

NAYS—47

Baldwin	Hassan	Rosen
Bennet	Heinrich	Sanders
Blumenthal	Hirono	Schatz
Booker	Jones	Schumer
Brown	Kaine	Shaheen
Cantwell	King	Sinema
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Tester
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Peters	Wyden
Harris	Reed	

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

EXECUTIVE CALENDAR

THE PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Cheryl Marie Stanton, of South Carolina, to be Administrator of the Wage and Hour Division, Department of Labor.

THE PRESIDING OFFICER. The Senator from Washington.

NOMINATION OF CHERYL MARIE STANTON

Mrs. MURRAY. Madam President, I come to the floor tonight to oppose the nomination of Cheryl Stanton to serve as Administrator of the Department of Labor's Wage and Hour Division.

The Wage and Hour Division enforces some of our Nation's most important workplace laws, including the Federal minimum wage, overtime pay, child labor laws, and family and medical leave. Yet, Ms. Stanton has a very long history of siding with employers when they have violated workers' rights. So I will be voting against this nomination, and I urge my colleagues to do the same.

I also want to object to the Senate moving on Republican labor nominees without approving nominations for the Equal Employment Opportunity Commission and the National Labor Relations Board.

Last Congress, in an unprecedented display of obstruction, my colleagues across the aisle blocked the confirmation of Chai Feldblum and Mark Pearce for terms on the EEOC and NLRB, respectively.

Even though both of these nominees were highly qualified, respected by their peers, Senate Republicans refused to give them a vote.

These are critical Agencies that are responsible for protecting workers' rights. Yet my colleagues across the aisle were more interested in tilting the playing field even more in favor of corporations than providing the Commission and the Board with balanced voices.

Despite longstanding practice to confirm majority and minority members to independent Agencies, my colleagues across the aisle jammed through Republican nominees only to the Board without Mr. Pearce, the Democratic nominee.

Republican leaders allowed one Senator to block the nomination of Ms. Feldblum to the EEOC, meaning that important civil rights agency is unable to do some of its most critical work.

In this moment, as our Nation is grappling with how to address the epidemic of sexual assault and harassment in the workplace, hamstringing the Agency that is responsible for protecting women's rights and safety is absolutely the wrong message to send to women, to workers, and to businesses.

So I am going to keep fighting to make sure the nominees to the National Labor Relations Board and the Equal Employment Opportunity Commission represent all voices, as they are supposed to, not just corporations.

I urge every man, woman, and worker who believes workers should have a voice to join me in that.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Ohio.

CHINA

Mr. PORTMAN. Madam President, I am on the Senate floor to talk about the importance of trade and specifically our country's economic relationship with China.

As a trade lawyer, as a former U.S. Trade Representative, as a member of the Finance Committee now that handles trade issues, I have been involved in these issues over the years.

Most importantly, I am from Ohio, which is a huge trade State. We are concerned about trade because we have a lot of manufacturing and a lot of agriculture, where jobs depend on trade back and forth. In fact, in Ohio, about 25 percent of our manufacturing workers make products that get exported, and one out of every three acres planted by Ohio farmers is now being exported.

These are good jobs. These are jobs that pay, on average, about 16 percent more than other jobs and have better benefits. We want more of them.

With only 5 percent of the world's population and about 25 percent of the world's economy, America wants access to the 95 percent of the consumers living outside of our borders. It is always in our interest to open up overseas markets for our workers, our farmers, and our service providers.

While promoting exports, we also have to be sure we protect American jobs from unfair trade, from imports that would unfairly undercut our farmers and our workers, our service providers. Simply put, we want a level playing field, where there is fair and reciprocal treatment. If it is fair, if we have a level playing field, I believe American workers and businesses can compete and win.

The sweet spot for America is this balanced approach: opening up new markets for U.S. products, while being tougher on trade enforcement so American workers have the opportunity to compete.

In that context, I want to talk a little about the inequities in our relation-

ship with China. We don't have a level playing field with China, and it is one of the most important policy issues that faces our country today.

It is certainly really important to Ohio. Ohio sells a lot of products—auto parts, aerospace parts, and other things—to China. We also sell a lot of oilseeds and grains, particularly soybeans—about \$700 million worth every year. China is actually our third biggest trading partner in Ohio after Canada and Mexico.

