Senator, as we discussed in your office, I hope and believe we can renegotiate NAFTA in a way that helps both countries and does not put agriculture in a precarious position. I realize the anxiety and the concern, and I understand it, but I think that there is a general consensus that NAFTA needs revision. It is clearly outdated at this point. During the course of that negotiation, I think we have to be very careful not to do something that adversely affects those who have been winners during the course of that process.

Senator CASSIDY. Let me ask this: the energy portfolio or the energy portion of NAFTA is fairly thin. Back then, there was not a lot of cross-border energy trade. There is apparently a lot now, both electrons, gas, and oil. Will we just kind of leave that alone, do no

harm, or do you have any thoughts in particular about what might be done to work out that to each country's mutual advantage?

Mr. LIGHTHIZER. Well, I do not have specific thoughts on that point. I would say that anything that encourages trade is a good thing, probably for both countries. I would say that at this point we have fairly balanced trade on petroleum generally with Mexico specifically, so it is part of the agreement that we will have to focus on. But I do not have specific ideas on negotiating that right now.

Senator CASSIDY. By the way, I will point out that, in Louisiana, they are building a lot of LNG export terminals, and I am struck that there are a lot of refiners from elsewhere that are building on the Mississippi using low-cost natural gas to make a value-add which they then export.

So, a quick win for the administration would be just to expedite the production of those LNG export facilities, with multiple benefits, including more jobs here at the wellhead, as well as more construction jobs exporting, and more maritime jobs transporting, as well as, if they are substituting it for Chinese coal, it actually helps clean up the atmosphere, just to point that out.

Lastly, some expressed a concern about—Senator Carper mentioned that NAFTA has brought a burgeoning kind of Mexican middle class, which in turn has become a new market if you will, or developing market, for U.S. goods, including gas, including oil, including you name it. And there is concern that if we are not careful how we do this, that middle class would suffer. The value of the peso, I think, is already falling. Will they continue to be able to afford to buy the goods that we are currently sending? Any thoughts on that beyond needing to be careful that it does not occur?

Mr. LIGHTHIZER. I think we have to be careful it does not. [Laughter.]

Senator CASSIDY. All right. Thank you. I yield back.

The CHAIRMAN. Thank you, Senator.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman.

I know it has been said many times, many ways already at this hearing, and there have been several of my colleagues who have talked about it, but when it comes to agricultural trade, I cannot emphasize enough, representing a State where agriculture is our number-one industry, that agricultural trade must be at or near the top of your trade agenda.

In terms of today's agricultural climate, we have a lot of producers that are counting on tariff reductions and expanding export markets with existing and new trading partners as the only near-term relief for countering crop and livestock prices that are below production costs.

There has already been some discussion, including with the Senator from Louisiana, about the NAFTA agreement, but Canada and Mexico are very important agricultural trading partners.

I know you did not want to get into specifics, but I would encourage you if you can to get specific on how you intend to improve what is in existence under NAFTA. Do you have a time frame? Do you intend to negotiate separately with each of those countries, or are they going to be all part of one agreement? Can you be that specific?

Mr. LIGHTHIZER. Well, Senator, the decision as to whether it should be trilateral or bilateral really has not been made at this point. I think the administration is very eager to engage quickly on this agreement. There are certain time frames that are required under TPA, and we are in the process of hopefully doing those consultations. I look forward, if confirmed, to being involved in that process.

But there is a whole consultation process and a time period that is layered on top of that, but the administration's stated objective is to do this as quickly as possible. There is uncertainty and anxiety, and so minimizing that is in everyone's interest.

Senator THUNE. This has been covered already by Senator Wyden. He and I teamed up on some digital trade issues, and they were a top negotiating priority for American diplomats under the TPP. I hope that that will continue to be a very high priority.

Coming back to agriculture for a minute, helping our companies expand their ability to compete and tap into foreign markets, as I said earlier, is critical. As those companies make investments in products that can enjoy greater global consumption, it is essential that our competitors not be permitted to plant road blocks in the way.

For instance, in the past few years the European Union has been using its trade agreements to misuse the concept of geographical indications by erecting de facto non-tariff trade barriers to U.S. products made in South Dakota, such as parmesan and asiago cheese.

How do you see yourself shaping the United States' approach to foreign policies like this that are intentionally aimed at promoting global rules aimed at choking off competition from U.S. companies around the world?

Mr. LIGHTHIZER. Well, I am very familiar with the issue. It seems to me it is an organized effort on behalf of the European Union, and I think we have to take it head-on. We want to discourage other countries from agreeing to these geographic indicators and resist them in the United States.

The issue tends to be more what happens in third-party markets, so it is a little more complicated to get into it. But we are aware of it, and it will certainly be something that we will work on. We realize it is a serious problem.

Senator THUNE. We also have seen a disturbing trend in recent years whereby some of our trading partners have ignored their international commitments, particularly with respect to intellectual property protection, either by failing to fully implement agreements or by flouting the rules in order to give their businesses an unfair advantage. These decisions are short-sighted and ultimately discourage innovation, investment, and job growth.

What can your agency do to ensure that our trading partners are enforcing existing commitments and to deter countries from weakening such standards in their own IP regimes?

Mr. LIGHTHIZER. We talked a little bit about intellectual property protection, and it will be a priority of USTR, if I am confirmed. We realize—I realize—how important it is, and intellectual property theft, weak enforcement of patent protection, and the like are very serious impediments to adding efficiency and healthy U.S. trade.

Senator THUNE. Mr. Chairman, I think that is all I have.

I appreciate your time, Mr. Lighthizer. Again, I cannot emphasize enough the importance of agriculture. As you start looking at what we are going to do in the place of TPP and how you are going to approach NAFTA, I hope you will keep that issue as a very, very high priority.

Mr. LIGHTHIZER. Thank you. I will.

Senator THUNE. Thank you.

The CHAIRMAN. Thank you, Senator.

Senator Bennet is next, then Senator Cantwell.

Senator BENNET. Senator Cantwell can go first.

The CHAIRMAN. We appreciate you doing that. Senator Cantwell?

Senator CANTWELL. Thank you. Thank you, Senator.

Mr. Lighthizer, thank you for being here. Congratulations on your nomination. Since I know that you are familiar with this committee, I would like to throw a lot at you at once, if I could. So, thank you.

One, I want to know whether you support the Export-Import Bank and the concept of a credit agency for the United States and whether the President should immediately appoint people to get it functioning at the level it should.

Number two, will you be aggressive in getting the Europeans to stop massively subsidizing Airbus? You know that the WTO has found in the aerospace sector, $17 billion of illegal subsidies. That brings the total of illegal European subsidies to Airbus to about $22 billion, so I want to know if you are going to be aggressive on that.

Our colleagues here, in the Trade Facilitation and Trade Enforcement Act, included an authorization for $15 million in trade enforcement trust funds, and that was for making sure that we had ample support within USTR to actually fight for trade enforcement.

I believe in an economy outside of the United States selling U.S. products. In fact, I was very happy the last administration had a goal of doubling exports, but I know that we also need to have the personnel. So do you support the trade enforcement trust fund, and what should its annual appropriations be so that we are adequately staffed?

If I could, just one last theoretical question. I have met Mr. Navarro, I have heard Secretary Ross talk about trade, and then there is your position. Who is going to be in charge of trade?

Mr. LIGHTHIZER. Thank you, Senator. That about covers all my talking points. [Laughter.]

Senator CANTWELL. I heard what Senator Dole said, that you are very talented, so I am sure you are up to the task.

Mr. LIGHTHIZER. Well, he is kind. I would say, first of all, in terms of—I will just sort of start from the bottom, perhaps. In terms of the relationship between the White House, the Commerce Department, and the USTR, I fully expect to have the full statutory authority that the Congress provides.

I fully expect to work in a collaborative way with Secretary Ross, whom I admire and I think is very, very talented in this area, and the White House. Now, the White House is defined as Pete Navarro and other people; I mean, there is Gary Cohn and others.

In all my experience with one administration after another, there are almost always going to be three forces of influence in the trade policy, and the job of the USTR really is historically to sort it out. That is why——

Senator CANTWELL. So you are the lead in sorting that out, more or less?

Mr. LIGHTHIZER. Just sort of sorting it out. That is correct. I mean, historically that is why John Kennedy started the agency, along with the Senate Finance Committee and the Ways and Means Committee, in 1962. So I expect it to work the way it has. I think they are very cooperative. I look forward to working with all the parties on that, and particularly working with this committee and with the Ways and Means Committee.

In terms of the trust fund, yes, I hope that the appropriations—I hope the $15 million is appropriated. In terms of resources generally, I am not now in the administration, so I can say that, yes, we need more resources for sure.

Senator CANTWELL. Thank you.

Mr. LIGHTHIZER. The agenda is substantial.

Senator CANTWELL. Some of my colleagues wanted it mandatory. I just want us to put the money there. I want to have more people in trade enforcement than are sitting on this dais, and right now we do not have a lot. So I am glad you are committing to $15 million. Thank you.

Mr. LIGHTHIZER. Thank you, Senator.

In terms of Airbus subsidies, yes, I will be aggressive. I realize that is a problem. I have followed the issue for a long time. I have never really litigated or been involved with it, but it is a serious problem. It is one that has gone on and on and on, and it has a real impact on American manufacturing.

In terms of the Export-Import Bank, at this point I am awaiting instructions. I appreciate the importance of the Export-Import Bank to Boeing and to other companies in U.S. exports. Having said that, that is one of those issues that there are strong views about on both sides, and I expect to do what the President instructs me to do when he instructs me to do it.

Senator CANTWELL. So you do not think, as part of our trade agenda, that we can—do you think we can be successful without an aggressive credit agency approach by the U.S.?

Mr. LIGHTHIZER. I think we have to do everything we can to encourage exports. Having said that, the Export-Import Bank is a sensitive issue, and it is not an issue that I have worked on personally.

Senator CANTWELL. Can you just define "sensitive," since I am running out of time?

Mr. LIGHTHIZER. Well, I think I define sensitive as having people who are strongly for it and people who are strongly against it. Normally in those cases, when I am not informed and realize that the administration will make a policy, I am probably better off waiting for the administration to make the call.

Senator CANTWELL. I would just say that there is a very small group who is politically motivated and may be loud, but when you allow the U.S. Senate to vote on it—both majorities in the House

and Senate have supported it, and majorities of Republicans have supported it.

So the notion that somehow it does not have major support—it is more just being held hostage by some political agenda. So I hope you will be loud about this, the credit agency strategy, because to me we will lose U.S. manufacturing without it.

If Boeing can put Rolls-Royce engines on a plane and get credit financing in Europe, how is that helping GE? So while other agencies on an international basis are going to be aggressive about this, we need to get the right strategy here.

It can be a discussion about how we make sure that we are not doing anything to distort the market, but I think the administration has to get realistic. You cannot go stand in front of a Boeing plane in South Carolina and then not have a functioning Export-Import Bank, so I hope we can get there.

The CHAIRMAN. Thank you, Senator.

Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman. I thank you and the ranking member for having this hearing.

Thank you, Mr. Lighthizer. It is nice to see you again. I just want to underscore what the Senator from Washington ended with, and I think you will find that her diagnosis or description of the politics around this is probably dead-on.

I also want to say, Mr. Chairman, I look forward to working with you and the ranking member to figure out a bipartisan way through this waiver process that is needed. I want to also mention—I know you have covered this ground, and I know I am the last one and I am sure you are ready to be done, so I will not ask you a question about steel, but I do want to just observe, as my colleagues have, that over-capacity from countries like China and others is hurting our industry, including EVRAZ in Pueblo, CO.

So we talked about this a little bit when you were in my office. I know what your answer is, and I appreciate it and look forward to working with you to make real changes that are going to benefit our steelworkers and our steel industry in this country.

I want to just get one question in on NAFTA before you go. As you know and you have talked about today, the administration throughout the campaign signaled that it intended to renegotiate NAFTA. This is very important to my State. Mexico is the second-largest export market for the State of Colorado, and it is particularly interesting and important to my farmers and ranchers. Colorado's agricultural community depends heavily on exports to NAFTA countries. For example, last year Colorado exported more than $486 million in beef, pork, and lamb to Canada and Mexico. Canada and Mexico alone accounted for a third of Colorado's beef exports.

Agricultural producers in Colorado are worried. They are interested and curious about this re-opening, but they are worried that opening up NAFTA will lead Mexico and Canada to impose higher tariffs and that the flow of goods will be physically stalled by the negotiations. They are also worried that renegotiating NAFTA will limit important market access that the United States currently enjoys, notwithstanding the political conversation that we have had in this country.

I wonder if you could just finish today by responding to that a little bit, and also talking as you did, or distinguishing as you did when we met in my office, between your views and the President's views on the manufacturing side of things with respect to trade and your views and his views with respect to the importance of trade for agriculture in this country.

Mr. LIGHTHIZER. I cannot speak to the President's views.

Senator BENNET. All right. Well then, just speak for yourself.

Mr. LIGHTHIZER. I think that we have to do something for manufacturing. We have a huge manufacturing trade deficit, and I think we have to do something. There are a variety of things in the NAFTA framework that need updating. I think those things will tend to help manufacturing.

Then your position, which I think is equally valid, is that agriculture has done pretty well under NAFTA. That is true for a variety of different agricultural products. We have to be careful not to lose what we gained, and that is a balance. I think something has to be done. I think we can actually accomplish that.

I think we are very important to Mexico also, and I realize they have other options, but a huge percentage of their exports come to the United States. So I think we do have leverage. With that leverage, I think if we do it properly and rationally, we can improve NAFTA for both countries and also not hurt agriculture, and that certainly would be my objective.

I know it is the objective of an awful lot of members of this committee and a lot of members of the Ways and Means Committee and others in Congress, so I subscribe to that view. I do believe it can be done. I am not suggesting that I think it will be easy, but I do believe it can be done.

The United States and Mexico both need each other economically a lot, and having an agreement that is 20-some years out of date—it does not even have a digital chapter in it, because there was no need for that in those days—I think that is something that we can do in a way that helps both of us and does not risk damage to our agricultural sector, which is also very, very important.

Senator BENNET. I appreciate that answer. I would say that even in the act of negotiation we are going to have to take care that the current markets continue to be open the way that they have been, and I know you appreciate that.

Mr. Chairman, I will yield back the balance of my time. Thank you for the hearing.

The CHAIRMAN. Thank you, Senator.

My partner on the committee has one more question to ask. Senator Wyden?

Senator WYDEN. Let me, if I might, go into this resources for enforcement issue just a little bit deeper. Mr. Lighthizer, is cutting enforcement resources not an invitation to foreigners to cheat our workers and businesses? It seems like a simple question.

Mr. LIGHTHIZER. It seems like kind of a trap question, does it not somehow? [Laughter.]

The CHAIRMAN. You think? You think? [Laughter.]

Senator WYDEN. It relates to the second question.

Mr. LIGHTHIZER. I am just asking myself, if it is a trap, I should probably think about it. [Laughter.]

Senator WYDEN. Well, it is a substantive question, because it relates to the real world. We keep battling for these resources. I have already told you, I very much enjoyed our conversation. I think you have a lot of talent. But I would like an answer to the question because it relates to what is ahead.

Mr. LIGHTHIZER. Senator, I think USTR needs more resources.

Senator WYDEN. Good. If there are fewer resources for trade enforcement in the President's budget, which is about to come out, how do you go about addressing the challenges? We spent close to 3 hours talking about that.

Mr. LIGHTHIZER. Well, Senator, we are going to do the best that we can with what we have. I am not in the administration. I wish I was. If I were in the administration, I would be in there lobbying right now for more resources for USTR. I am not in the administration, so I really cannot get into that. My view, publicly stated, is that we need more resources for USTR and, with whatever we have, we will do the best job we can do.

Senator WYDEN. I think that, again, the point is, these are questions that bump up against the realities that Senators are talking about. For example, one of the things I was struck by—I think we talked about it in the office—was on this question of finally getting a fair shake for our timber workers and our mills. We have a situation where the hiring freeze is making it very hard for them to get all the data they need in the provinces of Canada. So I am just going to operate under the assumption that you are going to fight with all of your energy and considerable talent to make sure you get the resources, and we will leave that there.

Since it is the end of the hearing, I would just come back to this point that, in my State, one out of five jobs revolves around international trade. I think the premiere economic issue of our time is how we get wages up for people. How do we increase wages? So many of the trade jobs have that value-added component. They reflect a higher level of productivity because we are trying to get the products into tough global markets.

So I think to have you, as you have said today, indicate you will be part of a full-court press on enforcement and that you will play offense in terms of creating opportunities for our companies and our workers overseas, is an appropriate way to end this.

Mr. Chairman, I have a unanimous consent request to put two documents in the record with respect to this disclosure issue. We have a bipartisan disclosure memo on the nominee that has been prepared by the bipartisan committee staff. Then I would like to ask unanimous consent to enter into the record an agreement between Mr. Lighthizer and the Government of Brazil in which he represented the Sugar and Alcohol Institute.

The CHAIRMAN. Without objection.

[The documents appear in the appendix beginning on p. 119.]

Senator WYDEN. Thank you.

Mr. Lighthizer, we look forward to continuing the conversation in the days ahead, and we thank you for your time today.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. I just want to thank all my colleagues who attended today and participated today. Most especially, I want to thank you, Mr. Lighthizer. You have been a light

around here for many years, and we appreciate all the work that you did while you were here, working with Senator Dole and others, and all the work you have done since. But thank you for your appearance here today, and most of all for your willingness to again serve our country in this important position.

I personally think it is terrific for you to be willing to get into this and to give your life to it. It just means a lot to me.

Before I adjourn, I just want to note that we will have the customary quick turn-around time for written questions for Cabinet-level nominations. I will ask Senators to submit all of their questions by 6 p.m. tomorrow evening.

With that, the committee will be in recess.

[Whereupon, at 4:34 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MICHAEL B. ENZI, A U.S. SENATOR FROM WYOMING

Mr. Chairman, during this hearing, a number of my colleagues referred to health care and pension benefits for miners in the United Mine Workers of America union. References were specifically made to the Federal Government keeping its "promise." I feel it necessary to remind my colleagues that the Congressional Research Service has said that the Krug-Lewis Agreement is not a Federal promise for health care or pension benefits. Congress has provided for health-care benefits via statute in the past; I helped write one of those laws in 2006. However, the agreement that is often cited by my colleagues as the "promise" didn't impose an obligation on the Federal Government to provide health care or retirement benefits. Because I have heard a lot of misinformation about this "promise," I asked the nonpartisan Congressional Research Service to draft a legal review about the matter. CRS studied the issue and concluded the Krug Lewis Agreement "does not appear to have imposed an obligation on the Federal Government to provide such benefits."

I have included the CRS legal review for the committee record.

I would very much like to continue working with this committee to address the UMWA's health-care concerns, and I know that issue is pressing. We can, and should debate this topic. However, I have some concerns with the Miners Protection Act. Congress should not provide Federal funding to a private pension plan. There are over 1,200 underfunded multiemployer pension plans. Once one pension plan receives special treatment, all of the others, including plans comprised of truckers that we've heard about recently, will come forward asking for their check from the American taxpayer. Proponents of the Miners Protection Act also say that they're using interest from the Abandoned Mine Land trust fund to shore-up the pension plan, but that fund hasn't covered the cost of the UMWA health-care plans since 2008. In reality this bill extends Customs user fees, which are supposed to pay for Customs and Border expenses, and claims that money going into the Treasury covers the cost of this bill. This is just another case of robbing Peter to pay Paul.

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MEMORANDUM

August 8, 2016

To: Senate Committee on Health, Education, Labor, and Pensions
Attention: Hon. Michael B. Enzi

From: Jon O. Shimabukuro
Legislative Attorney
American Law Division

Subject: Krug-Lewis Agreement

This memorandum responds to your request concerning the so-called "Krug-Lewis Agreement," a 1946 agreement between then Secretary of the Interior Julius A. Krug and John L. Lewis, then President of the United Mine Workers of America

("UMWA").[1] The Krug-Lewis Agreement provided for the creation of a mine safety code, required the presence of a mine safety committee at every mine, and provided for the establishment of a health and welfare program to benefit mine workers and their dependents.[2] You asked whether the federal government has an obligation to provide either health or retirement benefits to mine workers based on the Krug-Lewis Agreement. This memorandum examines the agreement, which was effective between May 22, 1946 and June 30, 1947.[3]

The execution of the Krug-Lewis Agreement followed the seizure of the nation's coal mines in 1946. In response to existing and threatened strikes by mine workers, President Truman issued Executive Order 9728, which directed the Secretary of the Interior to operate the nation's coal mines.[4] According to the order, federal control of the mines was necessary because the production of coal "was indispensable for the continued operation of the national economy during the transition from war to peace[.]"[5]

The Krug-Lewis Agreement was executed eight days after the issuance of Executive Order 9728. By its own terms, the agreement covered the terms and conditions of employment for mine workers only "for the period of Government possession[.]"[6] The health and welfare program prescribed by the agreement would consist of three parts: (1) a welfare and retirement fund to be financed by five-cent payments on each ton of coal produced by mine operators for use or sale; (2) a medical and hospital fund that would be financed by wage deductions that were already being made and by any additional deductions authorized by the UMWA and its members for medical, hospital, and related purposes; and (3) an effort by the trustees of both funds to cooperate and coordinate in the development of policies and working agreements necessary for the effective operation of each fund.[7] Notably, the agreement did not provide for federal financial contributions to either the welfare and retirement fund or the medical and hospital fund.[8]

In April 1947, the UMWA began negotiations with mine operators in anticipation of the mines being returned to their owners.[9] A new agreement became effective on July 1, 1947, one day after operation of the mines was returned to the owners.[10] The National Bituminous Coal Wage Agreement of 1947 addressed various conditions of employment for mine workers.[11] The agreement also established the United Mine Workers of America Welfare and Retirement Fund ("W&R Fund"), which was modeled after the funds described in the Krug-Lewis Agreement.[12] Unlike those

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[1] The National Bituminous Wage Agreement, commonly known as the "Krug-Lewis Agreement," was included in a September 25, 1991, hearing conducted by the Senate Subcommittee on Medicare and Long-Term Care. *See* "Coal Commission Report on Health Benefits of Retired Coal Miners: Hearing Before the Senate Subcommittee on Medicare and Long-Term Care," 102nd Cong. 80–82 (1991).

[2] The Krug-Lewis Agreement also preserved the terms and conditions of employment included in certain specified agreements, such as the National Bituminous Coal Wage Agreement (dated April 11, 1945). *See* Krug-Lewis Agreement § 1, *supra* note 1.

[3] *See* House Committee on Ways and Means, 104th Cong., Development and Implementation of the Coal Industry Retiree Health Benefit Act of 1992, 119 (Committee Print 1995) (identifying the period of effectiveness for the Krug-Lewis Agreement as between May 22, 1946 and June 30, 1947); *Lewis v. Jackson and Squire,* 86 F. Supp. 354, 356 (W.D. Ark. 1949) (indicating that the period covered by the Krug-Lewis Agreement ended on June 30, 1947).

[4] Executive Order No. 9728, 11 Fed. Reg. 5593 (May 21, 1946).

[5] *Id.*

[6] Krug-Lewis Agreement, *supra* note 1.

[7] *Id.* Trustees of the welfare and retirement fund were to make coverage and eligibility determinations, and establish benefit amounts and the methods for providing benefits. Trustees of the medical and hospital fund were to provide for the availability of medical, hospital, and related services for mine workers and their dependents.

[8] *Compare* Krug-Lewis Agreement, *with* Tax Relief and Health Care Act of 2006, div. C, tit. II, subtit. B, § 212, 120 Stat. 2922, 3023 (2006) (authorizing transfer of reclamation fees collected by the Secretary of the Interior to the United Mine Workers of America Combined Benefit Fund, the United Mine Workers of America 1992 Benefit Plan, and the Multiemployer Health Benefit Plan).

[9] Development and Implementation of the Coal Industry Retiree Health Benefit Act of 1992, *supra* note 3 at 121.

[10] The National Bituminous Coal Wage Agreement of 1947 was included in hearings conducted by the Senate Committee on Banking and Currency. *See* "Economic Power of Labor Organizations: Hearings Before the Senate Committee on Banking and Currency (Part I)," 81st Cong. 427–35 (1949).

[11] National Bituminous Coal Wage Agreement of 1947, *supra* note 10.

[12] *Id. See also Eastern Enterprises v. Apfel,* 524 U.S. 498, 505 (1998) (describing the United Mine Workers of America Welfare and Retirement Fund as "modeled after the Krug-Lewis benefit trusts.")

funds, however, the W&R Fund was financed by ten-cent payments per ton of coal produced by mine operators for use or sale.[13] The W&R Fund represented a merger of the two funds described in the Krug-Lewis Agreement by providing for the availability of medical, as well as retirement, benefits.[14]

The 1947 agreement indicated that it would supersede all existing and prior contracts except as incorporated and continued by reference.[15] The agreement specified that it would carry forward and preserve the terms and conditions of the Appalachian Joint Wage Agreement, the Supplemental Six-Day Work Week Agreement, the National Bituminous Coal Wage Agreement (dated April 11, 1945), and all of the various district agreements executed between the UMWA and the various mine operators and coal associations, as they existed on March 31, 1946, subject to the terms and conditions of the 1947 agreement, and as amended, modified, or supplemented by the 1947 agreement.[16]

Because the Krug-Lewis Agreement did not require the federal government to provide health or retirement benefits to mine workers, and because the terms of the agreement seemed to expire once mine operators regained control of the mines, it appears unlikely that the federal government maintains any obligation to provide such benefits pursuant to the agreement. Further, even if such an obligation had been included in the Krug-Lewis Agreement, the failure to specifically identify that obligation as one that should be carried forward and preserved might arguably cast doubt on whether the obligation should still exist.[17]

A review of court decisions that have discussed the Krug-Lewis Agreement has not revealed an obligation on the part of the federal government to provide health or retirement benefits pursuant to the agreement.[18] While the agreement has been recognized as an expression of the federal government's interest in making medical and other benefits available to mine workers, it does not appear to have imposed an obligation on the federal government to provide such benefits.[19]

PREPARED STATEMENT OF HON. ORRIN G. HATCH,
A U.S. SENATOR FROM UTAH

WASHINGTON—Senate Finance Committee Chairman Orrin Hatch (R–Utah) today delivered the following opening statement at a hearing to consider the nomination of Robert Lighthizer to be the United States Trade Representative (USTR):

Today we will consider the nomination of Mr. Robert Lighthizer to be the United States Trade Representative.

The last time this committee considered a nominee for USTR was in July of 2015.

Unfortunately, under the last administration, failure to promptly nominate appointees to leadership positions at USTR became the norm. As a result, it is a sad truth that the Office of USTR has not had a fully confirmed bench of nominees since Ambassador Kirk resigned in January 2013. The difficulty USTR had during the

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[13] National Bituminous Coal Wage Agreement of 1947, *supra* note 10.

[14] *See* Development and Implementation of the Coal Industry Retiree Health Benefit Act of 1992, *supra* note 3 at 121 (describing the United Mine Workers of America Welfare and Retirement Fund as a "merger of the two Krug-Lewis funds into a single trust.")

[15] National Bituminous Coal Wage Agreement of 1947, *supra* note 10 at 433 ("This agreement supersedes all existing and previous contracts except as incorporated and carried forward herein by reference; and all local agreements, rules, regulations, and customs heretofore established in conflict with this agreement are hereby abolished.")

[16] National Bituminous Coal Wage Agreement of 1947, *supra* note 10 at 428.

[17] References to the Krug-Lewis Agreement in the National Bituminous Coal Wage Agreement of 1947 are limited generally to provisions involving payments made by mine operators to the welfare and retirement fund, and the transfer of funds to the United Mine Workers of America Welfare and Retirement Fund. *See* National Bituminous Coal Wage Agreement of 1947, *supra* note 10 at 431–32.

[18] *See, e.g., Davon, Inc. v. Shalala,* 75 F.3d 1114 (7th Cir. 1996); *Lewis v. Jackson and Squire,* 86 F.Supp. 354 (W.D. Ark. 1949).

[19] *See, e.g.,* Lillian M. Spiess, "Paying What Was Promised: The Guarantee of Benefits Under the Coal Industry Retiree Health Benefit Act of 1992," 25 *Quinnipiac L. Rev.* 73, 76 (2006) ("It should be noted that the Krug-Lewis Agreement was important not only because it established a fund for miner pension and welfare benefits, but also because it exemplified the federal government's continued commitment and involvement to investigating the availability and standard of medical programs and services available to miners and their families and ensured the delivery of these services.")

past 4 years in advancing an ambitious, pro-growth trade agenda was in no small part due to this lack of leadership.

As chairman of this committee, I hope that we will be able to change that, starting today.

All told, this committee must consider and report six positions at the Office of the U.S. Trade Representative. Unfortunately, as with most of President Trump's nominees, we are off to a slow start. I hope that with today's hearing, we can begin the process of moving these trade nominees more quickly.

Mr. Lighthizer is indisputably qualified to serve as USTR, and I believe he has a strong base of bipartisan support. If we keep this process focused on Mr. Lighthizer and the position he has been nominated to fill, there is no reason he should not be approved by this committee and confirmed by the Senate in short order.

Unfortunately, there have been suggestions that extraneous issues—issues that are entirely unrelated to Mr. Lighthizer—may be attached as conditions to the Senate's consideration of the nominee. Let me address this briefly before returning the discussion to the nominee's qualifications and the sizeable agenda and challenges facing the next USTR.

Mr. Lighthizer has spent almost his entire career in public service—including as staff director for this committee and as a Deputy USTR—and in private practice fighting against unfair imports. In 1995, Congress passed an amendment that prohibits an individual from serving as U.S. Trade Representative or Deputy U.S. Trade Representative if that person has "directly represented, aided, or advised a foreign entity" in "any trade negotiation, or trade dispute, with the United States."

While in private practice, Mr. Lighthizer represented a small number of foreign clients in the late 1980s and early 1990s, well before passage of the 1995 amendment. Because of this work, some of our Democratic colleagues have argued that Mr. Lighthizer requires a waiver to serve as USTR.

Mr. Lighthizer does not believe that his work falls within this statute. The Office of Legal Counsel at the Department of Justice has indicated that they share that opinion. So, it's not at all clear that a waiver under the 1995 statute is necessary in Mr. Lighthizer's case.

This is not the first time the committee has had to deal with this type of question. And, in the past, we've always been able to work through it.

In 1997, President Clinton nominated Deputy U.S. Trade Representative Barshefsky to serve as USTR. This committee was chaired by Senator Roth, and Chairman Roth and the Republican majority worked constructively to support President Clinton's nominee. Chairman Roth wasn't certain that this statute applied to Ms. Barshefsky, but he agreed to work with Senator Moynihan to consider a waiver so that Ambassador Barhsefsky might assume her position as U.S. Trade Representative without controversy.

As far as the record shows, there were no extraneous conditions attached to the waiver, and it passed on the floor by a vote of 98 to 2.

Similarly, in 2007, President Bush nominated Deanna Tanner Okun for the position of Deputy U.S. Trade Representative. Although neither she nor the General Counsel at USTR believed that the statute covered her prior work, Chairman Baucus and Ranking Member Grassley worked in a bipartisan fashion to advance a waiver through the committee in order to ensure that all necessary bases were being covered.

No extraneous conditions were demanded in exchange for approving the waiver, and it was approved by the committee by voice vote.

Today, we are faced with very similar circumstances.

Once again, it is not clear that the statute applies to Mr. Lighthizer's work in the 1980s and 1990s. In fact, we have what appears to be a well-reasoned opinion from OLC that it does not.

Nevertheless, Democratic committee members are asserting with absolute certainty that Mr. Lighthizer needs a waiver in order to be confirmed. And, at the same time, these same members are refusing to approve a waiver unless the committee also moves a piece of legislation that is entirely unrelated to Mr. Lighthizer or the Office of USTR.

This kind of legislative hostage-taking certainly is not unheard of in the Senate, but in the context of consideration of a nominee for the Office of U.S. Trade Representative, it is totally unprecedented.

I have stated publicly that I am willing to work with Ranking Member Wyden and others on the committee who believe a waiver is necessary. But, I'll be honest, at this point, it appears that my colleagues' insistence on the waiver at the committee level has more to do with their demands for an unrelated ransom than any concern about the applicability of the statute. I hope I'm wrong about that.

Let's be clear what is at stake here. By statute, the U.S. Trade Representative is the lead official for developing, coordinating, and implementing U.S. international trade policy; serving as the principal trade advisor to the President; leading international trade negotiations; and serving as the President's primary spokesperson on international trade. Moreover, the statute creating the position makes it clear that the Trade Representative is accountable not only to the President, but also to Congress.

There is a lot of debate today about the direction of U.S. trade policy. In fact, the President is currently considering some of the most significant trade policy decisions in decades, including whether and how to upgrade the North American Free Trade Agreement, whether and how to launch additional trade negotiations with parties to the former Trans-Pacific Partnership, and whether and how to continue negotiations for a Trade in Services Agreement, an Environmental Goods Agreement, and an agreement with the European Union. And he is doing so without the advice of his chosen USTR, not because the nominee is unqualified, but because some Democratic Senators see the nomination as an opportunity to advance a wholly unrelated legislative priority.

Moreover, at a time when Congress is demanding greater input into trade policymaking and stronger enforcement, our principal liaison in the administration is being blocked from even assuming the office.

Once again, this is unprecedented.

It is time to move this nomination. Actually, to be blunt, it's well past time.

It has been more than 50 days since Mr. Lighthizer was nominated by the President. This is the longest gap between nomination and committee consideration of a USTR since at least 2001.

Before concluding, let me briefly touch on some trade priorities I expect the next USTR to address.

It will not be surprising to many of you that I expect this nominee and this administration to be strong advocates for U.S. intellectual property rights. Intellectual property is the backbone of our economy. It affects large and small companies across America. It is a key part of our economic growth. In my home State of Utah, for example, half a million jobs and 67 percent of our exports are connected to intellectual property. It must be a higher priority.

Second, I expect quick and effective use of Trade Promotion Authority, or TPA. President Trump benefits significantly by coming into office with TPA already in place. As a country, we have a unique opportunity to lock-in strong trade agreements that meet the high standards of TPA. But, trade negotiations are long-term endeavors, and, to be successful, we must begin soon.

As the Administration updates existing agreements and negotiates new ones, I hope that they will be able to rebalance the Obama Administration trade agreement template. In my view, President Obama continually sacrificed U.S. commercial interests at the negotiating table in favor of a liberal social agenda. Some of the areas that I believe need higher priority include the need to: reflect a standard of protection for U.S. intellectual property rights similar to U.S. law; seek the elimination of price controls; work for better market access for our farmers and ranchers, including stronger provisions on sanitary and phytosanitary measures; include enforceable provisions ensuring greater transparency and accountability in government reimbursement regimes; negotiate strong and enforceable provisions on anti-corruption; provide greater protection for trade secrets; and include provisions that help strengthen good governance, transparency, the effective operation of legal regimes, and the rule of law.

Finally, we must do a better job of holding our trading partners accountable. More effective monitoring of our trading partners' existing commitments, along with full

implementation of these commitments, is critical to maintaining political support for a robust trade agenda here at home.

Mr. Lighthizer, I commend you on a stellar career in international trade. It is my hope that you will use your expertise to advance a strong U.S. trade agenda that can help grow our economy and instill faith in the American people in the ability of international trade and trade agreements to provide new opportunities for working Americans.

I look forward to hearing your testimony today.

PREPARED STATEMENT OF ROBERT E. LIGHTHIZER, NOMINATED TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, EXECUTIVE OFFICE OF THE PRESIDENT

Chairman Hatch, Ranking Member Wyden, members of the committee, it is a great honor for me to appear before you today as President Trump's nominee to be the U.S. Trade Representative.

I am particularly pleased to be in this hearing room where I have so many fond memories and to be here with my former boss. It is fair to say that I had my formation working for Senator Dole and this committee in the late 1970s and early 1980s. I was able to work for truly exemplary United States Senators on matters of great importance. In addition to trade I assisted on tax policy, Social Security reform, budget cuts, welfare bills and much more. I would be remiss if in addition to Senators Dole and Grassley, I didn't mention Senators Long and Moynihan. All truly great men.

