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NOMINATIONS OF DENNIS SHEA AND C.J. MAHONEY

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

DENNIS SHEA, TO BE DEPUTY U.S. TRADE REPRESENTATIVE/U.S. AMBASSADOR TO THE WORLD TRADE ORGANIZATION, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT; AND C.J. MAHONEY, TO BE U.S. TRADE REPRESENTATIVE FOR INVESTMENT, SERVICES, LABOR, ENVIRONMENT, CHINA, AFRICA, AND THE WESTERN HEMISPHERE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT

JANUARY 17, 2018



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WEDNESDAY, JANUARY 17, 2018

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

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

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

Also present: Republican staff: Jay Khosla, Staff Director; Chris Armstrong, Chief Oversight Counsel; Brian Bombassaro, International Trade Counsel; Queena Fan, Detailee; Doug Peterson, International Trade Counsel; Shane Warren, Chief International Trade Counsel; and Nicholas Wyatt, Tax and Nominations Professional Staff Member. Democratic staff: Joshua Sheinkman, Staff Director; Elissa Alben, Senior Trade and Competitiveness Counsel; Michael Evans, General Counsel; Ian Nicholson, Investigator; and Jayme White, Chief Advisor for International Competiveness and Innovation.

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

The CHAIRMAN. The committee will come to order. I want to welcome everyone to the committee and thank you for coming to today's session.

As most of you should be aware, we are tackling a lot today. Today, we have a hearing on two important nominations. In addi-

tion, we have three items requiring a committee vote in executive session.

And just to avoid any confusion, let me explain how and in what order I intend to accomplish these tasks today.

We will begin with opening statements from myself and the ranking member. Thereafter, the committee will hear from any Senators wishing to give statements about items on the markup agenda.

As always, I would encourage members to enter their statements in the record so that we can move expeditiously. This is doubly true today as we have nominees and witnesses here ready to participate in our hearing.

Still, if any Senator does wish to deliver a statement, I ask, as always, that they limit their remarks to 3 minutes.

After a few brief member statements, assuming we do not have a quorum at that point, I intend to introduce our witness panel and move forward with our hearing. I will likely move directly to votes when a suitable quorum is present, which may require a temporary pause in the hearing.

With the order of events made clear, let me discuss the substance of our meetings today.

Regarding the first item on the markup agenda, I need to welcome our newest member, Senator Whitehouse—where is he? Is he here? [No response.]

Well, we will welcome him anyway. [Laughter.]

We will welcome Senator Whitehouse to the Finance Committee. We look forward to working with him and to his contributions to the committee's various efforts.

Our first vote will be in relation to changes in subcommittee assignments that have been circulated to the members. That promises to be a real nail-biter, as we all know. [Laughter.]

Next, we will vote to once again report the nomination of Kevin K. McAleenan to be Commissioner of the U.S. Customs and Border Protection. We reported his nomination by voice vote just over a month ago, so I assume we will be able to do so again today.

Finally, the third vote in our executive session will be to report the nomination of Alex Azar to be Secretary of Health and Human Services. We heard from Mr. Azar last week, and I believe he was very forthcoming in providing thoughtful responses when sharing his views and discussing his background with the committee.

By any objective account, Mr. Azar is very well-qualified for this important position. He has close to 2 decades of experience, the right expertise, and the sound judgment that we expect. Further, he provided earnest and thoughtful responses to each of our questions.

Some of my friends on the other side of the dais have some differing views, and we intend to hear from them today. After all, I feel strongly that both sides should be heard when we consider nominees with critical responsibilities such as the Secretary of HHS.

However, because some members have made clear their intention of calling for a roll call vote on Mr. Azar's nomination, we may not have the vote on his nomination during this hearing. Instead, we will likely need to recess and reconvene the executive session until

a time where all of the members who have expressed interest will be able to attend and cast their votes on this important nomination.

That said, I think we can move through the other two votes expeditiously as soon as a suitable quorum is present. Any pause or interruptions in the hearing should be minimal.

Regarding the hearing, we have two nominees before us today: C.J. Mahoney and Dennis Shea, who, if confirmed, will be charged with fulfilling some vital responsibilities. I want to touch on two areas of importance to me that will fall within each of their portfolios.

First, Mr. Mahoney, you have been nominated to be the Deputy U.S. Trade Representative overseeing, among other responsibilities, trade in services.

Mr. Shea, you have been nominated to be our Nation's Ambassador to the World Trade Organization, where promoting U.S. services trade will also be an essential part of your job.

The United States exported more than $721 billion in services in 2015. That number reflects something that a Deputy of USTR should keep in mind every day he is on the job: no country in the world comes close to the United States in services trade. It is a key competitive advantage for our country and an important driver of our economy.

If confirmed, each of our nominees would have the responsibility to establish international trade rules and negotiate international trade agreements that benefit U.S. services providers.

For Mr. Mahoney, promoting U.S. services exports should be an essential goal of NAFTA modernization, particularly providing for the cross-border flow of data and ensuring a prohibition on forced data localization.

For Mr. Shea, I hope that you will support plurilateral negotiations for a Trade in Services Agreement with trading partners who are willing to take on high-standard commitments.

Second, I want to speak about President Trump's priority of confronting the challenges posed by China to the international trading system. This is a goal that I support.

If confirmed, both of you will bear a heavy responsibility for rolling back China's most harmful trade practices, including intellectual property rights and trade secrets theft, economic espionage, artificial investment constraints and regulatory restrictions, and a persistent reliance on a state-directed economic model that produces overcapacities and harms American businesses and workers.

I look forward to hearing your views on how you believe the United States should address these challenges, including through the World Trade Organization, WTO.

Before we get to that point, though, we need to move through the steps I mentioned before. As such, I would like to invite my friend and ranking member, Senator Wyden, to give his remarks, and then we will allow for members to deliver brief statements on the executive business before the committee as well.

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

The CHAIRMAN. So we will turn to Senator Wyden at this point.

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

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

As is often the case here, I guess we will have to call a few audibles this morning. So by way of announcing one, if and when Senator Whitehouse arrives, I would like to give him a formal greeting. It will not take but a minute or two on that matter.

Now, given your discussion on the nominations, I will proceed with my comments on that, and then have some short remarks with respect to the trade nominees.

Now our first obligation today is to vote on two nominations, Mr. Kevin McAleenan for CBP Commissioner, and Mr. Alex Azar for Secretary of Health and Human Services. This will be our second vote on Mr. McAleenan's nomination. The first time it passed by a voice vote. I said in December during that first markup, Mr. McAleenan is a well-qualified nominee who will have the right focus at the agency.

The trade-related mission of the agency, which is key to defending American jobs from trade rip-off, too often gets short shrift. The agency has important new tools, thanks in no small part to the work this committee has done over the last few years to fight trade cheats and protect our workers. It is vital that those tools be put to good use.

There have also been positive developments in my view, matters that Mr. McAleenan and I have spent a fair amount of time talking about. These positive developments relate to the search of Americans' personal electronic devices at the border.

I continue to believe that Americans should not be giving up their constitutional rights at the border, and even with these positive developments, there is more work needed to be done to protect the Fourth Amendment rights of Americans. I intend to work closely with Mr. McAleenan on that nomination.

I am pleased to be able to support Mr. McAleenan's nomination this morning.

Now with respect to Mr. Azar's nomination for the Secretary of Health and Human Services: the last few days and weeks have helped illustrate to the American people that the Trump administration continues to be on a flat-out sprint in the wrong direction when it comes to health care.

New data out yesterday shows that the number of Americans without health insurance jumped by more than 3 million people last year. It is a stunning and disappointing reversal of progress made since the Affordable Care Act became law.

In my view, it is clear that the Trump administration continues to offer up policies that undermine, that in effect, sabotage the private health insurance markets. That is more than 3 million Americans who are one serious illness or injury away from financial ruin.

New data shows the numbers of Americans, again, without health insurance jumped by more than 3 million people in the last year.

Since the hearing on Mr. Azar's nomination, the administration has also moved in a regrettable fashion with respect to Medicaid. The vast majority of those on Medicaid, who count on it, already have a job or are unable to work due to old age or infirmity.

The Centers for Medicare and Medicaid Services have adopted a new, and in my view dangerous, requirement that is going to relate to work. I have already mentioned the vast majority of people who count on Medicaid already have a job, and I think that this new proposal—and the way it is fashioned—is going to go after Americans who are just trying to get by, walking an economic tightrope, balancing the cost of food, rent, gas, electricity, taking care of their kids or elderly parents, or perhaps struggling with a chronic condition.

This looks to me like an ideological backdoor scheme to slash Medicaid. These are steps in the wrong direction.

A big step in the right direction would be making the Children's Health Insurance Program permanent. And as we have noted, colleagues, in committee discussions, Chairman Hatch, Senator Kennedy, our colleague, Senator Rockefeller—they are really the pioneers of this.

I think it would be very fitting at this time, and a real tribute to our chair, our colleague, to make CHIP permanent. And we are going to keep pushing on that. The chairman and I have said at every step of the way, we are going to try to get as many years as we can and cover as many kids as we can.

I will close my remarks with respect to the votes. With respect to the matter of Mr. Azar and his policies on skyrocketing prescription drug costs, the President famously said—his words in 2016—"price-hiking drug companies are getting away with murder."

The President has now nominated a drug company executive with a documented history of raising drug prices. The prices of a number of widely prescribed drugs more than doubled on his watch.

We walked through that, Mr. Chairman and colleagues, here at Mr. Azar's hearing. We had a chart right here. We walked through all of these drugs that are vital to seniors and young people who are facing attention deficit disorders. Prices of these key drugs more than doubled on his watch. Mr. Azar could not provide a single example of when his company lowered prices.

I regret that I have to say today I will be unable to support his nomination.

Senator Whitehouse has arrived. I just want to give him a formal welcome. He has expertise in a host of issues that this committee is focused on, and I would also like to note that he carries on a fine tradition of Rhode Islanders who have served on the committee.