Yet, despite these exports, we have a trade deficit with China because they send a lot more to us than we send to them, and it is not always fair trade.

As an example, Ohio has been ground zero for steel imports coming in because of government-directed overcapacity in China. Our steel mills have been hit hard because, to put it bluntly, China has not been playing by the rules.

In 2000, China produced about 15 percent of the world's steel. Today, thanks to massive subsidies and other forms of state intervention, they now produce about 50 percent. So, again, about 19 years ago, they produced 15 percent of the world's steel; now they produce 50 percent of the world's steel, and they do it, again, through the government subsidizing them.

They often sell that steel at below its cost. They don't need it in China so they are trying to push it out to other countries. They transship it to try to avoid our anti-dumping duties or our countervailing duties, which were put in place because China wasn't playing by the rules. So we find out they are selling below their cost, which is dumping, or we find out they are subsidizing, we win a trade case, but then China sends that product to a third country that then sends it to us, therefore, evading the tariffs we put in place to deal with the unfairness.

It hits our plants hard in Ohio, but it also reduces the cost of steel around the world.

When it comes to our bilateral economic relationship, there is little or no transparency from China when it comes to their regulations, their approvals for inbound foreign direct investment into China, and the required notification of subsidies that is required by the World Trade Organization.

This lack of transparency, of course, frustrates American businesses, and it violates China's international obligations.

China also exhibits a lack of reciprocity. Its market is substantially more closed to American companies than our market is to their companies. We have Chinese companies in Ohio. They don't have to be in a joint venture with a 51-percent Ohio partner, American partner; they can own the whole thing. They don't have to go through this process of approvals that American companies have to go through, where often their intellectual property is taken.

China, as we all know, has relatively higher tariffs than the United States—on average, about a 10-percent tariff in China versus our 3.4 percent tariff, but that is not the biggest problem.

The biggest problem is a host of what are called nontariff barriers. Some keep out our “Made in America” products and others coerce the production of those products to be in China. So if you want to sell in China, you have to produce in China, and that is in order to transfer this valuable intellectual property from U.S. companies to Chinese companies.

Investment is not reciprocal either. According to the U.S. Trade Representative in its section 301 report on China, in 2016, the OECD—Organization for Economic Cooperation and Development—ranked China the fourth most restrictive investment climate in the world, despite their being the second largest economy in the world.

So of all the countries in the world, OECD ranked them the fourth most restrictive in terms of accepting foreign investment.

Based on this report, China’s investment climate, then, is nearly four times more restrictive than that of the United States.

So the confluence of these two factors—the lack of transparency and reciprocity—stem from China’s Communist Party-led nonmarket economy. While China made an effort after joining the World Trade Organization to become more market oriented, in recent years, they have actually moved away from more market-based reforms and instead doubled down on the kind of mercantilism you would expect in the last century but revamped for the 21st century.

In doing so, China has placed enormous strain on the world’s trading system and, in turn, has undermined American jobs, American workers, and America’s overall competitiveness.

When I served as U.S. Trade Representative, I said that the United States-China trade relationship lacked equity, durability, and balance. Sadly, that is still the case today. We didn’t have a level playing field then.

Since that time, the conduct has even worsened. China has invested large sums of money in industrial capacity, subsidizing production that impacted industries in places like the United States but also Japan, the European Union, and many developing countries.

China has embarked on a so-called indigenous innovation campaign backed by hundreds of billions of dollars and the full weight of its nontransparent regulatory apparatus. This intent of the indigenous innovation campaign seems to be directed primarily at us but also other countries around the world that are innovating.

The United States has been the leader in many innovative technologies, and now China is attempting to be the leader. Think of artificial intelligence or 5G.

China’s embrace of techno-nationalism has undercut critical commitments it has made to open up its markets, protect intellectual property rights, adhere to internationally recognized labor rights, and meet its WTO commitments on unfair trade practices, such as illegal subsidies.

Without changes to these practices, as long as the inequities and imbalances persist, the durability of our economic relationship remains in question.

I understand China is not going to become a free market economy anytime soon, and while I hope we can have a more market-oriented economy someday and we can move toward that in China, as they were moving that way after joining the WTO, I think it is vital that we at least demand a level playing field in the meantime.