After I left here, I became Deputy U.S. Trade Representative. I worked for President Reagan and Senator Bill Brock, another wonderful boss. I have often thought how lucky I am to have such mentors and role models.

While at USTR I worked on agricultural issues, industrial issues, services and trade policy. I negotiated several trade agreements—yes mostly, they were bilateral. Those also were exciting times.

For the last many years I have practiced international trade law. The vast, vast majority of my work has been representing U.S. manufacturing companies opposing unfair trade in this market and opposing the noneconomic expansion of production capacity around the world. As many of you know, I have written and talked often about the challenges facing U.S. companies and workers and have espoused strong enforcement of our trade laws. I have also worked to preserve U.S. policies at the WTO and the OECD.

I agree with President Trump that we should have an "America first" trade policy and that we can do better in negotiating our trade agreements and stronger in enforcing our trade laws. I further believe we need an international trade system that functions the way it was negotiated and that the United States must be ready to work with like-minded trading partners to ensure fair trade and to encourage market efficiency.

If confirmed, I hope to work with this committee, the Ways and Means Committee, others in Congress, President Trump and those in the administration, and all stakeholders to develop and implement a policy that increases trade, grows the economy, and makes trade freer and fairer but, most importantly, that improves the economic well-being of our workers, farmers, ranchers, and businesses large, medium, and small. If confirmed, I hope in the end to be judged by whether I aided all of you in accomplishing this goal.

Thank you.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Robert Emmet Lighthizer; Bob.

2. Position to which nominated: United States Trade Representative.
3. Date of nomination: January 3, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: October 11, 1947 in Ashtabula County, OH.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list secondary and higher education institutions, dates attended, degree received, and date degree granted): Georgetown University, 1964–1969, BA; Georgetown University Law Center, 1970–1973, JD.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment): JR Garbo Painting Company, Painter, Willoughby Hills, OH, Summer 1969; U.S. Army National Guard, Active Duty, Fort Gordon, GA, September 1969–March 1970 and Reserve from March 1970 to September 1975; JR Garbo Painting Company, Painter, Willoughby Hills, OH, Summer 1970; Williams and Connolly Law Firm, part-time messenger, est. June 1970 to July 1971; Squire, Sanders and Dempsey Law Firm, Summer Associate, Cleveland, OH, Summer 1972; Covington and Burling Law Firm, Washington, DC, July 1973 to December 1978; U.S. Senate Committee on Finance, Washington, DC, December 1978 to April 1983; U.S. Trade Representative, Deputy, Washington, DC, April 1983 to June 1985; Skadden, Arps, Slate, Meagher, and Flom law firm, partner, June 1985 to present.
10. Government experience (list any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above): Member of Georgetown Business Improvement District (Georgetown BID) 2003 to 2012.
11. Business relationships (list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution): Partner of Skadden, Arps, Slate, Meagher, and Flom LLP; Trustee of Lighthizer Family Trust 2012.
12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations): Congressional Country Club; Burning Tree Country Club (resigned); Metropolitan Club; The Everglades Club Inc.; and Pine Tree Golf Club.
13. Political affiliations and activities:
    a. List all public offices for which you have been a candidate.

       None.
    b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

       None.
    c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

Transaction Date	Committee Name	Amount
August 1, 2007	Skadden Arps Political Action Committee	$750
September 18, 2012	Romney, Mitt/Paul D. Ryan via Romney for President, Inc.	$2,500
September 9, 2016	Trump Make America Great Again Committee	$500
September 9, 2016	Trump, Donald J./Michael R. Pence via Donald J. Trump for President, Inc.	$400

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement): National Defense Medal; Georgetown Law School Paul Dean Award.

15. Published writings (list the titles, publishers, and dates of all books, articles, reports, or other published materials you have written):

Title	Publisher	Date
"Taxpayers Starting to Sue"	*Georgetown Law Journal*	1973
"What Did Asian Donors Want?"	*The New York Times*	February 25, 1997
"The Democracy Gap"	*The New York Times*	July 1, 1998
"With Sunsets Come Trade Dangers"	*Legal Times*	August 24–31, 1998
"A New Trade Consensus"	*The Journal of Commerce*	September 25, 1998
"A Deal We'd Be Likely to Forget"	*The New York Times*	April 18, 1999
"Conceding Free Trade's Flaws"	*The New York Times*	December 3, 1999
"Fast Track to Nowhere"	*The New York Times*	January 3, 2002
"Losing the Trade War—Can We Save America's Manufacturing Base?"	*The Washington Times*	January 26, 2007
"Is the WTO Dispute Settlement System Fair?", Council on Foreign Relations, with D. Ikenson	Online Debate	Updated February 26, 2007
"Grand Old Protectionists"	*The New York Times*	March 6, 2008

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

    None.

17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):

    I was responsible for trade issues at the Senate Finance Committee; I was Deputy USTR; I have practiced international trade law for 32 years.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

   Yes.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

   No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

   No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

   None.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal Government need not be listed.

   Registered as a lobbyist for United States Steel Corporation from July 2005 to December 2009; I performed legal research, drafted memoranda, and met with members of Congress, their staffs, and government officials representing client interests in effort to maintain and strengthen U.S. trade laws.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

   I am entering into an ethics agreement with the Office of the United States Trade Representative.

5. Two copies of written opinions should be provided directly to the committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative: Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (*e.g.,* March to December 1995), and the number of hours spent on the representation.

   Mr. Lighthizer represented the Sugar and Alcohol Institute of Brazil, also known as the "IAA," from October 1985 to February 1986 in an attempt to settle antidumping and countervailing duty cases pending before the U.S. Department of Commerce that were brought by the Ad Hoc Committee of Domestic Fuel Ethanol Producers against imports of certain ethyl alcohol (also known as fuel ethanol) from Brazil. Mr. Lighthizer spent a total of 190.75 hours on this representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

   No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

   No.

5. Please advise the committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

   None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

   Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

   Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO ROBERT E. LIGHTHIZER

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

Question. In the Trans-Pacific Partnership negotiations, the Obama administration excluded the financial services sector from the provision it negotiated on this issue. The omission was very controversial and cost the agreement significant support. After further discussions with Congress and the private sector, the administration agreed that it would seek to protect the financial services sector from localization requirements in future negotiations.

Mr. Lighthizer, can you assure me that, if you are confirmed, the administration will treat the financial services sector the same as every other sector when it negotiates data localization provisions in trade agreements?

Answer. I am aware of the concerns raised by U.S. financial services companies regarding the importance of addressing data localization requirements by foreign governments. I understand that U.S. financial services companies engaged extensively with the previous administration to advocate for an approach that differed from the outcome in the final TPP agreement. If confirmed, I will work to ensure that trade agreement provisions related to localization requirements treat the financial services sector the same as every other sector.

Question. Trade Promotion Authority requires U.S. trade negotiators to "achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products" and ensure "that the provisions of any trade agreement governing intellectual property rights . . . reflect a standard of protection similar to that found in U.S. law." These disciplines are particularly important for the U.S. biopharmaceutical industry, which relies on strong IP protections and faces onerous price controls abroad.

Will you ensure that any new U.S. FTAs meet this TPA standard, raising global standards to those that we use here in the United States?

Answer. I recognize the importance of this issue and the efforts that you have made over the years in working to ensure that U.S. pharmaceutical and biopharmaceutical products receive fair treatment in overseas markets and under the government regulatory reimbursement regimes and reference pricing programs of foreign countries. I also recognize the importance attached by Congress in including this provision as a Priority Negotiating Objective in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA). If confirmed, I look forward to working with you to achieve these objectives in trade negotiations and in ongoing bilateral efforts with individual countries.

Question. Mr. Lighthizer, I fully support the goal of ensuring that workers are treated fairly and that trade agreements do not lower labor standards. However, I am concerned that continued expansion of labor obligations linked to dispute settlement in trade agreements could lead to unintended consequences and undermine continued congressional support for new trade agreements. For example, the International Labor Organization (ILO) has not hesitated to unjustifiably criticize U.S.

labor policies, particularly U.S. agriculture policies and American family farms. Expanding labor obligations could create an opportunity for ILO criticisms to be used as the basis for litigation in trade agreements.

That is why we must ensure that any labor obligation undertaken in our trade agreements does not go beyond those strictly and clearly enshrined in U.S. law. Furthermore, we must ensure that interpretation of those commitments is based on U.S. law and practice, and that we do not allow any trade tribunal to use ILO opinions or analysis as a basis for compliance with our labor obligations.

Mr. Lighthizer, will you commit to me that you will not agree to be bound by any labor commitment which exceeds U.S. law and that you will not allow a tribunal to accord deference to ILO opinions or analysis as a basis for determining compliance with our labor obligations?

Answer. Congress has set out important negotiating objectives regarding labor protections in TPA. If confirmed, I will act aggressively to ensure that any interpretation of our labor commitments is based on U.S. law, rather than international standards. I look forward to consulting closely with you and other members of Congress with an interest in these issues to seek to ensure that we negotiate provisions in our trade agreements that reflect high-standard protections for workers and are fully consistent with U.S. law.

Question. China's leadership continues to pledge that the market will play a greater role in China's economy, yet government actions, including use of China's Anti-Monopoly Law, continue to advance industrial policies at the expense of U.S. companies.

What will be your strategy for addressing China's use of the Anti-Monopoly Law as an industrial policy tool and how will you ensure that China administers its Anti-Monopoly Law in a non-discriminatory and transparent manner?

Answer. If confirmed, I will undertake efforts, in coordination with other U.S. Government agencies, to ensure that China applies its Anti-Monopoly Law in a transparent manner to address legitimate competition-related concerns, not as a guise for industrial policies.

Question. Mr. Lighthizer, more than once I have expressed my concern that, despite Russia's serial violations of its WTO commitments, our government has not brought a single dispute against Russia in the World Trade Organization.

Will you promise to fully review Russia's WTO commitments and to take all necessary measures to bring them into compliance, including, where appropriate, taking Russia to dispute settlement at the WTO?

Answer. If confirmed, I will direct USTR staff to review thoroughly Russia's implementation of its World Trade Organization (WTO) obligations and take all necessary measures, including dispute settlement where? appropriate, to ensure Russia's compliance.

Question. Mr. Lighthizer, it is very important that, pursuant to TPA negotiating objectives, our trade agreements provide for transparency and procedural fairness in reimbursement decisions and that these provisions be subject to dispute settlement. In my view, these are crucial elements which build public trust in national health-care systems by assuring the public that decisions are based on merit.

Can you commit to me that you will work to ensure that this TPA negotiating objective is met, and that these provisions will be subject to dispute settlement, in our trade agreements?

Answer. I strongly support the inclusion of provisions in U.S. trade agreements providing for transparency and procedural fairness for pharmaceuticals and medical devices under government regulatory reimbursement regimes, and will work to achieve that result. I am aware of the efforts that you have made over many years to ensure the U.S. biopharmaceutical products receive fair treatment in overseas markets, including under foreign government regulatory reimbursement regimes, I also recognize the importance attached by Congress to these issues as reflected in TPA. If confirmed, I look forward to working with you on achieving these objectives in trade negotiations and in ongoing bilateral efforts with individual countries.

Question. Canada's creation of a heightened standard for patentable utility for pharmaceutical patents is a serious problem for U.S. innovators. This heightened standard is inconsistent with other countries, and has undermined the ability of

U.S. innovators to obtain and enforce patent rights in Canada. It is also inconsistent with Canada's obligations under the World Trade Organization and under NAFTA.

What will you do to ensure Canada's patentability standards are in line with its international obligations?

Answer. If confirmed, I will place a high priority on ensuring strong intellectual property protection and enforcement by our trading partners. This is necessary for future innovation, and it protects a competitive advantage of the United States in the global market. I look forward to working with you to address your concerns about patent protection in Canada and how best to use all appropriate trade tools to address those concerns.

Question. As you know, the Generalized System of Preferences (GSP) program expires this year. This program provides tariff reductions for developing countries and supports manufacturing in the United States. I support renewal of this program, and hope you will as well. At the same time, I do not believe that prior administrations have adequately examined the eligibility criteria to ensure that only countries that comply with the eligibility criteria receive benefits. Your commitment that you will fully review all potentially eligible countries to ensure compliance with the program's criteria would send a strong signal to Congress that, should the program be renewed, you will use it effectively.

Can you commit to fully reviewing GSP countries to ensure their full compliance with the programs criteria?

Answer. If confirmed as the USTR, I will commit to work with you and the committee, as well as the interagency and stakeholders, to ensure that GSP countries are fully meeting the GSP statutory eligibility criteria.

Question. Technological protection measures, which allow creators to control and manage access to copyrighted works, have enabled creators to offer new and secure streaming and other services that consumers have come to expect. But today, more and more illicit business models are built around circumventing these controls in order to steal this content. Despite international and bilateral trade obligations to prevent the circumvention of such controls, a number of countries fail to provide such protections, whether due to non-existent or inadequate laws or ineffective enforcement.

If confirmed as USTR, how will you help ensure that U.S. trading partners live up to their obligations to prevent such harm to U.S. creators?

Answer. If confirmed, I will place a high priority on ensuring strong intellectual property protection and enforcement by our trading partners. I will use all appropriate trade tools to obtain strong protection for new and emerging technologies and new methods of transmitting and distributing creative content and products embodying intellectual property, including in a manner that facilitates legitimate digital trade.

Question. Many industries in the United States are increasingly concerned about a number of activities sponsored by international organizations such as the United Nations and the World Health Organization that propose the use of government action that undermine core U.S. economic interests and appear to raise trade barriers. Last year's U.N. High-Level Panel on Access to Medicines is one regrettable example.

Under your leadership, how would USTR work with other agencies to protect U.S. interests and values at the U.N., and push back against trade-distorting initiatives that undermine U.S. competitiveness?

Answer. If confirmed, I will ensure that USTR works closely with other agencies to stand up for U.S. trade interests in the United Nations, World Health Organization, and other relevant forums, including with respect to the U.N. High-Level Panel on Access to Medicines report.

Question. Last month, the WTO Trade Facilitation Agreement entered into force. Its full implementation will bring commercially meaningful benefits for participants and promote good governance that will reduce government corruption at the border. Manufacturers in the United States that rely on export markets, as well as access to global inputs, will notice reduced bureaucratic hurdles and more transparency when their goods cross borders.

As USTR, how will you support the full implementation of this agreement and encourage our trading partners to improve their customs and trade facilitation practices?

Answer. The WTO Trade Facilitation Agreement (TFA) provides new, enforceable rules governing how U.S. goods will be treated as they move through our trading partners' border agencies, reducing trade costs and delays and allowing American goods to compete on a more level playing field. If confirmed as USTR, I will work to ensure that the TFA is implemented by all WTO Members under the timelines in the Agreement, press those WTO Members that have yet to ratify the TFA to do so expediently, and use the TFA Committee to promote full implementation of the Agreement. Further, I will undertake efforts to raise awareness of the TFA within the U.S. Government and among U.S. producers and manufacturers, and will engage with our trading partners on U.S. best practices for achieving full implementation of the Agreement.

Question. Mr. Lighthizer, we have seen an increasing number of countries seeking "cultural exceptions" in their trade agreements that would have the effect of barring U.S. audio-visual providers from accessing these markets. At the same time, the U.S. audio visual market is one of the most open in the world.

As USTR considers its trade agreement priorities, if confirmed, how will you help level the playing field for the U.S. audio visual industry?

Answer. Audio-visual services are an important U.S. export and an important source of U.S. jobs. Consumers around the world demand access to U.S. films, video programming, and music delivered to an ever-evolving array of platforms, from cinemas to smart phones. The U.S. market is open to foreign services suppliers and investors in these areas. If confirmed, I look forward to working with the Congress and relevant stakeholders to ensure that our trading partners maintain open markets for U.S. audio-visual services.

Question. Concerns have been raised by the U.S. auto industry regarding efforts by the European Union to promote its auto standards abroad at the expense of U.S. auto standards. The core concern is the degree to which the EU supports promotion at international forums, including the United Nations Working Party 29 (WP.29), which operates under the auspices of the United Nations Economic Commission for Europe (UNECE) 1958 agreement. According to industry, the WP.29 forum seeks to develop globally harmonized regulations for motor vehicles, as contemplated by the 1958 agreement, to which the United States is not a party, and the 1998 agreement, which sought to develop Global Technical Regulations (GTRs) for motor vehicles worldwide.

The 1958 agreement, which provides for mutual recognition of auto standards, is largely the means used by the EU to promote its auto standards globally. The 1998 agreement was developed, in part, to allow all other auto-producing economies, like the United States, to participate in the WP.29 activities. Unfortunately, according to industry, the 1998 agreement has fallen well short of expectations—due in large part to the lack of support by the United States.

Development and promotion of U.S. industry standards can be a key tool to help U.S. industry develop markets overseas and expand U.S. exports. For the auto industry the U.S. Department of Transportation National Highway Traffic Safety Administration (NHTSA) International Policy and Harmonization Division and the Environmental Protection Agency's Office of International Activities are key.

Should you be confirmed, can you ensure through your role as the lead official for developing, coordinating, and implementing U.S. international trade policy, that promotion of U.S. standards abroad, including auto standards, will be a priority for your agency?

Answer. I am aware of these concerns and, if confirmed, this set of issues will be an important priority. Increasing the global acceptance of standards used by U.S. manufacturers is important for improving the ability to manufacture products in, and export them from, the United States—and this is especially true for sectors that require large economies of scale, such as the U.S. automotive industry. If confirmed, I look forward to working with U.S. stakeholders to better understand the issue. I will also work with other agencies and use all appropriate tools to promote the acceptance by our trading partners of U.S. automotive standards, and other standards used by U.S. manufacturers.

Question. Mr. Lighthizer, WTO procurement rules and the equivalent rules in NAFTA and our other free trade agreements establish reciprocal market access in

government procurement and guarantee that U.S. companies have a fair, open, and transparent opportunity to bid on contracts issued by foreign governments. It is important for U.S. companies to be able to compete for these contracts, which are potentially worth billions of dollars each year.

Can you assure me that, if you are confirmed, the administration will ensure that our trade agreements include strong chapters on government procurement?

Answer. Thank you for the question, Mr. Chairman. I take note of the importance of ensuring that American companies maintain access to the government procurement markets of our trading partners. During negotiations I will intend to seek as favorable treatment for U.S. companies as that accorded to domestic and other foreign goods, services, and suppliers. If confirmed, I commit to work with you on this issue.

Question. I am concerned that many American companies are being subject to antitrust investigations that lack due process protections in an effort to transfer U.S. patented technology to their domestic companies, or to insulate their domestic companies from U.S.-based competition. In particular, foreign governments are using their antitrust authority to diminish U.S. intellectual property rights, including patent licensing. Concerns have been raised in particular about Korean and Chinese antitrust investigations. The use of antitrust as a tool of industrial policy undermines U.S. patent rights, suppresses innovation, and puts U.S. competitiveness in the industry at risk.

Many U.S. trade agreements include important IP and due process protections. If you are confirmed, how will ensure that our trading partners are living up to their end of the bargain to treat our companies fairly, including in competition proceedings?

Answer. Due process protections are critical to ensuring that parties to an investigation have access to the record evidence and can present and respond to relevant arguments. These protections are no less important in relation to competition or intellectual property rights proceedings. If confirmed, I will examine very closely concerns raised in these and other contexts to address any shortcomings with respect to foreign practices and would welcome further engagement with you and others in the coming months.

Question. In reauthorizing Trade Promotion Authority in 2015, Congress made clear that a major objective of U.S. trade negotiations should be "preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights." Many foreign antitrust investigations by China and Korea are directed at forcing U.S. companies to license their U.S. patents on terms favorable to their domestic companies, essentially weakening the value of U.S. patents. The U.S. patent system has been central to U.S. leadership in the global innovation economy, and many innovative companies rely on patent licensing to disseminate and commercialize their inventions.

Can U.S. companies count on the administration, and your office in particular, if you are confirmed, to ensure that U.S. patent rights are respected abroad?

Answer. Intellectual property-intensive industries make a very substantial contribution to the U.S. economy and U.S. competitiveness, supporting millions of U.S. jobs and a large portion of U.S. merchandise exports. Accordingly, I am concerned by any attempt by foreign countries to weaken the protection and enforcement of intellectual property rights held by U.S. companies. No law should be diverted from its proper focus and used to pursue unrelated industrial policy goals. The concern you raise is one of many that, if confirmed, I will monitor very closely and address through appropriate channels.

Question. Over the past several years, there has been an increase in burdensome international regulations which have increased costs for U.S. companies selling in these markets and limited access to growing export markets around the world. These technical barriers have taken the form of testing regulations, certification requirements, local content requirements, inspection procedures and safety standards that are different from international norms in one way or another but have not led to "safer" or more "environmentally friendly" products sold in their respective markets. In fact, often times these technical barriers are put in place with the intent to protect domestic markets from U.S. competition. USTR has proven to be an invaluable resource for U.S. companies to fight these international regulatory burdens

and has had many successes at the WTO Technical Barriers to Trade Committee highlighting one of the many valuable roles the WTO plays for U.S. companies.

If confirmed, how would you go about addressing these international regulatory burdens for U.S. companies? What are your thoughts about using WTO to pursue these objectives?

Answer. I am committed to reducing regulatory and other technical barriers, such as discriminatory standards and unnecessary or duplicative testing requirements, in order to increase exports of U.S. manufactured and agricultural goods. If confirmed, I look forward to working with U.S. stakeholders to resolve concerns regarding trade-restrictive or unduly burdensome measures, including through engagement with foreign governments bilaterally, at regional levels, and at the WTO Technical Barriers to Trade Committee.

Question. Mr. Lighthizer, a number of U.S. international airlines are concerned about an un-level playing field in the global market for international air transport, due to actions by certain foreign airlines that are owned by their governments.

What can your agency do to ensure that our U.S. international airlines have a fair and equal opportunity to compete in providing international air transport services?

Answer. I understand the importance of this issue, and of ensuring that our international airlines compete on a level playing field across the globe. If confirmed, I will look into this matter and work closely with other involved agencies, such as the State Department and Department of Transportation, to do everything we can to ensure that our international carriers have a fair and equal opportunity to compete.

Question. Mr. Lighthizer, the European standardization organizations have been very active in lobbying foreign governments to adopt European standards as international standards, often to the exclusion of American standards.

The European Commission officially endorses this policy, stating on its website: "Each European standard adopted as an international standard represents a possible competitive advantage for European industry."

As you may know, American products are often manufactured to meet an American standard, not a European standard. This means that when foreign countries outside of Europe adopt a European standard, American companies are effectively blocked from accessing those markets.

Can you assure me that, if you are confirmed, the administration will address the EU's policy of promoting European standards as a barrier to market access for American products?

Answer. I believe that increasing the global acceptance of standards used by U.S. manufacturers is important for improving the ability to manufacture products in, and export them from, the United States. If confirmed, I look forward to working with U.S. stakeholders to address this issue with our trading partners. I would plan to use bilateral and multilateral engagement mechanisms to promote the acceptance by our trading partners of standards used by U.S. manufacturers.

Question. Mr. Lighthizer, to give you a concrete example of the barriers to market access that arise when a foreign country adopts only European standards, recently the European standardization organizations have been successful in lobbying certain Middle Eastern countries to adopt a European safety standard for footwear. These countries no longer recognize the American safety standard as an acceptable international standard, even though American-made products have been sold in the Middle East for decades.

If you are confirmed, can you assure me that the administration will take all steps necessary to regain U.S. market access under circumstances such as these?

Answer. I am aware of the concerns facing the footwear industry in the Middle East. If confirmed, I look forward to working with these countries to promote their adoption of standards policies that facilitate trade with the United States. I would plan to use bilateral and multilateral engagement mechanisms to promote the acceptance of standards used by U.S. manufacturers, including those used by the American footwear industry.

Question. Investor-state dispute settlement (ISDS) provides crucial protections for U.S. companies that invest overseas to enable them to receive just compensation from expropriation. In the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, protection for U.S. investors is a Principal Negotiating Objective

of the United States. This has been a critical part of most U.S. Free Trade Agreements, and has been a part of U.S. international economic policy through Bilateral Investment Treaties for decades.

As USTR, can you affirm that in any negotiations or renegotiations of trade agreements of bilateral investment treaties, that you will reduce or eliminate artificial or trade distorting barriers to foreign investment, and secure for U.S. investors overseas rights that are comparable to those that would be available under U.S. legal principle and practice?

Answer. If confirmed, I will look forward to working closely with the Congress on trade and investment agreements that advance the negotiating objectives set forth in TPA, including the principal negotiating objectives to reduce or eliminate artificial or trade distorting barriers to foreign investment and to secure for U.S. investors rights comparable to those that would be available under U.S. legal principles and practice.

QUESTIONS SUBMITTED BY HON. PAT ROBERTS

Question. Our farmers and ranchers depend on strong trade relationships around the world. Expanding market access and ensuring that our producers remain competitive is critical to our economy. USTR and USDA have a history of working hand in hand to make sure that U.S. agriculture has a seat at the trade table. As the new administration takes shape, I have been concerned that there are too many cooks in the kitchen when it comes to trade, yet few of them are familiar with the main ingredients. In addition to USTR, the President recently established a new National Trade Council at the White House, as well as increased the trade responsibilities under the Department of Commerce.

As the lead trade negotiator for the United States, how will you work with other agencies, specifically USDA, to make sure that agriculture is a top priority?

Answer. Food and agriculture exports are critical to farm income, and the food processing and beverage manufacturing industries are a top source for U.S. manufacturing jobs in the United States. As I stated at my confirmation hearing, I have a long history working on agriculture issues, and I am committed to prioritize work to expand agricultural exports. USTR historically has worked very closely with trade and technical experts at USDA and other agencies to resolve the full range of agricultural trade issues. If confirmed, I intend to maintain and strengthen that relationship and will work closely with the Secretary of Agriculture to expand agricultural exports as a top priority for this administration and the United States.

Question. China is one of the United States' top agricultural markets. However, Kansas wheat farmers championed the recent cases announced by USTR on Chinese subsidies and tariff rate quotas (TRQs), as wheat growers are especially impacted by the seeming failure of China to adhere to their commitments in the WTO.

Kansas ranks as the third highest U.S. State exporter of beef to the global market. Since 2003, the U.S. beef industry has tried to regain access into China. I was pleased that China publicly stated their intentions to lift its ban on U.S. beef, but there is still work needed to hold China to that commitment and restore true access. This access to the Chinese market is critical for my cattlemen back home.

These are just two of the challenges we face in one of our most important export markets. A strong trade policy is clearly about more than free trade agreements.

How will you lead USTR to work with other countries to ensure that barriers to trade are reduced and eliminated?

Answer. I fully understand the importance of enhancing market access around the world for farmers and ranchers in Kansas and all other States. U.S. food and agricultural exports face a number of unwarranted barriers and trade distortive policies in other countries, including China. For example, I understand that USTR is pursuing dispute settlement procedures on China's domestic support for wheat, corn and rice. Ensuring that our trading partners meet international trade obligations, especially those of the World Trade Organization, is a core foundation for fairer and freer trade. If confirmed, I am committed to the expansion of U.S. agricultural exports through negotiations that create enhanced export opportunities for our farmers and ranchers. Where countries fail to do so, I will aggressively utilize, in cooperation with the Secretary of Agriculture and Administration and congressional

colleagues, all available tools in the WTO, bilateral engagement, and other mechanisms.

Question. Agricultural trade is essential to American farmers and ranchers, but expanding market access for our products through new trade agreements is just one piece of the puzzle. The enforcement of existing agreements will ensure that our trading partners are playing by the rules they have agreed to, and that our producers have a level playing field.

Whether dealing with steel in China, dairy products in Canada, or other products, if confirmed as the lead Trade Representative for the United States, how will you approach enforcement of our agreements with other countries?

Answer. If I am confirmed, I will commit to use all the resources available to USTR, and seek to draw on the significant expertise in other agencies, to enforce fully existing U.S. trade agreements to ensure that our trading partners comply with their international obligations. To compete in an international market, we must ensure that U.S. exports, including agricultural exports, get the same access abroad that we allow imports here in the United States. I would also work to protect U.S. trade remedies laws so that when other countries engage in unfair trade, we have the tools to provide U.S. producers with an effective remedy.

Question. Science is important. Basic facts and data should inform policy decisions at home and around the globe. Decisions based on reputable science offer predictability and provide certainty. But, everyone doesn't seem to share this perspective. For example, across the world, international organizations and various individual countries have made policy recommendations and passed laws regarding certain types of foods they view as unhealthy. For instance, the World Health Organization has proposed a tax on sugary drinks and their research agency, the International Agency for Research on Cancer, classified red and processed meat as probably carcinogenic and carcinogenic, respectively.

How can the U.S. Government agencies work with USTR and how can USTR work with foreign and international entities to ensure that policy recommendations and laws be science-based?

Answer. If confirmed, I am committed to working with U.S. Government agencies to strengthen the process by which the U.S. Government engages with international organizations and to develop U.S. positions that support sound science and U.S. interests. I am further committed to stand up against proposals that are not based on science and that threaten to harm the interests of U.S. farmers, ranchers and food manufacturers and to ensure that international organizations respect the boundaries of their respective missions, particularly where public health organizations may become involved with fiscal or trade policy in ways that may harm U.S. interests. In support of these principles, I intend to engage with foreign governments bilaterally, regionally, and in international organizations to ensure that the resources of international organizations are utilized to best meet their scope and mandate, and that policy recommendations and laws are based on sound scientific principles and international standards.

Question. Historically, trade agreements have achieved strong support from most in the agriculture industry. Last year, as negotiations were taking place on the Transatlantic Trade and Investment Partnership (T–TIP), there was concern that in an attempt to conclude the negotiations, a final agreement might not include a strong framework for agriculture. I, along with 25 other Senators, sent the previous administration a letter urging the prioritization of agriculture in a final agreement. Similar concerns have surfaced as the United States turns towards negotiated bilateral agreements with countries like Japan that have historically been protective of their agriculture sectors. Farmers and ranchers are witnessing their third year of low commodity prices and need to avail themselves to a free and open marketplace to stay in business and provide jobs in rural America. Leaving agriculture out of a bilateral agreement with Japan, or any other country, would set a dangerous precedent and would be a disservice to rural America.

Can you assure me that the agriculture sector will be a consulted partner and fully included in any efforts to forge a bilateral trade agreement with Japan or any other country?

Answer. I agree that agriculture is a critically important part of our trade agenda and that strong support from the agricultural sector has always been an essential element of a successful negotiation. If confirmed, an ambitious outcome for agriculture will be a central objective in any negotiation we undertake. I am committed

to consulting closely with U.S. agricultural stakeholders and agricultural trade advisors, along with this committee, House Ways and Means and the Senate and House Agriculture Committees, and other interested members of Congress to ensure that the interests of farmers and ranchers are fully included in our bilateral trade agenda, including any potential negotiation with Japan and other countries of key export interest to U.S. farmers and ranchers.

Question. Since 2001, Canada and Mexico have ranked in the top 3 destinations for U.S. agricultural exports. In 2016, the two countries accounted for nearly 30 percent of the value of total U.S. agricultural exports. Additionally, Canada and Mexico have continuously been ranked in the top five destinations for U.S. agricultural exports since NAFTA was signed into law in 1993.

As the administration moves to potentially renegotiate NAFTA, how will you ensure that we are building upon what is working well within the agreement, and not making changes that could negatively impact these critical markets?

Answer. For most agricultural sectors, the North American Free Trade Agreement has provided important and growing trade opportunities that benefit America's farmers and ranchers. I fully appreciate the importance of exports, including exports to Canada and Mexico, to support rural income and jobs in the U.S. food and agriculture industry. I also fully appreciate the importance of preserving exports and expanding upon the gains from our current trade agreements. If confirmed, I will strengthen American agriculture through negotiations that create enhanced export opportunities for American farmers and ranchers, while we maintain the current markets that we already have. If confirmed, I will be sure to consult closely with you and other members of Congress as required by Trade Promotion Authority.

Question. Agriculture and food exports rely on science-based food, food production, and food safety standards of the Codex Alimentarius—an inter-governmental organization sponsored by the Food and Agriculture Organization and the World Health Organization, and the International Plant Protection Convention (IPPC), both recognized by the World Trade Organization (WTO) as the international food safety standard and plant health setting bodies, respectively. For instance, some WTO member countries block U.S. meat and poultry exports with protectionist measures, even though those products meet Codex standards. When member countries block products meeting both these sets of standards, they seemingly create Sanitary and Phytosanitary (SPS) non-tariff trade barriers.

If confirmed, how will you hold our trading partners in the WTO accountable to their commitment to both the Codex Alimentarius and the IPPC and resolve SPS non-tariff trade barriers in these international markets?

Answer. If confirmed, I am committed to ensuring that our trading partners live up to their international obligations, including their WTO obligation to base their SPS measures on scientific principles, and to base measures on international standards established by Codex, IPPC and the World Organization for Animal Health (OIE), as appropriate. I am committed to hold accountable countries that establish non-science based measures that are inconsistent with international standards and that block imports of safe U.S. agricultural products.

Question. Despite efforts to engage with the prior administration, it failed to fully implement a key expansion of the Generalized System of Preferences passed in 2015 that made certain travel goods eligible to apply for duty-free status from all GSP countries. Even with a positive review from the interagency review process, the last administration declined to issue a proclamation fixing this issue before leaving office. These products are no longer made domestically. By only allowing imports from least developed countries and Africa, China has continued to dominate almost 90 percent of the market by quantity and U.S. companies have not been able to expand their sourcing. Maintaining import tariffs on luggage, handbags, backpacks and sports bags from most GSP countries has severely inhibited the ability of companies to utilize this program to lower costs and create American jobs. Additionally, U.S. companies are not able to move sophisticated, high-end packs and sports bags to countries that are not able to make them. U.S. companies need duty-free access from countries such as Indonesia, the Philippines, Thailand, and Sri Lanka.

Will you agree to advise the President that all travel good lines contained in the bipartisan legislation be given duty free from all GSP countries and recommend the issuance of a Presidential proclamation in a timely manner?

Answer. I understand there is a great deal of interest by some members of this committee, and travel goods importers, in extending duty-free treatment to the more

economically advanced GSP countries for travel goods. If confirmed, I commit to review this issue carefully, consult with this committee and the Ways and Means Committee, and advise the President accordingly.

Question. The United States for decades has shared a strong economic relationship with Taiwan. Last year, Taiwan was the United States' 10th largest trading partner.

If confirmed, are you committed to strengthening our engagement and economic cooperation with Taiwan?

Answer. As you point out, the United States and Taiwan have a longstanding and important trade and investment relationship. If confirmed, I intend to work to strengthen further those trade and investment ties. Recognizing that foreign investment from Taiwan and elsewhere can create more jobs in the United States and increase U.S. economic growth and competitiveness, and increased trade can benefit U.S. agricultural, goods and services trade, I intend to develop a trade and investment policy that promotes a stronger bilateral relationship with Taiwan and examine the prospects of additional negotiations with Taiwan, as well as to address longstanding problems such as market access for beef and pork.

QUESTIONS SUBMITTED BY HON. MICHAEL B. ENZI

Question. The U.S. soda ash industry is a shining example of U.S. competitiveness in manufacturing. The industry is the most competitive and environmentally friendly in the world due to a unique natural deposit of soda ash material, trona, in Green River, Wyoming. The industry exports over $1 billion annually, over half of its total output. There were two major developments in 2016 of importance to the U.S. soda ash industry.

First, China's State Council officially recognized that its soda ash industry is in a state of overcapacity. And second, at the November 2016 U.S.-China Joint Commission on Commerce and Trade (JCCT), in the context of discussions on industrial excess capacity, China agreed to exchange information on soda ash. China's overcapacity in soda ash directly harms the U.S. natural soda ash industry in its struggles to compete in key export markets against low-priced Chinese synthetic soda ash. As USTR, will you plan to hold China to its JCCT commitment to exchange information on its soda ash excess capacity?