Seven Rhode Islanders previously have served on the committee over the last 200 years, including Nelson Aldrich, who was chair from the nineteenth century, 1899 into the first 20 years of the twentieth century, 1911; and Senator John Chafee, who served on the committee decades later in the twentieth century. And for a lot of us who arrived in the Senate when John Chafee was at his apex in terms of expertise in health care and environment issues, Senator Chafee was the gold standard. I think Senator Whitehouse is going to pick up on many of his priorities, and we know he is going to carry on this proud Rhode Island tradition as he carries it into the twenty-first century.

Now, Mr. Chairman, I did not expect to make comments now about the trade nominees, but since you have indicated you would

like to get that out as well, let me just briefly make some comments about our trade nominees.

The Honorable Dennis Shea is nominated to serve as Deputy United States Trade Representative. Mr. C.J. Mahoney is nominated to serve as Deputy United States Trade Representative for Investment, Services, Labor, Environment, China, and the Western Hemisphere. That is going to be hard to fit on a business card.

With respect to Mr. Shea, if he is confirmed to be the Deputy USTR in Geneva, he will be in charge of representing the United States at the World Trade Organization. Republicans and Democrats have now raised important concerns with the WTO, which is meant to be a rules-based organization that judges cases with an even hand.

It remains capable of knocking down barriers and serving as a venue for America to get justice for exporters of everything from airplanes to wine. In some cases, the appellate body has overreached. In negotiations, the WTO can often be too slow and too unwieldy, and we cannot be caught flat-footed in the face of China's trade tactics.

The Trump administration in my view has dropped the ball on some of these vital priorities. So we have to come up with some wins for red, white, and blue jobs. That is a deal on services, for example, and other priorities.

And certainly, after all of the tough rhetoric in the campaign on trade cheats, the Trump administration has not brought forward a single original WTO case challenging trade barriers by any other country. So it is my hope that we will hear from Mr. Shea with respect to the administration tackling those issues.

Next, Mr. Mahoney is up for an equally challenging job at USTR. He will be leading, as part of his job, NAFTA renegotiations to get the best possible outcome for workers and businesses.

It is my view that NAFTA not only needs an update, it needs to be completely overhauled. We need high-standard, enforceable commitments on labor and the environment, removing chapter 19, which hampers our effort to fight unfair trade rip-offs and addresses challenges that are specific to dairy, wine, and manufacturing industries. It also has to set a high bar on combating currency manipulation, market distorting state-owned enterprises, and trade cheats.

On top of that, as the nominee knows, I feel very strongly about ideas, information, and commerce over the Internet. That means a balanced approach to copyright and platform liability protections like those that are now part of U.S. law.

I said it before: no administration should expect to have my support for trade agreements if it fails to include provisions that protect the Internet as an open platform for commerce, speech, and free trade—an ambitious agenda, but one worth fighting for.

Finally, Mr. Mahoney, you have a big challenge with respect to China. We heard again in the campaign that the administration was going to get tough on unfair Chinese trade practices.

We are now a year into the Trump administration. If the administration has a policy regarding trade with China, I am not sure anybody knows what it is.

Senator Hatch and I, as well as other members of the committee, have laid out our concerns, but there has been a remarkable, truly stunning lack of action by the administration. We do not even have an Assistant U.S. Trade Representative for China. That is a position that does not even require Senate confirmation.

So I cannot, for the life of me, figure out what the holdup is there. So if there is a plan to deal with China's trade practices, this committee and the American people want to know what it is, and we are in the dark today. If there is not a plan, then everything the American people heard in the 2016 campaign about cracking down on China was just a bunch of empty campaign patter. And that is going to cost us jobs.

So, Mr. Mahoney, we look forward to you having the opportunity to right the ship. We have heard good things about you, and you have gotten support from important, thoughtful people on both sides of the aisle. But we have a long way to go here.

And as you know, we also have concerns shared by our new colleague, Senator Whitehouse, about transparency on trade. That is part of what is spelled out in black letter law. We need to see it enforced.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you.

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

The CHAIRMAN. Senator Whitehouse, again, we are very happy to have you on this committee. You are a great friend, and I think you will enjoy this committee. It is a go-go committee, and other than some of the people, like my ranking member, we get along very well. [Laughter.]

Senator WYDEN. As the Jewish people would say, "Oy." [Laughter.]

The CHAIRMAN. That is right.

Senator WHITEHOUSE. Thank you, Mr. Chairman.

I am honored to join a committee with so many respected colleagues, and I look forward to working very productively with you and the ranking member and all of my colleagues.

The CHAIRMAN. Well, thank you. That means a lot.

Do any Senators wish to speak on the nomination of Mr. Azar? Pat?

OPENING STATEMENT OF HON. PAT ROBERTS, A U.S. SENATOR FROM KANSAS

Senator ROBERTS. Yes. Thank you, Mr. Chairman.

I have the honor of introducing C.J. Mahoney, the nominee to be a Deputy United States Trade Representative, along with my colleague and friend, Senator Moran.

I had an opportunity to sit down and talk with C.J. during the process. I was impressed by his background. He is, by the way, a graduate of both Harvard and Yale.

He also recognizes what happens with regards to farm country with our farmers, our ranchers, our growers who are going through a pretty tough time.

I was really impressed by his background, his knowledge of trade issues. But what impressed me the most was his understanding of

how trade decisions affect businesses and individuals all across our State of Kansas, and for that matter, all across the country.

C.J. hails from Russell, KS, America, home of Bob Dole, who will today receive the Congressional Gold Medal. Like Bob Dole, like Jerry Moran and myself and many others, C.J. has strong ties to agriculture. His family owned a farm implement dealership, and he still owns land in Russell County as of today.

C.J. understands how important it is for the U.S. to be a reliable supplier to our current trading partners, just how important that is, but also to expand markets to sell our products. This is especially important now due to the rough patch that farm country is currently facing. Just ask myself or Jerry Moran, who is constantly out in Kansas visiting with farmers and ranchers and growers and implement dealers and our community banks, everybody up and down Main Street.

Kansas wheat is now pretty much under cover in storage, under tarp. We should be selling that crop to Mexico. That is where our wheat normally would go, but Mexico is buying wheat now from Argentina. The same thing for Kansas corn or for that matter, corn grown anywhere—in the State of Iowa, or wherever it is. Mexico is buying that from Brazil.

That is not where we ought to be headed. We cannot, given the circumstances, in my view, take a step back in NAFTA, or pull the trigger on the termination of that trade agreement. I do not think that is going to happen.

Members of the Ag Committee, myself, went up to talk to the President for about an hour and a half and also had an opportunity to talk to him on Air Force One about trade, how important it is. I think he understands it. So I think we can make some progress, and C.J. is going to be right there, and he is going to be of tremendous help to his family and his heritage, to Russell, KS.

So I overwhelmingly support his nomination. I have no doubt C.J.'s Kansas roots will allow him to serve President Trump and Ambassador Lighthizer well in the Deputy USTR position.

I told him to keep repeating to Ambassador Lighthizer, to Bob—whom I have known for 15 years in working for Senator Dole—that you cannot eat steel. Agriculture is still very important.

So from that standpoint, I support the nominee. And I urge his nomination.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you.

Is there any other comment by anybody else at this point?

[No response.]

The CHAIRMAN. Let me do this, then. I would like to extend a warm welcome to our two nominees today.

Thank you both for coming. Before I introduce you in the order that you will provide your testimony, let me first recognize your friends and families in the audience. So if you would like to introduce them, that would be fine with me.

Mr. SHEA. Mr. Chairman, this is my wife, Elizabeth. Unfortunately, my 14-year-old daughter, Juliette, has that nasty flu that is going around. So she is watching this via webcast. I want to say "hi."

The CHAIRMAN. We are happy to have you here, Elizabeth.

Okay.

Mr. MAHONEY. Thank you, Senator. I would like to introduce my wife Becca; my mother Joyce, who came from Kansas to be here; as well as my father-in-law and mother-in-law, Bill and Susan Iverson; and other friends from Washington and Russell, including members of my second family at Williams and Connolly.

Senator WYDEN. Do any of them live in Wichita?

Mr. MAHONEY. My mother actually lives in Wichita, which I know is——

Senator WYDEN. Another plus. [Laughter.]

Mr. MAHONEY [continuing]. The hometown of a certain ranking member of this committee. Exactly. [Laughter.]

The CHAIRMAN. Well, we are happy to have all of you here. We hope this will be a pleasant hearing.

First, we are going to hear from Mr. Dennis Shea, who has been nominated to serve as Deputy United States Trade Representative in the Geneva, Switzerland office, with the rank of Ambassador.

Mr. Shea currently serves as Vice Chairman of the U.S.-China Economics and Security Review Commission, which annually assesses the security, economic, and trade relationships between the two countries, including China's compliance with its commitments to the WTO.

Earlier in his career, Mr. Shea served as Counsel and later as Deputy Chief of Staff to then Senate Majority Leader Bob Dole. Senator Dole has known Mr. Shea for nearly 30 years and recently wrote a letter speaking very highly of Mr. Shea.

"Over the years, Dennis has demonstrated sound judgment, a strong work ethic, and an ability to work well across party lines, key attributes for the diplomatic position for which he is being considered. His past work in the Senate and his current work provide a strong foundation for serving as our Nation's representative at the WTO."

Those are just a few of the words of high praise from a former Majority Leader who is still held in high esteem around here.

I ask unanimous consent that Senator Dole's letter be entered into the record.

Without objection, it will be.

[The letter from Senator Dole appears in the appendix on p. 36.]

The CHAIRMAN. Senator Talent also submitted a letter endorsing Mr. Shea, and I ask unanimous consent that his letter be entered into the record at this point, which, of course, it will.

[The letter from Senator Talent appears in the appendix on p. 37.]

The CHAIRMAN. Second, we will hear from Mr. C.J. Mahoney, who will be introduced by two of our good friends and colleagues, Senators Roberts and Moran.

Senator Roberts, do you feel like you have made your introduction, or do you want to take the time to do it now?

Senator ROBERTS. Mr. Chairman, I think I did that.

The CHAIRMAN. Okay.

Senator ROBERTS. I can do it again if you would like to hear it. [Laughter.]