That is why I have supported the Trump administration’s efforts to demand structural changes as part of its ongoing negotiations with Beijing. This takes the form of a few different things. One is addressing our huge trade deficit—that is part of the negotiations—so China would buy more soybeans and might buy more LNG, liquefied natural gas. That is all good, but this agreement must also deal with these other issues, like forced technology transfers and dealing with nonmarket practices, like state-owned enterprises and other subsidies.

Addressing the first issue by selling additional soybeans and liquefied natural gas to China is a positive step forward, but a short-term reduction of our trade deficit, which is out of balance, isn’t enough. We have to seek progress on these sustainable structural changes so we can count on a fair trading relationship between two now mature trading partners.

Ambassador Lighthizer, who is the current U.S. Trade Representative, is a tough negotiator. I feel confident that he understands this, and he is going to ensure that we not only improve the imbalance in our trade deficit but also—if we get these structural changes we need—bring home a strong and sustainable agreement.

That leads me to my next point. Any agreement must not just address these important structural problems, but it also has to be enforceable. Without enforceability, it is going to be impossible to make any real, meaningful progress in our economic relationship based on the past. We also have to do more than merely enforce by negotiation. I support consultations and consistent engagement; that is also good. But there also has to be some enforcement mechanisms with some consequences.

While I look forward to seeing the agreement that we come up with China—and I hope it happens soon—I would like to offer a few suggestions related to enforceability.

First, I favor reviving a China-specific safeguard to provide both due process and an effective response to

surges with Chinese imports that injure U.S. domestic industry, such as the high-tech products or those derived from nonmarket practices we talked about earlier.

One model to consider is section 421 of the Trade Act of 1974. Now expired, section 421 was a China-specific safeguard that was created, pursuant to China’s WTO Accession Protocol, to guard against increased imports from China—surges—with less demanding requirements than that afforded market economies. I think it would be good to get back to that.

Second, strong trade laws have been successful in addressing some of the externalities caused by China’s nonmarket practices. We have to continue to enforce those laws. Consider the 266-percent tariff that is currently in place with regard to imports of cold-rolled steel from China. That was because we brought a trade case, and we won the trade case using internationally accepted criteria as to what constitutes dumping and subsidies. Nonmarket economy methodologies give our trade remedy tools extra heft when deployed against these unfair imports from countries like China, which lack the market-driven system found everywhere else in the world.

China knows the effectiveness of our trade laws, especially the nonmarket economy methodologies we use to get that 266-percent tariff in place, and has therefore challenged the use of these methodologies. China has challenged this at the World Trade Organization. I hope that as part of any commitments made pursuant to the current talks, China will drop its challenge to the use of nonmarket methodologies until such time as China has actually become a market economy under established and accepted statutory criteria set out in U.S. law.

Third, increased transparency requirements can help make enforcement more effective. As long as key elements of the ways that China intervenes in the economy—such as the provision of illegal subsidies; currency manipulation, for that matter; the participation in the market in state-owned enterprises; and the application of laws—remain without transparency, it is going to be difficult to effectively monitor compliance with commitments that are made. We have to know. We have the right to know. I thus urge the administration to secure enforceable transparency commitments to ensure we have enough visibility on China’s nonmarket practices to make enforcement as effective as possible.

I hope the administration takes some of these enforcement suggestions into account.

Today, pursuant to our section 301 investigation, the United States has levied tariffs of 25 percent on \$50 billion and 10 percent on \$200 billion of exports from China to the United States. These tariffs are in place now, and they are affecting a lot of our companies here in the United States because China has,

in turn, retaliated against us, putting tariffs ranging from 5 to 25 percent on \$100 billion of U.S. exports to China. So there has been an escalation of tariffs as we have been in these negotiations.

There has been discussion about the United States keeping our 25 percent and 10 percent tariffs in place as a backstop even after an agreement is reached. I think that is unlikely because I think it is a recipe for no agreement or an inadequate agreement.

Instead, I believe it is important for both countries to reduce or eliminate altogether the new tariffs under 301 and the retaliatory tariffs when the agreement is reached. Of course, the United States would be able to quickly reimpose tariffs if China doesn't live up to the commitments it makes, and that would be appropriate. But I think we ought to make a commitment now to China that we are willing to get rid of these tariffs, or substantially all of them, if a good agreement is reached.