Answer. I understand that U.S. soda ash producers are among the cleanest and most efficient producers of this important industrial input, an important U.S. exporting industry, and that they compete head-to-head with Chinese soda ash exports in many third-country markets. If confirmed, I fully intend to hold China to its commitment, at the November 2016 U.S.-China Joint Commission on Commerce and Trade (JCCT), to exchange information on the soda ash industry.

Question. What specific steps will you pursue to ensure that China remedies its industrial excess capacity in soda ash?

Answer. If confirmed, I will work to develop effective ways to ensure that China addresses its excess industrial capacity, both as a systemic issue and in relation to specific industries like soda ash. These steps will include working with the soda ash industry to identify and address non-market industrial policies and unfair trade practices that may contribute to excess capacity.

Question. Increasing our access for beef into Japan and other Southeast Asian countries is critical. President Trump has withdrawn from the Trans-Pacific Partnership (TPP) and has announced his focus will likely be on bilateral trade agreements with each of those nations. In particular, a bilateral trade deal with Japan is sorely needed as the U.S. beef exports to Japan currently face a 38.5% tariff in the Japanese market for both fresh and frozen beef. Australian frozen beef exports to Japan meanwhile currently face tariffs of 27.5%, which will decline to 19.5% over the next 15 years. Australian fresh beef exports currently face tariffs of 30.5% which will decline to 23.5% over the next 12 years. Australian exporters clearly have an advantage over U.S. exporters in the Japanese beef market. Can you give us a better understanding of how the Trump administration will pursue opportunities for American beef producers in such bilateral agreements?

Answer. If confirmed, I am committed to the expansion of U.S. beef exports through negotiations that remove tariffs and other barriers that restrict the trade of beef products. I am also committed to ensuring that U.S. trading partners meet

international trade obligations, including those of the WTO SPS Agreement, by having regulatory measures based on science and international standards, including for beef.

QUESTIONS SUBMITTED BY HON. JOHN CORNYN

Question. As you know, the U.S. is the world's largest exporter of agricultural and food products. In fact, based on a recent study by Texas A&M University, included in the record, agriculture exports now account for 35 percent of U.S. farm income. Mexico is a key market for these goods.

If confirmed, will you ensure that U.S. agricultural trade will remain globally competitive and secure, particularly with Mexico?

In addition, will expanding agriculture exports be a priority for USTR and this administration? If so, what trade liberalization goals will you strive for and with whom?

Answer. If confirmed, I will maintain a strong focus on U.S. agricultural exports and work to expand exports of all U.S. agricultural products, including to Mexico, to generate increased economic opportunities for America's farmers and ranchers. If confirmed, I will be sure to consult with you and other members of Congress as the administration pursues the trade agenda.

Question. During the confirmation hearing, you testified that aspects of NAFTA have been beneficial to certain sectors of the U.S. economy and in any renegotiation you would work to ensure those American exports and sales are not lost and those agricultural and other American jobs not be put at risk. Today, significant amounts of Texas cotton as well as U.S. fabrics (also made with Texas cotton), fasteners, threads, and other components are exported to Mexico for final assembly and then imported back into the United States as finished garments. Moreover, American companies design, market, and sell these products and employ American workers across the country. These American farm, manufacturing, and brand jobs depend on a stable and vibrant NAFTA textiles and apparel supply chain.

Will you commit to work with the committee and our NAFTA trading partners to ensure that this supply chain and the American jobs that depend on it will not be disrupted by a NAFTA renegotiation?

Answer. American farmers and businesses play an important role in the North American textile and apparel supply chain. If confirmed, I will work with the committee and all stakeholders to maximize the U.S. economic benefits and American jobs connected with this supply chain.

Question. As part of the last GSP renewal, we also expanded the list of eligible products to travel goods for the first time since the program's creation in 1974. Unfortunately, the Obama administration failed to follow congressional intent and extend travel goods GSP product eligibility to all GSP-eligible countries. We understand that Ambassador Froman left a recommendation to his successor recommending that based on further analysis by USTR, GSP travel goods eligibility should be extended to all GSP-eligible countries.

If confirmed, will you commit to granting GSP travel goods eligibility to all GSP-eligible products?

Answer. I understand there is a great deal of interest by you and other members of this committee, along with stakeholders such as travel goods importers, and foreign countries, in extending duty-free treatment to the more economically advanced GSP countries for travel goods. If confirmed, I commit to carefully review this issue, consult with you and advise the President accordingly.

Question. Trade Promotion Authority (TPA) requires U.S. trade negotiators to "achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products" and ensure "that the provisions of any trade agreement governing IP rights . . . reflect a standard of protection similar to that found in United States law."

Will you ensure that any new U.S. FTAs meet this TPA standard, raising global standards to those that we use here in the United States?

Answer. I believe that innovation is the central nervous system of the U.S. economy and the key to our comparative advantage in many sectors. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full

and fair opportunity to use and profit from their intellectual property rights, and to make sure that the administration is implementing fully the provisions of TPA. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

Question. Transparency and procedural fairness provisions have been crucial to a number of U.S. bilateral agreements. These provisions provide transparency to the process by which the national health-care authorities set reimbursement for medical devices. Even though bilateral agreements include transparency and procedural fairness provisions, U.S. companies have signaled a lack of compliance by certain nations when setting reimbursement rates.

Will the administration work to ensure that provisions such as transparency and procedural fairness that are included in existing bilateral agreements are enforced?

Answer. Vigorous enforcement of all trade agreement provisions is critical to vindicating the rights of American workers and firms and to maintaining public and congressional support for free and fair trade. I am committed to strong enforcement, including with respect to the transparency and due process provisions that relate to health care reimbursement systems of some of our trading partners.

QUESTIONS SUBMITTED BY HON. RICHARD BURR

Question. The President has stated it is a priority to negotiate bilateral free trade agreements. One of America's greatest allies is the United Kingdom, and the UK is also one of North Carolina's top trading partners. There are many benefits to be had for North Carolina farmers, businesses, and workers by further increasing trade with the UK. As soon as possible, will you make negotiating a free trade agreement with the UK a priority?

Answer. I appreciate your highlighting that North Carolina, like many other States, enjoys a substantial trade relationship with the UK. As you know, until the UK leaves the EU it cannot sign a comprehensive trade agreement and may be limited in the extent to which it can formally conduct trade negotiations. When UK Prime Minister May visited in January, however, she and President Trump expressed an interest in pursuing discussions on how to deepen bilateral trade. If confirmed, I look forward to working with Congress and other stakeholders on our future trade relation with the UK after it withdraws from the EU.

Question. Various countries have actively manipulated the values of their currencies to make their exports more competitive and imports into their country more expensive. This has resulted in the loss of thousands of jobs in the United States by making imports from these countries into the United States artificially cheap. In the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, which extended new trade promotion authority, Congress identified currency manipulation as a subject that should be addressed in future trade agreements. Will you commit as USTR to addressing currency manipulation in any future trade agreements or negotiations?

Answer. I understand the importance of this issue and the emphasis Congress has placed on it, including in the TPA negotiating objectives. If confirmed, I will ensure that USTR makes progress, in any trade negotiation, in meeting this objective.

Question. As you know, exports are critically important to agriculture. According to the United States Department of Agriculture, North Carolina's agricultural exports in commodities including pork, tobacco, poultry and soybeans exceeded $4.1 billion in 2014, which is an over 200% increase from 2005. What is your plan to expand agriculture exports?

Answer. If confirmed, I am committed to the expansion of U.S. agricultural exports through negotiations that create enhanced export opportunities for our farmers and ranchers. I will also be committed to ensuring that trading partners meet international trade obligations, including those of the WTO SPS Agreement. When they fail to do so, I will aggressively utilize, in cooperation with administration and congressional colleagues, all available tools in the WTO and through other mechanisms.

Question. During TPP negotiations, USTR sought to include a provision in the TPP agreement that singled out a particular agricultural export, tobacco, for different treatment under the agreement. Doing so would have set a harmful precedent for future trade agreements and the treatment of other American agricultural ex-

ports. If confirmed, can you assure me that you will work to promote all American agriculture exports and not work to undermine certain ones?

Answer. If confirmed, I am committed to treating all U.S. agricultural products equally with respect to any foreign barriers.

Question. Last year I joined Senators Hatch, Wyden, Portman, Toomey, and McCaskill in passing legislation to reform the Miscellaneous Tariff Bill process. The process enables companies to receive duty relief when importing items from abroad that are not manufactured in the United States. This is critical for the North Carolina textile industry, biotech industry, as well as other industries. Many of the items imported are inputs that are used in the U.S. manufacturing process, which is why this process boosts U.S. manufacturing and jobs. At times in the past USTR has raised concerns with certain petitions based on supposed negotiating leverage concerns. Will you commit to work with this committee and the ITC in support of the MTB process in keeping with the legislation as it was enacted by Congress?

Answer. I recognize the importance of the Miscellaneous Tariff Bill process (MTB) for U.S. manufacturers and producers, and I understand that the American Manufacturing Competitiveness Act of 2016 established new procedures for the submission and review of petitions for temporary duty relief. If confirmed, I look forward to working with Congress and the U.S. International Trade Commission as this year's MTB process advances.

QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON

Question. Georgia is home to the Port of Savannah, the fourth-largest container port in the country and second largest on the east coast, and international trade and commerce is crucial to our economy.

Will you commit to working with me as USTR to ensure that trade policies will support the growth and development of industries whose goods pass through the Port of Savannah?

Answer. The Port of Savannah is a key hub for trade in agriculture and industrial goods, and, if confirmed, I look forward to working with you to expand opportunities for the continued growth of trade in the region and through the port.

Question. Would you agree that NAFTA has been a success for American farmers and ranchers?

Will you commit to strengthening American agriculture though any renegotiation or reworking of NAFTA so our farmers and ranchers can continue to sell more to Canada and Mexico?

Will you also work with us to tackle longstanding agricultural policies concerns in Canada and Mexico that inhibit the exports of American farmers?

Answer. I agree that for most agricultural sectors, the North American Free Trade Agreement (NAFTA) has provided important and growing trade opportunities that benefit America's farmers and ranchers. If confirmed, I will strengthen American agriculture through the renegotiations of the NAFTA and work to create enhanced export opportunities to Mexico and Canada for our farmers and ranchers, while we maintain the current markets that we already have.

Question. I think it is important to include services as well as goods in our discussion about trade and trade deficits. Would you agree?

The U.S. services trade surplus with Canada was $27.1 billion in 2015. U.S. exports of services to Canada were an estimated $57.3 billion in 2015, 6.6% ($4.0 billion) less than 2014, but 74.8% greater than 2005 levels. It was up roughly 237% from 1993 (pre-NAFTA).

The U.S. services trade surplus with Mexico was $9.2 billion in 2015. U.S. exports of services to Mexico were an estimated $30.8 billion in 2015, 2.7% ($807 million) more than 2014, and 36.7% greater than 2005 levels. It was up roughly 196% from 1993 (pre-NAFTA).

What steps will the administration take to build on this record of success for U.S. services companies and workers through a renegotiation of NAFTA?

Do you agree that a thriving services economy in the United States also strengthens U.S. manufacturing and agriculture?

Answer. The U.S. services sector is a key driver of the U.S. economy and also plays a key role in supporting and strengthening U.S. manufacturing and agriculture. The data cited in your question underscores this vital point. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy economy and a key objective of U.S. trade policy. If confirmed, I look forward to working with you to pursue our services trade priorities.

Question. As you may know, Georgia is number three in the country for film production, and films are some of our more high-profile exports. Are you aware of the 2012 U.S.-China Film Agreement that followed our winning a case at the WTO?

Will you commit to making full compliance of this agreement one of your priorities if confirmed, and ensure that all film exporters' interests—from large studios to independent film makers—are protected?

Answer. Yes, I am well aware of the 2012 U.S.-China Memorandum of Understanding on films. Under this MOU, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO dispute that the United States won. Significantly more U.S. films have been imported and distributed in China since the signing of the MOU, and the revenue received by U.S. film producers has increased substantially. If I am confirmed, I will work to advance the interests of all U.S. film exporters by ensuring China's compliance with the 2012 MOU and by negotiating further meaningful compensation for the United States in this area.

Question. How will you prioritize individual sectors when dealing with specific trade issues related to China?

Answer. There is a series of important issues and sectors in our trade relationship with China. Each issue arises in its own context. Similarly, each presents particular challenges and occasionally opportunities for resolution. I intend to approach each in the manner and using the tools of engagement most likely to yield an effective resolution for American interests. In that regard, I look forward to working with Congress and relevant U.S. industries and stakeholders to address each of these issues.

Question. I know we have spent a lot of time focusing on renegotiating NAFTA and doing vigorous enforcement of our existing trade agreements. While I agree with enforcing our current trade agreements and updating them as appropriate, I also believe that the United States should be outward facing and aggressive in cultivating trading relationships and pursuing trade agreements with new trading partners. Ninety-five percent of the world's market is outside of the United States, and we must try to gain ground that we have basically ceded to others by not having trade agreements. It is one of the reasons why I was so involved in the reauthorization of the African Growth and Opportunity Act. Part of that bill requires the USTR to assess the feasibility of entering into mutually beneficial trade relationships with sub-Saharan African countries.

If confirmed, will you work with me to assess the feasibility of using every trade policy tool we have to grow U.S. market share across the globe?

Answer. If confirmed, I would welcome this opportunity. Georgia is a leading exporting State, with nearly $36 billion worth of export sales in 2016, including almost $33 billion worth of manufactured goods, supporting tens of thousands of jobs. It is a large agricultural producer. It is a center of IP and technology, among other things as the generator of over 2,500 patents per year and the home of world-recognized university research centers. It is also a global hub for air and maritime cargo, with the logistics industry employment and agricultural exports these industries support. I would hope to work closely with you to design agreements and enforcement priorities that maximize the benefit Georgians draw from these assets worldwide, including in current FTA partners, sub-Saharan African markets, and new markets in other regions.

Question. Last month, Rwanda, Chad, Jordan, and Oman ratified the WTO's Trade Facilitation Agreement (TFA), bringing it into force. TFA, the first successful multilateral agreement of the Doha Round, contains provisions for expediting the movement, release, and clearance of goods, and it encourages cooperation between WTO members on trade facilitation and customs compliance issues. It also sets the stage for greater investment in trade capacity building in the developing world.

As USTR, what would you do to implement TFA and to encourage U.S. leadership on trade facilitation and trade capacity building issues generally?

Answer. The WTO FTA provides new, enforceable rules governing how U.S. goods will be treated as they move through our trading partner's border agencies, reducing trade costs and delays and allowing American goods to compete on a more level playing field. If confirmed as USTR, I will work to ensure that the TFA is implemented by all WTO Members under the timelines in the Agreement, press those WTO Members that have yet to ratify the TFA to do so expediently, and use the TFA Committee to promote full implementation of the Agreement.

Question. How can USTR work with other U.S. agencies, such as U.S. Agency for International Development, the Overseas Private Investment Corporation and the U.S. Trade and Development Agency, to ensure a whole-of-government approach to strengthen trade facilitation and build trade capacity?

Answer. If confirmed as USTR, I will undertake efforts to raise awareness of the TFA within the U.S. Government and among U.S. producers and manufacturers, and will engage with our trading partners on U.S. best practices for achieving full implementation of the Agreement, including coordinating U.S. Government efforts through the U.S. National Trade Facilitation Committee.

Question. As a Senator from a State that is home to one of our major international airlines, I am quite concerned about unfair practices by state-owned airlines. Over the last decade, the Governments of Qatar and the UAE have granted billions of dollars in subsidies to these airlines, helping them to expand their aircraft fleets and take business from U.S. airlines and airlines in other countries. I am also concerned that these subsidies violate our Open Skies agreements and put thousands of well-paying U.S. jobs at risk.

If confirmed, will you assure that you will work to support the interagency process to remedy these unfair practices and restore a level playing field for U.S. airlines?

Answer. I understand the importance of this issue, and of ensuring that our international airlines compete on a level playing field across the globe. If confirmed, I will look into this matter and work closely with other involved agencies, such as the State Department and Department of Transportation, to do everything we can to ensure that our international carriers have a fair and equal opportunity to compete.

QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

Question. U.S. dairy exporters face significant tariff barriers from Canada and other countries. They also face major non-tariff barriers such as geographical indication (GI) regulations that prevent U.S. exporters from using common food names and threaten intellectual property rights. Do you agree that foreign GI regulations are problematic for U.S. exporters and will you address these regulations in future trade negotiations?

Answer. I understand the importance of this issue to Congress. If confirmed, I will continue to raise strong concerns regarding the impact of the EU's GI policies on market access for U.S. owners of trademarks and U.S. producers and traders using common food names. I would also direct my staff to continue to press the EU to expand market access for U.S. producers into the EU and also work to safeguard third country markets, such as Canada, including through the removal of barriers such as overly broad GI protection for EU products.

Question. India has a myriad of non-tariff barriers that infringe upon the intellectual property rights of American firms that do business there. This is particularly true for pharmaceutical companies. Will you examine strengthening intellectual property protections for U.S. companies in India?

Answer. India's protection and enforcement of U.S. Intellectual Property Rights (IPR), including with respect to the pharmaceutical sector, are areas of substantial concern. If confirmed, I intend to address and work closely with the committee on these issues.

Question. For years, I have heard from constituents that Colombia has erected a series of arbitrary regulations designed to limit imports of American heavy duty trucks. Will you monitor Colombia's regulations on imported trucks and take action if they continue to unfairly block U.S. exports?

Answer. I share your concerns about Colombia's restrictive measures with respect to imported trucks, in particular the so-called scrappage requirements. If confirmed, I assure you that I will engage with U.S. stakeholders to address the issues more

fully, monitor closely Colombia's actions affecting imported trucks, and engage further with Colombia.

Question. Sugar is a vital input for many Pennsylvania food manufacturers. The previous administration severely limited sugar imports from Mexico through a suspension agreement, which harmed a number of manufacturers. Will you make it a priority in future negotiations to undo this damage and allow greater sugar imports from Mexico?

Answer. USTR has no formal role in the administration of the sugar Suspension Agreements. If confirmed, I will consult with the Secretaries of Commerce and Agriculture, as well as members of Congress and the range of perspectives in our private sector, including sugar growers, refiners and confectionary producers.

QUESTIONS SUBMITTED BY HON. DEAN HELLER

Question. International travel and tourism are major economic drivers in Nevada. Travel and tourism supports more than 368,000 jobs in Southern Nevada alone. Reno, Lake Tahoe, and Las Vegas are world-renowned destinations that continue to see growth from international travelers. Will you make travel and tourism to the United States a top trade priority if you are confirmed?

Answer. Tourism and travel services are among the most dynamic services sectors in the U.S. economy and also serve to support other major segments of our economy. If confirmed, I look forward to working with you to ensure that promoting tourism and travel-related services is an integral part of the U.S. trade agenda.

Question. Many visitors to Nevada come from China, Canada, and Mexico—all countries this administration plans to have new trade negotiations with. How will you work to ensure that international travel polices to the U.S. are not adversely affected as you discuss other trade issues with those countries?

Answer. As noted above, tourism and travel services are among the most dynamic sectors in the U.S. economy and also serve to support other major segments of our economy. If confirmed, I look forward to working with you to ensure that promoting tourism and travel-related services is an integral part of the U.S. trade agenda.

Question. Foreign direct investment in Nevada based projects has grown significantly in recent years. Panasonic in partnership with Tesla are manufacturing commercial high density batteries outside of Reno, Nevada at the new gigafactory. Faraday Future, a new electric car manufacturer with overseas financing, has also committed to building a manufacturing plant in North Las Vegas. How will you ensure that U.S. trade policies will continue to promote foreign direct investments in Nevada?

Answer. Inward and outward investment are critical drivers of U.S. jobs and U.S. economic growth. The United States is the most attractive place in the world to invest. I look forward to working with you and other members of Congress to use trade and investment policies to promote foreign investment in the United States that creates American jobs and increases U.S. economic growth and competitiveness.

Question. Nevada was one of the hardest hit States during the recession. I would like to know what specific trade policies will you be advocating for that will directly help create jobs and increase economic growth in Nevada?

Answer. Nevada is a strong exporting State with nearly $10 billion worth of exports in 2016, including $9.3 billion worth of manufactured goods, supporting tens of thousands of jobs; it is a large agricultural producer; and it is a center for IP and scientific research as the generator of over 700 patents per year. I would hope to work closely with you to design agreements and establish enforcement priorities that maximize the benefit Nevadans draw from these assets, by identifying opportunities to grow exports, enforcing IP and other rights, taking advantage of value-added agricultural exports to world markets, fighting unfair trading practices abroad, and so contributing to Nevada's growth and ability to support high-wage jobs.

QUESTIONS SUBMITTED BY HON. BILL CASSIDY

Question. Do you agree that as a result of the 21st Amendment to the U.S. Constitution, matters dealing with alcohol policy, and specifically the regulation of the

manufacturing, distribution, transportation and selling of alcohol products, lies within the authority of the States as opposed to the USTR? In keeping with this well-established principle, will you work to ensure that the USTR does not act in a way that weakens the authority of the States with regard to their constitutional rights to regulate alcohol within respective State borders?

Answer. If confirmed, I will ensure that USTR does not take positions that undermine the authority of U.S. States to regulate alcohol.

Question. Duty drawbacks can occur when goods that were imported into the United States, and had a duty collected, are later exported. Duty drawbacks was one of the first laws passed by Congress and one of the few WTO sanctioned incentives left to encourage exporting.

Current NAFTA rules significantly diminish the benefits provided by duty deferral programs and drawback regulations for a large category of goods exported to Mexico or Canada. NAFTA rules often lead to an additional duty payment in the United States that would not apply to identical shipments made outside of the NAFTA territory.

Answer. I am aware of the concerns about NAFTA's provisions on duty drawback. If confirmed, I will examine this issue and will be interested in further hearing your perspectives.

Question. The United States and Taiwan have a strong and important bilateral trade and investment relationship. Taiwan is currently our 9th largest goods trading partner with $67 billion in total traded goods in the 2015 calendar year, our 7th largest importer of U.S. agricultural goods, and an important player in the global IT industry. Given recent events, how will your views specifically influence the One China Policy and what can the United States do to grow economic relations with Taiwan? Do you believe that a free trade agreement with Taiwan or Taiwan's participation in a future trade agreement are viable options?

There are currently 4,338 jobs in Louisiana supported by Taiwan. Do you have any plans to incentivize Taiwan to further invest in the United States?

Answer. As the President stated last month following his phone call with China's President Xi Jinping, the administration will honor the United States' longstanding One China Policy.

As you point out, the United States and Taiwan have a longstanding and important trade and investment relationship. If confirmed, I intend to work to strengthen further those trade and investment ties. Recognizing that foreign investment from Taiwan and elsewhere can create more jobs in the United States and increase U.S. economic growth and competitiveness, I intend to develop a trade and investment policy that promotes foreign investment into the United States that advances these objectives. If confirmed, I will examine the prospects of additional negotiations with Taiwan.

Question. You may recall when we met that we discussed the Seafood Import Monitoring Program finalized by NOAA last year. When we met, the rule was still under review by the previous administration. When finalized, my staff was told that USTR expressed concerns over national treatment of the domestic aquaculture shrimp industry, resulting in an indefinite stay for the implementation of shrimp in to this program. Shrimp was to encompass two-thirds of the volume and value of the seafood identified in the program. Protecting U.S. interests is important to me and my State.

How do you plan to assist Gulf Coast industries comprised of small and medium sized business that are harmed by unfair trade, like the shrimp, crawfish and crab industries?

Answer. Improving the competitiveness of small and medium-sized businesses, including domestic seafood producers, is a key priority of this administration. If confirmed, I will pursue all avenues to support this objective, including through trade negotiations, enforcement of our existing trade agreements, and application of our trade remedy laws. I look forward to consulting closely with Congress and industry on these important issues.

Question. How will your trade office work with other government agencies such as U.S. Customs and FDA to ensure that we are not adversely impacting these industries by not enforcing our own health and safety standards on imported goods?

Answer. If confirmed, I will work to ensure the competitiveness of U.S. industries, including through trade negotiations, enforcement of our existing trade agreements, and application of our trade remedy laws. I will work closely with other U.S. agencies to support the implementation and enforcement of U.S. laws and regulations, including U.S. health and safety standards, governing the import of fish and fisheries products in order to ensure a level playing field for our fishing sector.

Question. How will you address WTO threats or challenges from countries that import seafood to the United States such as China, Vietnam or Chile?

Answer. If confirmed, I will aggressively defend U.S. regulations at the WTO and through our bilateral or regional engagements, including FTAs.

Question. As you likely know, the Jones Act, among other things, requires U.S. domestic waterborne commerce to be carried on vessels that are built and registered in the United States. The Jones Act also requires such vessels to be predominantly owned and crewed by U.S. citizens. USTR, in its role to expand market access for American goods and services, must, at times, engage on issues involving the Jones Act.

According to a study done a few years ago, Louisiana has more than 54,000 jobs connected to the maritime industry, contributing more than $11 billion to the State's economy. The study also showed our State ranked first in maritime jobs per capita and is one of top States for shipbuilding.

Because of the importance of the Jones Act to Louisiana's maritime industry, can you please share what your position is on the Jones Act and how that statute will influence trade agreements the United States enters?

Answer. I understand the importance that you and other members of Congress place on this issue. I agree that the Jones Act is crucial to ensuring the retention and growth of a robust U.S. maritime industry, which is critical to the national security of the United States. If confirmed, I intend to consult closely with Congress on any Jones Act-related issues and ensure that our position in trade negotiations does not undermine our ability to enforce the statute.

QUESTIONS SUBMITTED BY HON. RON WYDEN

TRADE ENFORCEMENT

Question. This committee has been focused on trade enforcement in recent years. In the last Congress, we passed a robust package of new trade enforcement tools, including the ENFORCE Act, which created a new process requiring Customs and Border Protection to take swift action on allegations that duties on unfairly traded goods are being evaded.

In addition, we enacted new directives requiring USTR to focus on fighting foreign trade barriers that have the greatest impact on U.S. jobs and growth. The law contains new requirements for congressional consultations and reporting to ensure that USTR takes Congress's views into account when it sets enforcement priorities and follows through on those priorities with action. You will be the first USTR to implement these new tools.

Do you commit to follow the law and provide Congress with robust consultations and reporting—within the timeframes specified by law—to ensure that enforcement efforts are directed at the most critical problems facing U.S. workers, businesses, and farmers?

Answer. The 2015 Act that contained the ENFORCE Act provided important new tools to USTR, Customs and Border Patrol and Commerce to improve the enforcement of Antidumping and Countervailing Duties and other measures. I am aware of the months and years of effort it took to pass that law and believe that it will provide important benefits to American workers, farmers, ranchers, and businesses, particularly those that rely on effective administration of border measures. If confirmed, I look forward to working with the other agencies to implement the law fully and vigorously and to following all the requirements set out in the law regarding stronger and better consultations with Congress concerning enforcement priorities. The input, ideas, and advice of the Senate Finance and House Ways and Means Committees, as well as others, will be critical in developing the enforcement priorities of my office.

Question. According to the President's Trade Policy Agenda released earlier this month, one of the administration's key trade policy objectives is "strictly enforcing U.S. trade laws to prevent the U.S. market from being distorted by dumped and/or subsidized imports that harm domestic industries and workers." We need a proactive government response to dumped and subsidized imports—only by tackling the issue of unfairly traded imports will many U.S. industries be able to recover. How can USTR work together with other agencies and the governments of other countries to strengthen enforcement of trade remedy laws and compliance with anti-dumping and countervailing duty orders?

Answer. I have spent much of my professional life working to ensure the strong and effective implementation of American trade remedy laws and am strongly committed to their vigorous enforcement in the years ahead. As your question states, effective enforcement of these laws is an essential and indispensable element of a strong and effective trade policy for all Americans. If confirmed, I plan to coordinate closely with other government agencies in the strongest possible defense of U.S. law in the WTO, and to strengthen our collaboration with other like-minded WTO Members.

Question. You have said in the past that there are insufficient resources dedicated to trade enforcement in the U.S. Government. Many members have sought to substantially increase trade enforcement resources including at USTR. Yet the President announced a hiring freeze that appears to apply to trade enforcers at a range of agencies, including the Department of Commerce, USTR, U.S. Customs and Border Protection, the Department of Interior's Fish and Wildlife Service, and the Department of Labor. I am particularly concerned about the timing of the freeze because several of these agencies are implementing new enforcement tools included in the Trade Facilitation and Trade Enforcement Act of 2015, and as a result have been tasked with even more extensive trade enforcement responsibilities.

Do you think that USTR currently has sufficient resources for trade enforcement? If confirmed, how would you strengthen resources dedicated to trade enforcement in light of the hiring freeze?

Answer. The President has made clear that trade policy negotiations and litigation are a top priority of the administration. Trade policy plays a critical part in every aspect of the economy and is essential to fulfilling the administration's goal of accelerating economic growth and improving U.S. standards of living. USTR's previous budget requests were based on the old status quo. Instead, President Trump places trade execution and enforcement at the top of his "America first" trade policy.

I'm not in the administration and thus cannot speak on its behalf, but, in my personal view, we need more resources for USTR and with whatever we have we'll do the best job we can do.

USTR's capabilities must grow to execute the President's new strategy. Increased resources are necessary to reinforce USTR's statutory obligations to (1) monitor compliance by foreign governments with trade policy commitments to the United States, detect violations as quickly as possible and take swift and successful actions to enforce U.S. rights and at the same time, (2) vigorously and successfully defend the ability of the United States to exercise its rights to ensure fair trade in the U.S. market, and, (3) take action under U.S. law to advance U.S. economic interests. If confirmed, I will work to ensure that USTR has the resources it needs to fulfill its mission.

Sufficient resources are vital to a robust trade enforcement strategy. Many of the problems faced by U.S. exporters in foreign markets are hard to address due to lack of transparency or because they are legally or factually complex, requiring significant attorney, investigatory, analytical, or translation resources. If confirmed, I will commit to use all the resources available to USTR, and seek to draw on the significant expertise in other agencies, to enforce U.S. trading rights fully and ensure that our trading partners comply with their international obligations.

GLOBAL OVERCAPACITY

Question. Foreign government subsidies and other market-distorting policies have led to global overcapacity in a range of products, including aluminum, solar, and steel. The OECD has been trying to address this issue in the steel sector and has formed a "Global Forum" on excess capacity. Yet, to date, results have been disappointing. What specific steps should the United States take to obtain concrete results in the reduction of global steel, aluminum, and solar capacity?

Answer. If confirmed, I will conduct a review of all available tools to address serious overcapacity problems in steel and other sectors, work to address the root causes of those problems, and continue to work closely with other leading steel producing countries in the Global Forum on Steel Excess Capacity and other contexts. Those tools include our trade remedy laws, WTO litigation, negotiations, and other mechanisms under U.S. law.

If confirmed, I also will examine how we might use our existing bilateral dialogues to press China to fix its unfair trade practices and vast excess capacity problem in many industrial sectors. I will vigorously enforce and defend our trade remedy laws, and aggressively utilize all available tools in the WTO and other mechanisms to combat distortive trade practices.

MARKET ECONOMY STATUS

Question. China claims that its protocol of accession to the WTO requires all countries to treat it as a market economy in antidumping investigations. The previous administration concluded that the United States is under no such obligation. Under the criteria applied by the Commerce Department, China is clearly not a market economy. Will you continue the position of the previous administration and defend the right of the United States to treat China as a non market economy? What specific steps would you take to ensure that our major trading partners, including the EU and Canada, support the position of the United States at the WTO regarding the interpretation of our international obligations?

Answer. I disagree with China's claim that the change in its Protocol of Accession requires WTO Members to treat China as a market economy in antidumping proceedings. If confirmed, I can assure you that USTR will vigorously defend the right of WTO Members to use the strongest tools possible to counteract injurious Chinese dumping. This includes building a coalition of allies to defend this fundamental position at the WTO. I look forward to discussing with you the best way to work with the EU and other like-minded countries to defend the plain and clear language of China's Protocol of Accession.

HARDWOOD PLYWOOD

Question. For the hardwood industry, exports are extremely important to a significant number of companies that create jobs in rural areas. Approximately 40% of all hardwood lumber production is now exported, totaling $2.4 billion in 2016. The United States also enjoys a healthy trade surplus of $1.3 billion in hardwood lumber, up from $1.1 billion in 2015. At the same time, the hardwood engineered flooring and plywood veneer industry has been harmed by subsidized imports, particularly from China, that compete unfairly with U.S. products. How will you advise the administration to ensure that trade policies both support exports while at the same time addressing unfair trade practices?

Answer. I appreciate the importance of hardwood production in the United States, as well as the success of U.S. producers in developing important and growing export markets. If confirmed, I will work with our industry and you to expand overseas market access for American hardwood and plywood exports, address unfair trading practices such as subsidization, and work with industry and other stakeholders to identify effective ways to address unfair trade practices in the U.S. market, including by use of our trade remedy laws.

WINE

Question. USTR initiated a WTO case with Canada on January 18th over measures affecting the sale of wine in grocery stores in British Columbia. The U.S. wine industry is facing a host of discriminatory measures in Canada that adversely affect exports and job opportunities in the United States. If confirmed, and if Canada fails to eliminate the WTO inconsistent measures, will you proceed expeditiously to litigate the WTO case? And will you work to address other trade-distorting policies in Canadian provinces that make U.S. wines more difficult to obtain and more expensive than Canadian-made products?

Answer. I am aware that the United States requested consultations with Canada on its facially discriminatory distribution and sales measure that discriminates against our wine producers and exports. If confirmed, I will seek an immediate briefing by USTR staff on the content of the consultations that were held with Canada last month and what the most effective next steps are to address this problem. I look forward to looking carefully at other provincial measures that may be harming our wine exports. I have long believed that the United States should vigorously

enforce our trade agreements. If confirmed, I will work to address these unfair barriers to U.S. exports, including these facially discriminatory restrictions on exports of U.S. wine to Canada.

SOLAR

Question. The U.S. solar manufacturing industry, like the steel and aluminum industries, has been plagued by massive subsidies provided by China to its industry, which have contributed to significant overcapacity, as well as dumping by foreign producers. As a result, the U.S. solar industry has been repeatedly injured by dumped and subsidized imports. The industry brought two sets of antidumping and countervailing duty cases in 2011–2012 and in 2014–2015. Despite victories in these cases, dozens of U.S. producers were forced to close, declare bankruptcy, or lay off workers. USTR was engaged in an effort to resolve the solar dispute, as well as China's retaliatory cases on U.S. imports of polysilicon. If confirmed, will you commit to continuing to work for a favorable outcome for the U.S. solar manufacturing industry and its workers? If negotiations prove unsuccessful, what specific steps should the United States take to address China's distortive and harmful trade practices?

Answer. I am aware of the longstanding complaint of the U.S. solar panel industry, validated repeatedly by the determinations of the U.S. Department of Commerce and the U.S. International Trade Commission (ITC), that China has been dumping and selling subsidized solar panels into the U.S. market, causing injury to our industry and workers. This unfair trade practice was targeted at an important and growing U.S. industry. Worse even, once the United States acted to apply its WTO-consistent remedy, China retaliated by bringing its own antidumping duty case of questionable merit against producers of U.S. polysilicon. I can assure you that, if I am confirmed, USTR will reinvigorate its efforts with our industry in all areas to address the trade challenges that we face in the solar sector.

ALUMINUM

Question. I have raised serious concerns about efforts by China to undermine American aluminum producers through massive subsidies that distort world market prices, circumvention of trade remedies decisions, and acquisitions of U.S. producers that raise national security concerns. The United States has brought a case before the WTO, arguing that Chinese government support of the aluminum industry has caused serious prejudice to the United States. This is one of the most effective ways of responding to broad-based efforts by foreign governments to tilt the competitive field in favor of their companies.

If confirmed, will you expeditiously move this case forward at the WTO, and be willing to bring similar cases for other industries where the facts warrant it?