The CHAIRMAN. As much as I love to listen to you, I think we can——

Senator ROBERTS. Well, that would indicate double support, but I think that Senator Moran can do that very ably, and I am waiting patiently to hear from my friend and colleague.

The CHAIRMAN. That is great.

Senator Moran, we thank you for joining the committee today. We are delighted to have you here, and we look forward to your introduction at this time.

STATEMENT OF HON. JERRY MORAN,
A U.S. SENATOR FROM KANSAS

Senator MORAN. Mr. Chairman, thank you very much, and thanks to the ranking member, Senator Wyden.

There seems to be a bit of a Kansas flavor to today's hearing. Senator Wyden from Wichita, KS, Senator Roberts and I, as well as a couple of folks who had the honor of working for our former Kansas Senator, Bob Dole.

It is a great day to be here with these Kansans, and it is particularly an honorable day to be here when Senator Dole is going to be recognized by the United States Congress.

It is an honor for me to introduce C.J. Mahoney, to join Senator Roberts in doing so. As was indicated, he is to be the Deputy United States Trade Representative for Investment, Services, Labor, Environment, Africa, China, and the Western Hemisphere.

C.J.'s resume is compelling. It is an impressive professional background: Harvard with honors in 2000; law degree from Yale, where he was editor-in-chief of the *Yale Law Journal;* clerk for a Ninth Circuit judge; and then clerk for Justice Anthony Kennedy on the United States Supreme Court.

He is a partner in the law firm of Williams and Connolly, and he successfully has represented clients in international and domestic arbitration. He is a visiting lecturer at Yale Law School and a member and leader of numerous professional organizations.

C.J.'s success in life to date demonstrates a tremendously promising future at USTR and beyond. In my opinion, it is due to his significant intelligence and talents, but also his strength and personal character.

I have known C.J. for 23 years. He was the student body president at Russell High School. That gave him national attention when Senator Dole asked him to second his nomination in 1996 at the Republican National Convention in San Diego, and he did so from the courthouse steps of his hometown in Russell.

That made C.J. a celebrity in our part of Kansas and across the State and affiliated him with our Senator who has received such high regard, Senator Dole. It allowed me the opportunity to take advantage of C.J.'s interest in politics, and he was a driver and a companion as we traveled the First District of Kansas in my search for votes and the opportunity to serve the United States House of Representatives.

C.J. has some unique capabilities. I am a bit of a loner and would prefer, generally, to drive myself and be alone as I make those miles, but C.J. was such a compelling companion and enjoyable conversationalist, someone whom I enjoyed having conversations with. I learned a lot about him and his family as human beings.

Senator Roberts and I are always proud of people who come from our State, but coming from a hometown like Russell and small-town Kansas causes people to grow up in a special way that creates a love for their community, a respect for their neighbors, a willingness to find common ground and compromise and understanding that not everyone agrees on everything, but we live in a small community in which we have to figure out how to get together, get through the day, and make sure that good things happen at home.

C.J. grew up in that kind of family with an understanding of how everyday life works and how important it is for decisions made in our Nation's capital to have a positive impact on people who are generally struggling to get through the day to earn a living, put food on their families' tables, and to save for their future retirement and their kids' education.

C.J. exemplifies those things. He brings that Kansas character and appreciation for others, along with that intellectual and capable talent that he has.

The First District of Kansas covers about two-thirds, three-fourths of the State, so there were 66 counties at the time, growing to 69. So we spent a lot of time together, and just on a personal level, it is an honor to be here to introduce C.J.

We had one more opportunity to spend some time together. C.J. was my first intern as a new member of the United States House of Representatives, and I spent time with him in that capacity. This brings us, again, full circle. I was an intern for my Congressman, and Senator Roberts was the then-Chief of Staff to Congressman Sebelius. So you have boss-intern, boss-intern in the room today. I only hope that I can make as much difference as I expect C.J. to do in his lifetime in the position that Kansans have allowed me to occupy.

You have a great opportunity to confirm somebody who is highly qualified as the type of person you would want in this capacity. And I look forward to the committee's questions for C.J. and would encourage each of you to get to know him as a person and find that we have a person whom you would—all of us, regardless of philosophy, the political party, view on trade even—want in that capacity where hard work, character, and a desire to accomplish a goal is so important.

Thank you, Mr. Chairman, for the opportunity to speak on behalf of C.J.'s nomination.

The CHAIRMAN. Well, thank you, Senator.

Those are pretty good recommendations coming from a really good Senator. So, we appreciate you very much.

Senator CARPER. Mr. Chairman, could I be out of order for just a moment?

The CHAIRMAN. Senator Carper.

Senator CARPER. C.J., we have a lot of Senators and others who come introduce witnesses or people who have been nominated for positions, important positions like this one. Sometimes we come in and we are just uncertain as to how we are going to vote. I was, like, adamantly opposed to your nomination before that introduction. [Laughter.]

And I grew up in a Southern Baptist church in Danville, VA. You can put me now at almost persuaded. [Laughter.]

That was a beautiful introduction.

C.J.—my driver is also C.J. He started 3 weeks ago, and he was on his way to pick me up at my house. We drive around the State in my 2001 Chrysler Town and Country minivan, which just went over 467,000 miles.

I do not know what you drove when you were driving for Senator Moran. But C.J., the second week he was pulling into my street to come and pick me up, some guy rear-ended and totaled his car while he was trying to get to my house.

So he had a rough start. I am going to tell him to continue to prevail and keep his nose to the grindstone, and he will turn out well, maybe, just like you. [Laughter.]

So thank you. Thanks for joining us. We welcome you both today.

Senator MORAN. Mr. Chairman, if things go as they should and this committee confirms C.J., I would be able to call my driver "Mr. Ambassador." [Laughter.]

Senator ROBERTS. If the gentlemen would yield, with your Chrysler with over 400,000 miles——

Senator CARPER. Four hundred and sixty-seven——

Senator ROBERTS. Four hundred and sixty-seven thousand miles, I would just—Jerry will not say this, but he drives around in a pickup with jeans and a ball cap, and just goes around and talks with folks. So he has the pulse of Kansas, and he has had good experience with it because my former boss, Keith Sebelius, did that. Bob Dole did that. It is a heritage out in Kansas.

If you want to sell that Chrysler, we could probably keep using it out there.

The CHAIRMAN. I have heard all I want to hear about Chryslers.

At this point, Mr. Shea, we are going to have you begin your opening remarks.

STATEMENT OF HON. DENNIS SHEA, NOMINATED TO BE DEPUTY U.S. TRADE REPRESENTATIVE/U.S. AMBASSADOR TO THE WORLD TRADE ORGANIZATION, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Mr. SHEA. Chairman Hatch, Ranking Member Wyden, and distinguished members of the committee, it is a great honor to appear before you today.

I am humbled by President Trump's decision to nominate me to serve as U.S. Ambassador to the World Trade Organization. I am particularly grateful to Ambassador Lighthizer for his confidence in recommending me for this position.

As Ambassador Lighthizer stated during the recent WTO ministerial in Buenos Aries, the WTO has done an enormous amount of good over the past 23 years. But as he rightly points out, the WTO needs to improve in a number of areas.

Too many countries fail to live up to their WTO obligations without any consequence. Too many, including some of the world's wealthiest nations, seek exemptions from these obligations by claiming status as developing countries. The WTO has shifted from a forum with a focus on facilitating negotiation among sovereign states to a litigation-centered institution.

If confirmed, I expect that institutional reform at the WTO will be a major part of the U.S. agenda. Along these lines, the U.S. recently tabled a proposal that, if adopted, would bring about improved compliance by all WTO members with the important transparency and notification requirements of the various WTO agreements.

Let me note that, as a former staffer to someone who has been frequently mentioned here today, Senator Bob Dole, I appreciate the critical importance of the agricultural sector to the U.S. economy. If confirmed, I will work with my administration colleagues, including USTR's Chief Agricultural Negotiator, to pursue the objectives outlined by the administration's Task Force on Agriculture and Rural Prosperity—namely, opening markets abroad to American agriculture, ensuring fair and science-based regulatory treatment for American products, and implementing strong enforcement policies that hold our trading partners to their WTO commitments.

As the committee knows, I have had the privilege of serving on the bipartisan U.S.-China Economic and Security Review Commission for more than 10 years. From 2012 to 2017, I served as either the Commission's Chair or Vice Chair, and I have some of my colleagues, former and present, here with me today. I am very grateful to Senate Majority Leader McConnell for giving me this opportunity.

In its annual reports to Congress, the Commission has extensively documented China's continuing failure to abide by both the spirit and letter of many of its WTO obligations. Areas of concern include market access barriers, particularly in the services sector, forced technology transfers, intellectual property theft on an unprecedented scale, indigenous innovation policies, discriminatory use of technical standards, massive government subsidies that have led to chronic overcapacity in key industrial sectors, and a restrictive foreign investment regime.

New challenges include the Made in China 2025 plan and the country's growing digital protectionism.

In recent months, the Chinese leadership has sought to portray China as the prime defender of the global trading system when the reality, as reflected in China's compliance with its own WTO obligations, is quite different. While I intend to work constructively with my Chinese counterparts in Geneva, I am convinced that challenging the distortions created by China's mercantilist practices must be a top U.S. priority.

A critical issue now pending before the WTO is whether members, including the United States, are legally obligated to treat China as a market economy under their own trade-remedy regimes. As both the USTR and U.S. Department of Commerce have made clear, China is and remains a non-market economy and should be treated as such. Bolstering support for this position within the WTO—a position also shared by the European Union—will be a critical task.

Let me close by saying that, if you send me to Geneva, I intend to wake up each and every morning asking myself these questions: What can I do today to advance American interests? What concrete steps can I take to improve the economic well-being of our Nation's workers, farmers, ranchers, and businesses, both large and small?

You have my assurance that I will work closely with this committee and its staff not only to report about what is happening at the WTO, but also to seek your input on key decisions.

Mr. Chairman, Ranking Member Wyden, thank you for the opportunity to share these comments, and I look forward to your questions.

The CHAIRMAN. Thank you very much.

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

The CHAIRMAN. Mr. Mahoney, we will take your testimony now.