Over the next few weeks, I hope the President remains focused on reaching this agreement that addresses the structural inequities in our trade relationship. Buying more soybeans is important, but this is a chance to resolve deeper issues, especially when there is such compelling evidence of commitments not met in the past and continued inequities in the U.S.-China trade relationship.

As part of reaching an enforceable structural agreement, I urge the administration to give China certainty about what we actually want and exactly what we want. From what I have heard, I believe giving Beijing the security of an unwavering negotiating position will help unlock China's last best offer. My sense is that is not yet on the table because perhaps they think we have shifted in terms of our objectives and priorities. The agreement would then allow the United States to take a step forward toward a more balanced, equitable, and durable U.S.-China relationship.

Again, I commend the administration and President Trump and Ambassador Lighthizer for engaging in these negotiations. I think we are headed in the right direction, but let's bring it to a close.

I want to note that the current negotiations are only part of what must be a holistic and long-term strategy toward China. A good agreement and strong enforcement is essential, but to keep the United States competitive over the long term, we have to invest more here at home.

As an example, if you are going to be in a sports competition, it helps to go to the gym once in a while. Until recently, we hadn't been hitting the gym too much.

Tax reform and lifting burdensome regulations recently have given our economy a shot in the arm. It is really important because it has created jobs and increased wages, but it has also made our country more competitive, particularly by investing in technology and investing in new equipment.

Unfortunately, we still have some challenges we need to address to be truly competitive. We have a workforce that too often lacks the skills necessary for the 21st century. We have an opioid epidemic that is undermining our economy as well as our communities. We have a crumbling infrastructure that is holding back economic growth.

Instead of people being awed at how quickly China can build a bridge, I want people to be awed at how effectively and how fast we can build a bridge here in this country. To do that, we need to build on the permitting reforms we have enacted in the last few years to make it easier to start and quicker to finish projects that keep our economy moving and growing. Reinvesting in America with world-class career and technical education, infrastructure investment, pro-growth and pro-innovation economic policies, as we started with tax reform and regulatory relief—these are the things that would send signals to China and to the rest of the world that we are a vibrant nation, we are in the game, we are focused on the future, we are constantly innovating, and we are not a nation in decline.

I believe the best days of our country can be before us. We need to show the world that America remains, in fact, the world's preeminent power because of our free markets, because of our innovations, and because of our work ethic. If we do that, we will be able to compete with China. If we don't, even without these trade negotiations, it will be difficult.

By the way, unlike some, I don't propose to compete with China by adopting policies and processes that mimic their system. As an example, nationalizing our 5G deployment or adopting 5-year industrial plans, as China does, is not the path to success. It gives in to the critiques that we make of Beijing. Instead, we need to double down on the American way: big ideas and bold visions grounded in principles unique to our origins. After all, we believe in freedom and free markets because they work.

With regard to China, we should want to have a successful and mutually beneficial relationship on trade and other issues. China and the United States must be strategic competitors going forward, not enemies.

I commend the Trump administration for entering into these difficult and very important negotiations with China, and I encourage the administration to stay strong in the pursuit of long-term, meaningful structural changes in that relationship. I want our country to do the hard work here at home, to ensure that American competitiveness is second to none. That combination—a successful resolution of longstanding issues with China and staying on the cutting edge here at home—will ensure the continued prosperity and global leadership of the United States of America.

Thank you.

I yield back my time.

The PRESIDING OFFICER. The Senator from Ohio.

ORDER OF PROCEDURE

Mr. PORTMAN. Madam President, I ask unanimous consent that notwithstanding rule XXII, the postcloture time on the Stanton nomination expire at 11:45 a.m. on Wednesday, April 10; further, that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action. Additionally, I ask that following the disposition of the Stanton nomination, the Senate vote on the confirmation of the Abizaid nomination as under the previous order and that, if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action; finally, that the mandatory quorum call with respect to the Brady nomination be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Senate proceed to legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE EXPLANATION

Ms. DUCKWORTH. Madam President, I was necessarily absent for vote No. 65 on the motion to invoke cloture on Executive Calendar No. 21, nomination of Daniel Desmond Domenico, of Colorado, to be United States District Judge for the District of Colorado. On vote No. 65, had I been present, I would have voted nay on the motion to invoke cloture on Executive Calendar No. 21.

ARMS SALES NOTIFICATION

Mr. RISCH. Madam President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant information is available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notifications which have been received. If