Answer. I am aware of the complaint filed that was filed in the WTO on Chinese aluminum subsidies. Broad-based efforts, such as this one by the Chinese government to tilt the competitive field in favor of its companies using artificial, nonmarket mechanisms to advantage its producers is a serious problem that hurts U.S. workers and businesses. If confirmed, I will seek to attack unfair trade practices such as these as effectively as possible, using all appropriate tools.

WHEAT

Question. In Oregon and across the country, wheatgrowers depend on access to international markets to export product overseas and create job opportunities in rural communities. The previous administration brought several important WTO cases related to agriculture, including two cases against China for its provision of market support for products including wheat in excess of its WTO commitments and its failure to implement its commitments with respect to tariff rate quotas. If confirmed, would you continue to prioritize these disputes?

Answer. I am aware of the pending matters that the United States has brought to the WTO involving the massive amounts by which China has exceeded its Aggregate Measure of Support and its WTO-inconsistent administration of its Tariff-Rate Quota for wheat, rice and corn. If I am confirmed, enforcement of fundamental U.S. rights such as these with respect to agricultural exports will remain a priority. I understand the serious concerns at issue with respect to these disputes, and look forward to discussing them further with you and the staff at USTR.

PERU FORESTRY

Question. For years, I have been raising serious concerns regarding Peru's implementation of commitments in the Forestry Annex to the U.S.-Peru trade agreement and massive shipments of illegally harvested timber destined for the United States. To address this challenge, USTR initiated a first-ever verification using special procedures in that agreement, which identified several shortcomings in Peru's forest management system that have contributed to trade in illegally harvested timber. Despite these steps, in recent months, Peru has appeared no closer to addressing the serious concerns identified than it was before the verification began. What specific steps will you take to ensure that Peru adheres to its obligations in the trade agreement and that trade in illegally harvested timber is stopped?

Answer. I am aware of your longstanding interest in and efforts to advance implementation and then enforcement of the forestry commitments that Peru undertook in its free trade agreement with the United States. These commitments are important and far-reaching and have taken great effort over a number of years to pursue. If confirmed, I am fully committed to ensuring that Peru implements fully its obligations under the Forestry Annex. I look forward to working with you and other members, as well as our stakeholders, to ensure that we achieve that goal and to determine the most appropriate next steps.

TRANSPARENCY

Question. Getting more transparency in our trade policy has been a top priority for me. Ordinary Americans need to know what our trade policymakers are up to, so that they can ask informed questions at town halls and help ensure that their interests are represented by America's trade agenda. Transparency is critical both in trade enforcement as well as negotiations for new agreements. The trade bills Congress passed last year include a host of new requirements to raise the bar when it comes to transparency. If confirmed, I expect you to consult closely with Congress and follow to the letter the new transparency and consultations requirements Congress established as part of the Trade Promotion Authority bill we passed in 2015 and the enforcement bill in 2016. Will you commit to do that?

What specific steps will you take to improve transparency and consultations with the public? In addition, will you allow cleared advisors to have timely access to the proposals made by our trading partners during negotiations to ensure that you are getting the best possible advice?

Answer. One of the most important areas in which we need to do better is in reaching out to, listening to and communicating with the full range of stakeholders in the United States.

I understand the importance that you and Congress place on these issues. If confirmed, I will ensure that USTR follows the TPA requirements related to transparency in any potential trade agreement negotiation. I will also look forward to discussing with you ways to ensure that USTR fully understands and takes into account the views of a broad cross-section of stakeholders, including labor, environmental organizations, and public health groups, during the course of any trade negotiation. My view is that we can do more in this area to ensure that as we formulate and execute our trade policy, we receive fulsome input and have a broad and vigorous dialogue with the full range of stakeholders in our country.

DIGITAL TRADE

Question. The last administration made significant strides in addressing barriers to trade in services, particularly services that are reliant on digital trade. It pushed for new, 21st-century disciplines both in TPP and in negotiations for a plurilateral Trade in Services Agreement (TiSA). Those new disciplines include obligations that prevent our trading partners from requiring data to be stored in their country and restricting cross-border data flows, as well as commitments on related services, such as electronic payments. Such restrictions break the Internet into country-sized pieces, inhibiting the free-flow of information as well as commerce. Do you view addressing data localization and cross-border data flows for the United States as a priority? Will you commit to continuing the policy of pursuing strong commitments on all services, including digital trade in U.S. trade negotiations?

Answer. The U.S. services sector is highly innovative and a key driver of the U.S. economy. Maintaining a vibrant U.S. services sector and expanding U.S. services exports, including in those areas of core U.S. strength, such as the Internet sector, is vital to a healthy economy and a key objective of U.S. trade policy. Addressing

barriers to digital trade, such as restrictions on cross-border data flows and other data localization requirements by foreign governments, can help achieve those objectives. If confirmed, I look forward to working with you to pursue our services and digital trade priorities.

Question. The United States leads the world in the Internet economy—and that is in part due to the United States having some of the most innovation-friendly laws and policies in the world. For example, Congress enacted core protections like section 230 of the Communications Act (enabling Internet platforms to serve as commercial marketplaces), and pursued strong and balanced copyright policy like the Digital Millennium Copyright Act and fair use, and promoted open data policies. Many U.S. services are now under threat overseas due to market access barriers and protectionist and less innovation-friendly legal and regulatory frameworks. In 2014, 9 out of the top 10 global Internet properties were made in the USA. Today, only 6 of those leading brands are U.S.-based, and they are engaged in fierce competition with China and other countries for access to nearly 200 markets and 3.4 billion Internet users across the world.

How do you plan to stop other countries from blocking or discriminating against U.S. services and adopting policies that inhibit innovative Internet businesses to ensure that the United States continues to lead the world in this sector?

Answer. Maintaining a vibrant U.S. services sector and expanding U.S. services exports, including in those areas of core U.S. strength, such as the Internet sector, is vital to a healthy economy and a key objective of U.S. trade policy. Addressing barriers to digital trade, including policies that discriminate against U.S. digital services, can help achieve that objective. If confirmed, I look forward to working with you to pursue this objective.

Question. I am deeply concerned that U.S. companies face the most uneven of playing fields in China. Increasingly, Chinese regulation is making it difficult or even impossible for U.S. cloud services companies to operate in China. Meanwhile, Chinese cloud service providers can operate in the United States today without similar regulatory restrictions. U.S. cloud service providers are strong catalysts for economic and jobs growth, and it is unacceptable to think that they could be locked out of China entirely. Can you promise that you will prioritize this issue in your discussions with Chinese officials and underscore that China must stop discriminating against U.S. cloud service providers?

Answer. I recognize that U.S. leadership in the technology sector, particularly in cloud computing, is a national strength and a source of our international competitiveness. I agree that our trade policy should work to ensure that U.S. companies in this sector can thrive globally, including in China, where I recognize that barriers have been severe and contrast sharply with the open market in the United States. If confirmed, I will look forward to working with you on these issues, and I will make seeking progress in reducing barriers to U.S. companies in this sector, including in China, a priority.

Question. The Obama administration requested that the U.S. International Trade Commission conduct three investigations under section 332(g) of the Tariff Act of 1930 regarding the value of new digital technologies for U.S. firms and the impact of barriers to digital trade on U.S. firms' competitiveness in international markets. It is critical that the United States have a full understanding of the digital trade landscape to inform its position in trade negotiations and to identify major trade barriers in the digital sector that impact manufacturers as well as the services sector and small businesses. Will you commit to making these reports public so that policymakers and the public can use them to inform views and priorities in the new economy?

Answer. I agree that the Internet is "the shipping lane for 21st-century goods and services" and the digital economy is critical to the ability of the United States to compete in the 21st-century global economy. I support the request made to the ITC to conduct the three investigations relating to digital trade. If confirmed, I will work closely with you and other Senators and members to set priorities concerning the digital trade and investment matters, and discussing with you, if I am confirmed, ways to share to the maximum extent possible the three ITC studies requested.

TRADE AND ENVIRONMENT

Question. You have said that climate legislation, such as a carbon tax with a border adjustment that ensures neutral and equal application of regulatory require-

ments to imports, could be enacted consistently with our WTO obligations. Do you continue to hold that view?

Answer. If I am confirmed as USTR, I will not have responsibility for climate policy. That will be a question for the Congress and appropriate administration officials. However, I do believe that our WTO obligations do not preclude us from achieving our environmental policy goals in a manner consistent with true market-based competition.

TRADE AND LABOR

Question. You have mentioned the importance of labor commitments in trade agreements and the need for tougher enforcement of those commitments. The Obama administration obtained enforceable labor standards in TPP as well as enforceable implementation plans, setting out specific requirements that countries must meet in order to comply with their TPP obligations. Those implementation plans were an important tool to ensure that trading partners made the changes to their domestic law necessary to fulfill their commitments.

If confirmed, and should you pursue new negotiations with the parties to TPP, would you seek both enforceable labor standards as well as enforceable action plans to address shortcomings in our trading partners' labor regimes?

Answer. Labor protections are important negotiating objectives that Congress has set out in TPA. If confirmed, I look forward to consulting closely with you and other members of Congress and stakeholders with an interest in these issues as we seek to negotiate trade agreements that reflect high-standard protections for our workers and to ensure a level playing field for American workers and businesses.

USTR ROLE

Question. There are a number of people at the White House who have been given responsibility for trade policy, including the President's advisor for international negotiations and the new National Trade Council. In addition, the President has at times suggested that the Secretary of Commerce will have lead responsibility for renegotiating NAFTA.

Could you please explain the role that each of these individuals would play in trade negotiations, mindful of the statutory responsibility of the USTR to have primary responsibility for developing United States trade policy and to serve as the principal spokesperson on trade?

Answer. As I stated during my testimony, if confirmed as USTR, I fully expect to have the full statutory authority over trade policy, including serving as the President's principal spokesperson on trade, as intended by Congress.

In my experience with previous administrations, there are almost always, several sources of influence over trade policy, and it is the Trade Representative's job to balance these interests and sort it out. I have a very good relationship with Secretary Ross and others in the White House and expect to enjoy a fully collaborative relationship with each.

CURRENCY

Question. The President repeatedly stated on the campaign trail that he would instruct his Treasury Secretary to name China a currency manipulator on "Day 1", but has yet to do so. Do you share the President's view that China should be named a currency manipulator? As the USTR, what advice would you give the President on the implications of naming China a currency manipulator today?

Answer. If confirmed, I will work with other administration officials, including at the Department of the Treasury, to develop an effective approach for addressing the problem of currency manipulation. In the past, it has been my judgment that China was a substantial currency manipulator. I think we've lost a lot of jobs in the United States because of it. And, it's not just China. There are other countries that have done it. As for today, the lead responsibility for determining whether China is a currency manipulator falls to the Department of the Treasury.

Question. Currency manipulation by U.S. trading partners is a serious trade barrier facing our manufacturers, and this committee has spent a lot of time grappling with the problem. Last Congress, two bills—the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA 2015) and the Trade Facilitation and Trade Enforcement Act of 2015—that contained provisions addressing currency ma-

nipulation were signed into law. In TPA 2015, Congress identified currency manipulation as a subject that should be addressed in future trade agreements.

Will you commit as USTR to addressing currency manipulation as a part of any future trade agreements, including any renegotiation of NAFTA?

Answer. I understand the importance that you and Congress place on this issue. I have also been long concerned about the potential for currency manipulation and misaligned currency to affect international trade flows. If confirmed, I will make every effort to satisfy the TPA priority negotiating objective and will work with you and Congress to determine the best means to address this longstanding issue.

NAFTA

Question. When Secretary Mnuchin was before this committee for his confirmation hearing, he indicated that the outcomes in TPP would be a starting point for a NAFTA renegotiation. Do you share that view? Are the benefits in TPP a floor for what the administration should seek to achieve in the new negotiations it contemplates with Canada and Mexico? What specific improvements over TPP do you think the administration should seek in any NAFTA renegotiation discussions?

Answer. I believe that in negotiating a new trade agreement we should learn from, and build on, earlier negotiated trade agreements. In the case of NAFTA and TPP, there is much in TPP that goes well beyond NAFTA. So, in a renegotiation of NAFTA, we should consider incorporating those provisions as well as improving areas where we may be able to go beyond TPP. In determining what those areas are and what to prioritize, I look forward to working with you, other members of Congress, and stakeholders.

Question. Canadian subsidies to softwood lumber have been a top concern for me for years and are the subject of new trade cases before Commerce and the International Trade Commission. Canada has in the past used special procedures included in Chapter 19 of NAFTA to force U.S. trade agencies to weaken trade remedies decisions on softwood lumber. The Trump administration seems to want to renegotiate NAFTA, but have also suggested that they merely intend to "tweak" the agreement as to Canada.

What are your views on NAFTA Chapter 19? If confirmed, and if the administration initiates negotiations with Canada with respect to NAFTA, will you commit to working to address longstanding concerns with Chapter 19?

Answer. The review of disputes pursuant to trade remedy laws contained in Chapter 19 of NAFTA is an area that has raised concerns among members of Congress and U.S. industry. Should I be confirmed, I certainly would want to work with you and U.S. industry regarding your concerns on Chapter 19.

Question. I have long said that NAFTA is in need of an upgrade. The Trump administration has indicated that it would like to renegotiate NAFTA. In doing so it is important to address longstanding concerns with Canada, including those affecting U.S. dairy producers, but also important to ensure that benefits for American workers and farmers are not lost. Can you assure me that any NAFTA discussions will not move backward in terms of our existing opportunities for exports to those countries, including for dairy products? How do you plan to use these discussions to tackle deeply entrenched areas where there are in fact serious concerns—such as with the various types of barriers our dairy exports to Canada continue to face?

Answer. I understand that Canada maintains strict limits on imports of dairy products, through its supply management program and other non-tariff barriers. If confirmed, I will consult with you on the most appropriate way to address this matter. If confirmed, I will work to achieve the expansion of U.S. agricultural exports, including dairy products, through negotiations with our trading partners that create enhanced export opportunities while we maintain the current markets that we already have.

Question. Canada and Mexico made new commitments on digital trade in the TPP, these commitments are significant because the free flow of information across borders is important not only to brick and U.S. technology firms, but increasingly to businesses of all sizes and types. Another aspect of the digital revolution we are experiencing is the power it has unleashed for very small businesses. If you have an Internet connection, you can now find customers abroad and become an exporter—a prospect that was unthinkable for small businesses 15 or 20 years ago. We need to encourage this commerce that is becoming a larger share of U.S. exports. One barrier is the red tape that other countries impose on imports, that make

it hard for very small businesses to efficiently export. In the United States, we have a $800 de minimis threshold to exempt imports from duties and many formalities of importation. Canada's threshold is 20 Canadian dollars. This is a huge barrier for our small businesses.

Will you demand that Canada increase its de minimis threshold as part of any NAFTA renegotiation, and will you use any other opportunity to raise this with them?

Answer. If confirmed, I will consult with Congress and domestic stakeholders to develop a strategy that seeks to address concerns with Canada's low de minimis level. I believe that increasing Canada's de minimis level could be a significant issue in our overall bilateral trade engagement with Canada, as well as in our engagement with Canada in multilateral trade forums.

ASIA-PACIFIC

Question. The Trump administration withdrew from the proposed Trans-Pacific Partnership agreement negotiated by the Obama administration. Several countries in the Asia-Pacific that were party to that agreement are now considering ways to deepen trade ties in the absence of U.S. engagement in the region. In the absence of TPP, what specific steps will you take to ensure that U.S. workers, farmers, and manufacturers have the same opportunity to compete in countries such as Japan and Vietnam as workers, farmers, and manufacturers in Europe, Australia, Canada, and other countries that have concluded or are in the process of negotiating trade agreements with those countries?

Answer. The Trump administration intends to play a strong leadership role in the Asia-Pacific, including through the active negotiation of bilateral trade agreements and other trade initiatives aimed at ensuring that U.S. workers, farmers, ranchers and businesses have a fair opportunity to compete in these markets. If confirmed, I look forward to working closely with you and Congress to increase U.S. economic growth, foster job creation in the United States, promote reciprocity with our trading partners, and enhance U.S. competitiveness in the Asia-Pacific region and globally.

T–TIP

Question. The European Union is the top export market for the United States. At the same time, U.S. businesses and farmers face significant barriers to the EU market. The Obama administration had launched T–TIP negotiations with the EU to those barriers our exporters—where I believe we could be even more successful.

Do you support continuing those negotiations? What alternative would you suggest to address trade barriers in the EU?

Answer. I agree with you about the importance of the EU as an export market for the United States. I understand that the T–TIP negotiations sought to reduce or eliminate barriers to U.S. exports in the EU, and that, while the United States made progress toward that goal, a number of difficult issues could not be resolved. I would look forward, if I am confirmed, to consulting with you and with other members of the committee on whether, when, and how to proceed with a trade agreement with Europe. It is our impression, though, that upcoming elections in France, Germany, and other EU member states will, in any case, make it difficult for the EU to resume comprehensive trade negotiations until at least the end of this year. In the meantime, we would be open to exploring ways to address barriers to U.S. exports and to expand trade with the EU and its member states. As I said during my confirmation hearing, we also want to look for opportunities to strengthen cooperation with the European Commission and with EU member state governments on global trade issues of common concern, including the non-economic expansion of production capacity around the world in critical sectors such as steel, aluminum, and solar panels.

BORDER-ADJUSTABLE TAX

Question. When you testified before the Ways and Means Subcommittee on Trade in 2007 you spoke at length about the unfairness of the tax rebates that countries are granting under their VAT systems of taxation. You said that you would tell those countries that if the inequity is not corrected by an agreement within 18 months, than the United States would "start countervailing against people who rebate their taxes when they ship to the United States." The Ways and Means Committee Republicans recently proposed that the United States adopt a border adjust-

ment of its own, with a rebate on exports. If we were to do so, is it your view that our exports would be countervailable by other countries?

Answer. The WTO rules for indirect taxes and direct taxes differ greatly. This raises fundamental issues for WTO Members that may rely more on direct taxes rather than indirect taxes for revenue. For decades, Congress has identified correcting this imbalance as a negotiating objective of the United States. If the imbalance were to be fixed, rebate of direct taxes would not be countervailable under WTO rules. I am very much aware of the issue and take it very seriously. If confirmed, I look forward to working with you as to the most appropriate approach to address this issue.

SERVICES

Question. Services accounted for 30 percent of U.S. exports in 2014, supporting 4.6 million jobs. We are by far the largest services exporter in the world, with exports of $710 billion dollars in 2014 and a trade surplus in services of $233 billion. And, our robust service sector is critical to supporting the manufacturing sector and small businesses. This success comes despite the fact that there are many barriers in overseas markets; we could be doing even more. Negotiations for the Trade in Services Agreement have made significant progress to pull down these barriers. Do you agree that pursuing Trade in Services Agreement (TiSA) negotiations at the WTO would serve U.S. interests in lowering barriers in trade in services? What plans do you have to capitalize on U.S. leadership in services and make sure that markets are open to services exports?

Answer. The U.S. services sector is highly innovative and a key driver of the U.S. economy. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy economy and a key objective of U.S. trade policy. If confirmed, I look forward to working with you to pursue our services trade priorities.

GEOGRAPHICAL INDICATIONS

Question. There is a growing set of strategies that our competitors use to shut us out of foreign markets. For example, the EU is very aggressive in pursuing the misuse of geographical indications in third countries to impede competition from the United States. They do this through international forums, as well as in their trade agreements and other arrangements with countries around the world, hoping to lock U.S. food products out of those markets. The last administration made it a point to work to aggressively combat these types of threats created by government policy to U.S. exports. If confirmed, how will you work to create a level playing field for our companies so that their food products can reach consumers around the world?

Answer. I understand that the United States and the EU have long-standing differences over the scope and level of intellectual property rights protection for geographical indications (GIs). If confirmed, I will continue to raise strong concerns regarding the impact of the EU's GI policies on market access for U.S. owners of trademarks and U.S. producers and traders using common food names. I would also direct my staff to continue to press the EU to expand market access for U.S. producers into the EU and also work to safeguard third country markets, including through the removal of barriers such as overly broad GI protection for EU products.

ISRAEL

Question. The Trade Facilitation and Trade Enforcement Act of 2015 tasked negotiators of proposed trade agreements with other countries regarding commercial partnerships with discouraging actions by those countries that prejudice or discourage commercial activity solely between the United States and Israel; discouraging politically motivated boycotts of, divestments from, and sanctions against, Israel and seeking the elimination of politically motivated nontariff trade barriers; and seeking the elimination of state-sponsored unsanctioned foreign boycotts of Israel, or compliance with the Arab League Boycott of Israel. Do you commit to pursuing the goals set out by Congress in this provision in the conduct of trade negotiations?

Answer. If I am confirmed, I will follow the position of the administration to oppose strongly and actively boycotts or similar efforts targeted against the State of Israel, and I will ensure that USTR follows the guidance provided by Congress, including the principle negotiating objective contained in TPA, in any potential trade negotiation.

GENERALIZED SYSTEM OF PREFERENCES (GSP)

Question. Last year, Chairman Hatch and I, along with many colleagues on both sides of the aisle, wrote Ambassador Froman urging him to follow congressional intent and request the President designate travel goods as duty-free for all GSP eligible countries. The Obama administration deferred a final decision on this matter, and it will now be up to the current administration to make the designation. As USTR, will you recommend to the President that the GSP program, with appropriate consideration due to domestic production, should allow for duty-free imports of designated travel goods from all GSP eligible countries?

Answer. I understand there is a great deal of interest by some members of this committee, and travel goods importers, in extending duty-free treatment to the more economically advanced GSP countries for travel goods. If confirmed, I commit to carefully review this issue, consult with you and with the committee and the Ways and Means Committee, and advise the President accordingly.

Question. The Government of Tanzania is currently engaging in actions that appear to violate the rights of U.S. investors and impede U.S. trade and investment in that country. If you are confirmed, will USTR take steps to impose consequences on Tanzania and other countries that engage in similar activities? For example, would you be open to considering whether Tanzania's actions provide a basis for suspending its eligibility under the Generalized System of Preferences?

Answer. If confirmed, I will commit to work with you and the committee, as well as the interagency and stakeholders, to ensure that foreign governments treat the United States, U.S. investors, and U.S. exports fairly and comply with their legal obligations. As part of this commitment, I look forward to working to ensure that GSP and AGOA beneficiary countries are meeting the GSP and AGOA statutory eligibility criteria.

QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

Question. China and other countries like Japan have a long history of manipulating their currencies, hurting American workers and manufacturers. Some reports indicate as many as 5 million jobs, many of which are manufacturing jobs, have been lost due to currency manipulation and other unfair barriers and practices.

How will you successfully deal with countries such as China and Japan that have a long history of manipulating their currencies?

What tools would you use to stop our trading partners from subsidizing their exports and violating their agreements?

Answer. If confirmed, I will work with other administration officials to develop effective approaches to address the problem of currency manipulation. I will also support strict enforcement of our trade remedy laws to deal with unfair trade.

Question. I have called for prioritizing currency manipulation in our trade negotiations. I have already spoken to Secretary Mnuchin about this, and he said he supports the inclusion of strong enforcement provisions in our trade agreements.

Will you commit to supporting and negotiating the inclusion of strong and enforceable currency provisions in future trade agreements?

Will you commit to including currency provisions in a future NAFTA renegotiation?

Answer. As indicated in my response to the above question, I am committed to developing effective approaches to address the problem of currency manipulation. If confirmed, I will work with other administration officials, including Secretary Mnuchin, to develop the best possible enforcement tools.

Question. Agriculture is Michigan's second-largest industry, and agricultural exports support about 24,000 jobs in my State. As this administration considers reopening discussions around NAFTA, I'm concerned that the aspects of the agreement which have largely been working well—which includes agriculture—may be targeted in order to make changes in other areas. Additionally, certain agricultural industries are still facing some challenges with our NAFTA trading partners, including longstanding trade barriers with Canada for our dairy producers and market access issues in Mexico for our potato growers.

Will you commit to working with me to ensure that any renegotiation of NAFTA works for our farmers—both in preserving the gains agriculture has seen under the agreement and in addressing some of these ongoing trade barriers?

Answer. If confirmed, I will strengthen American agriculture through negotiations that create enhanced export opportunities for our farmers and ranchers, while we maintain the current markets that we already have. If confirmed, I will also work with you and other members of Congress to resolve barriers to U.S. agricultural exports and to ensure that trading partners meet international trade obligations.

Question. In December 2015, in the face of threats of trade retaliation from Canada and Mexico, Congress repealed Country of Origin Labeling (COOL) for certain beef and pork products. Congress did this to comply with a conclusive WTO ruling against COOL and therefore to remove the threat of trade retaliation. Even so, Canada and Mexico have not officially withdrawn the case, leaving American producers and businesses wondering when they can move on from this difficult, hard-fought dispute.

Will you commit to raising this issue with Canada and Mexico and bringing the case to a close?

Answer. If confirmed, I will be committed to working with Canada and Mexico to formally terminate this dispute.

Question. Until 2002, the U.S. was a net exporter of cherries. Now, over 40% of our tart cherry consumption is made up of imports, primarily from Turkey, Poland, and Hungary. In particular, subsidized production and exports from Turkey are threatening to put our domestic cherry producers out of business.

Will you commit to working with me and meeting with farmer and industry representatives to discuss this issue and pursue options to address their concerns?

Answer. If confirmed, I look forward to working with you, cherry producers and industry representatives on this issue.

Question. Japan's auto market is the world's third largest after China and the United States. However, Japan's auto market is also the most closed among developed countries. Imports from the United States and around the world only account for a fraction of Japan's passenger car market. At the same time, Japanese domestic automakers export millions of vehicles to open markets around the world, including the United States.

How do you see USTR's role in the U.S.-Japan economic dialogue and what do you see as the main U.S. priorities?

Answer. I share your serious concern with respect to the large imbalance in our auto trade with Japan. If confirmed, I will utilize all opportunities to address barriers to U.S. autos as well as barriers to other U.S. goods and services exports to Japan, and look forward to working closely with you and others in Congress to aggressively address priority U.S. market access concerns.

Question. How will you secure policy reforms that will remove Japan's non-tariff barriers and achieve access to Japan's closed auto market?

Answer. Removing non-tariff barriers facing U.S. auto exports to the Japanese market requires comprehensive, sustained engagement. If confirmed, I pledge to work closely with you and with U.S. stakeholders by placing a high priority on our engagement with Japan to identify and remove the multiple barriers and enable U.S. manufacturers finally to have the opportunity to compete on a level playing field.

Question. Given our long-standing trade problems with China, I do not believe they deserve market economy status at the WTO and I have serious concerns about China's pursuit to change this designation. I am also concerned the EU will consider changing its previous position on China's market economy status.

Will you work with the EU and our other allies to maintain China's non-market economy status?

Answer. Many WTO Members, including the European Union (EU), currently apply a non-market economy methodology to China in antidumping proceedings. If confirmed, I commit to doing everything I can to persuade these Members to work with the United States in strongly defending our right to continue to apply a non-market economy methodology to China at the WTO.

Question. The steel industry is a critical economic driver in Michigan, employing more than 7,000 jobs and supporting nearly 50,000 additional jobs. As you know, the steel industry is facing a crisis because of global overcapacity.

How can we press China and other countries on the problem of steel overcapacity?

How can we work with our allies to combat this serious problem?

Answer. If confirmed, I will conduct a review of all the available tools to address the serious overcapacity problems in steel and other sectors, work to address also the root causes of those problems, and continue to work closely with other leading steel producing countries in the Global Forum on Steel Excess Capacity and other contexts.

I also will examine how we might use our existing bilateral dialogues to press China to fix its unfair trade practices and vast excess capacity problem in many industrial sectors.

Meanwhile, if confirmed I will vigorously defend our trade remedy laws, and aggressively utilize all available tools in the WTO and under other mechanisms to deter and address Chinese government subsidies and other forms of industrial policy and government support that provide artificial, non-market advantages to Chinese firms, including state-owned enterprises, in the steel sector.

Question. You have spent many years fighting for strong action against foreign subsidies in the steel sector and their harm on American workers and businesses. Aviation workers in Michigan and across the country are currently facing a related issue. The U.S. is party to over 100 "Open Skies" agreements. However some countries in the Middle East provide subsidies to their state-owned airlines, creating competitiveness concerns that put our U.S. aviation jobs at risk.

If you are confirmed, will you actively work to remedy these subsidies and level the playing field?

Answer. I understand the importance of this issue, and of ensuring that our international airlines compete on a level playing field across the globe. If confirmed, I will look into this matter and work closely with other involved agencies, such as the State Department and Department of Transportation, to do everything we can to ensure that our international carriers have a fair and equal opportunity to compete.

Question. I am very concerned about the offshoring of U.S. jobs. NAFTA's weak and unenforceable labor and environmental side agreement has contributed to this offshoring.

Will you commit to negotiating stronger labor and environmental standards in a NAFTA renegotiation?

If yes, will you commit to including these commitments in the main text of the agreement?

Answer. I share your concern about the enforcement of labor and environmental laws by trading partners, which is important to ensure a level playing field for U.S. workers, ranchers, farmers and businesses. NAFTA does not incorporate advances made in later agreements and addresses labor and environment issues only in side agreements. If confirmed, I commit to work closely with you, other members of Congress and stakeholders to ensure that NAFTA is updated in ways that comply with TPA objectives for labor and environment, including by placing enforceable labor and environment commitments in the main text of the agreement.

Question. I am concerned about transparency in our trade negotiations, particularly the inability for the public and public interest groups to provide input on negotiated texts that are often kept hidden.

Are you satisfied with the current advisory system for our trade agreements?

Would you support including public interest groups such as labor, environmental, and public health groups to assist in advising and helping shape U.S. proposals and rules under negotiation?

Answer. One of the most important areas in which we need to do better is in reaching out to, listening to and communicating with the full range of stakeholders in the United States.

I understand the importance that you and Congress place on these issues. If confirmed, I will ensure that USTR follows the TPA requirements related to transparency in any potential trade agreement negotiation. I will also look forward to dis-

cussing with you ways to ensure that USTR fully understands and takes into account the views of a broad cross-section of stakeholders, including labor, environmental organizations, and public health groups, during the course of any trade negotiation. My view is that we can do more in this area to ensure that as we formulate and execute our trade policy, we receive fulsome input and have a broad and vigorous dialogue with the full range of stakeholders in our country.

Question. The American film and television industry supports over 2 million jobs across the country. In Michigan, the industry supports more than 31,000 jobs and 2,450 small businesses. A big part of the industry's trade surplus is revenue from online distribution that depends on copyright protections.

What will you do as USTR to protect U.S. copyrights?

Answer. If confirmed, I would seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners would be a top trade priority.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

PATENTS/INNOVATION/IP

Question. America leads the world in biomedical research and discovery. But weak intellectual property protections and a growing array of localization barriers abroad are threatening innovative medicine exports and the many jobs they support here at home. China has never lived up to the intellectual property commitments it made to the United States and other WTO members 15 years ago. Despite free trade agreements, U.S. inventors can't get and keep patents in Australia, Canada, Colombia and other countries. India and Indonesia enjoy one-way duty-free access to our market under GSP, but don't provide a level playing field for products made in the USA.

If confirmed, what will you do to ensure American innovations and jobs are valued and protected in overseas markets?

Answer. I agree that we need to do more to enforce the IPR provisions of our trade agreements. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

Question. Intellectual property is crucial to the well-being of our economy. More money is spent on R&D in the United States than in any other country in the world. In fact, 30% of the American workforce is employed directly or indirectly in IP-intensive industries. But in order to continue accelerating the pace of innovation in our economy, our trading partners must all play by the same rules with respect to market access and protecting intellectual property.

How can the United States use new and existing trade agreements, including enforcement tools, to ensure U.S. businesses benefit from strong intellectual property protections and greater access to global markets?

Answer. I believe that innovation is the central nervous system of the U.S. economy and the key to our comparative advantage in many sectors. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

Question. We have seen a disturbing trend in recent years whereby some of our trading partners have ignored their international commitments, particularly with respect to intellectual property protection, either by failing to fully implement agreements or by flouting the rules in order to give their businesses an unfair advantage. These decisions are short-sighted and ultimately discourage innovation, investment and job growth.

What can your agency do to ensure our trading partners are enforcing existing commitments and deter countries from weakening such standards in their own IP regimes?

Answer. I believe that innovation is the central nervous system of the U.S. economy. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

Question. IP and innovation drive productivity, employment, and economic growth, particularly for industries like U.S. biopharmaceutical industry, which supports approximately 4 million U.S. jobs.

In your view, how does the monitoring and enforcement of trade agreements impact the sustainability and growth of IP-intensive industries such as the biopharmaceutical sector?

Answer. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. As the global trading system expands, monitoring and enforcement becomes increasingly important, especially with respect to IP-intensive industries. American intellectual property must be respected and monitoring and enforcement of our existing trade agreements are key to this effort. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

Question. What should the administration be doing to stand up for free and fair trade and strong protections for the intellectual property rights that drive U.S. economic growth and a U.S. comparative advantage in global trade?

Answer. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

Question. Thanks to U.S. ingenuity and stewardship, the Internet has powered U.S. trade, opened up new foreign market opportunities for U.S. small and medium-sized businesses, spread American values, and spurred U.S. innovation in all sectors. At home, the Internet is a crucial U.S. industry as online services are a fundamental enabler of the economy, generating 6% of GDP.

Online services and ongoing U.S. innovation rely on the balanced approach to copyright enshrined in U.S. law—including both strong copyright protections and robust copyright limitations and exceptions like fair use and safe harbors. These core U.S. concepts are critical to U.S. Internet innovation and enable machine learning, artificial intelligence, e-commerce platforms, consumer electronics, and many other technologies.

How will you make sure that the U.S. approach to copyright in trade agreements is serving all U.S. stakeholders and U.S. interests?

Answer. I understand the importance that Congress places on this issue. If confirmed, I will ensure that USTR makes progress, in any trade negotiation, in advancing U.S. priorities in this area. I look forward to working with you and all interested stakeholders to address these specific issues.

LUMBER/TIMBER

Question. The forestry sector represents a vital part of our economy in Washington State. The sector supports some 30,000 jobs and almost $2 billion of annual payroll in many communities that depend on this industry for their survival. The U.S. forestry industry is highly competitive, but it cannot compete, survive, or grow under the constant barrage of unfairly traded and subsidized Canadian softwood lumber.

Can you assure me that you will work closely with my office and the U.S. industry to bring about an effective and sustainable new Softwood Lumber Agreement?

Answer. Ensuring that U.S. softwood lumber producers can compete on a level playing field against the negative effects of subsidized Canadian softwood lumber imports is an important priority for the Trump administration. If confirmed, I will direct USTR to continue its close engagement with this important industry that provides good jobs across America.

Question. Do you agree that such an agreement must remain purely a bilateral agreement, and cannot be thrown into the mix of a NAFTA re-negotiation?

Answer. I understand that there can be no softwood lumber agreement without the participation of our softwood lumber industry. If confirmed, I commit to working with your office, our softwood lumber industry, and other stakeholders should U.S. producers seek a new agreement. I understand the importance of both the content and the form of any such agreement and will also work closely with you and U.S. industry to address those concerns.

TECH/DIGITAL TRADE

Question. Members of the Finance Committee from both sides of the aisle are champions of advancing a digital agenda in U.S. trade policy, particularly as part of the services agenda. It was clear by the addition of objectives in the new trade promotion authority legislation on data flows and combating barriers like data localization in the 2015 TPA objectives. I am interested in understanding how you are going to drive this part of the agenda for U.S. interests, particularly given the challenges of digital protectionism that we are facing around the world from China to the EU.

Answer. I recognize the importance of the digital economy to American jobs, prosperity and security, and U.S. companies' unique competitive advantages in this area. If confirmed, I look forward to working closely with the Congress on fulfilling objectives set out in TPA, including with respect to digital trade.

Question. I was heartened to hear from Secretary Ross, in his response to a question for the record asked at his confirmation hearing, that this administration recognizes the importance of the digital economy to American jobs, prosperity and security.