STATEMENT OF C.J. MAHONEY, NOMINATED TO BE U.S. TRADE REPRESENTATIVE FOR INVESTMENT, SERVICES, LABOR, ENVIRONMENT, CHINA, AFRICA, AND THE WESTERN HEMISPHERE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Mr. MAHONEY. Thank you, Chairman Hatch, Ranking Member Wyden, and members of the committee.

Let me start by thanking you and your staff for holding this hearing today, as well as for your professionalism and engagement throughout this nomination process.

I also thank my home State Senators, Senator Roberts and Senator Moran, for their gracious introductions and for being here today.

I am deeply honored to have been recommended by Ambassador Lighthizer and nominated by the President to serve as the Deputy United States Trade Representative for Investment, Services, Labor, Environment, Africa, China, and the Western Hemisphere.

One of my goals, if I am confirmed, is to ensure that USTR has a constructive and transparent relationship with this committee and the House Committee on Ways and Means, consistent with the framework set forth in TPA. An important part of USTR's mission is to facilitate a partnership between the executive and legislative branches on trade policy. I am fully committed to that goal.

USTR's chief priority in the Western Hemisphere at present is the renegotiation of the North American Free Trade Agreement. I fully support the goals set forth in USTR's published negotiating objectives for NAFTA. These negotiations are an opportunity to modernize the agreement and to create a more level playing field for American workers, especially those in the manufacturing sector.

At the same time, however, as a Kansan, I am fully committed to preserving and enhancing the gains that our country has achieved in NAFTA, notably for agricultural goods. Especially at a time of already depressed commodity prices, it is important that U.S. agriculture lose no ground and maintain its reputation as a reliable supplier.

While the NAFTA renegotiation is a critical priority, I am mindful that our single greatest trade challenge is our relationship with China. In the past 3 decades, China has succeeded in lifting millions of its citizens out of poverty. That is an amazing achievement that should be celebrated.

But it has become increasingly clear that China is sustaining high levels of economic growth by pursuing an unfair, mercantilist economic policy that distorts world markets and inflicts harm on its trading partners, including the United States. Moreover, while

much of China's growth is attributable to its relatively uninhibited access to the U.S. market, China maintains too many barriers to its own domestic market in too many sectors.

Years of dialogue have yielded some progress but not nearly enough. It is time for new thinking and a new approach. Ambassador Lighthizer is committed to that. So am I.

I would also oversee USTR's Africa portfolio if I am confirmed. I look forward to working with my African counterparts to strengthen America's trading relationship with this dynamic and strategically important region.

Another of my priorities, if confirmed, is to be a champion for America's services sector. This is an area where, as the chairman noted, the United States enjoys a tremendous competitive advantage. But too many barriers to market access remain, particularly in the fast-growing area of digital trade.

I have full confidence that America's workers, farmers, service providers, and entrepreneurs can succeed in global markets. But to do so, they need greater and freer access to those markets, robust protection for intellectual property rights, and assurance that our trading partners are playing by the rules. That is where USTR comes in, and that is where my full attention and energy will be devoted, if I am confirmed.

Again, I thank the committee and look forward to your questions.

The CHAIRMAN. Well, thanks to both of you.

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

The CHAIRMAN. I have some obligatory questions that I ask all nominees who appear before this committee.

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

Mr. SHEA. No, Senator.

Mr. MAHONEY. No, Senator.

The CHAIRMAN. All right.

Second, 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. SHEA. No, Mr. Chairman.

Mr. MAHONEY. No, Senator.

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

Mr. SHEA. Yes, Mr. Chairman.

Mr. MAHONEY. Yes, Senator.

The CHAIRMAN. All right.

Finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of this committee?

Mr. SHEA. Yes, Mr. Chairman.

Mr. MAHONEY. Yes, Mr. Chairman.

The CHAIRMAN. All right.

We will turn to Senator Grassley for his questions.

Senator?

Senator GRASSLEY. First of all, one question for Mr. Shea, and then one question for Mr. Mahoney. And then I have a question both of you could answer.

Mr. Shea—congratulations to both of you, by the way.

Mr. SHEA. Thank you, sir.

Senator GRASSLEY. In your testimony, you state that one of your top priorities at the WTO will be addressing the fact that too many members claim "developing nation" status. That status, which is determined by the country itself, is very advantageous for avoiding routine trade obligations that every WTO member ought to have.

What ideas or proposals do you have for limiting the ability of countries to self-certify as "developing"?

Mr. SHEA. Well, Senator, thank you very much for the question.

Ambassador Lighthizer, at the recent ministerial in Argentina in December, made the exact point that you are making, that too many countries are self-designating themselves as "developing countries" and as a result getting special and differential treatment.

One of the things that countries receive when they are developing countries is more latitude, for example, on the issue of notifications of their subsidies. The U.S. has tabled a proposal late last year that would put, actually impose, some consequences for countries that fail to properly and timely notify their subsidies, because after all, transparency is essential to the system.

That proposal was well-received by some, as I understand it, and will be taken up later this quarter at the WTO.

So one of the things I would do, if confirmed, would be to be a strong advocate of that proposal as one way of trying to force countries, particularly the advanced developing countries, to assume greater responsibility.

Senator GRASSLEY. All right.

Mr. Mahoney, both you and Mr. Shea wrote in your testimony that China is implementing a mercantilist economic policy to the detriment of others, and we know that about the United States for sure.

I certainly agree with you that China gets unfettered access to our markets while throwing up barrier after barrier for our companies. I hear complaints from every American business that operates in China. However, China also buys vast amounts of Iowa soybeans and pork. Recently, we were able to get beef in there.

How, specifically—for Mr. Mahoney, then—will your approach to this China conundrum differ from previous administrations?

Mr. MAHONEY. Well, Senator, thank you for the question.

Our policy over the past 2 decades with China has been focused primarily on dialogue, which the last two administrations have promulgated, as well as bringing actions in the WTO. And while there has been some progress, the progress all too often has been of the manner of one step forward and two steps back.

So I do think that we need new thinking, including using trade tools that we have not used in the recent past. The 301 investigation that Ambassador Lighthizer has launched with regard to intellectual property, I think is a step in the right direction.

That does not mean we are not also going to use the other tools that we have used, including the WTO. I think that that is important as well.

But we need new thinking, and we need to consider approaches that we have not followed in the more recent past, so that we can change the dynamics in this relationship.

Senator GRASSLEY. For both of you: how do you each feel about currency manipulation being addressed in trade agreements in the future? And I would like to—before you answer—go on record saying that I believe that we should address currency manipulations in trade agreements, because currency values have an immense impact on imports and exports.

But what are your opinions on that question?

Mr. SHEA. Well, I would agree with you. We have seen with China in the past—they have obviously manipulated the currency to get an export advantage. And it has been a sustained problem over time.

You know, I would work with—if confirmed, I would work with my colleagues at the USTR to figure out whether that is the best negotiating approach, to put currency in a trade agreement.

I feel strongly that it is. We should call the Chinese out on it. In the past, we were very reluctant to do that back when, in fact, they were engaged in that practice.

Senator GRASSLEY. Mr. Mahoney?

Mr. MAHONEY. I agree as well, Senator. Currency manipulation is a quintessential unfair trade practice. It has devastating effects on America's workers.

I know this is an issue that the Congress has instructed the USTR to put in future trade agreements through the TPA legislation. And I also know it is something that is in USTR's published negotiating objectives for NAFTA.

I fully support that. I hope that we can get a currency provision in NAFTA that, hopefully, will serve as a template for other trade agreements.

Senator GRASSLEY. Thank you both very much.

The CHAIRMAN. All right.

Senator Wyden?

Senator WYDEN. Mr. Chairman, I understand Senator Portman has to be out the door by 11. So why don't I let him go before me. And then if I could follow him, that would——

The CHAIRMAN. Great.

Senator Portman?

Senator PORTMAN. First, thank you very much to the ranking member for his generosity.

I have had the opportunity to be here this morning to hear glowing introductions of both of you, and to hear from my colleagues on the other nominees. And let me just say I am delighted that you are willing to step forward. You both are bright, qualified individuals.

Dennis, you and I got to work together quite a bit in your previous roles, and we need you. And we need you right now. I am sure Bob Lighthizer is very eager to have you on board.

As a former USTR, I can tell you those deputies are absolutely essential. Dennis, I am sure you know Peter Allgeier, who did a terrific job for me at WTO. And I have talked to him.

C.J., if you have not reached out to Karan Bhatia or Susan Schwab yet, they would be terrific people to talk to. And I know they would love to give you input.

I appreciate what you said on currency manipulation. I am one of those Republicans who actually agrees it does affect trade, and we ought to deal with it.

With regard to NAFTA, C.J., I think you are going to have an opportunity to do so. My understanding is the Mexican government is open to it as long as it does not affect the conduct of monetary policy, as they say, which is not the idea.

So I hope you will include it, even though they are not manipulators, because it would present a precedent for the future.

To Mr. Shea, on WTO, you talked about China. I know you have a background in this, on China playing by the rules.

Let me ask you about a specific case. Just as an example, right now you are going to be inheriting, should you be confirmed, a key WTO case on subsidies to producers of primary aluminum.

Currently, China provides subsidies through artificially cheap loans. They also do it through artificially low-priced inputs for aluminum production, including energy—which, obviously, is key to that—and coal and electricity costs.

I have supported filing this case, because I know it will help. We have a manufacturer in Ohio, as an example, Pennex Aluminum in Leetonia, just as one example of the many Ohio companies and American companies that would benefit directly from it.

I think if we are able to compete on a level playing field, we will be fine with regard to aluminum and other products. But it is not fair.

So, more broadly, I want to hear you talk about how we protect our interests at WTO. But specifically, can I get any of your thoughts on this aluminum subsidies case?

Mr. SHEA. Yes, thank you, Senator.

First on the aluminum case, in my capacity on the U.S.-China Commission, we have written extensively on subsidies in the aluminum sector as well as in steel and other industrial sectors.

My understanding of this case is it is part of an overall review in the administration of all things aluminum. So, if confirmed, I would hope to work closely with you on that.

I think a very important case in the WTO that affects all sectors of our economy, particularly industrial sectors, is the nonmarket economy status.