One of the principal negotiating objectives of the United States laid down in the bipartisan Trade Promotion Act is "to ensure that governments refrain from implementing trade-related measures that impede digital trade in goods and services, [or] restrict cross-border data flows."

Mr. Lighthizer, as U.S. Trade Representative, what steps will you take to achieve the TPA's digital trade goals?

Answer. Like Secretary Ross, I recognize the importance of the digital economy to American jobs, prosperity and security, and U.S. companies' unique competitive advantages in this area. If confirmed, I look forward to working closely with the Congress on fulfilling objectives set out in TPA, including with respect to digital trade.

Question. The United States has always been a leader in promoting a rules-based system, and there was good work done in the FTAs and the TPP on digital issues which have been important building blocks for agreements. Now, however, it seems that the new administration is sending signals that we want to abdicate that leadership.

How do you intend to pursue these issues given the opportunities that are already available as the WTO prepares for the December ministerial and looks to add ecommerce to its agenda, or in APEC, where Vietnam has signaled digital trade will be a centerpiece of its year, or as others work to fill the vacuum that is evident in the Trade in Services Agreement negotiations that were underway in Geneva at the end of the last administration?

Answer. I do not believe that it is correct to characterize the administration as abdicating leadership in this space. The President has made it very clear that he intends to promote American leadership in the Asia-Pacific through many channels, including by pursuing bilateral FTA's with our key TPP partners. I support that approach. If confirmed, I look forward to working with the Congress to find ways to strengthen the rules-based trade system as it applies to digital issues in all relevant fora.

Question. I want to encourage you to use every opportunity, particularly when it comes to writing new rules for 21st-century trade. We must not cede the field to China or the EU. The United States needs to guide these multilateral and plurilateral efforts to forge consensus on this important issue, it is central to our competitiveness, and will have a bearing on our bilateral successes as well.

For Washington State, services are a huge part of the economy employing 2.4 million people and accounting for $26.1 billion in exports in 2014. Services sector activity in my State covers everything from information communication technology services, to logistics, distribution to professional services. Services are critical enablers

for other parts of the economy as well making a significant contribution to manufacturing and ensuring that our agricultural products remain competitive in global markets. Data flows are part of the digital infrastructure our farmers, manufacturers, and ranchers all need.

The TPA bill recognized the importance of digital trade to the U.S. economy by designating "digital trade in goods and services and cross-border data flows" as a principal trade negotiating objective. This section of TPA directs U.S. trade negotiators to ensure our trade agreements prevent countries from taking actions that "impede digital trade in goods and services, restrict cross-border data flows, or require local storage or processing of data." Congress made this a principal trade negotiating objective since cross-border trade in data has become central to the U.S. economy. Countless American companies, whether they are selling a digital good or service, or managing customer or employee data, need to transfer data across borders to do business in foreign markets and through that create jobs at home. Yet we continue to see many foreign markets—from Europe, to Asia to Latin American—imposing data localization and other barriers to digital trade that unfairly harm U.S. companies.

Can you assure us that, consistent with TPA, addressing digital trade barriers will be a top priority for USTR in negotiations for new agreements, or updates to existing ones?

Answer. Yes. Digital trade provides enormous value to the U.S. economy, and U.S. companies face significant challenges when foreign governments impose restrictions on digital trade. If confirmed, I look forward to working closely with the Congress on fulfilling objectives set out in TPA, including with respect to digital trade.

Question. The United States has had great success in the Internet economy—and that is in part due to the U.S. having some of the most innovation-friendly laws and policies in the world. For example, Congress enacted core protections like section 230 of Communications Act (enabling Internet platforms to serve as commercial marketplaces), and pursued strong and balanced copyright policy like the Digital Millennium Copyright Act and fair use, and promoted open data policies.

But now, many U.S. services are under threat overseas, due to market access barriers and less innovation-friendly regulatory frameworks. In 2014, 9 out of the top 10 global Internet properties were made in the USA. Today, only six of those leading brands are U.S.-based, and they are engaged in fierce competition with China and other countries for access to nearly 200 markets and 3.4 billion Internet users across the world.

How would you use trade policies to stop other countries from blocking or discriminating against U.S. services, and ensure that the United States continues to lead the world in innovation?

Answer. The U.S. services sector is highly innovative and a key driver of the U.S. economy. Maintaining a vibrant U.S. services sector and expanding U.S. services exports, including in those areas of core U.S. strength, such as the Internet economy, is vital to a healthy economy and a key objective of U.S. trade policy. If confirmed, I look forward to working with you to pursue our services trade priorities.

Question. The digital economy is critical to powering U.S. exports in virtually every industry—from manufacturing to agriculture—and has also enabled U.S. small and medium-sized businesses to grow by selling to new markets that were out of reach in the past. And in Trade Promotion Authority, the Congress recognized the importance of digital economy to U.S. trade, and identified cross-border data flows and anti-data-localization as core negotiating objectives. The U.S. currently has a $159 billion trade surplus when it comes to digitally deliverable services.

What steps would you to take to preserve and grow that digital trade surplus?

Answer. If confirmed, I would consider a range of actions to support this key area of U.S. competitiveness. For example, I would look to enforce existing rules that apply to the digital economy; and where such rules need to be strengthened or extended, I look forward to working with Congress to find ways to strengthen the rules-based trade system as it applies to digital issues, including as set out in TPA.

Question. What would you do to promote open digital trade policies globally, and to support the TPA objectives on data flows and local server prohibitions?

Answer. If confirmed, I would look forward to working with Congress to identify ways to promote open digital trade policies globally, including through implementation of the relevant negotiating objectives set out in TPA as we negotiate new FTAs.

Question. Transparency has been a significant impediment to Congress and stakeholders having a real voice in our trade negotiations and providing the input that's envisioned under the law.

What specific steps will you take to improve transparency and consultations?

Answer. I am aware of the importance of the issue of transparency in U.S. trade negotiations to you, others on the Finance Committee, and many others in Congress, and of the way in which that issue arose in the drafting and passage of TPA. As a foundation for understanding current and future trade negotiations, I believe it is important to communicate clearly to the American public, to Congress, and to stakeholders the impact of U.S. trade agreements so that each can make an informed judgment about the strengths and shortcomings of any agreement. Furthermore, we should communicate clearly the specific objectives of the administration with respect to all aspects of U.S. trade policy, negotiations, and enforcement. If confirmed, I will work with Congress and stakeholders to improve the transparency of the trade negotiating process further.

Question. Will you allow cleared advisors to have timely access to the proposals made by our trading partners during negotiations to ensure that you are getting the best possible advice?

Answer. I believe that transparency and inclusiveness in trade negotiations is important to achieve the best possible deal. If confirmed, I will ensure that USTR follows the TPA requirements related to transparency in any potential trade agreement negotiation. I also look forward to discussing with Congress ways to ensure that USTR fully understands, and takes into account, the views of all stakeholders during the course of a trade negotiation.

Question. Past administrations, both Republican and Democratic, have been less than robust in their efforts to enforce labor obligations in U.S. FTAs.

What is your estimation of U.S. successes and failures in this area and what would be your priorities in this area?

Answer. In my opinion, previous administrations, of both parties, have not adequately enforced obligations in U.S. FTAs on several issues. This is not a problem specific to labor obligations. Yet there are serious consequences. When trading partners fail to enforce labor laws and do not uphold high-standard protections for workers, it can create a competitive disadvantage for U.S. workers, farmers, ranchers, and businesses. If confirmed, I will work closely with you, other members of Congress, and stakeholders with an interest in working to ensure that trading partners are acting consistently with their labor obligations in U.S. FTAs.

Question. I am fully on board with the President's assessment that trade agreements need to do much better at strengthening manufacturing and agriculture. Strength in both is indispensable to our economic health future. At the same time, services now account for fully 70 percent of our economy and we are exceptionally competitive in a broad range of services from banking and insurance, to hospitality and express delivery to software and data analytics.

What do you think are the key elements of a 21st-century trade agreement, and what elements are missing from our current agreements?

Answer. When designing these agreements, I fully intend to take advantage of USTR's statutory role to balance varying interests from across the economy, government, and public. But each agreement requires its own approach. For example, in the renegotiation of NAFTA, it will be important, in my opinion, to add a chapter on digital trade. If confirmed, I look forward to engaging with you on these issues and others.

Question. Since 1974, U.S. trade negotiators have used a system of official trade "advisors" to influence the content of trade deals. According to the *Washington Post,* approximately 85 percent of these more than 500 advisors explicitly represent corporations. The mostly corporate advisors get privileged access to U.S. trade proposals and are invited to suggest changes before they are proposed by U.S. trade negotiators while the public is barred from seeing, much less commenting on, proposed trade rules.

Do you agree that it is problematic for a select group of primarily corporate elites to have special access to shape U.S. trade proposals that are not generally available to American workers and those impacted by our flawed trade deals?

Answer. It is important that USTR's Trade Advisory Committees represent all types of stakeholders to ensure that USTR benefits fully from a diverse set of viewpoints in considering the positions it takes in negotiations. If confirmed, I will work to ensure that USTR's Trade Advisory Committees are appropriately constituted in order to achieve this goal.

Question. If so, would you work to replace that advisory system with a new process that invites the American public to help shape U.S. proposals for trade agreements and give input on negotiated texts?

Answer. In 2015 Congress passed TPA and reaffirmed the importance of the advisory system. By direction of Congress, the committees must broadly represent the American economy. I agree with the approach of Congress and if confirmed, I look forward to discussing additional means for ensuring public input into U.S. trade negotiations.

Question. Not only is our trade negotiation process dominated by corporations, but proposals for trade deals and negotiated texts are kept hidden from the public. The proposals and negotiated texts for the TPP, for example, were kept secret for over 7 years of negotiations. This forced labor unions, public health groups, environmental organizations, and the public to rely on leaked texts in order to have an idea of the trade rules under negotiation.

Would you support having all proposals and negotiated texts published online in a timely fashion so the workers and the broader public that will be impacted by these agreements have a full understanding of what is being negotiated?

Answer. I believe that transparency and inclusiveness in trade negotiations are important to achieve the best possible deal. If confirmed, I will ensure that USTR follows the TPA requirements related to transparency in any potential trade agreement negotiation. I also look forward to discussing with Congress ways to ensure that USTR fully understands and takes into account the views of all stakeholders during the course of a trade negotiation.

Question. Would you condition the participation of the United States in future trade negotiations on agreement by all involved countries to that same standard?

Answer. I believe that transparency and inclusiveness in trade negotiations is important to achieve the best possible deal. If confirmed, I will seek to ensure that our negotiating partners agree to provide opportunities for public engagement and transparency in the course of negotiations.

Question. There are several trade negotiations underway that follow the same flawed model of the now defunct TPP. These include the Trade in Services Agreement, or TiSA, the Transatlantic Trade and Investment Partnership, or T–TIP, and the U.S. China Bilateral Investment Treaty. Each of these agreements would serve to enrich multinational corporations at the expense of working people and the environment.

If confirmed as USTR, would you commit to cease negotiations on each of these three corporate trade agreements?

Answer. If confirmed, I will carefully review all previous negotiations, and look forward to consulting with you and other members of the committee on how best to proceed. With respect to T–TIP at least, it appears that upcoming elections in France, Germany, and other EU member states will, in any case, make it difficult for the EU to resume comprehensive trade negotiations until at least the end of this year. In the meantime, we would be open to exploring ways to address barriers to U.S. exports and to expand trade with the EU and its member states.

Question. Section 301 of the Trade Act of 1974 gives USTR broad powers to take action against foreign countries if they deny the United States the benefit of trade agreements or have policies or practices that restrict or burden U.S. commerce. However, in recent years USTR has been reluctant to use this authority.

What are your views on the proper use of section 301?

Answer. If confirmed, I am committed to using all available tools, including section 301, where appropriate, to address unfair foreign trade practices and to open markets for U.S. exports.

Question. Will you use section 301 to respond to the actions, policies, and practices of foreign countries that negatively affect the economy of the United States?

Answer. As noted in response to the prior question, if confirmed, I am committed to using all available tools, including section 301, where appropriate, to address unfair foreign trade practices and to open markets for U.S. exports.

Question. Other countries are increasingly using safeguards measures against imports, but the United States has not imposed relief under section 201 in more than 15 years.

Do you support greater use of safeguards cases to address global surges of imports that are causing serious injury to U.S. industries?

Answer. If confirmed, I will work with USTR staff and with other agencies to evaluate the most suitable response, including the use of section 201 where appropriate, for addressing each particular situation where imports are harming U.S. workers and businesses.

Question. Will you advise the President to use his authority to "self-initiate" cases under section 201 where you have information showing that import surges are causing serious injury to a domestic industry?

Answer. If confirmed, I will work with USTR staff and with other agencies to evaluate the most suitable response, including the use of section 201 where appropriate, for addressing each particular situation where imports are harming U.S. workers and businesses. If self-initiation is appropriate, I will recommend its use.

Question. President Trump has pointed out that, whenever the United States concludes a trade agreement, we always seem to end up seeing more imports come in, and more jobs go out. Part of the problem is that the United States is willing to remove all of our barriers, while asking other countries to dismantle only some of theirs. For example, we give their imports duty-free treatment, but they are still allowed to impose tariffs on imports from the United States.

Do you agree that true reciprocity should be a requirement for all concessions in trade agreements, so that what we receive is at least as much as what we give up?

Answer. I agree that reciprocity is a key goal for our trade agreements, and that we should be negotiating agreements in which the United States gets at least as much as we concede.

Question. Past administrations, both Republican and Democratic, have been less than robust in their efforts to enforce labor obligations in U.S. FTAs.

What is your estimation of U.S. successes and failures in this area and what would be your priorities in this area?

Answer. When trading partners fail to enforce labor laws and do not uphold high-standard protections for workers, it can create a competitive disadvantage for U.S. workers, farmers, ranchers and businesses. If confirmed, I will work closely with you, other members of Congress and stakeholders with an interest in directing our enforcement efforts to ensure that trading partners live up to their labor obligations in U.S. FTAs.

Question. Mr. Lighthizer, the President has made it clear he prefers to pursue bilateral trade deals with individual countries over multilateral agreements, such as the Trans-Pacific Partnership. The President decided to withdraw from the TPP agreement, but my constituents in Washington State still have great interest in developing a trade relationship with many of the countries that were party to that agreement. With that in mind:

Can you tell me whether there are current plans to prioritize negotiations with any of those TPP countries?

Answer. If confirmed, I will work with the Department of Commerce, the White House and other interested agencies to review carefully the best way to proceed with respect to trade negotiations with TPP countries, and look forward to consulting with you and other members of the committee on how best to proceed.

Question. Have you developed any overall criteria for deciding which countries the administration does plan to pursue negotiations with?

Answer. If confirmed, I will work with the Department of Commerce, the White House and other interested agencies to review carefully the best way to proceed with respect to trade negotiations with TPP countries, and look forward to consulting with you and other members of the committee on how best to proceed.

Question. Has the administration already developed a priority list of countries that it would like to open up negotiations with first?

Answer. If confirmed, I will work with the Department of Commerce, the White House and other interested agencies to review carefully the best way to proceed with respect to trade negotiations with TPP countries, and look forward to consulting with you and other members of the committee on how best to proceed.

Question. Mexico is the number one export market for Washington apples and pears. It is generally around a 10 million box market for apples valued at $150–$180 million per year. In the 2015/2016 season, more than 9.7 million boxes of apples, representing 8 percent of the total crop and nearly 30 percent of exports, were sent to Mexico. For pears, more than 2.4 million boxes, representing more than 56 percent of exports and 13 percent of the total crop, went to Mexico.

Under your leadership, what assurance can you provide that USTR will protect the current NAFTA duty-free access for apples and pears and reassure Washington State tree-fruit growers that the NAFTA benefits obtained to this most important market will be maintained?

Answer. If confirmed, I am committed to not only maintaining U.S. agricultural exports, but also expanding exports of all U.S. agricultural product, including apples and pears to Mexico, to generate increased economic opportunities for America's farmers and ranchers.

NAFTA RENEGOTIATION

Question. The Trump administration has committed to renegotiate NAFTA. I would like you to answer "yes" or "no" to the following questions on NAFTA renegotiation.

NAFTA's investor-state dispute settlement (ISDS) system has empowered multinational corporations like ExxonMobil to bypass domestic courts, turn to private tribunals, and demand taxpayer compensation for policies that affect the value of their investment. The policies that they have challenged include bans on toxic chemicals, court rulings that support access to affordable medicines, and protections for our climate. Corporations have used NAFTA's investment rules to extract more than $370 million from governments in such cases. Pending NAFTA claims total more than $35 billion.

If confirmed as USTR, would you eliminate broad investment rules and the investor-state dispute settlement system from NAFTA? "Yes" or "No."

Answer. I look forward to working with the Congress on the investment-related elements to be pursued in future U.S. trade agreements, consistent with the negotiating objectives set forth in the 2015 Trade Promotion Authority legislation.

Question. NAFTA's weak and unenforceable environmental and labor side agreements facilitated the offshoring of jobs so that corporations could exploit lower environmental and labor standards in another country. If confirmed as USTR, would you renegotiate NAFTA to require each participating country to adopt, maintain, and implement policies to fulfill important international environmental and labor agreements, including the Paris climate agreement and core ILO conventions? "Yes" or "No."

Would you ensure these commitments are included in the core text of the agreement and made enforceable via an independent dispute settlement process in which trade sanctions are used to correct violations?

Answer. If confirmed, I commit to work closely with you, other members of Congress, and stakeholders to ensure that the NAFTA is updated in ways that comply with TPA objectives for labor and environment, including by placing enforceable labor and environment commitments in the main text of the agreement.

Question. NAFTA limits Canada's ability to restrict production of fossil fuels and allows regulations to promote renewable energy to be challenged.

If confirmed as USTR, would you eliminate NAFTA's energy chapter and narrow rules that can be used against clean energy policies? "Yes" or "no."

Answer. NAFTA was negotiated in the early 1990s and certain provisions may need to be updated. If confirmed, I will conduct a review of the NAFTA provisions pertaining to all aspects of energy goods, services, and investment.

Question. NAFTA allows corporations to shift production to a country with lower climate standards, which can spur job offshoring and "carbon leakage." To prevent this race to the bottom, and encourage greater climate action from high-emissions trading partners, each country could be required to impose a border tax on imported goods made with significant climate pollution.

If confirmed as USTR, would you renegotiate NAFTA to penalize imported goods made with high climate emissions? "Yes" or "no."

Answer. If confirmed, I look forward to working with you, other members of Congress, and stakeholders as we update and improve the NAFTA to meet the environmental objectives in TPA.

Question. NAFTA's procurement rules limit governments' ability to prioritize job creation, labor rights, or environmental standards in purchasing decisions. For example, these rules threaten the use of "green purchasing" requirements that ensure government contracts support renewable energy, energy efficiency, and sustainable goods.

If confirmed as USTR, would you eliminate the existing procurement chapter and consider new rules that would require signatory governments to include a preference for goods and services with low environmental impacts in procurement decisions? "Yes" or "no."

Answer. I recognize the importance of procurement policy in promoting the conservation of natural resources and the protection of the environment. If confirmed, I commit to work with you on these issues.

FOREIGN COUNTRIES

Question. In the 1980s when you were deputy USTR, much of trade policy was focused on Japan, and breaking open that market, and developing new trade rules in key areas like intellectual property and services. Today, some of the most challenging barriers are created through stifling regulations. These include policies around security and privacy and cross border data flows, and may others.

What do you see as the biggest foreign regulatory polices today that impede American exports, and what do you plan to do to eliminate them?

Answer. Trade and investment policy provide important tools to address foreign regulatory practices that impede U.S. exports. I agree that U.S. companies face significant challenges when foreign governments impose restrictions on digital trade, including in the areas you have cited. Given our companies' global leadership in these areas, addressing barriers such as restrictions on cross-border data flows and other data localization requirements by foreign governments will be a priority and will benefit the U.S. economy. If confirmed, I would look to enforce existing rules that apply to the digital economy; and where such rules need to be strengthened or extended, I would look forward to working with Congress to find ways to strengthen the global trading system as it applies to digital issues, including as set out in TPA.

Question. The Peru free trade agreement was the first ever U.S. agreement to have an environment chapter subject to the same enforcement mechanism as the commercial terms of the pact. This enforcement mechanism applied to an "Annex on Forest Sector Governance" that included detailed obligations that Peru must undertake to stop illegal logging and the illegal timber trade. Despite these rules, the government of Peru in 2014 found that 78 percent of Peru's wood slated for export was harvested illegally. In October 2015, Peru's forestry oversight agency found that wood slated for export had been logged illegally in 94 percent of 144 surveyed logging operations.

For years, there has been clear evidence that Peru is consistently violating its commitments in this agreement, yet USTR has never sought to enforce the deal by initiating a dispute against Peru, despite requests from environmental organizations to do so.

Given the widely documented evidence of systematic illegal logging in violation of rules in the forest sector annex of the U.S. Peru free trade agreement, would you initiate a dispute against Peru within your first 6 months if confirmed as the next USTR?

Answer. If confirmed, I am fully committed to ensuring that Peru lives up to its commitments under the Peru FTA, including the Forest Sector Annex to the FTA, and that our other trading partners live up to their obligations under our existing

agreements. I look forward to working with you and other members, as well as other stakeholders, to determine appropriate next steps with respect to Peru.

Question. The United States has used the WTO to challenge the solar policies of India, which has prompted India to launch a similar WTO challenge against parallel renewable energy policies in eight U.S. States. At issue are the buy local policies that the United States, India, and many other countries use to create local clean energy jobs. Outdated trade rules should not be used against these policy tools that help us transition to renewable energy while creating jobs.

Moreover, the United States has more to lose than to gain in these two WTO challenges. The U.S. renewable energy programs challenged by India are worth more than $150 million while U.S. solar exports to India total less than $10 million. Indeed, India's buy local policies primarily hurt solar firms in China, not U.S. firms, which account for less than 1 percent of India's solar imports. If we lose this case at the WTO, which trade experts have deemed likely, we stand to lose far more jobs than we stand to gain via India losing its case.

Given the need to create local clean energy jobs, and the fact that these dueling WTO cases threaten a net loss of U.S. jobs, would you work to reach a settlement with India to drop both cases?

Answer. I share your interest in creating manufacturing jobs, including in the solar sector. If confirmed, I will work to ensure that our solar manufacturers, and companies in the supply chain, can compete and win on a more level playing field in this important and growing market.

Question. As you know, there was some good work that was done in the TPP context that I hope we don't lose, specifically with respect to improvements in Vietnam. For the first time, in the context of the TPP negotiations, Vietnam committed to adopt and maintain in its laws, regulations, and practices the rights stated in the International Labour Organization's (ILO) 998 Declaration on Fundamental Principles and Rights at Work, including freedom of association, the right to organize and collective bargaining, and elimination of forced labor, child labor, and workplace discrimination. This was a major accomplishment due in large measure to the United States being a key leader in the TPP talks.

Can you commit to work with me and others to prioritize a bilateral agreement with Vietnam that ensures these achievements are not lost?

Answer. If confirmed, I will work closely with you, other members of Congress and stakeholders with an interest in promoting high-standard labor protections in Vietnam, and other key trading partners in the region.

CHINA

Question. I think that for too long our trade policies have focused too much on rules and commitments, and not enough on results. I was taught that end of the day results are what count. As an example, we have had a series of commitments from China to open its markets, protect intellectual property, and end discriminatory policies. Yet these problems persist.

What will you do to focus our China policy on results and not just promises?

Answer. I agree that China should respect its commitments to the United States. If confirmed, I will work with other administration officials and Congress to review U.S. trade policy toward China, and ensure that the commitments China makes actually have real results that secure significantly increased market access for U.S. firms and fully protect U.S. intellectual property.

Question. I know that you share my concern that U.S. companies face the most uneven of playing fields in China. Increasingly, Chinese regulation is making it difficult or even impossible for U.S. cloud services companies to operate in China—likely in violation of World Trade Organization (WTO) commitments. Meanwhile, Chinese cloud service providers can operate in the United States today without similar regulatory restrictions. U.S. cloud service providers are strong catalysts for economic and jobs growth around the world, and it is unacceptable to think that they could be locked out of China entirely.

Can you promise that you will prioritize this issue in your discussions with Chinese officials and underscore that China must live up to its international commitments and stop discriminating against U.S. cloud service providers?

Answer. I recognize that U.S. leadership in the technology sector, particularly in cloud computing, is a national strength and a source of our international competitiveness. I agree that our trade policy should work to ensure that U.S. companies in this sector can thrive globally, including in China, where I recognize that barriers have been severe and contrast sharply with the open market in the United States. If confirmed, I will make seeking progress in reducing barriers to U.S. companies in this sector, including in China, a priority.

Question. China claims that its protocol of accession to the WTO requires all countries to treat it as a market economy in antidumping investigations. The U.S. Government has concluded that the United States is under no such obligation. Under the criteria applied by the Commerce Department, China is clearly not a market economy. As you are well aware, this is one of the most important issues facing American manufacturing, as well as the manufacturing sectors of the EU, Canada, and Mexico, among others.

Will you oppose market economy status for China?

Answer. I share your views about the importance of this issue and disagree with China's claim that the change in its Accession Protocol requires the United States and other WTO Members to treat China as a market economy in antidumping proceedings. If confirmed, I can assure you that USTR will vigorously defend the right of the United States to use the strongest tools possible to counteract injurious Chinese dumping.

Question. With China now challenging the U.S. position on this issue at the WTO, what will you do to defend our Nation's right to continue to treat China as a non-market economy?

Answer. If I am confirmed, USTR will vigorously defend our right to use the strongest tools possible to counteract injurious Chinese dumping, including by treating China as a non-market economy in antidumping proceedings.

Question. What can USTR do to persuade our major trading partners, including the EU and Canada, to also oppose the grant of market economy status to China and to join us in the WTO case?

Answer. Many WTO Members continue to treat China as a non-market economy in antidumping proceedings. If confirmed, I commit to doing everything I can to persuade these Members to join the United States in defending all WTO Members' right to continue to apply a non-market economy methodology to China at the WTO.

Question. At the time China joined the WTO in 2001, the assumption was that it would become a full-fledged market economy, and that the government's role in the economy would shrink significantly. Instead, exactly the opposite has happened. The government continues to own or control a substantial part of the economy, and to intervene to help specific industries and companies. This has given Chinese products a huge, and unfair, advantage in international trade. Simply put, China is not playing by the rules that underlie the international trading system.

Will you commit to using your authority under section 301 or other provisions of law to respond to the unfair advantages the Chinese government has given Chinese companies and products in international trade?

Answer. If confirmed, I am committed to using all available tools, including section 301, where appropriate, to address China's unfair foreign trade practices.

Question. Would you be willing to consider a broad-based WTO challenge to China's distortive trade practices on the grounds that China has not complied with its WTO obligations, including the obligations to allow the market to set prices and to operate state-owned enterprises on a commercial basis?

Answer. Distortive Chinese trade practices across multiple sectors and deriving from the lack of market disciplines in much of China's economy are a significant concern. If confirmed, I will seek to combat these practices as effectively as possible, using all appropriate instruments.

Question. China claims that its protocol of accession to the WTO requires all countries to treat it as a market economy in antidumping investigations. The U.S. government has concluded that the United States is under no such obligation. Under the criteria applied by the Commerce Department, China is clearly not a market economy. As you are well aware, this is one of the most important issues facing American manufacturing, as well as the manufacturing sectors of the EU, Canada, and Mexico, among others.

Will you oppose market economy status for China?

Answer. I share your views about the importance of this issue and disagree with China's claim that the change in its Accession Protocol requires the United States to treat China as a market economy in antidumping proceedings. If confirmed, I can assure you that USTR will vigorously defend the plain and clear right of the United States to use the strongest tools possible to counteract injurious Chinese dumping.

Question. With China now challenging the U.S. position on this issue at the WTO, what will you do to defend our Nation's right to continue to treat China as a non-market economy?

Answer. If I am confirmed, USTR will vigorously defend our right to use the strongest tools possible to counteract injurious Chinese dumping, including by treating China as a non-market economy in antidumping proceedings as provided for in China's Protocol of Accession to the WTO.

Question. What can USTR do to persuade our major trading partners, including the EU and Canada, to also oppose the grant of market economy status to China and to join us in the WTO case?

Answer. Many WTO Members continue to treat China as a non-market economy in antidumping proceedings. If confirmed, I commit to doing everything I can to persuade these Members to join the United States in defending all WTO Members' right to continue to apply a non-market economy methodology to China at the WTO.

AGRICULTURE

Question. The markets in Asia are critically important to Washington State growers of apples, cherries, and pears. For example, in 2016, 66 percent of cherry export shipments went to countries in the Asia Pacific region of the world. Our tree-fruit growers could benefit from free trade agreements with Vietnam, Japan, Thailand, and China.

President Trump has indicated that under his administration the U.S. will negotiate bilateral trade agreements rather than multilateral ones.

How will you make decisions regarding the countries to prioritize for bilateral negotiations and are Vietnam, Japan, and Thailand on the list of priorities?

Answer. If confirmed, I will work with the Department of Commerce, the White House and other interested agencies to review carefully the best way to proceed with respect to trade negotiations with TPP countries, and look forward to consulting with you and other members of the committee on how best to proceed.

Question. In 2016 fry exports to Japan were over $200 million. The tariff under TPP of 8.5% would have been eliminated.

The U.S. had brokered a deal with Japan to remove millions of dollars of tariffs, unnecessary trade quotas, and phytosanitary barriers on a wide variety of agricultural export goods including grains, apples, beef, dairy products, and potatoes to just name a few from my State. I understand and appreciate your past knowledge of how trade agreements are formed and that not every agreement can have the best desirable outcome. But the window of prosperity is closing for Washington farms and the United States needs an aggressive trade agenda.

With a flurry of news reports indicating farm families might be short-changed regarding the administrations trade agenda.

How will you work to assure rural voters that bilateral trade with Japan will focus on "good deals" and will not damage existing trade relations, but to enhance all agricultural trade. When can we expect the administration to formally begin bilateral trade negotiations with Japan?

Answer. I am committed to the expansion of U.S. agricultural exports through negotiations that create enhanced export opportunities for our farmers and ranchers. If confirmed, I will be sure to consult with you and other members of Congress, as required by TPA, to pursue a robust bilateral trade agenda, including with respect to any potential negotiation with Japan.

Question. Global markets are critical for Washington State—this is the case for all major sectors of my State's economy, including agriculture. But Washington's companies also have a deep interest in ensuring that our trading partners play by the rules as well.

How do we both preserve existing sales to key markets, such as the large and vitally important dairy export market in Mexico, while also fixing trade situations that have proven over the years to be deeply entrenched?

Answer. If confirmed, I am committed to the expansion of U.S. dairy exports through negotiations that create enhanced export opportunities for our farmers and ranchers, while we maintain the current markets that we already have. I will also be committed to working to resolve barriers to U.S. agricultural exports and to ensure that trading partners meet international trade obligations.

Question. An example of the latter that will harm both bilateral trade and global milk powder trade is Canada's new Class 7 dairy pricing program introduced last month. How do you plan to use NAFTA and bilateral enforcement discussions to tackle problems like we have with Canada on dairy?

Answer. I understand that Canada's supply management program for dairy is of high concern to you, other Members of Congress, and the U.S. dairy industry. If confirmed, I will examine the details of the issue and consult with you on the most appropriate way to address this matter.

AEROSPACE/AIRBUS

Question. I want to ensure that you are aware of an ongoing dispute between the United States and the European Union (EU) regarding illegal aircraft subsidies. Last September the World Trade Organization (WTO) ruled that European governments had not removed the harm caused to America's aerospace sector by $17 billion of illegal subsidies and found that the Europeans have dispensed and additional $5 billion in illegal subsidies for the development of the Airbus A350 wide body aircraft. That brings the total of illegal European subsidies for Airbus to $22 billion.

In fact, the original WTO panel concluded: "It is in our view clear that Airbus would have been unable to bring to the market the Large Commercial Aircraft (LCA) that it launched but for the specific subsidies it received from the European Communities and the governments of France, Germany, Spain, and the United Kingdom." This company—that the WTO found would not have existed but for these huge government subsidies—drove McDonnell Douglas and Lockheed out of the commercial aircraft business, taking with them thousands of American jobs.

Government subsidies to Airbus continue to destroy American jobs. As you may know, Boeing manufacturers the vast majority of its commercial aircraft in my home State of Washington. And, the export of these aircraft support high-skilled jobs in Washington State and throughout the country.

According to the Commerce Department: "In 2015, the U.S. aerospace industry contributed $144.1 billion in export sales to the U.S. economy. The industry's positive trade balance of $82.5 billion that year was the largest trade surplus of any manufacturing industry, supporting high-wage jobs for hundreds of thousands of American workers."

It is imperative that U.S. companies compete with overseas rivals on a level playing field. If confirmed, will you press the Europeans to stop massively subsidizing Airbus aircraft?

Answer. If confirmed, I will make the elimination of European subsidies to Airbus and ensuring a level playing field for Boeing and U.S. aircraft industry jobs and suppliers a top priority.

APPAREL INDUSTRY/TARIFFS

Question. Innovative, highly technical apparel footwear and equipment are often grouped together with more ready-made, mass-market products in the Harmonized Tariff Schedule (HTS). This can be particularly problematic when you negotiate rules of origin and duty phase-outs in free trade agreements (FTAs) at the 8-digit level of the Harmonized Tariff Schedule. As a result, import sensitive and non-import sensitive products can be lumped together despite the fact that there could be vast differences in construction, design, and end use.

For this reason, in the past FTA negotiations, outdoor companies urged the administration to negotiate "breakouts" for innovative outdoor products like apparel and footwear. USTR has been inconsistent in its approach to negotiating at the 8-digit versus 10-digit level. In textiles and apparel USTR has often negotiated provisions at the 10-digit or even creating breakouts at the sub-10-digit level to address market issues when the classification system is imperfect. This was done in TPP. Yet, USTR continually refused to create breakouts to accommodate disparate prod-

ucts that by chance are classified in the same HTS sub-heading. Failure to differentiate between import sensitive and non-import sensitive products is a tremendous lost opportunity at best, and harmful to U.S. companies at worst.

As the administration pursues bilateral FTAs, will you support measures like "breakouts" to differentiate between import sensitive and non-import sensitive products?

Answer. If confirmed, I look forward to consulting extensively with Congress and interested stakeholders on U.S. objectives for free trade agreement negotiations, and I would be open to considering any proposed approaches that maximize benefits for U.S. companies.

Question. The outdoor recreation economy generates $646 billion in consumer spending nationwide and supports 6.1 million American jobs. In my home State of Washington alone, the outdoor industry generates $22.5 billion and supports 226,600 jobs.

I understand the administration is committed to incentivizing domestic manufacturing and the re-shoring of American jobs. And there is a growing enthusiasm for "Made in the USA" products in the outdoor industry. Yet, many outdoor products—most apparel, footwear and soft-goods equipment—are import dependent and face import tariffs on average of about 14 percent and as high as 40 percent. That is not going to change. Simply put, the infrastructure, training, and personnel to produce the innovative, highly-technical outdoor products outdoor consumers expect exists abroad, particularly in the countries of Asia and the South-Pacific region. These supply chains have been developed over decades and cannot easily be changed.

How will the administration address import tariffs on products where there is no viable domestic production and no certainty that these supply chains will return to the United States?

Answer. As the administration considers policies to strengthen U.S. competitiveness, support more jobs, and promote U.S. manufacturing, I expect that it will take into account the circumstances that have led to the internationalization of the supply chains for some products.

Question. The Miscellaneous Tariff Bill (MTB) is an important tool initiated by Congress to provide duty relief to companies that import products not produced in the United States. The last MTB expired on December 31, 2012 and included many finished products including specific footwear. You may not realize it, but, the United States imports almost 99% of its footwear, while the research, design, marketing, and some of the high-tech component manufacturing is done without our borders. In 2016, $25.7 billion worth of footwear was imported into the country, with U.S. companies paying $2.8 to get it across the border, making the averages duty rate 11%. This compares to an average consumer good is only taxed at 1.3%.

Footwear companies face up to a 67.5% with most outdoor footwear dutiable at 37.5%. In the past, the footwear industry had tremendous success from the 17 previously enacted duty suspensions, saving more than $51 million total during the 6 years the MTB provisions were in place. Duty savings allow companies to innovate and provide better, more cost-effective products to consumers.

Answer. I recognize the importance of Miscellaneous Tariff Bill for U.S. manufacturers, producers, and importers. I understand that the American Manufacturing Competitiveness Act of 2016 established new procedures for the submission and review of petitions for temporary duty relief, and the administration has been working diligently under those new procedures.

Question. Can you confirm that the administration supports the Miscellaneous Tariff Bill, and understands the importance of including certain footwear?

Answer. I recognize the importance of Miscellaneous Tariff Bills for U.S. manufacturers, producers, and importers. I understand that the American Manufacturing Competitiveness Act of 2016 established new procedures for the submission and review of petitions for temporary duty relief, and the administration has been working diligently under those new procedures.

DISPUTES

Question. U.S. trade agreements commonly include broad rights for multinational corporations and rules that empower these firms to directly sue governments, in pri-

vate trade tribunals, over policies to protect our environment, our workers, the health of our communities, and more.

This system has empowered multinational investors to launch more than 700 challenges against the policies of more than 100 sovereign governments in unaccountable tribunals. While many policies are at risk from this system, environmental policies are particularly threatened. In fact, about one of every four new ISDS cases in the last 5 years has targeted policies affecting oil and gas extraction, mining, or fossil fuel power generation.

Do you agree that this system of corporate tribunals has no place in our trade agreements?

Answer. Investor-state dispute settlement is a mechanism in many U.S. trade and investment agreements that permits qualifying investors to pursue arbitration against a government to obtain monetary compensation to remedy the breach of certain legal obligations. The administration will be undertaking a review of the dispute settlement and other enforcement tools in U.S. trade and investment agreements, including Investor-State dispute settlement. If confirmed, I will look forward to consulting with the Congress on these issues and proceeding in a manner that is consistent with the negotiating objectives set forth in the 2015 Trade Promotion Authority legislation.

Question. If so, then would you commit to renegotiate existing trade agreements to remove broad investor rights, including investor-state dispute settlement, and to not include any system in future trade agreements in which corporations can directly challenge government policies in private trade tribunals?

Answer. If confirmed, I look forward to working with Congress on the investment-related elements to be pursued in U.S. trade agreements, consistent with the negotiating objectives set forth in the TPA.

TRADE TRUST FUND

Question. Last Congress, Congress passed H.R. 644, the Trade Facilitation and Trade Enforcement Act of 2015, which included a Trade Enforcement Trust Fund I authored to be used exclusively for the enforcement of our existing and pending Free Trade Agreements. The United States Trade Representative will administer this funding, in consultation with the other relevant agencies responsible for enforcing our trade agreements. In addition to enforcing our agreements, this funding can be used for capacity building efforts in FTA partner countries to help them meet their commitments, both before and those agreement enter into force, as well as respond to petitions under section 302 of the Trade Act of 1974.

As trade agreements have evolved to more accurately reflect international commerce, they've become more complex. This complexity limits our ability to simultaneously oversee, implement, and enforce these agreements. For example, in 2014, the Government Accountability Office was asked to audit the implementation and enforcement of the labor provisions of our Free Trade Agreements. This audit found that since 2008, the Department of Labor had resolved only a single complaint out of five that had been filed, and that the relevant agencies responsible for enforcing these provisions suffered from consistent staffing and resource constraints.

Unfortunately, Congress has not yet appropriated any funding for this trust fund.

Do you believe the resources we currently provide to trade enforcement are adequate to the scope of our mission?

Answer. I'm not in the administration. In my personal view, we need more resources for USTR and with whatever we have we'll do the best job we can do.

The President has made clear that trade policy negotiations and litigation are a top priority of the administration. Trade policy plays a critical part in every aspect of the economy and is essential to fulfilling the administration's goal of accelerating economic growth and improving U.S. standards of living. USTR's previous budget requests were based on the old status quo. Instead, President Trump places trade execution and enforcement at the top of his "America first" trade policy.

USTR's capabilities must grow to execute the President's new strategy. Increased resources are necessary to reinforce USTR's statutory obligations to (1) monitor compliance by foreign governments with trade policy commitments to the United States, detect violations as quickly as possible and take swift and successful actions to enforce U.S. rights and at the same time, (2) vigorously and successfully defend the

ability of the United States to exercise its rights to ensure fair trade in the U.S. market, and, (3) take action under U.S. law to advance U.S. economic interests. If confirmed, I will work to ensure that USTR has the resources it needs to fulfill its mission.

Sufficient resources are vital to a robust trade enforcement strategy. Many of the problems faced by U.S. exporters in foreign markets are hard to address due to a lack of transparency or because they are legally or factually complex, requiring significant attorney, investigatory, analytical, or translation resources. If confirmed, I will commit to use all the resources available to USTR, and seek to draw on the significant expertise in other agencies, to enforce U.S. trading rights fully and ensure that our trading partners comply with their international obligations.

Question. Would you support full funding for the Trade Enforcement Trust Fund?

Answer. The Trade Enforcement Trust Fund is an important tool that USTR can use to ensure that our trade agreements are adequately enforced across the globe. I support having adequate resources for this trust fund.

Question. What priorities would this funding be used for?

Answer. If I am confirmed, robust enforcement of WTO and FTA obligations will be a top priority. To compete in an international market, we must ensure that U.S. exports have the same access and ability to compete on a level playing field abroad that we allow imports here in the United States. Many of the problems faced by U.S. exporters in foreign markets are hard to address due to lack of transparency or because the obstacles and foreign practices are legally or factually complex, requiring significant attorney, forensic and investigatory, analytical, or translation resources. Under these circumstances, the fund could be used to support ever more complex litigation preparation that USTR has had to undertake in recent years in order to take on the most difficult and important foreign barriers and marshal the evidence to prevail. The fund could also be used to support USTR's work protecting U.S. trade remedies from international challenges so that when other countries engage in unfair trade, we have the tools to ensure that U.S. workers and producers can achieve effective redress from those unfair and injurious trade practices.

Question. Should this funding be mandatory or subject to annual appropriations?

Answer. This is a subject that, if confirmed, I will look forward to discussing with you and with colleagues in the administration.

STEEL

Question. As you know, there is currently a global glut in steelmaking capacity. Foreign government subsidies and other market-distorting policies have led to this overcapacity, estimated by the Organization for Economic Cooperation and Development (OECD) to be more than seven times the U.S. raw steel production. The world simply has too much capacity for the amount of steel it needs. The same is true of a number of other products as well, including aluminum and solar panels. The OECD has been trying to address this issue in the steel sector and has formed a "Global Forum" on excess capacity. But, so far all the dialogues, commissions, consultations, and rounds of talks have led to very little action, with no tangible results.

What can the United States do to obtain concrete results in the reduction of global steel, aluminum, and solar capacity? What steps will you take to bring the country's most responsible for the overcapacity to the negotiating table?

Answer. If confirmed, I will conduct a review of all available tools to address serious overcapacity problems in steel industry and other sectors, work to address the root causes of those problems, and continue to work closely with other leading steel producing countries in the Global Forum on Steel Excess Capacity and other contexts.

If confirmed, I also will examine how we might use our existing bilateral dialogues to press China to fix its unfair trade practices and vast excess capacity problem in many industrial sectors.

Question. If China is unwilling to reduce capacity voluntarily, what steps would you take in response?

Answer. If confirmed, I will work to find effective solutions to reduce excess capacity through dialogue, negotiations, vigorous enforcement of WTO rights and U.S. trade remedies, and any other effective means. I also will work with the Department

of Commerce, Customs and Border Protection, and other agencies to ensure that we enforce our trade remedy laws and measures effectively at the U.S. border, and I will actively defend our trade remedies against challenges by China and other WTO Members.

STATE-OWNED ENTERPRISES

Question. The increasing role of state-owned enterprises ("SOEs") in global commerce is a serious concern for U.S. manufacturers and exporters. These SOEs are subsidized by their home governments and often do not operate based on market principles, which introduces market distortions that harm workers and private companies competing in those markets. Many of these SOEs are looking to invest in the U.S. market. Such inbound SOE investment could harm U.S. economic competitiveness and national security if left unaddressed.

What steps should the U.S. Government, and USTR in particular, take to address the potential market-distorting effects of SOE investment in global markets, including the U.S. market?

Answer. I understand that the investment activities of foreign SOEs have raised many concerns for U.S. businesses. If confirmed, I will work with Congress and stakeholders to ensure that future trade agreements include strong rules to address concerns associated with SOE investment.

Question. Would you support international negotiations with the aim of ensuring rules regarding SOEs?

Answer. I agree that disciplines on SOEs are important to ensure a level playing field with our trading partners. If confirmed, I will work with Congress and stakeholders to ensure that future trade agreements include strong rules that address unfair competition from SOEs.

Question. Are there additional regulatory tools that we should consider to ensure that SOE investment in the United States is conducted on a commercial basis and does not cause market distortions?

Answer. If confirmed, I will work with the Congress, stakeholders, and other U.S. Government agencies to consider all appropriate ways of addressing concerns about SOE investment in the United States.

QUESTIONS SUBMITTED BY HON. BILL NELSON

Question. For some time now, Mexico has been flooding the United States with subsidized agriculture, including bell peppers, tomatoes, strawberries, blueberries, and sugar. It's particularly harmful to growers in Florida, because for a lot of these items, Florida is the only place in the U.S. that can grow them during the winter. Our trade laws don't generally account for seasonal differences in trade practices, making it hard for Florida growers to file a trade case. What are some specific ways you could renegotiate the North American Free Trade Agreement (NAFTA) to make it work better for our growers and account for seasonal differences in agricultural markets?

Answer. I recognize the unique seasonality and perishability of fresh fruits and vegetables. As we look to modernize the North American Free Trade Agreement, TPA specifies several negotiating objectives to address practices that adversely affect trade and to improve import relief mechanisms for seasonal products, such as fresh fruits and vegetables. If confirmed, I will consult with you, other members of Congress, and Florida growers to address these objectives and the concerns you have raised.

Question. If confirmed, would you commit to meet with Florida growers as soon as possible to work on a long-term solution to the problem of subsidized dumping of agriculture from Mexico?

Answer. I certainly know the importance of Florida's fruit and vegetable industry. If confirmed, I will consult with you, other members of Congress, and Florida growers on your concerns.

Question. In many ways, when a country exploits its workers or environment to gain a trade advantage, it is just as unfair as if it had manipulated its currency—only more harmful to the people and areas being exploited. What are your thoughts on using our trade agreements to make sure countries don't try to gain a competi-

tive edge by putting vulnerable people, endangered species, or sensitive ecosystems at risk?

Answer. Labor and environment protections are important negotiating objectives that Congress has set out in TPA. If confirmed, I look forward to consulting closely with you and other members of Congress with an interest in using our trade agreements and enforcement efforts to promote high-standard protections for workers and the environment to ensure a level playing field for American workers and businesses consistent with TPA objectives.

Question. If confirmed, would you commit to push for trade agreements that include provisions to combat unsafe working conditions, unsanctioned logging and wildlife trafficking, and the mistreatment of marine life—including sharks and sea turtles?

Answer. Labor and environment protections are important negotiating objectives that Congress has set out in TPA. If confirmed, I look forward to consulting closely with you and other members of Congress with an interest in these issues as we seek to negotiate trade agreements that reflect high-standard protections for our workers and our environment to ensure a level playing field for American workers and businesses consistent with TPA objectives.

Question. What are some specific ways you would like to change the World Trade Organization (WTO)?

Answer. The baseline of WTO rules remains important to the effective functioning of the rules-based multilateral trading system, and the WTO standing committee system does important work to ensure full implementation of these rules. However, I have serious concerns with the over-reach of the WTO dispute settlement system and would like to confer with Congress on ideas for changes in that area. With the notable exception of the Trade Facilitation Agreement, we have also seen a paralysis in the negotiating arm of the WTO. If confirmed, I look forward to working with Congress on ways in which we can ensure negotiations mandate at the WTO that best promote U.S. exports and creates American jobs.

Question. Were you involved in developing the General Agreement on Tariffs and Trade (GATT), which is now the WTO? If so, what lessons did you learn from the development of the GATT?

Answer. The General Agreement on Tariffs and Trade has been in place since 1947 and has served as the baseline for the rules of global trade since that time. Both during my time at the Senate Finance Committee and as a Deputy United States Trade Representative during the Reagan administration, I have been committed to ensuring that this rules based trading system serves American interests. I look forward to applying lessons learned over the decades to working with Congress and moving U.S. trade policy in a direction that positively affects U.S. manufacturers, farmers, service providers, and workers.

Question. What sort of exceptions to copyright protection would you allow for in a trade agreement? Would the exceptions be enumerated in the agreement, or would you give our trade partners broad discretion to determine appropriate exceptions?

Answer. I understand the importance that Congress places on this issue. If confirmed, I will ensure that USTR makes progress, in any trade negotiation, in meeting all of the objectives outlined in TPA. I look forward to working with you and all interested stakeholders to address these specific issues.

Question. If confirmed, what would you do to improve copyright standards globally, and particularly in Asia?

Answer. If confirmed, I will use all available trade tools to ensure that our trading partners, including our partners in Asia, adequately and effectively enforce copyright protection, to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights.

Question. How would you bring more transparency to U.S. trade negotiations?

Answer. I am aware of the importance of the issue of transparency in U.S. trade negotiations to you, others on the Finance Committee, and many others in Congress, and of the way in which that issue arose in the drafting and passage of TPA. As a foundation for understanding current and future trade negotiations, I believe it is important to communicate clearly to the American public, to Congress, and to stakeholders the impact of U.S. trade agreements so that each can make an informed judgment about the strengths and shortcomings of any agreement. Further-

more, we should communicate clearly the specific objectives of the administration with respect to all aspects of U.S. trade policy, negotiations, and enforcement. If confirmed, I will work with Congress and stakeholders to improve the transparency of the trade negotiating process further.

Question. If confirmed, before beginning negotiations on NAFTA, or any other trade agreement, would you commit to publicly releasing the U.S.'s official position on each chapter of the agreement? Would you also brief members of the Senate Finance Committee or Senate Advisory Group on Negotiations (SAGON) on the administration's specific objectives for each chapter of the agreement?

Answer. If confirmed, I look forward to working with this committee, the House Ways and Means Committee, members of Congress, and the Senate and House Advisory Groups on Negotiations—SAGON and HAGON—as established under TPA to consult closely on other trade agreement negotiations. I would also welcome a further discussion of the question of public release of the U.S. position on each proposed chapter.

Question. Do you believe the United States should negotiate free trade agreements with developing nations, or should we only negotiate with advanced economies with similar traditions and standards? If so, why? If not, why not?

Answer. We intend to work closely with you to decide on appropriate trade agreement partner countries. The United States should be open to any negotiation that meets core U.S. goals such as expanding economic opportunity for Americans and creating a more level international playing field. Countries joining the United States in FTAs, at whatever level of development, should be expected to comply with the high standards that Congress and the President have set out for such agreements.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

CUBA

Question. I've been an outspoken opponent of the new policy toward Cuba initiated by President Obama, and I remained concerned that that policy will remain in place under President Trump. Opening up further trade with Cuba is likely to enrich the military and Castro allies at the expense of the Cuban people. Since the announcement of the change in American policy toward Cuba 2 years ago, the Castro regime has only grown stronger. It has continued its policies of repression, has continued to jail the Ladies in White, has continued to suppress the freedom of expression, and the promotion of anything resembling democracy.

What are your thoughts on Cuba, and do you anticipate any liberalization of our trade relationship with Cuba?

Answer. The President has stated publicly that he has directed a review of U.S. policy toward Cuba, including with respect to issues of human rights and economic and political liberalization. If confirmed, I look forward to working with you and other members, as well as our stakeholders, to determine appropriate next steps with respect to Cuba in the context of that policy review.

Question. You were a critic of liberalizing trade with China. You rightly pointed out that increasing trade with China was unlikely to result in its government behaving in a more democratic, rules-based fashion.

Why should we expect a different result from Cuba?

Answer. The President has stated publicly that he has directed a review of U.S. policy toward Cuba, including with respect to issues of human rights and economic and political liberalization. If confirmed, I look forward to working with you and other members, as well as our stakeholders, to determine appropriate next steps with respect to Cuba in the context of that policy review.

PRESIDENT'S CONFLICTS OF INTEREST

Question. If confirmed, you will be handling international trade negotiations that will impact every facet of our economy, and in doing so, you will have to balance an range of different, and often competing, interests including those of workers, manufacturers, farmers, and innovators. The deals you negotiate may impact these groups differently—some will gain, some might not be affected, and yes, some might lose. But as this administration begins its trade negotiations, I am very concerned about possible conflicts of interest with our trade policy that may arise from our

President's overseas business arrangements. We know that the President owns assets in several countries. We also suspect that he has taken loans from foreign entities. But because he hasn't released his tax returns, we still don't know the full extent of his holdings and the details of any foreign loans. The recent news about the Trump Organization receiving new trademarks in China only underscores this point. One could imagine a situation where you, if confirmed, are negotiating an agreement on intellectual property with a country in which the President's business is trying to obtain trademarks, potentially presenting a conflict between what is in the financial interest of the President versus the economic interests of the American people at large.

Without a public disclosure of the President's business relationships, how can you and the American people know that your negotiations with other countries will not benefit the President at the expense of ordinary Americans?

Answer. The President has spoken very clearly that we need the strongest possible trade agreements, and stronger ones than we have negotiated in the past, to stand up for Americans in every area of trade. From my experience, the President is completely committed to the America First agenda, and working together, we have a reasonable likelihood that we can change the paradigm and make things better for all Americans. I've never seen any hint in any way to the contrary.

Question. And without a full public disclosure, how can you be sure that the person you're negotiating with doesn't know more about the President's business dealings than you do?

Answer. The President has spoken very clearly that we need the strongest possible trade agreements, and stronger ones than we have negotiated in the past, to stand up for Americans in every area of trade. From my experience, the President is completely committed to the America First agenda, and working together, we have a reasonable likelihood that we can change the paradigm and make things better for all Americans. I've never seen any hint in any way to the contrary.

MEXICO

Question. NAFTA renegotiation could present an important opportunity to strengthen labor standards, defend U.S. intellectual property, protect the environment, and raise wages across the continent. But if done poorly, it could catastrophically disrupt businesses in New Jersey and across the country. As you know, our economic integration is deep and mutually beneficial. Canada and Mexico are our first- and second-largest export markets, and our three countries share important cultural, economic, and security ties. Maintaining strong, productive relationships with these countries is critical to our national interest. I hope you will keep these aspects in mind as you begin to renegotiate the deal, and that you, the President, and the entire administration conduct the negotiations in a way that minimizes collateral economic and political damage.

What will the administration seek to achieve in these negotiations? Will those objectives be made public?

How will you address the concerns of companies that have built complex value chains based on the assumption that NAFTA will remain intact?

Answer. I understand that a renegotiation of NAFTA being considered by the President would be conducted pursuant to Trade Promotion Authority (TPA). TPA outlines a number of objectives that the United States should seek in any new trade negotiations, as well as requirements for consultations with Congress, with the private sector, and with other U.S. stakeholders and the public on those objectives and throughout the negotiating process.

Regarding current trade flows, NAFTA has been in place for more than two decades and many of our workers, farmers, ranchers and businesses have expanded exports to Canada and Mexico under the agreement, as well as formed supply chains and other business relationships. If confirmed, I am committed to maintaining U.S. exports of goods and services, and will use the opportunity of renegotiating NAFTA as a way to seek changes that will expand U.S. exports to Mexico and Canada and generate increased economic opportunities for the United States.

Question. Mexico has made some progress towards improving its labor law regime—though the states need to ratify the constitutional changes made. Still, even if the labor law reforms are eventually put into practice, they may not raise wages in a meaningful way for quite some time. In fact, the wage gap between the United

States and Mexico is wider now than pre-NAFTA. Do you view this as a trade problem and do you have plans to address this issue within the administration?

Answer. I am aware that Mexico is pursuing significant labor reforms. If those reforms are successfully implemented, they could lead to better working conditions for many Mexican workers. If confirmed, I will work with you and other members of Congress as we renegotiate and modernize NAFTA, and closely monitor Mexico's efforts to enhance its system of labor protections, as part of our examination of all aspects of the U.S. trade relationship with Mexico.

LABOR PROVISIONS IN TRADE AGREEMENTS

Question. President Trump made trade enforcement a major component of his campaign. As you know, the Department of Labor has primary responsibility in enforcing the labor provisions of our free trade agreements. In early January, DOL found that Colombia was out of compliance with the terms of the U.S.-Colombia Trade Promotion Agreement and decided to initiate consultations with the Colombian government. I've been a strong supporter of increased U.S. engagement with Colombia, but at the same time I remain concerned about the lack of progress in Colombia's labor environment and the persistent violence against trade unionists in that country.

How will you prioritize the enforcement of labor provisions of our trade agreements and what will you do differently from past administrations to ensure that other countries live up to their obligations so that American workers aren't undercut by unjust dilutions of labor rights?

On Colombia specifically, do you support the Obama administration's decision to enter into consultations with Colombia under the terms specified in our free trade agreement?

One of the major problems with enforcement of labor provisions is that often these kinds of consultations drag out without any improvement in the underlying situation. At what point would you recommend moving toward dispute settlement to resolve the dispute with Colombia?

Answer. I appreciate your longstanding interest in and involvement in promoting our bilateral relationship with Colombia. Labor protections are important negotiating objectives that Congress has set out in TPA. If confirmed, I look forward to consulting closely with you and other members of Congress with an interest in using our trade agreements and enforcement efforts to promote high-standard protections for workers in Colombia and other key trading partners as a way to ensure a level playing field for American workers and businesses.

Question. Ambassador Lighthizer, you and other administration officials have written and spoken about how China undermines American manufacturing through its lax labor and environmental standards.

Are improved and enforceable environmental and labor standards going to be a priority for the administration in the NAFTA renegotiation and future trade deals?

What specific provisions are you looking to include? Will they go beyond what was in TPP?

Answer. If confirmed, I look forward to working with you, other members of Congress, and stakeholders as we renegotiate and modernize NAFTA, as well as in our negotiation of other future trade deals. In particular, if confirmed, I look forward to discussing ways in which we can strengthen labor and environmental provisions to meet the objectives in TPA and improve our efforts to seek to ensure that our trading partners adopt and maintain labor and environmental standards in ways that also help level the playing field for American workers and businesses.

TRADE ENFORCEMENT

Question. Ambassador Lighthizer, one of my longstanding concerns when it comes to trade is that once the deals are negotiated, many of the provisions are not thoroughly enforced. As you know from a letter many of us sent to the President, the Federal hiring freeze will compound the resource constraints faced by USTR and Customs and Border Protection when it comes to trade enforcement.

What actions can we expect in the near future that will prove that this administration is serious about holding our trading partners accountable for their trade obligations?

Answer. If confirmed, I will be a strong advocate for resources at USTR and, as I have been throughout my professional career, a strong advocate for enforcing U.S. trade laws and trade agreements. Sufficient resources are vital to a robust trade enforcement strategy. Many of the problems faced by U.S. exporters in foreign markets are hard to address due to lack of transparency or because they are legally or factually complex, requiring significant attorney, forensic investigatory, analytical, or translation resources. If confirmed, I will commit to use all the resources available to USTR, and seek to draw on the significant expertise in other agencies, to enforce fully U.S. trading rights and ensure that our trading partners comply with their international obligations.

Question. Counterfeit imports from China has been a major concern for me and my constituents. What will you do to ensure that trade enforcement specialists are thoroughly investigating this issue and catching counterfeit goods before they enter our market?

Answer. Counterfeit imports not only harm the commercial viability and goodwill of U.S. companies, but mislead and pose health and safety risks to consumers. If confirmed, I will draw on all relevant trade policy tools, including the Special 301 report, to engage with countries that fail to effectively combat counterfeit operations. If confirmed, I will also make monitoring and enforcement of trade obligations related to intellectual property a priority. In particular, I will work more closely than ever before with CBP and Commerce to develop and execute strategies to enforce U.S. law at our borders and ports of entry.

CHINA—CURRENCY AND BILATERAL INVESTMENT TREATY

Question. China has had a decades-long pattern of manipulating their currency, stealing our intellectual property, dumping products onto world markets, and systematically skirting their trade obligations. Leveling the playing field for American workers by taking aggressive action to stop China from gaming the international trading regime was a key theme of the President's campaign, and I hope the administration will follow through on that promise. And I'm sure that we all remember President Trump saying countless times that he would label China a currency manipulator on day one.

If confirmed, what are you as USTR going to do to ensure that countries stop manipulating their currency? In my opinion, just labeling countries a currency manipulator isn't enough—we need to consider measures that raise the costs of engaging in currency manipulation in the first place.

Is the administration going to continue the bilateral investment treaty negotiations with China? Will you pursue another type of trade agreement with China?

Answer. The administration places a high priority on utilizing a broad range of tools to ensure that China treats the United States, U.S. exports, and U.S. companies fairly with respect to trade and investment. We will be reviewing the full range of potential tools, including the U.S.-China bilateral investment treaty negotiations, to assess the best path for the administration to achieve this objective. If confirmed, I look forward to consulting with Congress on these priority issues.

CHINA—MARKET ECONOMY STATUS

Question. China wants market economy status at the WTO. Given the continued trade-related problems we have with China, I don't think they deserve that status and I know President Trump has said he agrees. However, I'm concerned that the EU is considering changing its past position and is considering supporting granting market economy status.

What are your thoughts on granting China market economy status?

How will you work with the EU and other allies to defend the view that China is a non-market economy?

How else do you think we can work with the EU to push back on some of China's market-distorting policies?

Answer. I disagree with China's claim that the change in its Protocol of Accession requires WTO Members to treat China as a market economy in antidumping proceedings. If confirmed, I can assure you that USTR will do everything it can to defend the right of the WTO Members to use the strongest tools possible to counteract injurious Chinese dumping. This includes building a coalition of allies to defend our position at the WTO. I look forward to discussing with you the best way to work with the EU to defend the U.S. position on the Protocol and on China's continued

intervention in its market, a practice which is harming producers both in the United States and the EU.

TRADE DEFICITS

Question. You and several other administration officials have said that reducing bilateral trade deficits will be one of the main objectives of any new trade agreement.

Do you believe we should institute a test that any new trade agreement must lead to an increase in a certain number of jobs, or a certain amount of GDP or wage growth? And if not, the United States should retain the right to withdraw from the agreement?

Answer. The aim of trade agreements is to achieve benefits for the United States, including boosting economic growth, increasing more productive, higher paying jobs (typical of the export industries), and raising family living standards. If confirmed, I look forward to working closely with members of Congress to ensure these benefits for workers, farmers and ranchers, and businesses of all sizes. The United States, as a sovereign nation, retains the right to withdraw from any agreement, trade or otherwise.

TAIWAN

Question. The United States for decades has benefitted from a strong economic relationship with Taiwan. Taiwan is currently our 10th largest trading partner, 7th largest importer of U.S. agricultural goods, and an important player in the global IT industry. The Government of Taiwan has expressed a strong interest to increase its economic and trade ties with the United States through a mutually beneficial bilateral trade agreement, or some other method of economic integration.

Are you committed to strengthening our engagement with Taiwan and deepening our bilateral economic cooperation?

Would you consider prioritizing negotiations with Taiwan to create a better environment for investment and trade?

Answer. As you point out, the United States and Taiwan have a longstanding and important trade and investment relationship. If confirmed, I intend to work to strengthen further those trade and investment ties. Recognizing that foreign investment from Taiwan and elsewhere can create more jobs in the United States and increase U.S. economic growth and competitiveness, and increased trade can benefit U.S. agricultural, goods, and services trade, I intend to develop a trade and investment policy that promotes a stronger bilateral relationship with Taiwan and examine the prospects of additional negotiations with Taiwan, as well as addressing longstanding trade concerns such as market access for beef and pork.

SODA ASH

Question. The U.S. soda ash industry is a shining example of U.S. competitiveness in manufacturing. The industry is the most competitive in the world due to unique deposits of the soda ash material, trona, in the United States. The industry exports over $1 billion annually, over half of its total output. However, like with the steel and aluminum industries, overcapacity and export incentives in China have undercut U.S. soda ash producers competing in key export markets.

As USTR, will you plan to hold China to its JCCT commitment to exchange information on its soda ash excess capacity?

Answer. I understand that U.S. soda ash producers are among the cleanest and most efficient producers of this important industrial input, an important U.S. exporting industry, and that they compete head-to-head with Chinese soda ash exports in many third-country markets. If confirmed, I fully intend to hold China to its commitment, at the November 2016 U.S.-China Joint Commission on Commerce and Trade (JCCT), to exchange information on the soda ash industry.

Question. What specific steps might you pursue to ensure that China remedies its industrial excess capacity in sectors beyond the steel and aluminum industries, including soda ash?

Answer. If confirmed, I will work to develop effective ways to ensure that China addresses its excess industrial capacity, both as a systemic issue and in relation to specific industries. This will include working with the soda ash industry to identify and address unfair trade practices that may contribute to excess capacity.

INTELLECTUAL PROPERTY—INTERNATIONAL ORGANIZATIONS

Question. The United States has long promoted a fair, stable, and rules-based international system through organizations such as the United Nations and its sub-agencies, to promote U.S. national and economic interests and values around the world. Yet, manufacturers in the United States are seeing a rising tide of activities sponsored by these organizations—such as the disappointing findings with regard to intellectual property found in last year's U.N. High-Level Panel on Access to Medicines—that undermine core U.S. economic interests, values, and leadership. Such recommendations and related activities matter, particularly when they are adopted by national governments to the detriment of companies and workers here in the United States.

How would you address this issue in dialogue with international organizations like the United Nations and World Health Organization?

Answer. If confirmed, USTR will work closely with other agencies to stand up for U.S. trade interests in the United Nations, World Health Organization, and other relevant fora, including with respect to the U.N. High-Level Panel on Access to Medicines report.

AUSTRALIA-U.S. FREE TRADE AGREEMENT

Question. Ambassador Lighthizer, as you are well aware, Australia is an important trading partner of the United States. Although the AUSFTA has been in place since 2005, various American companies and investors are finding the investment stability afforded by the treaty eroding. For example, a constituent has contacted me about regarding a concerning action in New South Wales which the Australia government has failed to address. As a result, U.S. investors in an Australian natural resources company have incurred losses without any recourse, which undermines the spirit of economic goodwill between the two countries. Legislation authorizing an expropriation indemnified all of those involved and specifically denied compensation for any innocent party.

Mr. Lighthizer, will you commit to pressing the Australian government to resolve this matter so investors like my constituents will have a fair and transparent opportunity to make the case for restitution?

Answer. Thank you for bringing this matter to my attention. If confirmed, I will direct my staff to look closely into this case as part of our ongoing review of investment issues.

NAFTA INVESTOR-STATE DISPUTE SETTLEMENT

Question. Ambassador Lighthizer, as you know from your experience advancing the interests of U.S. corporations abroad, where a U.S. investor in Canada is denied "fair and equitable treatment" under NAFTA, the recourse for the U.S. investor is to file a claim with an international arbitration panel. In certain cases, after a NAFTA arbitration panel decides in favor of a U.S. investor against Canada, the Canadian Government has resorted to its own domestic courts to strike down the decision. In one example, Bilcon, an aggregates company owned by the Clayton Group of New Jersey, won its case before a NAFTA arbitration panel, and now must fight the Canadian Government in the Canadian courts to preserve its victory.

Mr. Lighthizer, as USTR, would you commit to work with me and your Canadian counterparts to find a just resolution of this issue?

Answer. If confirmed, I will look forward to looking into this matter and, more generally, to working with you to ensure that foreign governments treat the United States, U.S. investors, and U.S. exports fairly with respect to trade and investment, and that these governments comply with their obligations under U.S. trade and investment agreements.

Question. How will you seek to improve upon the arbitration provisions of NAFTA?

Answer. If confirmed, I will look forward to working with the Congress on the investment-related elements to be pursued in U.S. trade agreements, consistent with the negotiating objectives set forth in the 2015 Trade Promotion Authority legislation. I will bear in mind the TPA objectives' specific guidance on potential improvements in key areas, such as enhancing transparency and eliminating frivolous claims.

QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

Question. I was a big supporter of the Trans-Pacific Partnership (TPP). I was, however, disappointed that the TPP agreement excluded the financial services sector from the prohibition on data localization requirements. That exclusion was contrary to the direction that Congress gave the administration in our trade promotion authority legislation.

Can you assure me and the other members of the committee that, if you are confirmed, you will follow the requirements of TPA by ensuring that the financial services sector is treated the same as every other sector when it negotiates future provisions on this issue?

Answer. I am aware of the concerns raised by U.S. financial services companies regarding the importance of addressing data localization requirements by foreign governments. I understand that U.S. financial services companies engaged extensively with the previous administration to advocate for an approach that differed from the outcome in the final TPP agreement. If confirmed, I look forward to working with this committee on this matter.

Question. I understand the State Bank of Vietnam is considering a proposal that would put U.S. payments companies at a competitive disadvantage relative to Vietnam-based competitors. This proposal goes directly against the commitment Vietnam made with regard to electronic payments in TPP. How will you ensure our former TPP partners like Vietnam follow through on the constructive commitments they made as part of the TPP negotiations?

More broadly, can you tell us how the administration intends to prevent TPP countries from backing away from commitments that create valuable export opportunities for American businesses?

Answer. If confirmed, I will direct my staff to review the proposal by the State Bank of Vietnam closely. Regarding how the administration intends to ensure export opportunities for U.S. companies in TPP countries, including the constructive commitments they made as part of that agreement, in withdrawing from TPP the administration expressed a desire consider pursuing bilateral FTAs with them. As I stated during my testimony, the TPP included several policies that I believe would be relevant to subsequent negotiations. If confirmed, as we develop our agenda for engaging with TPP countries, I will work closely with you and your staff to ensure that we approach those engagements in a productive manner.

Question. I know that you share my concern that U.S. companies face a very uneven playing field in China. Increasingly, Chinese regulation is making it difficult or even impossible for U.S. cloud services companies to operate in China—likely in violation of World Trade Organization (WTO) commitments. Meanwhile, Chinese cloud service providers can operate in the United States today without similar regulatory restrictions.

The U.S. cloud service industry supports thousands of American jobs and is growing strongly, and it is very troubling to think that they could be locked out of China entirely. Will you raise this issue in your discussions with Chinese officials and underscore that China must live up to its international commitments and stop discriminating against U.S. cloud service providers?

Answer. I recognize that U.S. leadership in the technology sector, particularly in cloud computing, is a national strength and a source of our international competitiveness. I agree that our trade policy should work to ensure that U.S. companies in this sector can thrive globally, including in China, where I recognize that barriers have been severe and contrast sharply with the open market in the United States. If confirmed, I will make seeking progress in reducing barriers to U.S. companies in this sector, including in China, a priority.

Question. A great deal of progress was made on core obligations and sector-specific issues in the multi-country Trade in Services Agreement (TiSA) negotiations, and TiSA participants are looking to the United States to continue that progress and produce a high standard agreement. If confirmed, what are your plans to ensure that the TiSA negotiations do not fall by the wayside?

Answer. The U.S. services sector is highly innovative and a key driver of the U.S. economy. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy economy and a key objective of U.S. trade policy. If confirmed, I look forward to working with you to pursue this objective.

QUESTIONS SUBMITTED BY HON. SHERROD BROWN

Question. A recent report published by the Alliance for American Manufacturing found that the WTO ruled against U.S. trade remedy laws 38 times since 1995. That's five times the number of these decisions as against any other member. Do you agree that the WTO has overreached its authority by striking down provisions of U.S. trade laws?