We did not agree—the WTO members did not agree—that after a certain period of time, market conditions would automatically be deemed to exist in China, regardless of what the facts on the ground might reveal. And as you well know, the facts on the ground in China reveal a nonmarket economy.

State-invested enterprises control key sectors of the economy. They pursue government-directed industrial policies. They receive preferential treatment from State banks. The State banking sector is overwhelmingly controlled by the government.

Senator PORTMAN. Mr. Shea, I think it is really important that you continue to hold firm on our position and keep the Europeans on board too, because at some points they have waivered. And my understanding is right now they are willing to stick with us, because the facts on the ground do not defend the Chinese position, which is that they ought to become a market economy, particularly our trade cases that are pending that you are talking about, but also our antidumping cases and our countervailing duty cases.

So I thank you for that. I am glad you have that background.

Mr. Mahoney, just quickly on exports: one thing that I think you will find as you get into this job is that, where we have a trade agreement, a free trade agreement with another country, we do pretty well. In fact, we only have trade agreements with 10 percent of the global economy, yet we send 47 percent of our exports there. We actually have a trade surplus in the aggregate with our trading partners.

Sometimes the administration—I am concerned that there is too much criticism of trade agreements, when in fact trade agreements are not really the issue. China is not in a trade agreement with us, nor is Japan, nor is Europe, as an example.

In Ohio, I will tell you we send 60 percent of our exports to our trading partners. About half go to just two—Canada being number one, Mexico being number two.

So in terms of the importance of NAFTA, what you said earlier, I hope you will continue to work with us on that. We have a national trade deficit, yes, of $500 billion, but it is actually not the fault of our trade agreements. You want to open more markets.

I hope that you will, in this job, be willing to open even more markets for our farmers and our service providers and our manufacturers. In Ohio, it is one out of every four jobs, 25 percent of our manufacturing jobs, factory jobs are exporting jobs.

Can you speak briefly about that?

Mr. MAHONEY. Yes, Senator.

I agree with you. I think that reducing barriers to American exports is what I see as central to the job that I will have, if I am confirmed.

We tolerate too many barriers to market access, particularly in agriculture and services, where we maintain such a tremendous competitive advantage. And services is an area where we have an aggregate trade surplus of $250 billion, which would reduce the overall trade deficit by a third, I think, the last time that the numbers were available in 2016.

So I think that it is absolutely critical that USTR be on the front lines trying to reduce barriers to American exports in other countries, and I am fully committed to doing that.

Senator PORTMAN. Thank you, Mr. Chairman.

Thank you all.

The CHAIRMAN. Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman.

I have just a couple of questions. I know on our side, both Senator Brown and Senator Stabenow are real experts on this trade issue, so I look forward to their questions as well.

First one, Mr. Mahoney, is an issue that is important in terms of follow-up. As you know, the chairman and I, along with our

counterparts in Ways and Means, wrote the President and said we have six priority areas. And we were talking, for example, about manufacturing. We were talking about agriculture, a host of market-distorting practices with respect to China, solar to semiconductors.

My question is, if confirmed, will you commit to brief the Finance Committee within 30 days on the administration's strategy for addressing these issues the chairman and I have focused on? We just want to make sure that we really come out of the box strong.

As you know, I am very favorably inclined towards your candidacy here, your nomination. Is that a commitment you can make, that you will, within 30 days, brief us on the administration's strategy for the big six issues that we asked about with respect to China?

Mr. MAHONEY. Yes, sir. I would be happy to have the opportunity to brief the committee.

As I said in my opening statement, I think that one of the important missions of USTR is to foster a productive relationship between the executive and legislative branches on trade policy. I am excited to be involved in that and would look forward to the opportunity to brief you at any point,

Senator WYDEN. I heard you say "brief the committee." I did not hear "within 30 days."

Mr. MAHONEY. Yes, within 30 days.

Senator WYDEN. Great. Terrific.

Mr. MAHONEY. I am happy to make that commitment, Senator.

Senator WYDEN. All right.

So, let us talk about the other concern that I have, and that is about transparency. Transparency goes right to the heart of what I think a smart trade policy is.

And I have talked with Senator Stabenow and Senator Brown about this. And we really have a kind of coming together. We have some core principles, and they really take from those who are for free trade and those who are for fair trade. And we call it "smart trade."

Right at the core of a smart trade policy is transparency and making sure that no longer will Senators go to town hall meetings—as has been the case for a lot of years—where constituents will ask us about trade policy, and nobody has any idea what is going on. The chairman and I, with the support of colleagues on both sides, sought to change that, as you know, in the debate last year, and we have to get back on track with respect to transparency.

As you know, we have not had public summaries of the negotiating objectives with South Korea. That is something that we are concerned about. It is critical if we are going to raise the bar with respect to transparency.

Now, Bob Lighthizer was just up here a few minutes ago, and we were talking about a host of issues. You are going to be the transparency point person. And sometimes you have to be careful for what you wish for. That is part of the TPA authority bill we passed in 2015.

If confirmed, will you include that in that first briefing within 30 days, what you are going to do on transparency issues?

Mr. MAHONEY. Yes, Senator. I would be happy to make that commitment. I know how important the transparency provisions of TPA were in getting the legislation passed. I know how important that is to you and other members of the committee, and I am fully committed to that goal.

Senator WYDEN. Well, I know from our private conversations that you understand the intensity of feeling from members on both sides about raising the bar on transparency. I think you are up to it.

The only reason I am asking for that 30-day commitment is, I just want to make sure that these issues do not get lost. We have gone a long time since the 2016 campaign. You heard my opening statement. We have not had a lot of progress in some of these areas. I think you are up to changing that.

I support both of these nominees this morning, Mr. Chairman. I look forward to my colleagues' questions.

The CHAIRMAN. Well, thanks so much, Senator.

Senator Brown?

Senator BROWN. Thank you, Mr. Chairman.

Thank you both for the discussions we had, maybe back in November. Thank you so much.

I have a few questions for each of you, and I would like your answers, if possible, to be "yes" or "no." No trap, I just want to get some information out here.

Starting with Mr. Shea, I am concerned that many WTO decisions, particularly those by the appellate body, have undermined U.S. trade remedy laws at the expense of manufacturers and workers in our country. Do you agree that many of those decisions were an overreach by WTO and a major concern for our country, Mr. Shea?

Mr. SHEA. Yes.

Senator BROWN. Thank you.

China, as you know, has brought a case against the U.S. and the EU at the WTO for continuing to apply nonmarket economy status in our antidumping case methodologies. Do you agree that China is a nonmarket economy and that winning this case must be a priority for us at the WTO?

Mr. SHEA. Yes.

Senator BROWN. Thank you.

I appreciate the administration's support on nonmarket economy status. We know that our allies in Western Europe stand with us on that. We need your work to make sure they continue to stand with us.

I have an op-ed you published in December 2016 with your colleague, Carolyn Bartholomew, in which you say Chinese state enterprises should not be allowed to purchase U.S. companies. Senator Grassley, a very distinguished, very senior member of this committee, a Republican, and I introduced a bill that would require a review of certain foreign investments made in the U.S., particularly those made by state-owned companies.

The point of this bill is to ensure that foreign investments made here—we know about CFIUS and national security issues—are in our economic interest as a country. There is no mechanism for doing so, as I think you know.

If confirmed, will you commit to working with Senator Grassley and me on this legislation so we can give the administration the tools it needs to ensure foreign investment in the U.S., that it is good for our economy and good for our workers long-term?

Mr. SHEA. Yes.

Senator BROWN. All right. Thank you.

Mr. Mahoney, if you could be as good as Mr. Shea, I will turn to you. [Laughter.]

Mr. MAHONEY. I will endeavor to be.

Senator BROWN. Thank you for that, in many ways.

One of the main problems with the current NAFTA agreement is that its labor and environmental standards are unenforceable, last-minute side agreements the Clinton administration negotiated. We have lost U.S. jobs to Mexico as a result.

Do you agree that one of the key ways to improve NAFTA in the current negotiations that a number of us are working with Ambassador Lighthizer on is to include strong labor and environmental standards and make sure they are fully enforceable?

Mr. MAHONEY. Yes, Senator. I believe that including those in the main agreement—including labor and environmental standards that are consistent with TPA—is an important goal. I fully support it.

Senator BROWN. We know from now 20-plus years of NAFTA how undermining labor standards, environmental standards, hurt our competitiveness and hurt our ability to keep jobs in this country.

Last question, and thank you both again. Given that China has not lived up to its trade obligations to the WTO, I do not believe we should reward their bad behavior with a bilateral investment treaty that people talk about.

If confirmed, will negotiating between the U.S. and China be a priority?

Mr. MAHONEY. Senator, my understanding is that the administration does not have a final point of view on that, but I certainly share your concerns about China's reluctance to live up to prior agreements that it has entered into in the United States. So I think that anything we do on that front, we need to do cautiously.

Senator BROWN. Is there any effort at USTR that you see to move forward on any bilateral investment treaty?

Mr. MAHONEY. Senator, again, I am not aware of what the status of that is. I know it is one of the agreements that the administration is reviewing, but my understanding is that a final decision has not been made.

Senator BROWN. Thank you, because I know the President talks in terms of wanting to do bilateral agreements. But this is one that, if you and Ambassador Lighthizer move forward on, you should move forward with great caution, talking to us, listening to members of Congress, many, many, many of us who have great concerns about any kind of bilateral investment treaty with the People's Republic of China.

Mr. MAHONEY. Absolutely, Senator. I would do that.

Senator BROWN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Brown.

Senator Cantwell?

Senator CANTWELL. Gentlemen, thank you so much, and congratulations on your nominations.

You know, there has been a lot of discussion about the renegotiation of the NAFTA agreements. But for Washington, the agriculture community has benefited greatly. I think it is something like a 200-percent increase in agriculture exports.

Now, as people have talked about the negotiations, some are concerned about provisions that would treat perishable and seasonable products differently that could lead to retaliatory measures. So I think in 1996, the export value of Washington food and agriculture was $2.6 billion. Today it has grown to $6.8 billion. So it has been positive.

So how do we make sure that the status of the proposed seasonal and perishable trade remedy—what do you think the status of that is, and how do we avoid pitting one part of the country against another?

Mr. MAHONEY. Senator, I am certainly aware of that issue. I note that it is something that Congress addressed in the TPA legislation. Given that I am not a cleared negotiator, I am not familiar with the proposals that the U.S. has put forward to deal with that issue.

I certainly understand that this is an area where there are a lot of strong opinions. Agriculture is not a monolith. There are different interests in different parts of the country.

I can commit to you that if I am confirmed, I will listen to the views of all stakeholders to make sure that we come up with an appropriate solution.

Senator CANTWELL. So how would you plan or prioritize so that one region was not harmed over another, particularly if it might be done for political purposes? I am not interested in changing NAFTA and the 200-percent agriculture increase in Washington State for somebody to say, "Hey, Florida, I did something for tomatoes," and basically screw the apple, or pear, or cherry industry. That is just not good policy.

Mr. MAHONEY. Well, Senator, I think that this is an area where, again, it is important to solicit input from all stakeholders. Again, I am not familiar with the text that has been tabled on this, but it has to be appropriately crafted.

I understand the concerns that have been voiced by growers in certain parts of the country. I also understand the concerns that have been voiced by growers of seasonable and perishable goods in Florida and Georgia.

This is an area where we need to strike an appropriate balance, and I am committed to doing that.

Senator CANTWELL. So if you were in this position in the future, you would not pursue policies that did that? Is that what you are saying?

Mr. MAHONEY. Senator, I am committed to following TPA. And I know that one of the things that the Congress instructed USTR to do in TPA was to ensure that growers of seasonable and perishable goods have access to import protections, but at the same time, I understand that there are concerns among certain parts of that same sector that they could face retaliation if there are changes.

So that is why I think it is important that we hear from everyone and we craft an appropriate solution.

Again, I am not sure exactly what is——

Senator CANTWELL. A solution that does not put them in that place, that does not cause those kinds of challenges?

Mr. MAHONEY. We certainly need to take all of this into account. My goal is to advance the interest of agriculture, not to undermine it in any way.

Senator CANTWELL. Thank you.

So what do you think we need to do to further bump up the opportunities for U.S. agriculture products to reach new markets? What do you think some of those——

Mr. MAHONEY. Well, I think there are a few things. For one thing, the NAFTA negotiations aim to achieve that, particularly with regard to the Canadian dairy sector, which is an area where our producers continue to be shut out.

We have opportunities, I think, in Asia, Africa—the relationship with Argentina is showing some signs of progress. So I think that in all of these areas we need to be active, including through discussions about FTAs with appropriate candidates.

Senator CANTWELL. Here is what I would like you to think about. I am for going and doing as many bilaterals as we can possibly do. Propose them to Congress. Let them decide which ones of these agreements they think are good.

But when we fail to open up new and developing markets and other people come and get a foothold, get 30 percent of market share, it is very hard to come in behind that.

So the one thing we know how to do in the United States of America is grow product. We are the best. Let us make sure that we are opening up all of these developing countries by getting more workforce out there in the discussion with these countries about opening those opportunities.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Toomey?

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

I want to thank our witnesses for being here today and for being willing to serve in these really, really important posts.

Mr. Mahoney, I want to talk to you about NAFTA a bit here. In your testimony, you state that the U.S. Trade Rep's chief priority in the Western Hemisphere at present is the renegotiation of NAFTA.

You go on to say, "I am fully committed to preserving and enhancing the gains that our country has achieved in NAFTA." I am glad to see that because, in my view, NAFTA has been terrific for the United States. It has been terrific for Pennsylvania. It has been good for our economy, and it has been good for even security purposes. It has elevated the standard of living in all three countries, and that is a good thing.

I am sure you are aware of this data, but just as a reminder for the committee, according to the U.S. Commerce Department, American goods exports to Mexico are exceeded on an annual basis only by one country in the world, and that is Canada.

So we sell more goods to Mexico than anywhere in the world, except Canada. And if you add those two countries, Mexico and Canada, U.S. exports to Mexico and Canada combined—just those two countries—exceed all of the U.S. exports that we have to China, Brazil, India, France, Germany, UK, Japan, and several other countries combined.

Our economies are significantly integrated. We have massive sales in Pennsylvania. Sales to Mexico, exports to Mexico increased 500 percent since NAFTA.

So I mention all of this because I do fear that there are some in the administration whose view is that the highest priority goal needs to be to eliminate the trade deficit. Now, we have a trade deficit with Mexico.

It seems some want to get to managed trade, rather than free trade. And I am very concerned that if we do that, we will not achieve one of the goals that you stated here of preserving and enhancing the gains that our country has achieved in NAFTA.

I am 100-percent in favor of finding ways to export more to Canada and Mexico. And that is a very, very worthy and important goal, but I hope you would not support—and I would like to ask for your comments on supporting policies that would be designed to increase the cost to American consumers of products because they happen to originate in those countries.

What would your view be on using tariffs or quotas to curb imports from Mexico and Canada?

Mr. MAHONEY. Well, Senator, I agree with you that these are two hugely important trade relationships, and I think that the renegotiation of NAFTA gives us an opportunity to strengthen those relationships. My hope is that these renegotiations are successful and the result is more trade between all three of these countries in a way that sets us all down the path to a more prosperous future.

I do think that NAFTA, given that it is 23 years old—it makes sense to see what has worked, see what has not worked, include provisions such as digital trade that would not have been relevant when the agreement was first enacted. The negotiating objectives for NAFTA—which are at this point my best insight into what our strategy is, given that I am not at the negotiating table—I think are all reasonable and I think are aimed at reducing barriers to trade, and facilitating trade at the same time, by including provisions such as labor and environmental chapters in the agreement, which is——

Senator TOOMEY. I understand, but you are not really responding to my concern about measures that would be designed to impede imports from Mexico and Canada. I just want to urge you not to go down that road.

I am sure you are fully aware that any country subject to those sorts of behaviors on our part can and would retaliate. I am sure you will acknowledge that the chemical goods, the machinery, the food manufactures, the transportation equipment that Pennsylvania, for instance, exports to Mexico and Canada, they can buy that somewhere else.

And if we go down the road of penalizing and blocking imports from those countries, they will retaliate; right?

[No response.]

Senator TOOMEY. Also, I wonder if you have given any thought to—and I will close with this, Mr. Chairman. I am going to run out of time.

But there has been considerable research about the extent to which our trade deficit is erroneously magnified in the sense that multinationals have had incentive to book revenue outside of the United States. So it is not that the economic activity happened outside, but they had an incentive to show it that way. That tends to exaggerate the magnitude of the deficit.

The tax reform that we have just adopted and that the President has signed into law dramatically diminishes the incentive for multinational companies to do that. And I think it is very likely that that change will show a significant reduction in the trade deficit.

Now, have you given any thought to the scale of that, to that phenomenon? Do you agree that tax reform is likely to reduce that phenomenon?

Mr. MAHONEY. I am aware, generally, of the provisions that Congress enacted in order to discourage booking of revenue overseas and to bring cash back into the United States. I think that will have a positive impact on the trade deficit, and I certainly hope that that is the case, as well as to increase the incentives for American companies to invest in the United States.

Senator TOOMEY. Well, thank you. I just want to urge you to do the important work of opening up markets to American exports, but do not punish American consumers.

Thank you.

The CHAIRMAN. Thank you, Senator.

I appreciate both of you testifying. We are going to get you both out. We really appreciate you.

I have to leave, so the Senator from Oregon is going to continue the committee until we get past the last few questioners. So forgive me for having to go to the floor, but I think both of you are excellent, excellent nominees, and we will do everything in our power to get this done for you.

Mr. SHEA. Thank you, Mr. Chairman.

Mr. MAHONEY. Thank you.

The CHAIRMAN. The next one is Senator Stabenow.

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

Welcome to both of you. Congratulations on your nominations.

I have similar concerns to other colleagues who have asked questions, and I do want to, just for emphasis, speak about some of those again.

Let me start by saying we are in a global economy. We need to trade. It needs to be fair, and it needs to be smart. My mantra is always, we want to export our products, not our jobs.

So in a large State like Michigan, our farmers need markets, no question about it. You cannot move the farm, but you can move the factory. So we have to look at different parts of our economy differently.

One of my concerns on the tax bill that was just passed is that there were no efforts to close loopholes that were actually helping to send jobs overseas, which is a big concern of mine.

Day one, the President said he was going to call China a currency manipulator. It has been a year now. That has not happened. We know we have lost at least 5 million jobs related to that.

So now when we look at NAFTA—and I know other colleagues have mentioned this as well—but it is not just NAFTA, it is TPP, it is the auto industry being deeply concerned about having a currency regime template to follow. I would ask, Mr. Mahoney, do you support including an enforceable currency measure in the new NAFTA agreement?

Mr. MAHONEY. Absolutely, Senator.

Senator STABENOW. Thank you.

And do you see that as a template for future trade agreements?

Mr. MAHONEY. I certainly hope so. I know this is something that Ambassador Lighthizer and the President care deeply about. It is also something that the Congress addressed in TPA, and it is something that I am fully committed to.

Senator STABENOW. And the last scheduled negotiating round we know is in March at this point. Would you advise the administration and fellow negotiators to stay at the negotiating table and continue to go over outstanding issues, currency being one of them, until that can be resolved and currency is included?

Mr. MAHONEY. Yes, Senator. I have heard the President and Ambassador Lighthizer both make comments about the timetable. It is in everyone's interest to move quickly, but at the same time, it is important that the negotiations accomplish what they need to accomplish. And I agree that currency is one of the important goals.

Senator STABENOW. It is very much so.

Let me turn to a different topic, and, Mr. Mahoney, I would continue with you.

When we talk about not moving the factory, when we talk about having a level playing field on trade, enhancing and strengthening labor and environmental standards have to be a top priority in NAFTA negotiations in order to make that happen. Michigan workers cannot compete when their labor standards, particularly in Mexico, go unenforced and wages in other countries are too low.