Answer. Yes, I am concerned with the problem of WTO overreach. I believe that it is critical that WTO panels and the Appellate Body apply WTO rules as written and not "add to or diminish the rights and obligations" of the United States or other WTO Members. I am concerned that certain cases involve over-reaching by the WTO panels and the Appellate Body. If confirmed, I look forward to consulting closely with the committee on ideas for ensuring that the WTO dispute settlement system operates as intended.

Question. In your testimony, you mentioned that we need to sit down with other WTO member countries to find new tools at the WTO to deal with a country like China and its industrial policies. What are some of the changes you think we should make to the WTO dispute settlement process or the new tools the WTO should establish so the body more effectively targets unfair trade practices instead of legitimate U.S. trade laws?

Answer. U.S. trade laws, which are expressly sanctioned by the WTO agreements, are typically used in response to unfair trade practices by other countries. A key question is how we can respond most effectively to those practices so that they are less likely to cause the harm and dislocation that they do, while also preserving fully the ability of U.S. workers and businesses to use WTO-sanctioned trade remedy laws to address the consequences of those unfair trade practices. If confirmed, I look forward to working closely with the committee and the Ways and Means Committee on these issues, and continue to work with like-minded WTO Members.

Question. In your testimony you stated that you believe we need to make it less economical for China to violate its trade obligations. What specific steps would you take to make it less economically viable for China's state-owned enterprises in both the steel and aluminum sector to continue to operate independent of market considerations?

Are you committed to addressing the problem of aluminum overcapacity across the supply chain through all available means, including WTO litigation?

Answer. If confirmed, I will vigorously enforce and defend our trade remedy laws, and aggressively utilize all available tools in the WTO and other mechanisms to deter Chinese government subsidies and other support that artificially lower costs to Chinese firms, including State-Owned Enterprises (SOEs), in the steel, aluminum, and other sectors. I will also engage China bilaterally and work with other economies to encourage China to move away from policies that contribute to excess capacity and distort markets including subsidies and raw material export restrictions.

Question. In your testimony you stated that the United States should bring more cases at the WTO. Would you consider bringing a broad case against China for its distortive trade practices across multiple sectors?

Answer. Distortive trade practices across multiple sectors is a significant concern. If confirmed, I will seek to combat distortive trade practices as effectively as possible, using all appropriate instruments.

Question. Would you consider renegotiating China's WTO Accession Protocol if China continues to violate its WTO commitments and other efforts to get China to live up to its obligations are unsuccessful?

Answer. I understand the importance of working on difficult trade issues to get trading partners to live up to their trade obligations. If confirmed, I intend to make China's compliance with all of its WTO obligations, including those in China's Protocol of Accession, a top priority, as I stated during my confirmation hearing. Where China fails to do so, I will also aggressively utilize, in cooperation with others in the administration, and in consultation with members of Congress, all available tools in the WTO and other mechanisms.

Question. Will you advise President Trump to take unilateral trade action against our trading partners if that is needed to give U.S. companies and their workers a level playing field? Specifically, will you commit to using your authority under sec-

tion 301 or other provisions of law to respond to the unfair advantages the Chinese government has given Chinese companies and products in international trade?

Answer. If confirmed, I am committed to using all available tools, including section 301 where appropriate, to address unfair foreign trade practices of the Government of China.

Question. What do you believe should be the objectives of auto rules of origin in our trade agreements? Will you commit to discussing improvements to the NAFTA auto rules of origin during the NAFTA renegotiations?

Answer. I believe the objectives of rules of origin for automotive goods are to provide incentives for producers to source goods and materials here in the United States. These rules should support good jobs in the United States, rather than provide benefits for producers to outsource production and send jobs to other countries. If confirmed, I look forward to examining this issue closely to see where and how we can better meet these objectives.

Question. If you undertake bilateral trade negotiations, do you expect to use the TPP agreement as a template?

Answer. As I noted during my testimony, I would hope that we could take TPP and improve upon what was negotiated there. If confirmed, I look forward to working with Congress and other stakeholders to identify those areas where the TPP outcomes can be improved.

Question. Do you believe strong and enforceable currency provisions should be included in FTAs? If so, do you believe they should be subject to dispute settlement mechanisms in the agreements?

Answer. I have also long been concerned about the problem of currency manipulation. If confirmed, I will work with you and other members of Congress, as well as with other administration officials, to determine the best means to address this important issue.

Question. I strongly supported the inclusion of state-owned enterprises disciplines in the Trans-Pacific Partnership. Unfortunately, those provisions were drafted in a way to exclude many SOEs that should be subject to these disciplines, for example state-controlled enterprises that are not majority-owned by the state. Will you commit to including provisions on state-owned enterprises in any trade agreements that you negotiate? And will you commit to working with the committee to ensure such disciplines are meaningful tools?

Answer. I agree that disciplines on SOEs are important to ensure a level playing field with our trading partners. If confirmed, I commit to working with Congress and stakeholders to ensure that future trade agreements include strong rules that address unfair competition from SOEs.

Question. You have made public comments about the need to address the U.S. trade deficit. One way to reduce the U.S. trade deficit is to prevent U.S.-based production from moving overseas. Corporations often point to lower labor and environmental costs in U.S. trading partner countries as reasons for moving production offshore. Will you commit to strengthening labor and environmental standards in NAFTA to prevent more U.S. factories from offshoring to Mexico? Specifically, will you commit to negotiating improvements to Mexico's labor laws, including its laws protecting the right to organize and bargaining collectively, as part of the NAFTA renegotiations?

Answer. If confirmed, I look forward to working with you, other members of Congress, and stakeholders as we update and improve NAFTA. In particular I look forward to discussing ways in which we can strengthen labor and environmental provisions to meet the objectives in TPA and to seek to ensure our trading partners adopt and maintain labor and environmental standards in ways that also help level the playing field for American workers and businesses.

Question. Enforcement of labor obligations in U.S. FTAs has been inadequate. USTR has brought only one labor enforcement case, against Guatemala in 2008, and 9 years later it is still unresolved. What would be your priorities for demonstrating improved compliance by trading partners and more effective oversight and enforcement by the U.S. Government in this area?

Answer. When trading partners fail to enforce labor laws and do not uphold high-standard protections for workers, it can create a competitive disadvantage for U.S. workers, farmers, ranchers, and businesses. If confirmed, I will work closely with

you, other members of Congress, and stakeholders with an interest in directing our enforcement efforts to ensure that trading partners live up to their labor obligations in U.S. FTAs.

Question. The practice of systemic illegal logging has been well-documented in Peru, yet USTR has not initiated a dispute for these violations. Will you commit to fully enforcing the environmental obligations of the Peru FTA, including bringing a dispute against Peru?

Answer. If confirmed, I am fully committed to ensuring that Peru and our other trading partners live up to their obligations under our existing agreements. I look forward to working with you and other members, as well as other stakeholders, to determine appropriate next steps with respect to Peru.

Question. Investment provisions in FTAs have provided legal protections for corporations to move productions offshore. What suggestions do you have for reforming trade and investment rules to prevent further offshoring?

Answer. The United States is the most attractive place in the world to invest. The administration is committed to creating conditions that make it even more attractive for companies to establish and maintain production activity in the United States. If confirmed, I will ensure USTR staff reviews provisions of U.S. FTAs that can help to advance this goal, in line with the negotiating objectives established in TPA.

Question. Do you believe the United States should negotiate investment treaties with countries, even if they have persistently violated their existing trade obligations?

Answer. The administration places a high priority on utilizing a broad range of tools to ensure that foreign governments treat the United States, U.S. exports, and U.S. companies fairly with respect to trade and investment, and that foreign governments comply with existing trade obligations. If confirmed, I will work closely with you and your staff to determine with which countries to negotiate. I look forward to your input on this issue.

Question. Commercial aviation traffic rights have traditionally been negotiated through bilateral Air Transport, or "Open Skies" Agreements, which are jointly overseen by subject-matter experts at the Departments of State and Transportation. This Open Skies system has been successful in liberalizing international aviation markets in a way that increases competition and promotes growth opportunities for U.S. airlines, while protecting labor rights. In recent years, however, there has been steady pressure from foreign negotiators to include aviation services in FTAs. Including aviation services in FTAs would be unprecedented and is unnecessary.

Will you oppose efforts by the EU or other foreign entities to include aviation services as part of broader trade negotiations?

Answer. Aviation traffic rights have traditionally been covered by Open Skies agreements, not trade agreements. I am aware of the sensitivity around this issue and, if confirmed, USTR will remain in close communication with Congress should our trading partners seek to include the negotiation of these rights as part of broader trade negotiations with this administration.

Question. How will you work to make U.S. trade negotiations more transparent and inclusive?

Answer. I believe that transparency and inclusiveness in trade negotiations is important to get the best possible deal. If confirmed, I will ensure that USTR follows the TPA requirements related to transparency in any potential trade agreement negotiation. I also look forward to discussing with Congress ways to ensure that USTR understands fully, and takes into account, the views of all stakeholders during the course of a trade negotiation.

Question. Will you commit to making all U.S. tabled FTA proposals public? Will you commit to releasing to the public draft, consolidated FTA text after negotiating rounds?

Answer. If confirmed, I look forward to discussing with Congress the best way to ensure that USTR obtains public input during the course of a trade negotiation.

Question. According to the *Washington Post,* approximately 85 percent of the official trade advisors represent corporations. How will you ensure the Trade Advisory Committees members are not disproportionately representative of corporations and more representative of the U.S. public?

Answer. It is important that USTR's Trade Advisory Committees represent all types of stakeholders to ensure that USTR fully benefits from a diverse set of viewpoints in considering the positions it takes in negotiations. If confirmed, I will work to ensure that USTR's Trade Advisory Committees are appropriately constituted in order to achieve this goal.

Question. The GAO recently published a report titled "Government Procurement: United States Reported Opening More Opportunities to Foreign Firms Than Other Countries, but Better Data Are Needed" (GAO–17–168), which concluded that the U.S. opened up more of its domestic government procurement opportunities to foreign competition than the next five largest trade agreement partners combined. Given the report's findings, will you commit to reevaluating U.S. procurement obligations under the Agreement on Government Procurement and any new trade agreements you negotiate?

Answer. Thank you for this question. I hear your concerns about the recently released GAO report on government procurement that raises many important questions ranging from the gaps in U.S. and international procurement statistics to the comparative value of procurement market access in our trade agreements. I understand the importance of this issue, and if confirmed, I commit to working with you as we prepare a trade agenda that expands trade opportunities for U.S. suppliers.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

Question. In November 2015, the Department of Treasury and 11 countries adopted a Declaration to address unfair currency practices. This Declaration aimed to address the principal negotiating objectives on currency included in the Trade Priorities and Accountability Act of 2015. This Declaration was intended to stand beside the Trans-Pacific Partnership Agreement (TPP).

Does the Trump administration support the terms of that Declaration?

How does withdrawal from TPP affect commitments made by the U.S. Government?

Will the Trump administration adhere to the transparency and reporting commitments made in the Declaration?

Answer. I understand the importance that you and Congress as a whole place on the issue of unfair currency practices. I have also long been concerned about the potential for currency manipulation and misaligned currency to affect international trade flows. If confirmed, I will work with you and Congress, along with the Treasury Department and others in the administration, to determine the best means to address this longstanding issue.

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

Question. Mr. Lighthizer, do you agree that adopting or maintaining lax labor and environmental standards is not a legitimate way for governments to manufacture a competitive advantage for their exporters?

Answer. Labor and environment protections are important negotiating objectives that Congress has set out in TPA. If confirmed, I look forward to consulting closely with you and other members of Congress with an interest in using our trade agreements and enforcement efforts to promote high-standard protections for workers and the environment to ensure a level playing field for American workers and businesses.

Question. According to the American Iron and Steel Institute, the steel industry employs about 19,000 people in Pennsylvania, and is one of Pennsylvania's biggest economic drivers.[1] The steel and aluminum industries are facing a crisis because of global overcapacity, stemming from China. This glut in supply has cost American jobs and driven prices down. The steel industry is bringing trade cases, but more aggressive enforcement of U.S. trade laws is necessary to curb these practices. Countries that don't make things don't last for very long. To that end, preservation of our manufacturing base is not just an economic imperative; it is vital to our na-

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[1] *https://www.steel.org/~/media/Files/AISI/Public%20Policy/Member%20Map/2016/Pennsylvania.pdf?la=en.*

tional security. We must take definitive steps to address the market failures, and unfair trade practices that put our domestic producers at a significant disadvantage in the global marketplace.

Can you please share what actions you intend to take to press China and other countries on overcapacity?

Please discuss how you will work with our allies, including the EU, on taking collective action on this issue.

Answer. If confirmed, I will conduct a review of all available tools to address serious overcapacity problems in the steel industry and other sectors, work to address the root causes of those problems, and continue to work closely with other leading steel producing countries in the Global Forum on Steel Excess Capacity and other contexts. I will also examine how we might use our existing bilateral dialogues to press China to fix its unfair trade practices and vast excess capacity problem in many industrial sectors.

Question. What initial steps do you intend to take to address Mexico's lax enforcement of labor and environmental standards?

Answer. When trading partners fail to enforce labor and environmental laws, it can create a competitive disadvantage for U.S. workers, farmers, ranchers and businesses. If confirmed, I will work closely with you, other members of Congress and stakeholders to ensure that trading partners like Mexico live up to their obligations to effectively enforce their labor and environmental laws. I also look forward to working with you, other members of Congress, and stakeholders as we update and improve on NAFTA. That process provides an opportunity to improve our trading partners' labor and environmental standards in ways that also help level the playing field for American businesses.

Question. With respect to labor standards in our trade agreements, where do you think we have executed appropriate enforcement of labor obligations? What are your priorities in this area of enforcement?

Answer. When trading partners fail to enforce labor laws and do not uphold high-standard protections for workers, it can create a competitive disadvantage for U.S. workers, farmers, ranchers, and businesses. If confirmed, I will work closely with you, other members of Congress, and stakeholders with an interest in targeting our enforcement efforts to ensure that trading partners are acting consistently with their labor obligations in U.S. FTAs.

Question. With respect to uncompetitive market concentration of products or production, please discuss how you hope to work with the Department of Justice's antitrust division to evaluate the impact on prices in the United States, and where appropriate, develop remedies.

Answer. If confirmed, look forward to discussing with you what appropriate role USTR may have in this area.

Question. In your opinion, are the current funding and staffing levels at USTR sufficient to execute a robust trade and enforcement agenda that helps American businesses grow and gain market access?

Answer. I'm not in the administration. In my personal view, we need more resources for USTR and with whatever we have we'll do the best job we can do.

The President has made clear that trade policy negotiations and litigation are a top priority of the administration. Trade policy plays a critical part in every aspect of the economy and is essential to fulfilling the administration's goal of accelerating economic growth and improving U.S. standards of living. USTR's previous budget requests were based on the old status quo. Instead, President Trump places trade execution and enforcement at the top of his "America first" trade policy.

USTR's capabilities must grow to execute the President's new strategy. Increased resources are necessary to reinforce USTR's statutory obligations to (1) monitor compliance by foreign governments with trade policy commitments to the United States, detect violations as quickly as possible and take swift and successful actions to enforce U.S. rights and at the same time, (2) vigorously and successfully defend the ability of the United States to exercise its rights to ensure fair trade in the U.S. market, and, (3) take action under U.S. law to advance U.S. economic interests. If confirmed, I will work to ensure that USTR has the resources it needs to fulfill its mission.

Sufficient resources are vital to a robust trade enforcement strategy. Many of the problems faced by U.S. exporters in foreign markets are hard to address due to lack of transparency or because they are legally or factually complex, requiring significant attorney, investigatory, analytical, or translation resources. If confirmed, I will commit to use all the resources available to USTR, and seek to draw on the significant expertise in other agencies, to enforce U.S. trading rights fully and ensure that our trading partners comply with their international obligations.

Question. Do you intend to self-initiate trade cases when the situation calls for it? If so, do you believe the current funding and staffing levels at USTR are sufficient to execute this agenda?

Answer. If confirmed, I am committed to using all available statutory authorities, including possible self-initiation, where appropriate, to address unfair foreign trade practices and to open markets for U.S. exports.

Question. On February 10th, I wrote a letter to the President discussing key areas where American workers have been disadvantaged by trade agreements, this includes investor-state dispute settlement (ISDS) provisions. In practice, ISDS has provided some foreign companies greater legal protection than U.S. employers.

Do you support the inclusion of Investor State Dispute Settlement (ISDS) in its current form in future trade agreements?

Answer. If confirmed, I will look forward to working with Congress on the investment-related elements to be pursued in future U.S. trade agreements, consistent with the negotiating objectives set forth in the 2015 Trade Promotion Authority legislation.

Question. How would you amend ISDS to ensure no special legal protection is afforded to offshoring jobs?

Answer. If confirmed, in negotiating trade agreements I will bear closely in mind the negotiating objectives established on this point by Congress in the 2015 Trade Promotion Authority legislation.

Question. What steps do you intend to build on, and initiate, to protect U.S. intellectual property from both coercive appropriation, and conventional and cyber-enabled economic espionage?

Answer. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection, including against coercive appropriation and cyber-enabled economic espionage, and enforcement by our trading partners of their intellectual property obligations will be a top trade priority.

Question. Please describe where you see the WTO dispute settlement process as deficient and outline how you would work to make the process fairer.

Answer. USTR actively enforces WTO rules to ensure that U.S. producers, workers, ranchers, and farmers are able to achieve the market access to which they are entitled. USTR uses dispute settlement, as necessary, among other tools to achieve that goal. But to maintain U.S. confidence in the WTO, it is critical that WTO panels and the Appellate Body apply WTO rules as written and do not "add to or diminish the rights and obligations" of the United States or other WTO Members. If confirmed, I look forward to consulting closely with you, this committee and the Ways and Means Committee, on ideas to ensure the WTO dispute settlement system operates as intended, and as approved by Congress in 1994.

Question. Trade is critically important to the agricultural economy. Canada and Mexico are major export markets for the U.S. diary sector, which is a significant industry in my State. I am concerned about recent changes in Canadian policies that are displacing U.S. exports to that country. I am equally concerned with recent press reports that Mexico, which takes nearly a third of U.S. dairy exports, has stepped up trade talks with the European Union and New Zealand.

How will you ensure that Canada abides by the terms of NAFTA with respect to dairy trade?

What will you do to ensure that U.S. dairy producers continue to have strong access to the Mexican market?

Should the administration initiate a NAFTA renegotiation, will dairy access be a priority?

Answer. I understand that Canada's supply management program for dairy is of high concern to you, other members of Congress, and the U.S. dairy industry. If confirmed, I will examine the details of the issue and consult with you on the most appropriate way to address this matter. If confirmed, I will be committed to the expansion of U.S. dairy exports through negotiations that create enhanced export opportunities for our dairy producers, while we maintain the current markets that we already have.

Question. If confirmed, will you leverage the eligibility criteria found in AGOA to promote human rights and discourage anti-LGBT policies in sub-Saharan Africa, as the Obama administration did?

Answer. If confirmed, I will commit to work with you to ensure that AGOA beneficiary countries adhere to all of AGOA's eligibility criteria, including with respect to human rights.

Question. The USTR monitors and reports on whether trading partners adhere to eligibility criteria consistent with their receipt of trade preferences. This is an opportunity to promote cooperation in combating terrorism and terrorist finance, an area where both interagency and international collaboration is critical.

How do you view your role within our national security apparatus in aiding efforts to combat terrorism, terrorist finance and trade based-money laundering?

Will you ensure that countries are closely evaluated to promote adherence to the statutory eligibility requirements found in trade preference programs or other obligations they may have taken on?

There are well-documented links between the sale of counterfeits and illegally taken resources (such as wildlife and timber) to transnational criminal organizations and designated terrorist organizations. If USTR identifies trade or trafficking in counterfeits and illegally taken resources, will you be sure it alerts other appropriate agencies and encourages them to take appropriate actions to fully enforce U.S. law and advance U.S. interests?

Answer. Fighting terrorism is a key priority of this administration. Our trade preferences programs such as AGOA, GSP, and the Nepal Preference Program can play an important role by requiring the beneficiary countries to support the U.S. effort in combating terrorism. If confirmed, I commit to work with you and the committee, along with the Ways and Means Committee, as well as other agencies and stakeholders, to ensure that beneficiary countries continue to meet the statutory eligibility criteria of these programs, including the criteria related to combating terrorism and adequate and effective protection of intellectual property rights. If confirmed, I also commit to coordinating with other agencies, as appropriate, on issues related to counterfeits and illegally taken natural resources.

Question. Since the President has refused to disclose his taxes, we have no way of knowing where he has business interests or to whom he owes debts. However, it appears he has advocated for the elimination of a provision within the tax code from which he could directly benefit, to the tune of over $30 million, for one past tax-year, alone. Further, Mr. Trump did not disclose, nor does anyone have the information to ascertain, how he would currently benefit when he asserted his support for the elimination of this particular provision.

Do you think it is appropriate for the President to sign an affidavit affirming he has no financial interests in a trade agreement prior to negotiations being initiated?

How would you respond to and evaluate a direct request from the President concerning specific provisions within a trade agreement?

Answer. In all my conversations with the President, he speaks very strongly on enforcement and getting the best possible deals for American workers, farmers, ranchers, and businesses. The President is completely committed to the America First agenda, and working together, we have a reasonable likelihood that we can change the paradigm and make things better for all of our workers and farmers. I've never seen any hint in any way to the contrary.

Question. Counterfeits and theft of intellectual property not only threaten U.S. economic competitiveness, they can be a threat to consumer health and safety and to national security. The Pennsylvania defense industrial base helps ensure that our warfighters have the most innovative, most effective equipment and technology to ensure that they are never in a fair fight, as General Odierno used to say. I am concerned about the impact that counterfeiting has on the defense supply chain. China accounts for the lion's share of counterfeits seizures—with 52 percent by

value coming from the Chinese mainland and 35 percent by value from Hong Kong. U.S. agencies continue to take steps to curb counterfeits from entering the United States, including through Custom's Operation Chain Reaction, which addressed counterfeit circuits made in China.

How do you hope to work with Customs, the Department of Defense, and the State Department to combat counterfeits and identify vulnerabilities in our supply chain?

Answer. I am deeply concerned about the issues of counterfeiting and piracy in China, including as to integrated circuits and the impacts of these practices on the U.S. economy, U.S. jobs, and the threats that these practices pose to health and safety and national security. If confirmed, I will use all relevant trade policy tools, including the Special 301 report and the new procedures provided under the Trade Facilitation and Trade Enforcement Act of 2016 to spotlight and address this continuing problem. I look forward to engaging with other agencies in the government and to consulting with members of Congress on this important issue going forward.

Question. How will you respond to countries that show themselves to habitually foster counterfeiters?

Answer. The President has spoken very clearly that we need the strongest possible trade agreements, and stronger ones than we have negotiated in the past, to stand up for Americans in every area of trade. From my experience, the President is completely committed to the America First agenda, and working together, we have a reasonable likelihood that we can change the paradigm and make things better for all Americans . I've never seen any hint in any way to the contrary.

QUESTIONS SUBMITTED BY HON. MARK R. WARNER

Question. Two of the three largest export markets for Virginia are America's immediate neighbors to the north and south. So I have a few questions for you with respect to NAFTA.

The administration has announced its intent to focus on bilateral, rather than multilateral, trade agreements. The President has also called for renegotiating NAFTA. How does the intention to focus on bilateral agreements affect a renegotiation of NAFTA, which is multilateral?

Answer. As you note, Canada and Mexico are our largest export markets, and NAFTA is one of our oldest agreements, two reasons the President has made a renegotiation of NAFTA a priority. However, while I am not currently in the administration, I understand the administration has taken no decision on the structure of a renegotiated agreement. Should I be confirmed, I look forward to consulting with you on that topic.

Question. You have stated that the United States has "chronic deficits" with Mexico—in 2016, Virginia had a $300 million trade surplus with Mexico and a $1 billion trade surplus with Canada. Can you assure me that any renegotiation of NAFTA will not worsen any individual State's net trade, or specifically, my State's net trade position? How will you do so?

Answer. In updating NAFTA, we will seek to improve our trade relationship with Canada and Mexico in order to secure the greatest possible benefits for U.S. workers farmers, ranchers, and businesses. If confirmed, I look forward to working with you on how best to meet the needs of your State as we renegotiate NAFTA.

Question. As the administration formulates a plan for renegotiating NAFTA, what priority will it place on intellectual property protection, including in the pharmaceutical space, where 28 U.S. drug patents have been invalidated by Canada in recent years?

Answer. If confirmed, I will place a high priority on ensuring strong intellectual property protection and enforcement by our trading partners. This is necessary for future innovation, and it preserves a competitive advantage of the United States in the global market. I look forward to working with you to address your concerns about patent protection in Canada and how to best use all appropriate trade tools to address those concerns.

Question. When he was campaigning, Mr. Trump espoused vile rhetoric towards Mexico and Mexicans. He also pledged to build a wall, and even threatened to send troops to Mexico recently. All of that rhetoric has consequences, including for Ameri-

cans. You must be aware that the Mexican peso has dropped 20% since Mr. Trump's election in November.

This makes U.S. exports to Mexico 20% more expensive, harming U.S. manufacturers and workers. As U.S. Trade Representative, will you work to ratchet down the racist and offensive rhetoric from the administration towards our ally Mexico?

Answer. Mexico is our third-largest trading partner. I look forward to working with the Government of Mexico to renegotiate and bring NAFTA into the 21st century. Furthermore, I look forward to working with Mexico to achieve shared goals with respect to ensuring a level playing field for products and services made in the United States and Mexico, respectively.

Question. Currency manipulation is a real issue, but we need to be careful to use real facts, rather than the alternative facts that the administration is so fond of. The President campaigned on a promise to designate China as a currency manipulator. The Treasury Department, however, has not done so, probably because the data currently shows—and has shown for a while—China is not artificially holding down its currency. Making false designations based on the President's prejudices may set off a global trade war that will harm our economy. To the extent that you are consulted by Treasury on currency manipulator designations, will you support an objective analysis?

Answer. If confirmed, I will work with other administration officials, including at the Department of the Treasury, to develop an effective approach for addressing the problem of currency manipulation.

Question. Last month, the *Wall Street Journal* reported that "Trump officials have asked employees at the Commerce Department and Office of the U.S. Trade Representative to calculate U.S. trade flows in a way that exaggerates the overall U.S. trade deficit, overstates deficits with countries like Mexico, and even creates the illusion of deficits where none exist." I don't know whether to call this "alternative facts," or just making stuff up, but it is concerning. Will you pledge to this committee that, if confirmed, you will not manipulate trade statistics, or engage in what the Wall Street Journal called "fuzzy math?"

Answer. If confirmed, I will ensure that USTR relies on data related to flows of exports, imports, and other matters from the United States' professional statistical agencies, including Census, Bureau of Economic Analysis, and others, that provide the most complete and accurate picture of these matters.

Question. As you know, China offers extensive state support for domestic industries. For example, China has announced more than $150 billion in government projects to create a domestic semiconductor market, which distorts global markets and results in oversupply, imperiling American manufacturers. As U.S. Trade Representative, what tools will you use to address this concern?

Answer. Semiconductors are one of the top five U.S. export sectors, and they are critical to advancing innovation in virtually all sectors of the U.S. economy, from automobiles to cell phones to medical devices. The Chinese government has launched an initiative to develop an indigenous, self-contained semiconductor industry—an initiative calling for government-directed funding in the tens of billions of dollars, with some estimates of over $150 billion, as your question notes. If confirmed, I will work to address this challenge and to identify and implement the most effective policies to combat the market-distorting impacts of China's semiconductor fund.

Question. Similarly, China employs other trade barriers that make it difficult for U.S. cloud services companies to operate in China, likely in violation of WTO commitments. Meanwhile, Chinese cloud service providers can operate in the United States today without similar regulatory restrictions. This imbalance is inherently unfair and threatens to jeopardize one of America's critical areas of growth in the technology sector. Will you pledge to this committee that, if confirmed, you will make this a priority in your discussions with Chinese officials?

Answer. I recognize that U.S. leadership in the technology sector, particularly in cloud computing, is a national strength and a source of our international competitiveness. I agree that our trade policy should work to ensure that U.S. companies in this sector can thrive globally, including in China, where I recognize that barriers have been severe and contrast sharply with the open market in the United States. If confirmed, I will make seeking progress in reducing barriers to U.S. companies in this sector, including in China, a priority.

Question. One of the key reasons I supported President Obama's pivot towards Asia and his pursuit of TPP was because strengthening economic integration leads to stronger national security relationships, increases our ability to improve human rights and labor and environmental standards, and boosts American "soft power." Now that this administration has abrogated TPP, China's economic might in East and Southeast Asia will grow. How will you, as USTR, address that to benefit American workers and exporters?

Answer. The administration intends to maintain its leadership in the region through active engagement with countries in the Asia Pacific. The administration has also indicated it is considering pursuing bilateral FTAs with those countries. If confirmed, I will work to press China to provide a level playing field for U.S. exporters In addition, I will consult closely with you and other members of Congress on how best to maintain U.S. leadership in the region.

Question. American farmers often face major barriers in attempting to export products to foreign markets. Prominent examples have included bone-in-beef to South Korea and Japan, or poultry to China, under spurious sanitary or phytosanitary conditions. Will you continue the fight that previous U.S. trade representatives engaged in to break down those trade restrictions for U.S. agricultural products?

Answer. If confirmed, I am committed to tear down unwarranted sanitary and phytosanitary barriers to U.S. agriculture exports, including for U.S. beef and poultry. Ensuring that countries have regulations that are based on scientific principles and international standards is critical to the expansion of agricultural exports and the improvement of rural incomes.

Question. How can the United States use new and existing trade agreements, including enforcement tools, to ensure U.S. businesses benefit from strong intellectual property protections and greater access to global markets?

Answer. If confirmed, I would seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

Question. There has not been a successful sustained safeguard action that has not run afoul of the World Trade Organization (WTO). Knowing that WTO Safeguard actions provided for in the GATT article XIX (19) are available to the United States, how will USTR approach safeguard actions if deemed necessary and how will you ensure the United States sustains a case at the WTO?

Answer. If confirmed, I will work with USTR staff and with other agencies to evaluate the most suitable response, including the use of our safeguard laws where appropriate, for addressing each particular situation where imports are harming U.S. workers and businesses. I will also take all possible steps to defend any safeguard action at the WTO.

QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL

Question. Missouri is a major State exporter, with nearly $14 billion in exports in 2016. More than 60 percent of Missouri's exports were to the State's top two trading partners, Canada and Mexico. The administration has announced that it will soon renegotiate NAFTA. What specific steps will you take as the U.S. Trade Ambassador to improve this trade agreement without putting the manufacturers and farmers in Missouri at risk of losing market access with these trading partners?

Answer. I understand that NAFTA has been in place for a long time and that many of our workers, farmers, and firms have expanded exports to Canada and Mexico under the agreement. If confirmed, I am committed to maintaining U.S. exports of goods and services from Missouri and our other States, and will use the opportunity of renegotiating NAFTA as a way to seek changes that will expand U.S. exports to Mexico and Canada and generate increased economic opportunities for America's workers, farmers, ranchers, and businesses.

Question. China's state-owned enterprises invested $45 billion in the United States during 2016. Are you willing to use regulatory tools to ensure that SOE investment in the United States does not distort our markets or threaten our economic security?

Answer. If confirmed, I will look forward to working with the Congress, stakeholders and other U.S. Government agencies to consider appropriate ways of addressing concerns about Chinese SOE investment in the United States.

Question. China negotiated 14 Free Trade Agreements since 2002, and is closing in on the completion of the Regional Comprehensive Economic Partnership, a 16-country agreement that includes India and Japan. What is the administration's plan to expand our market access in the Pacific Rim and how does the administration intend to combat the influence of China in that region?

Answer. The Trump administration intends to play a strong leadership role in the Asia-Pacific, including through the active negotiation of bilateral free trade agreements and other trade initiatives aimed at ensuring that U.S. workers, farmers, and manufacturers have a fair opportunity to compete in these markets. If confirmed, I look forward to working closely with Congress to increase U.S. economic growth, foster job creation in the United States, promote reciprocity with our trading partners, and enhance U.S. competitiveness in the Asia-Pacific region and globally.

Question. There is a global glut in steelmaking capacity caused by foreign government subsidies and other market-distorting policies. China's surplus capacity for steel production is greater than the entire steel production of the United States, the EU and Japan combined. The OECD has attempted to address this challenge through a global forum, however, there has been little action or results. What steps will you take to address the need to reduce global steel capacity?

Answer. If confirmed, I will conduct a review of all available tools to address serious overcapacity problems in steel and other sectors, work to address the root causes of those problems, and continue to work closely with other leading steel producing countries in the Global Forum on Steel Excess Capacity and other contexts.

If confirmed, I also will examine how we might use our existing bilateral dialogues to press China to fix its unfair trade practices and vast excess capacity problem in many industrial sectors. I will vigorously enforce and defend our trade remedy laws, and aggressively utilize all available tools in the WTO and other mechanisms to combat distortive trade practices.

Question. Do you think the computable general equilibrium model used by the International Trade Commission provides the most accurate prediction of all the possible risks and benefits of new trade deals? Do you support making changes to the model to better account for investment, wage, and regulatory impact?

Answer. Computable general equilibrium (CGE) models are one of many tools widely used to assess trade agreements. Other tools include econometric models, partial equilibrium models, as well as qualitative assessments. CGE and other models can and should be improved over time, consistent with maintaining the greatest possible confidence in the outcomes, as the model becomes able to incorporate additional features of trade agreements such as services, investment, rules of origin, and logistical efficiency. If confirmed, I will ask USTR's office of Trade Policy and Economics to work with the ITC to ensure that the models it is using to assess new trade deals and in other contexts are as strong as possible.

Question. The Trade Promotion Authority includes the protection of cross-border data flows and opposition to data localization laws as core negotiating objectives for future U.S. free trade agreements. As the U.S. Trade Representative, what will you do to support these congressional objectives for data flows and local server prohibitions?

Answer. Digital trade provides enormous value to the U.S. economy, and U.S. companies are uniquely competitive in this area. I recognize the significant challenges for U.S. firms when foreign governments impose restrictions on the ability to transfer data across borders or require data to be stored locally. If confirmed, I will look forward to working with the Congress to identify ways to promote open digital trade policies globally, including through implementation of specific objectives set out in TPA.

SUBMITTED BY HON. PAT ROBERTS, A U.S. SENATOR FROM KANSAS

KEY ELEMENTS OF A MODEL TRADE AGREEMENT

1. Rules of Origin Percentages and Loopholes
2. Trade Deficit Reduction

3. Dumping, Diversionary Dumping, and Evasion of AD/CVD Duties
4. Currency Manipulation
5. Strict Environmental and Labor Standards
6. Intellectual Property Protection
7. Restrictions on State-owned and State-financed Enterprises
8. Investor-State Dispute Resolution
9. Chapter 19
10. Non-Tariff Barriers
11. Government Procurement
12. Joint Cooperation on Issues Related to the WTO
13. Enforcement, Monitoring, and Compliance
14. Corruption
15. Country of Origin Labeling
16. Evasion of Antidumping and Countervailing Duties
17. Forced technology transfer
18. Geographical indications to restrict trade
19. Quotas
20. Phytosanitary standards
21. Processed foods
22. Stumpage
23. Tax rebates on exports
24. Technology transfers

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

After several weeks during which the only insight the public has gotten into this administration's trade policy has come in head-scratching 140-character bursts, today's hearing may finally provide some real specifics. I want to thank Mr. Lighthizer for being here today as the committee considers his nomination to be the U.S. Trade Representative. And I hope that at the end of this hearing, Americans will have heard more detail about how the administration plans to meet the extensive promises then-candidate Trump made in the 2016 campaign.

Before diving into policy, however, there's another issue this committee must address as it considers this nomination. As a legal matter, Mr. Lighthizer's previous work for foreign governments makes him ineligible to be appointed as the United States Trade Representative, pursuant to the Lobbying Disclosure Act. The facts are clear, but as with Secretary Mattis, this administration and others before it have worked with Congress when appropriate to make exceptions.