I have sat with CEOs saying, you can give me all the incentives and tax breaks you want, but you cannot compete with $1.50 an hour in Mexico. And that is a race to the bottom. That has been what has been happening for the middle class in this country, and certainly in Michigan. And it has to stop.

When labor groups and unions in other countries are mistreated or unable to collectively bargain for better wages and working conditions, that harms the men and women in Michigan who are working hard every day on the assembly line or in other areas. The same goes for environmental issues.

So I would ask, do you support strong and enforceable labor and environmental standards in the NAFTA negotiations?

Mr. MAHONEY. Senator, I fully support the labor and environmental provisions that are in TPP, and with regard to labor, the core ILO standards.

I agree with you that if we are going to open up our workers to competition, we need to make sure that the playing field is level. One of the ways we do that is by ensuring that workers in other countries have basic protection such as the core ILO standards.

Senator STABENOW. All right.

Here is my concern. The President said that he was going to pull out of TPP because it was a bad deal for workers. You are saying you would accept the standards in TPP, which are clearly not strong enough. So why would they be strong enough for NAFTA?

Mr. MAHONEY. Senator, I meant TPA, the Trade Promotion Authority.

Senator STABENOW. Well that is also—current TPA, you are talking about as being the strongest we are going to do on worker provisions and the environment. Again, the President indicated that the current trade regimes were not a good deal for workers or for people in this country as it relates to the environment.

So why would they be good enough for NAFTA?

Mr. MAHONEY. Senator, one of the problems we have had with NAFTA with labor and environment has been that the labor and environment agreements were side agreements. They were not subject to the dispute resolution mechanisms that applied to other parts of the agreement.

We have seen, in recent years, the Mexicans enact constitutional reforms that are designed to strengthen protection for workers, but we need to make sure that those are implemented and enforced. There is also a big part of this that is about ongoing enforcement and monitoring.

USTR, as you know, works with the Labor Department to ensure that all of our trade partners are living up to their labor obligations. I am certainly committed to making sure that that happens if I am fortunate enough to be confirmed.

Senator STABENOW. Well, this is an area of deep concern to me, because it goes to the fundamentals of a level playing field and whether or not we have a middle class in this country, or if we are telling Americans it is just going to be a race to the bottom. And that is a bad deal for us.

Mr. Chairman, I have other questions regarding China and their protectionist approach and closing their markets, but I will submit those for the record.

Thank you.

Senator WYDEN [presiding]. So ordered.

Senator Whitehouse has agreed to wait 5 more minutes before he asks his first questions on his first day as a new member, as he wishes to do a courtesy to our colleague from New Jersey, Senator Menendez.

Senator MENENDEZ. Thank you, Mr. Chairman.

I thank my colleague from Rhode Island for his courtesy. He can have all of the M&Ms from my office that he wants, that he comes by and takes. [Laughter.]

Mr. Mahoney, when Ambassador Lighthizer was last before the committee in June, he emphasized how important it is that we obtain enforceable labor provisions in the agreement. I am following up on Senator Stabenow's comments.

Press reports suggest that the administration is advocating for an optional dispute settlement mechanism in NAFTA, which would mean the parties could choose whether or not to subject themselves to the enforcement of the deal, including labor obligations.

Do you believe that an optional dispute mechanism is an effective way to make labor standards enforceable in NAFTA?

Mr. MAHONEY. Well, Senator, since I am obviously not a cleared negotiator yet, I am not familiar with the exact proposals that the United States has tabled. I think having a mechanism to ensure the enforceability of labor and environmental standards is important. It is something that is spelled out in TPA, and it is also reflected in USTR's published——

Senator MENENDEZ. You understand what an optional dispute mechanism is, right?

Mr. MAHONEY. Conceptually I do, but again, I am not familiar with exactly what the proposal is on the table.

Senator MENENDEZ. Well, let me ask you this. Will you commit to this committee that any trade agreement you would be part of negotiating would contain enforceable labor provisions that go beyond those the American people and the President rejected in TPP?

Mr. MAHONEY. Senator, I am fully committed to following the law, which is, of course, the——

Senator MENENDEZ. You are going to be negotiating part of what the law is, so I am trying to figure out what you will do if you are negotiating.

Mr. MAHONEY. Right.

Senator, as I said, I am fully committed to seeing to it that we have enforceable labor and environmental standards consistent with what Congress has directed USTR to negotiate in TPA. I think it is critical that if we are going to open up our workers to competition from workers abroad that we ensure that there be basic rules and that the playing field be level. I am fully committed to that.

Senator MENENDEZ. Let me ask you this. I have asked this question of several nominees in their confirmation hearings. I would like to ask it of you as well.

When this committee was debating Trade Promotion Authority 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 have failed to combat human trafficking. Following that amendment, we saw an unprecedented politicization of the TIP report where countries were upgraded based on unrelated factors, one of those being trade.

If confirmed, you will be overseeing our trading relationships with several countries that have poor records on combating trafficking. Will you commit to the committee that, if confirmed, you will not take any action to attempt to influence the TIP report?

Mr. MAHONEY. Senator, I am certainly aware of your leadership on this issue. I think it is important that those decisions be made based on the facts, and I will certainly commit to do that, and to——

Senator MENENDEZ. I am sorry. What is "that"? I am sorry—to "commit to do that." What is "that"? To not influence the TIP report?

Mr. MAHONEY. Sorry. Again, to the extent that I am involved in the TIP report, I will make sure that any advice I give with regard to that is based on the facts——

Senator MENENDEZ. The facts sometimes will tell us very clearly that the country that is trafficking, human trafficking in violation, ultimately should not have that preference. But sometimes there are those, whether it be for trade or for other purposes, who will actually try to influence a TIP report and have a tier designation that is not what that country should get based upon its human trafficking.

That is what I am trying to determine: that you are not going to put trade over human trafficking when the Congress of the United States, in law, has said that a country who is trafficking in persons and violating our standards will not have a preferential treatment.

Mr. MAHONEY. Senator, absolutely, I believe that what should govern this are the facts and the conditions. This is a hugely important issue, and the determinations that are made with regard to that report need to be based on the conditions on the ground.

Senator MENENDEZ. Well, let me ask you finally. The President says he wants to accommodate China in our trade disputes if they will apply pressure to deal with North Korea—something that I have not seen happen. We had the largest ever annual trade surplus in goods with the United States. I do not know how you "make America great again" with a $275-billion surplus.

What do you think is going to be necessary to deal with that trade deficit?

Mr. MAHONEY. Senator, I think we need a new approach. The approach that we have had over the last several years has involved repeated dialogues with the Chinese, which have yielded only incremental progress, as well as bringing disputes in the WTO. We have been successful in many of those disputes.

But we have not fundamentally altered China's behavior. So what I think we need to do is consider a new approach, including new tools that the U.S. has not used in recent years.

The 301 investigation that Ambassador Lighthizer has started regarding intellectual property, I think, is a good first step. There are, obviously, the 232 investigations that have been started by the Department of Commerce.

I think we need to keep all of our options on the table. Ultimately, we need to bring the Chinese to the table and negotiate a political solution to some of these issues. But it is going to take a changed negotiating dynamic in order for us to achieve the kind of progress that we need——

Senator MENENDEZ. I look forward to following up with you on these issues.

Mr. MAHONEY. Thank you, Senator.

Senator WYDEN. Senator Whitehouse?

Senator WHITEHOUSE. Thank you very much.

You may have to sit back a little bit so that I can see, given our geography here at this point.

In the Senate, there are moments of considerable bipartisanship. One area of bipartisanship has been the Ocean's Caucus that exists in the Senate. I think it includes more than a third of the membership of the Senate, and it is fairly evenly balanced between the two parties. Senator Murkowski of Alaska and I founded it sometime ago, and its work has produced four treaties and two pieces of

significant legislation, all passed through the Senate by unanimous consent.

One of those pieces, the most recent one, comes much thanks to Senator Sullivan of Alaska, and that is the Senate's first legislation on marine plastic debris in the oceans. One of the recommendations in that legislation is that the Trade Representative pay more attention to this issue.

One of the reasons that we hand it to the Trade Representative to pay attention to this issue is a study, which I will provide you a copy of after the hearing, that shows that the vast majority of the marine debris and waste that ends up in the ocean comes into the ocean as the result of a failure of upland waste management. And a very few countries are, primarily, responsible for that upland stream of plastic debris that ends up in the oceans.

You will not be surprised that China is the leading offender, followed by Indonesia, Philippines, Vietnam, Sri Lanka, and Thailand. Those all being Pacific and Indian Ocean countries, the obvious geographic result for us is that, while we do beach cleanups in Rhode Island with trash bags to pick up the plastic waste, in Alaska, they have to do those beach cleanups with dumpsters and front-end loaders and barges. And in some cases, there are tons of plastic waste per mile of coastline.

This is an issue that has some real significance. We are headed for a crossover point in about 2050, if nothing changes, where the mass of marine plastic waste in the oceans will be greater than the mass of living fish in the oceans. I do not think that is the place where we want to be. It would be very hard to explain to our grandchildren why we did nothing on that.

We also face the hazard of what this plastic does when it breaks down into smaller and smaller physical pieces and then enters the food chain, very often at the very lowest levels of the food chain, and then climbs back up through the different trophic levels, and suddenly, we humans are eating things that, unprecedented in the history of the planet, now have all of this plastic baked into their diets. And we do not know what that means.

So those are two important issues. I have a general concern that environmental issues get very short shrift in trade negotiations and even shorter shrift in trade enforcement.

This seems like an area where we could have a very significant bipartisan win. And because the issue is negligent upland waste management and because America has very good waste management companies, it would seem to me that this could be actually a trade win for us if we could get China, Indonesia, Philippines, Vietnam, Sri Lanka, Thailand, and some of these other countries to accept as part of their trade responsibilities with us that they will clean up their act in upland waste management.

Give me some reassurance that this is an issue that each of you would be willing to consider in trade negotiations, given its clear bipartisan support here in the Senate and given its potential impact in the future.

Mr. MAHONEY. Senator, I certainly look forward to working with you and other of your colleagues who are interested in this issue. In general—I am glad that you mentioned bipartisanship in trade policy. I think that that is really important. I am really excited

about finding any areas, including potentially this one, where there is——

Senator WHITEHOUSE. Bipartisan—passed by unanimous consent.