Speaking for Democrats, we are willing to work with Republicans to provide a statutory exception for Mr. Lighthizer, but we also insist that Republicans work with Democrats to provide a lifeline to America's hardworking mineworkers who face losing their health care and retirement benefits.

Mr. Lighthizer has an understanding about the impact of unfair trade on America's manufacturers and workers that could be a valuable asset for our country. The country needs a USTR that will stand up for our rights on behalf of American workers and businesses at the WTO, and that will partner with Customs and Border Protection, the Department of Commerce, and the full range of agencies responsible for trade enforcement to crack down on trade cheats hurting workers and businesses here at home.

After a campaign of shouting that NAFTA could be the worst trade deal ever, the President got into office and said our trade relationship with Canada—a NAFTA member—only needed "tweaking." He spent the campaign talking tough about China, but his administration has largely been quiet about their plans when it comes to China's unfair trade practices. So what I say is that our trade policy needs to deliver results, not just talk.

That starts with applying a full court press on trade enforcement. In my view, there are two prongs to effective trade enforcement. The first is to fully enforce U.S. trade laws here at home. Foreign subsidies and dumping that harms American workers must be quickly identified and remedied, and that requires strong enforcement at the border by U.S. Customs officials. Goods made with forced labor must be barred from entering our country. Trade in stolen timber and other natural resources that damage the environment and edge out hard working Americans in the forestry sector must be stopped. Thanks to the work of this committee, especially

by Senators Brown, Casey and Stabenow, our country's trade remedy laws are now more responsive to American producers besieged by foreign trade cheats.

The second prong of effective trade enforcement is holding other countries to their commitments under deals that are already on the books, whether that means enforcement of labor obligations, the protection of the environment, or stopping countries from applying discriminatory policies to block our digital goods and services.

Now when it comes to aggressive trade enforcement, the U.S. Government can't deploy a full court press with only half a team. That's why many Democrats like myself thought the President's hiring freeze was so short-sighted—because it leaves resources on the sideline, and it suggests that the tough talk on trade is really nothing more than talk. I hope that the President's forthcoming budget doesn't take even more trade enforcers out of the game, endangering good-paying American jobs, just to fund a $54 billion giveaway to defense contractors.

In order to maximize economic opportunities for American exporters, our trade policy cannot end with effective enforcement of existing rules. It also must reach overseas to dismantle foreign trade barriers that prevent American goods and services from competing on a level playing field.

The fact is that around 140 million people are joining the middle class every year, most of them in Asia. I've always said that our goal should be to make things here, add value to them here, and ship them around the world. These opportunities will be missed if the United States remains on the sidelines while other nations negotiate trade deals that advantage their exporters over ours.

This is particularly true in the Asia-Pacific region. And that is exactly what is happening as we sit here today—Pacific Rim countries are meeting in Chile to discuss trade in the region and U.S. leadership is nowhere to be found.

With that said, whether it's through renegotiating NAFTA, looking to Asia, or working on any other trade deal, transparency with the public and with Congress will be absolutely essential. The previous Congress passed a law that requires critical actions to ensure that the public and its representatives in Congress are active partners in efforts to negotiate and implement future trade agreements. But with the American people sitting in the dark with respect to the specific actions the President intends to take on trade, the first months of this administration leave Mr. Lighthizer, if confirmed, with a steep hill to climb on transparency.

In my view it's also critical that the American public knows whether the President is advocating for trade policies to create red-white-and-blue jobs or to help his own business interests. That's why I introduced the Presidential Trade Transparency Act with several dozen members from both chambers of Congress.

The bottom line is that the administration has talked a big game when it comes to trade, but now it's time to act. That means more transparency, a full court press on trade enforcement, and being on the offense in overseas markets. Mr. Lighthizer, I look forward to your testimony.

MEMORANDUM FOR FINANCE COMMITTEE MEMBERS

From: Senate Finance Committee Bipartisan Staff
Date: March 13, 2017
RE: Nomination of Robert Lighthizer (USTR)

This memo describes the Senate Finance Committee bipartisan staff review of the nomination of Mr. Robert Lighthizer to be United States Trade Representative (USTR). As background, Mr. Lighthizer has been a partner at the law firm Skadden Arps Slate Meagher and Flom (Skadden) since 1985.

Background

Finance Committee staff conducted a review of Mr. Lighthizer's Committee Questionnaire, tax returns for 2013, 2014, and 2015, financial disclosure statement (OGE Form 278e), and Ethics Agreement certified by the Office of Government Ethics (OGE). As part of this review, a due diligence meeting was held with the nominee and his legal representation on Friday, March 3, 2017. His accountant participated via telephone for tax-related questions. Prior to the due diligence meeting, staff submitted multiple rounds of written questions to the nominee.

Committee staff received Mr. Lighthizer's tax returns on January 9th, followed by his questionnaire on January 17th, which was subsequently revised January 27th. The nominee's OGE Form 278e and Ethics Agreement were submitted January 31st; the nominee later amended his 278 form on February 17th after conversations with the designated agency ethics official (DAEO) at USTR.

At the conclusion of this process, three issues have been identified and deemed appropriate to bring to the attention of Committee Members in advance of the hearing.

Representation of Foreign Entities

In the Finance Committee questionnaire, Part C, Potential Conflicts of Interest, Question 6 asks nominees for the positions of U.S. Trade Representative and Deputy U.S. Trade Representative:

"Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed, the time frame of the work, and the number of hours spent on the representation."

Federal law prohibits appointment as USTR or Deputy USTR if a person has directly represented a foreign entity in a trade negotiation or trade dispute with the United States government. These restrictions are contained in the Trade Act of 1974. In particular, Section 141(b) of the Act (19 U.S.C. § 2171(b)) prohibits the President from appointing as USTR or Deputy USTR "[a] person who has *directly represented, aided, or advised* a *foreign entity* (as defined by section 207 (f)(3) of title 18) in any *trade negotiation, or trade dispute, with the United States*." 19 U.S.C. § 2141(b). This provision was included in the Trade Act of 1974 as part of the Lobbying Disclosure Act of 1995.

A foreign entity is defined in section 207(f)(3) as "the *government of a foreign country* as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, *or a foreign political party* as defined in section 1(f) of that Act." The Foreign Agents Registration Act (FARA) defines government to include "any group or agency to which [] sovereign de facto or de jure authority or functions are directly or indirectly delegated." 22 U.S.C. § 611.

Mr. Lighthizer's response to Part C, Question 6 (Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to a trade matter?) on his initial questionnaire was "None." He later revised his questionnaire on January 27th to include representation between October 1985 and February 1986 of the Sugar and Alcohol Institute of Brazil (IAA). No other representations of a foreign government or foreign political organization with respect to an international trade matter were reported in the amended questionnaire.

Following discussions with Committee staff on February 1st and responding to the written question—"For each matter you worked on for a client that was a foreign entity (whether you regard them to be a government entity or a non-government entity) during your employment at Skadden, please provide [information and supporting documentation]"—submitted February 2nd, Mr. Lighthizer prepared a summary of the work he performed for all of his clients that were a foreign government, foreign business, or non-governmental organization with foreign ownership during his employment at Skadden. After review, Committee staff determined one instance in which Mr. Lighthizer's work may constitute representation of a foreign government in a trade negotiation or trade dispute with the United States, within the meaning of Section 141(b). To be clear, while staff wishes to bring this representation to your attention, it is not the position of Republican Committee staff that the following representation clearly constitutes a representation of a foreign entity in a trade dispute or trade negotiation with the United States within the meaning of 19 U.S.C. § 2141(b). Mr. Lighthizer maintains that this matter does not fall within Section 141(b).

- *Sugar and Alcohol Institute of Brazil.* As described in his amended questionnaire, Mr. Lighthizer represented the Sugar and Alcohol Institute of Brazil (at the time, part of Brazil's Ministry of Industry and Commerce) between October 1985 and February 1986 in negotiations concerning resolution of antidumping and countervailing duty investigations regarding Brazilian ethyl alcohol. As part of this representation, Mr. Lighthizer conferred with U.S. officials in Congress and the U.S. Department of Commerce with respect to the potential for a settlement. Mr. Lighthizer stated during discussions with Committee staff on

February 1st that these efforts included one meeting at Commerce concerning a possible suspension agreement.

In addition, Democratic staff determined an additional instance in which Mr. Lighthizer's work may constitute representation of a foreign government within the meaning of Section 141(b). To be clear, while staff wishes to bring this representation to your attention, it is not the position of Republican Committee staff that the following representation clearly constitutes a representation of a foreign entity in a trade dispute or trade negotiation with the United States within the meaning of 19 U.S.C. § 2141(b). Mr. Lighthizer maintains that this matter does not fall within Section 141(b).

- *China Chamber of Commerce for Machinery and Electronics Products.* As described in his written summary of work performed for foreign entities, between March and November 1991, Mr. Lighthizer assisted another partner with respect to the injury phase of U.S. antidumping litigation regarding electric fans from China. Democratic staff review found that the Chamber of Commerce's articles of association from 2009 lists 10 areas of its business scope, including "To perform other duties entrusted or assigned by the government or by the member enterprises and in accordance with the fellow trade agreements." The Chinese government has taken the position in U.S. courts that it exercises "plenary" authority over other chambers of commerce.

Representations in Pending Trade Matters

In both written responses and in-person meetings with Committee staff, Mr. Lighthizer addressed matters involving other representations through his work at Skadden.

For example, Part C., Potential Conflicts of Interest, Question 2 of the Committee questionnaire states: "Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated." OGE Form 278e, Section 4 requires nominees to report sources of compensation exceeding $5,000 in a year during the reporting period (in this case two calendar years preceding the filing date).

In written follow-up responses to question C.2 from the questionnaire, Lighthizer listed United States Steel Corporation (U.S. Steel), Tensar International Corporation (Tensar), Cummins Allison Corporation and Dun and Bradstreet, Inc. The cases of U.S. Steel and Tensar drew particular attention.

With respect to U.S. Steel, the nominee's February 6th response indicated "I have an ethics agreement with the Office of Government Ethics which covers possible conflicts of interest." Regarding Tensar, Mr. Lighthizer noted "I did no legal work for Tensar at any time and never billed any time to them."

With respect to the nominee's OGE 278 form, Mr. Lighthizer identified two sources of income exceeding $5,000 during any year of the reporting period: U.S. Steel and Skadden. However, public records available at the U.S. International Trade Commission (USITC) indicated the nominee represented Tensar in two cases since September 2016. In response, Mr. Lighthizer noted "Tensar's billing did exceed $5,000 in the last year, but I performed no work for it. I also did not perform work on U.S. Steel Corporation during the 2 years prior, but I listed it because I have done work for it for many years in the past."

After subsequent conversations with the USTR ethics official, Mr. Lighthizer amended his OGE 278 form on February 17th and removed U.S. Steel from Section 4: ". . . because I did not bill for any work for United States Steel Corporation in calendar years 2015, 2016, or 2017, this line item should not have been included on my report." Mr. Lighthizer's stated position throughout the process has been that the recusal paragraph of the Ethics Agreement would apply to U.S. Steel.

Public Docket Information

The nominee has explained to the Committee he was not representing parties in pending trade cases. He has repeatedly stated that he performed no legal work for Tensar International Corporation "at any time," nor did he perform any legal work for U.S. Steel during the past 2 years. However, public records in these proceedings identify him as counsel for two parties in those proceedings.

Due diligence review by Committee staff of dockets before the International Trade Administration at the Commerce Department,[1] the U.S. International Trade Commission (USITC),[2] and the U.S. Court of International Trade[3] found dozens of proceedings in which Mr. Lighthizer and his firm represented to these agencies—and to parties in ongoing proceedings—that he served as counsel for these two companies. Among the hundreds of filings in these proceedings, he personally signed several dozen applications for access to confidential business information subject to an administrative protective order (APO) in these cases, two as recently as December 19, 2016 on behalf of U.S. Steel.[4] With regard to Tensar, he is identified as counsel in his firm's submission to the USITC of Tensar's Post-Hearing Brief as recently as December 30, 2016, a date after he was aware that he was under active consideration for the USTR position.[5]

Mr. Lighthizer's explanation for these representations is that, (1) with respect to briefs, it was standard procedure for his firm to list all partners in the trade practice on filings in trade cases until they resign; and (2) with respect to requests for access to APO information, the firm included a broad cross-section of employees to avoid breaching the APO, even those unlikely to work on a particular case. During his due diligence interview on March 3rd, he explained with respect to briefs that "Skadden lists all their partners on these documents. . . . My name is on the pleadings until I resign. That is how Skadden does it." Regarding APO applications, he stated, "You fill these out in case something comes across your desk. . . . Unless someone is very junior and not involved, you have them sign the APO." Mr. Lighthizer also reiterated that he did not participate in his firm's work on these proceedings in any way, nor did he supervise the other attorneys working on these cases. He further stated that his compensation from the firm during this period was not tied to the firm's representation of Tensar or U.S. Steel.

On March 8th, the nominee clarified additional points. With respect to Skadden's policy of signing legal documents, he wrote ". . . it is the general practice of the International Trade Group to list the names of senior members of the group on pleadings. I understand that this is not a standard litigation practice at Skadden. We generally require all lawyers in the International Trade Group to sign APO papers for all cases subject to an APO. This is a prophylactic measure to prevent an unintended violation of an order."

With respect to U.S. Steel during 2015–2017, "I again spoke to my colleagues about the timing of conversations I may have had with U.S. Steel. . . . On reflection I may have had conversations with company officials about billing or other matters. I do not recall specific conversations and, as I previously noted, I did not bill the client for any such conversations." Furthermore, Mr. Lighthizer emphasized that both U.S. Steel and Tensar, for purposes of recusal, are covered in the fourth paragraph of his Ethics Agreement, which states: "I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or represents a party for a period of one year after I last provided service to that client. . . ." The nominee confirmed that his position and that of his Designated Agency Ethics Official is that "by having my name on pleadings for U.S. Steel and Tensar I provided a service to them within the meaning of that word in paragraph four, sentence two of my Ethics Agreement. Thus my involvement with these two companies is subject to those constraints."

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[1] A Trade Administration docket search shows that during the past 2 years, Mr. Lighthizer and his firm represented in some 192 filings to that agency and to parties in some 52 proceedings that he was counsel for either U.S. Steel or Tensar. These filings include some 46 filings in which he signed documents related to access to proprietary information (APOs).

[2] A USITC docket search shows that during the past year, Mr. Lighthizer and his firm represented to the USITC and to parties in an ongoing proceeding—*Certain Biaxial Integral Geogrid Products from China*—that he was counsel for Tensar Corporation in 14 filings in 2016. The search also shows that during the past 2 years, Mr. Lighthizer and his firm represented in some 57 filings to the USITC and to parties in 9 different proceedings that he was counsel for the U.S. Steel Corporation. In five of those filings pertaining to access to protected proprietary information (APOs), he signed those applications.

[3] A docket search of the U.S. Court of International Trade shows that during the past 2 years, Mr. Lighthizer was identified as counsel for U.S. Steel in some 18 cases pending before the Court.

[4] On December 19, 2016, Mr. Lighthizer personally signed two different APO applications on behalf of U.S. Steel—*Certain Oil Country Tubular Goods from the Republic of Korea* (Case No.: A–580–870) and *Certain Oil Country Tubular Goods from India* (Case No.: C–533–858).

[5] Mr. Lighthizer confirmed this in his interview. His nomination was formally announced on January 3, 2017.

Taxes—Employee Documentation

Committee staff received copies of Mr. Lighthizer's 2013, 2014, and 2015 federal tax returns on January 9, 2017, and submitted an initial round of written questions on February 1, 2017. Mr. Lighthizer responded on February 7, 2017. After the due diligence meeting with staff, an additional round of written questions was submitted on March 3, 2017.

Employers are required to complete Form I–9 for each of their employees to verify their identity and employment authorization. This form is not submitted to U.S. Customs and Immigration Service but is to be retained by the employer.

On Schedule H of his 2013, 2014, and 2015 tax returns, Mr. Lighthizer retained a household employee. However, when Committee staff requested a Form I–9, Mr. Lighthizer responded that one could not be located. He stated that he had verified the employee's identity and employment authorization by examining her passport upon initially hiring the employee in 1998, but could not locate a Form I–9. Mr. Lighthizer then completed a new Form I–9 and submitted it to Committee staff on March 7, 2017.

U.S. Department of Justice
Washington, DC 20530

Exhibit A
To Registration, 'ement
Under the Foreig. gents Registration Act of 1938, as amended

OMB No. 1105-0003
Approval Expires Oct. 31, 1986

Furnish this exhibit for EACH foreign principal listed in an initial statement and for EACH additional foreign principal acquired subsequently.

1. Name and address of registrant
Skadden, Arps, Slate, Meagher & Flom
919 18th Street, N.W.
Washington, D.C. 20006

2. Registration No.
3746

3. Name of foreign principal
Sugar & Alcohol Institute

4. Principal address of foreign principal
Sugar & Alcohol Institute
Largo do Paco #42, 4th Floor
Rio de Janeiro, Brazil 20010

5. Indicate whether your foreign principal is one of the following type:

☒ Foreign government

☐ Foreign political party

☐ Foreign or ☐ domestic organization: If either, check one of the following:

☐ Partnership ☐ Committee

☐ Corporation ☐ Voluntary group

☐ Association ☐ Other (specify) _____

☐ Individual—State his nationality _____

6. If the foreign principal is a foreign government, state:

a) Branch or agency represented by the registrant. Ministry of Industry and Commerce of Brazil

b) Name and title of official with whom registrant deals. Willes Martins Banks Leite, Director, Exports Department, Sugar & Alcohol Institute

7. If the foreign principal is a foreign political party, state:

a) Principal address

b) Name and title of official with whom the registrant deals.

c) Principal aim

8. If the foreign principal is not a foreign government or a foreign political party,

a) State the nature of the business or activity of this foreign principal

Owned by a foreign government, foreign political party, or other foreign principal ..... Yes ☐ No ☐

Directed by a foreign government, foreign political party, or other foreign principal..... Yes ☐ No ☐

Controlled by a foreign government, foreign political party, or other foreign principal ..... Yes ☐ No ☐

Financed by a foreign government, foreign political party, or other foreign principal..... Yes ☐ No ☐

Subsidized in whole by a foreign government, foreign political party, or other foreign principal..... Yes ☐ No ☐

Subsidized in part by a foreign government, foreign political party, or other foreign principal..... Yes ☐ No ☐

9. Explain fully all items answered "Yes" in Item 8(b). *(If additional space is needed, a full insert page may be used.)*

10. If the foreign principal is an organization and is not owned or controlled by a foreign government, foreign political party or other foreign principal, state who owns and controls it.

Date of Exhibit A	Name and Title	Signature
Dec. 3, 1985	Thomas R. Graham, Attorney-Fact, Skadden, Arps, Slate, Meagher & Flom	

U.S. GOVERNMENT PRINTING OFFICE : 1984 O - 434-349

U.S. Department of Justice
Washington, DC 20530

Exhibit B
To Registration Statement
Under the Foreign Agents Registration Act of 1938, as amended

OMB No. 1105-0007
Approval Expires Oct. 31, 1983

INSTRUCTIONS: A registrant must furnish as an Exhibit B copies of each written agreement and the terms and conditions of each oral agreement with his foreign principal, including all modifications of such agreements; or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is acting as an agent of a foreign principal. This form shall be filed in duplicate for each foreign principal named in the registration statement and must be signed by or on behalf of the registrant.

Name of Registrant	Name of Foreign Principal
Skadden, Arps, Slate, Meagher & Flom	Sugar & Alcohol Institute

Check Appropriate Boxes:

1. ☒ The agreement between the registrant and the above-named foreign principal is a formal written contract. If this box is checked, attach two copies of the contract to this exhibit.

2. ☐ There is no formal written contract between the registrant and foreign principal. The agreement with the above-named foreign principal has resulted from an exchange of correspondence. If this box is checked, attach two copies of all pertinent correspondence, including a copy of any initial proposal which has been adopted by reference in such correspondence.

3. ☐ The agreement or understanding between the registrant and foreign principal is the result of neither a formal written contract nor an exchange of correspondence between the parties. If this box is checked, give a complete description below of the terms and conditions of the oral agreement or understanding, its duration, the fees and the expenses, if any, to be received.

4. Describe fully the nature and method of performance of the above indicated agreement or understanding.

Skadden, Arps, Slate, Meagher & Flom will provide general legal services related to settlement of disputes between Brazil and the United States involving the trading of ethanol.

REC'D/REG
CRIMINAL DIVISION
DEC 1 1 1983
INTELLIGENCE & SECURITY
SECTION
REGISTRATION UNIT

5. Describe fully the activities the registrant engages in or proposes to engage in on behalf of the above foreign principal.

Skadden, Arps, Slate, Meagher & Flom will provide legal advice concerning U.S. laws and policies that may affect the Sugar & Alcohol Institute and trade in ethanol between the United States and Brazil, and may represent the Sugar & Alcohol Institute's position on such matters.

6. Will the activities on behalf of the above foreign principal include political activities as defined in Section 1(o) of the Act?[1]
Yes ☒ No ☐

If yes, describe all such political activities indicating, among other things, the relations, interests or policies to be influenced together with the means to be employed to achieve this purpose.

Skadden, Arps, Slate, Meagher & Flom may communicate the Sugar & Alcohol Institute's viewpoint on matters affecting the Institute to the U.S. Congress and to executive agencies.

Date of Exhibit B	Name and Title	Signature
Dec. 3, 1985	Thomas R. Graham Attorney-in-Fact for Skadden, Arps, Slate, Meagher & Flom	

[1] Political activity as defined in Section 1(o) of the A[illegible] ins the dissemination of political propaganda and any other activity which [illegible] engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence any agency or official of the Government of the United St[illegible] or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party.

SKADDEN, ARPS, SLATE, MEAGHER, AND FLOM
919 Eighteenth Street, NW
Washington, DC 20006
(202) 453–8700

November 14, 1985

Willes Martins Banks Leite, Director
Exports Department
Sugar and Alcohol Institute
Largo do Paco, #42, 4th Floor
Rio de Janeiro, Brazil 20010

Dear Mr. Banks:

This document, when signed by you, will be a letter Agreement between the Government of Brazil through the Sugar and Alcohol Institute (the "IAA") and Skadden, Arps, Slate, Meagher, and Flom, (the "Firm"), for legal services.

The Firm agrees to work for the IAA, part of the Brazilian Ministry of Industry and Commerce, in a broader effort to resolve disputes between Brazil and the United States involving ethanol trade. This work will include general legal services related to this litigation and specifically those related to an attempt to settle the cases. The Firm will participate in the efforts to persuade the administration, particularly the Department of Commerce, the U.S. domestic ethanol producers, U.S. agriculture producers and the Congress of the desirability of Brazil and the United States resolving outstanding difficulties concerning ethanol on a friendly and equitable basis. The Firm will also participate in any legislative efforts that might be related to a settlement.

It is understood that the lawyers from Willkie, Farr, and Gallagher, previously with the firm Wald, Harkrader, and Ross, will continue representing the Government of Brazil and the producers in the above mentioned pending antidumping and countervailing duty cases, and that we shall assist them to the extent possible in the defense of such cases.

This matter will involve the concentrated efforts of at least two of the Firm's partners and two associates over the next several weeks. Other Firm lawyers will also be needed from time to time. The matter will involve legal interpretations and advice, the drafting of legal documents and briefs, strategy sessions, as well as numerous meetings with administration, congressional and U.S. business interests.

The IAA agrees to pay the firm for all legal services and out-of-pocket expenses incurred in this representation. The legal services fees will be based on time spent on this matter by Firm attorneys. Partners' time will be billed at approximately $200 per hour and associates' time at approximately $100 per hour. (These rates may vary slightly depending on the level of expertise of the attorneys. Mr. Lighthizer's time will be billed at $200 per hour.) The IAA agrees to pay out-of-pocket expenses on a monthly basis.

The IAA further agrees to pay the firm a minimuml retainer fee of $125,000 within one week following signature of this agreement. Fees for legal services will be credited against this amount until the $125,000 is used up. After the retainer is used up, periodic bills for such services will be presented and paid by IAA. If the fee for actual legal services is less than $125,000, no refund will be due. Out-of-pocket expenses will be paid separately and will not be credited against this payment. The remittance of the retainer fee, as well as the refund of out-of-pocket expenses and fees will be paid under the rules and authorization of Bacen-Banco Central Do Brasil.

You may terminate our services at any time upon 48 hours telex notice subject to payment of any time actually spent, if in excess of the $125,000 retainer and all expenses actually incurred to that date.

This agreement will have retroactive application to October 13, 1985. This is the day before Mr. Lighthizer travelled to Brazil for preliminary meetings on this matter.

In order to execute this agreement, please sign two copies, return one to us, and retain one for your files.

For Skadden, Arps, Slate, Meagher, and Flom
Robert E. Lighthizer

For The Alcohol and Sugar Institute
José Ribeiro Toledo Filho

COMMUNICATIONS

INTERNATIONAL CORPORATE ACCOUNTABILITY ROUNDTABLE
1612 K Street, NW, Suite 1400
Washington, DC 20006

February 2, 2017

The Honorable Orrin Hatch
Chairman
Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
U.S. Senate
Washington, DC 20510

SUBJECT: Hearing to Consider the Nomination of Robert Lighthizer, of Florida, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary, Tuesday, March 14, 2017.

Dear Chairman Hatch, Ranking Member Wyden, and members of the Committee on Finance,

We, the undersigned organizations, write to you concerning the nomination of Robert E. Lighthizer as the United States Trade Representative (USTR). We urge you to use the confirmation hearings to clarify Mr. Lighthizer's commitment to promoting a U.S. trade policy that benefits all Americans by protecting and promoting labor, environmental, and human rights worldwide.

International trade has long been an integral part of the U.S. economic system, but U.S. trade policy has not consistently benefited all Americans. Nor has it succeeded in uplifting many of the developing countries it claims to serve. Instead, U.S. trade deals have created an environment where companies have sought to lower costs by doing business in countries with the lowest labor, environmental, and human rights standards, thus perpetuating misery in developing countries and simultaneously driving Americans out of work. As such, opposition to these trade deals, such as the North America Free Trade Agreement (NAFTA) and the Trans Pacific Partnership Agreement (TPP), that place corporate profit over people and the environment, took center stage in both the Republican and Democratic primaries as well as the general election.

In his inaugural address, President Trump promised that "[e]very decision on trade . . . will be made to benefit American workers and American families."[1] U.S. trade policy should be aimed toward raising labor, environmental, and human rights standards worldwide and enforcing such standards consistently. This will ensure that American workers are not "priced out" by foreign workers who are deprived of basic labor and human rights, and U.S. companies that follow the law do not have to unfairly compete with those that do not.

Mr. Lighthizer has recognized the need to use U.S. trade policy to raise and enforce standards in this way. In a 2010 *New York Times* op-ed, he wrote, "[f]oreign companies often benefit from relatively weak labor and environmental rules that enable them to operate with significantly lower costs than their U.S. competitors. This

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[1] Inaugural address: Trump's full speech, *CNN* (January 21, 2017), *http://www.cnn.com/2017/01/20/politics/trump-inaugural-address.*

leaves American manufacturers with three options: lose market share, cut profit margins or move abroad. . . . If we want an efficient global market, we should be more serious about making sure companies in all nations play by the same rules."[2]

The next USTR will play a critical role in determining what rules the world plays by. Americans across the political spectrum are counting on the USTR to ensure that these rules promote, not erode, the international standards for labor, environmental, and human rights.

As such, we urge you to use the confirmation process to clarify Mr. Lighthizer's views and commitments to the following:

1. Should NAFTA and other trade agreements be re-negotiated, as President Trump has indicated,[3] will Mr. Lighthizer support improved labor, land, and environmental provisions being added to the agreements and ensure that such provisions are enforceable, for example, through trade sanctions? Will he support including such provisions in new trade deals?

2. Investor-state dispute settlement (ISDS) allows foreign corporations to bypass domestic courts by suing the government before a panel of three private attorneys when such corporations claim that a particular law, regulation, or court decision amounts to direct or indirect expropriation, a violation of the vague "fair and equitable treatment" standard, or violations of other investor rights. ISDS threatens national sovereignty and American labor, environmental, and health standards, and can have a chilling effect on regulation. The United States has been sued at least 20 times by Canadian investors under NAFTA's ISDS provision, with many of the challenges attempting to undermine U.S. environmental protections.[4] What is Mr. Lighthizer's opinion on ISDS? Would he support removing ISDS provisions from treaties the administration is seeking to re-negotiate, such as NAFTA? Would he oppose the inclusion of ISDS provisions in future trade agreements?

3. Transparency in trade negotiations is an important method for ensuring that trade deals benefit all Americans. Without transparency to the negotiation process, including the text of the agreement, it is impossible for the public to accurately assess the impact of the agreement. As a result, such decisions are left in the hands of very few people, who could not comprehensively consider the concerns of all stakeholders. Does Mr. Lighthizer support greater transparency in trade negotiations? How would he make the negotiations process more transparent for the public? How does he propose to include the perspective of a broad range of stakeholders in the negotiation process?

4. The Office of the USTR plays a substantial role in enforcing anti-dumping and countervailing duty provisions to protect the U.S. from foreign exporters that receive unfair subsidies from their governments and dump cheap goods in the U.S. market.[5] Mr. Lighthizer has called for rigorous enforcement of such laws.[6] He has also called for the United States to ensure that companies in all nations play by the same labor and environmental rules. Governments' failure to enforce international standards on labor, the environment, and human rights against corporations may be seen as a form of unfair government subsidy under the concept of "social dumping." Will Mr. Lighthizer support the use of anti-dumping and countervailing duty provisions to ensure that U.S. manufacturers do not have to unfairly compete with foreign companies that import cheap goods produced in violation of labor, environmental, and human rights laws?

5. The U.S. Generalized System of Preferences Program (GSP) provides preferential duty-free treatment for 3,500 products from designated beneficiary

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[2] Robert E. Lighthizer, "Stifling the Economy, One Argument at a Time," *New York Times* (March 21, 2010), *http://www.nytimes.com/2010/03/22/opinion/22lighthizer.html.*

[3] Megan Cassella and Jason Huffman, "Trump orders imminent to renegotiate NAFTA, back out of TPP," *Politico* (January 23, 2017), *http://www.politico.com/story/2017/01/nafta-tpp-trade-deals-trump-234031.*

[4] "Table of Foreign Investor-State Cases and Claims Under NAFTA and Other U.S. 'Trade' Deals," *Public Citizen,* 2–12, (October 2016), *http://www.citizen.org/documents/investor-state-chart.pdf.*

[5] Peter D. Ehrenhaft, *Remedies Against "Unfair" International Trade Practices,* SN056 ALI–ABA 131 at 159.

[6] Robert E. Lighthizer, "Testimony Before the U.S.-China Economic Security Review Commission: Evaluating China's Role in the World Trade Organization Over the Past Decade," 29 (June 9, 2010), *http://www.uscc.gov/sites/default/files/6.9.10Lighthizer.pdf.*

countries (BDCs) in the developing world.[7] One of the criteria for GSP eligibility is that the BOC needs to take steps to "afford workers . . . internationally recognized worker rights."[8] Other USTR-administered preference programs contain similar conditions.[9] Yet, in the past, USTR has reinstated GSP eligibility to multiple countries with rampant labor rights violations. One example is Burma, which Human Rights Watch says continues to allow forced labor.[10] The Department of State made similar findings: it downgraded Burma to Tier 3 in its 2016 Trafficking in Persons report because of a lack of progress in areas such as forced labor.[11] What is Mr. Lighthizer's opinion on Burma's reinstatement to GSP? What is his opinion on the GSP petitions pending against Uzbekistan for forced labor in the cotton sector and Thailand for forced labor in the fish and shrimp industry? How will Mr. Lighthizer use GSP and other trade preference programs to improve and enforce human rights standards worldwide?

6. The United States has recognized the fight against human trafficking as a foreign policy goal and trade priority. The Trade Promotion Authority was amended in June 2015 to exclude any country designated Tier 3 in the Trafficking in Persons Report from "fast-track" status in trade agreements signed with the United States.[12] In July 2015, the Department of State upgraded Malaysia, a participant in TPP negotiations, from Tier 3 to Tier 2 Watch List,[13] even though Malaysia's "record on stopping trafficking is far from sufficient to justify this upgrade by Washington," according to Human Rights Watch.[14] Does Mr. Lighthizer agree that such action may compromise the integrity of the Trafficking in Persons Report and undermines USTR's authority to develop trade agreements that protect the interests of the American people by promoting labor and human rights abroad? Will Mr. Lighthizer continue to fulfill the U.S. commitment against human trafficking by including provisions barring states with rampant human trafficking from future trade deals? Will he work with the Department of State to ensure that potential parties to such deals are accurately assessed for their compliance with such provisions?

We are thankful for your consideration, and look to you to ensure that U.S. trade policy uplifts the American people by ensuring accountability for human rights worldwide.

Sincerely,

AFL–CIO
Amazon Watch
EG Justice
FIDH-International Federation for Human Rights
Human Rights Watch (HRW)
International Corporate Accountability Roundtable (ICAR)
International Labor Rights Forum (ILRF)
International Rights Advocates
Northwest Coalition for Responsible Investment

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[7] *U.S. Generalized System of Preferences Guidebook,* U.S. Trade Representative, 3 (September 2016), *https://ustr.gov/sites/default/files/GSP-Guidebook-September-16-2016.pdf.*

[8] 19 U.S.C. § 2462(c)(7).

[9] For the relevant provision in the Caribbean Basin Economic Recovery Act, *see* 19 U.S.C. § 2702(c)(8). For the same in the African Growth and Opportunity Act, *see* 19 U.S.C. § 3703(1)(F).

[10] *World Report 2017: Burma,* Human Rights Watch, *https://www.hrw.org/world-report/2017/country-chapters/burma.*

[11] *Trafficking in Persons Report 2016,* U.S. State Department, 112 (June 2016), *https://www.state.gov/documents/organization/258876.pdf.*

[12] David Dayen, "Blocked From Trade Pact By Its Failure on Slavery, Malaysia Suddenly Gets a Passing Grade," *The Intercept* (July 27, 2015), *https://theintercept.com/2015/07/27/blocked-trade-pact-failure-trafficking-malaysia-suddenly-gets-passing-grade.*

[13] Vicki Needham, "U.S. boosts Malaysia's human rights status," *The Hill* (July 27, 2015), *http://thehill.com/policy/finance/trade/249249-us-boosts-malaysias-human-rights-status.*

[14] Vicki Needham, "Feds face blowback over Malaysia human trafficking upgrade," *The Hill* (July 17, 2015), *http://thehill.com/policy/finance/trade/249321-feds-face-blowback-over-malaysia-trafficking-upgrade.*

MOTION PICTURE ASSOCIATION OF AMERICA (MPAA)
Statement of Chairman and CEO Senator Chris Dodd
in Support of Robert E. Lighthizer for USTR

March 21, 2017

WASHINGTON—The following is a statement from Senator Chris Dodd, Chairman and CEO of the Motion Picture Association of America, in support of President Donald Trump's appointment of Robert E. Lighthizer for United States Trade Representative (USTR).

"The MPAA supports the nomination of Robert E. Lighthizer to serve as the next USTR. The American film and television industry is a key driver of the U.S. economy, and effective trade policies are crucial to its continued success. Our sector employs 2 million American workers, while generating $17.8 billion in exports and registering a positive trade balance with nearly every country around the world.

"The USTR plays a critical role in fostering America's creative industries by negotiating and enforcing trade agreements that protect U.S. intellectual property rights and expand access to foreign markets. Mr. Lighthizer's extensive experience—which includes working for the Senate Finance Committee under Senator Bob Dole, serving as Deputy USTR in the Reagan administration, and representing the economic interests of numerous American industries in the private sector—will enable him to be immediately engaged on the numerous issues facing USTR and makes him well-qualified to work with Congress and other key government agencies on trade policies that benefit consumers, creators, and the national economy."

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