Mr. MAHONEY. Wonderful.

Senator WHITEHOUSE. You do not get much more bipartisan than that.

Mr. MAHONEY. Absolutely.

Senator WHITEHOUSE. So, sorry to interrupt.

Mr. MAHONEY. Just to emphasize, I think that these areas where we have bipartisan consensus are something that I am particularly excited about moving forward on.

And then this issue—I look forward to having a follow-up conversation with you, hopefully.

Senator WHITEHOUSE. All right.

Mr. SHEA. Well, thank you, Senator. I am very privileged to answer your first question on the Senate Finance Committee.

Senator WHITEHOUSE. Make it a good one. [Laughter.]

Mr. SHEA. Well, I will try.

Thank you for educating me about the issue. I have read news reports about this place in the Pacific where this huge, enormous——

Senator WHITEHOUSE. The Pacific gyres?

Mr. SHEA. Yes. Exactly. So I appreciate the education. I know at the WTO, one of the things I expect to work on would be illegal fishing subsidies, subsidies for harmful fishing. That is something that the WTO intends to take up. They kind of passed the last ministerial, but over the next 2 years they hope to have an agreement on harmful subsidies that promote illegal fishing and over-fishing.

Senator WHITEHOUSE. I appreciate that.

And the four treaties, in that first bipartisan unanimous consent piece of legislation, were all related to illegal pirate fishing, and specifically the legislation with the Port State Measures Agreement, which you will also have the opportunity to enforce.

So I hope that you can take the signal from the bipartisanship of this and from its environmental and trade significance that here is an area that, although new to trade negotiations because nobody has bothered to deal with it before, is important and is something that you would have the backing of the Senate as you pursued it.

Mr. SHEA. Thank you.

Mr. MAHONEY. Thank you very much, Senator.

Senator WYDEN. Thank you, Senator Whitehouse.

Getting important bills done by unanimous consent—suffice it to say, we know that sometimes around here it is hard to get people to order a soda by unanimous consent. So that is welcome news.

And again, we welcome Senator Whitehouse to the committee.

Senator WHITEHOUSE. Thank you.

Gentlemen, I am going to support both of you.

Senator Scott, somehow I miss your coming in sometimes.

Senator SCOTT. Yes, sir.

Senator WYDEN. You just have to kind of get my attention. We welcome your questions, and please proceed.

Senator WHITEHOUSE. It is a question of our remote geography now.

Senator WYDEN. I think so. Senator Scott and I have laughed about how this happened once before——

Senator SCOTT. Yes, sir.

Senator WYDEN [continuing]. In the tax debate, and I apologized then, and I apologize once more.

Senator SCOTT. Well, the apology is accepted. Thank you very much.

Senator WYDEN. There you are.

Senator SCOTT. Welcome to the committee, my good friend.

Thank you both for being here this morning.

I have the great pleasure of representing South Carolina. And South Carolina, without any question, should be considered the juggernaut of trade and exporting.

You think about the industries represented in South Carolina—transportation would come to mind very quickly. I think Boeing is the largest exporter in our country. One of their home places is in South Carolina.

You think about the more than 500,000 South Carolina jobs connected to trade. Six thousand South Carolina companies export goods and services in excess of $2.2 trillion. It is a big deal, trade in South Carolina.

When Robert Lighthizer, the Trade Representative, came before our committee and asked for my support, I gave it to him. As part of that process, he said he would be open, transparent, and available.

I have made one call to Mr. Lighthizer to talk about a trade-specific issue in South Carolina. I was met with crickets. So while you both are, I think, very qualified, I will be putting a hold on your nominations until I find more responsiveness from Mr. Lighthizer.

The reality of it is, I do not ask for much. You can not call me back, but you cannot disrespect the companies and the trading partner that is South Carolina. And without more responsiveness, and without a commitment for more responsiveness, I will not be voting for any nominees in the trade space.

Thank you.

Senator WYDEN. Senator Scott, have you completed your questions?

Senator SCOTT. I have completed my statement.

Senator WYDEN. Very good.

Senator SCOTT. I will save the questions for Mr. Lighthizer.

Senator WYDEN. Very good. I thank my colleague.

So, unless anyone else has slipped in outside of my eye range, we are at the conclusion of the hearing.

As the chairman indicated, both of us are very favorable towards the two of you. You have some heavy lifting to do, both of you, certainly on China issues, which is one of the reasons why I mentioned, for Mr. Mahoney, that commitment to getting briefed within 30 days on exactly what is being set in motion with respect to China.

Digital trade, labor, the environment—I am very pleased that Bob Lighthizer has picked up on the digital trade issue. At his nomination hearing, I started to talk about the Internet being the shipping lane of the 21st century. And he looked up from where he

was sitting—where you all are—and he said, "I think a prominent member of the Finance Committee was the one who talked about the Internet being the shipping lane of the 21st century." And I said, "I have heard of trying to work for the favor of the committee, but that is a little much."

So he is prepared, and I think you all are also prepared. So we look forward to supporting your nomination.

I want to close just by way of saying that before the presidential campaigns got going, I started to talk about this effort to get beyond free trade and fair trade. And we said, well, let us call it trade done right.

But the point is, you can call it what you wish, but we have to break through this polarization, because this is too important for our country. It is especially important to my State. One out of five jobs in Oregon revolves around global trade, and the trade jobs pay better than do the non-trade jobs, because they often reflect a high level of productivity, a high value-added component.

If there is one thing that everybody agrees on—we have to have policies that raise wages. Trade done right is an opportunity to do it.

So we just have one last bit of procedural work to do. On behalf of the chairman, let me just state that if any member has written questions for the record, we would ask that they be submitted by close of business this Friday.

Unless you gentlemen have anything to add—and I do not believe you do—with that, the Finance Committee is adjourned.

[Whereupon, at 11:50 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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 Finance Committee hearing to consider the nominations of Dennis Shea and C.J. Mahoney:

As most of you should be aware, we are tackling a lot today.

Today, we have a hearing on two important nominations. In addition, we have three items requiring a committee vote in executive session.

Just to avoid any confusion, let me explain how and in what order I intend to accomplish these tasks today.

We will begin with opening statements from myself and the ranking member.

Thereafter, the committee will hear from any Senators wishing to give statements about items on the markup agenda. As always, I would encourage members to enter their statements in the record so that we can move expeditiously. This is doubly true today as we have nominees and witnesses here ready to participate in our hearing. Still, if any Senator does wish to deliver a statement, I ask, as always, that they limit their remarks to 3 minutes.

After a few brief member statements, assuming we do not have a quorum at that point, I intend to introduce our witness panel and move forward with our hearing. I will likely move directly to votes when a suitable quorum is present, which may require a temporary pause in the hearing.

With the order of events made clear, let me discuss the substance of our meetings today. Regarding the first item on the markup agenda, I need to welcome our newest member, Senator Whitehouse, to the Finance Committee. We look forward to working with you and to your contributions to the committee's various efforts.

Our first vote will be in relation to changes in subcommittee assignments that have been circulated to the members.

That promises to be a real nail-biter.

Next, we will vote to once again report the nomination of Kevin K. McAleenan to be Commissioner of the U.S. Customs and Border Protection. We reported his nomination by voice vote just over a month ago, so I assume we'll be able to do so again today.

Finally, the third vote in our executive session will be to report the nomination of Alex Azar to be Secretary of Health and Human Services. We heard from Mr. Azar last week, and I believe he was very forthcoming in providing thoughtful responses when sharing his views and discussing his background with the committee. By any objective account, Mr. Azar is very well qualified for this important position. He has close to two decades of experience, the right expertise, and sound judgement. Further, he provided earnest and thoughtful responses to each of our questions.

Some of my friends on the other side of the dais have some differing views, and we intend to hear from them today.

After all, I feel strongly that both sides should be heard out when we consider nominees with critical responsibilities such as the Secretary of HHS. However, be-

cause some members have made clear their intention of calling for a roll call vote on Mr. Azar's nomination, we may not have the vote on his nomination during this hearing. Instead, we will likely need to recess and reconvene the executive session until a time where all of the members who have expressed interest will be able to attend and cast their votes on this important nomination.

That said, I think we can move through the other two votes expeditiously as soon as a suitable quorum is present. And any pause or interruptions in the hearing should be minimal. Regarding the hearing, we have two nominees before us today. C.J. Mahoney and Dennis Shea, who, if confirmed, will be charged with fulfilling some vital responsibilities. I want to touch on two areas of importance to me that will fall within each of their portfolios.

First, Mr. Mahoney, you have been nominated to be the Deputy U.S. Trade Representative overseeing, among other responsibilities, trade in services. Mr. Shea, you have been nominated to be our Nation's ambassador to the World Trade Organization, where promoting U.S. services trade will also be an essential part of your job.

The United States exported more than $721 billion in services in 2015. That number reflects something that a Deputy USTR should keep in mind every day he is on the job: no country in the world comes close to the United States in services trade. It is a key competitive advantage for our country and an important driver of our economy.

If confirmed, each of our nominees would have the responsibility to establish international trade rules and negotiate international trade agreements that benefit U.S. services providers.

For Mr. Mahoney, promoting U.S. services exports should be an essential goal of NAFTA modernization, particularly providing for the cross-border flow of data and ensuring a prohibition on forced data localization.

For Mr. Shea, I hope that you will support plurilateral negotiations for a Trade in Services Agreement with trading partners who are willing to take on high-standard commitments. Second, I want to speak about President Trump's priority of confronting the challenges posed by China to the international trading system. This is a goal that I support. If confirmed, both of you will bear a heavy responsibility for rolling back China's most harmful trade practices, including: intellectual property rights and trade secrets theft, economic espionage, artificial investment constraints and regulatory restrictions, and a persistent reliance on a state-directed economic model that produces overcapacities and harms American businesses and workers.

I look forward to hearing your views on how you believe the United States should address these challenges, including through the WTO.

Before we get to that point though, we need to move through the steps I mentioned before. As such, I'd like to invite my friend and ranking member, Senator Wyden to speak, and then we'll allow for members to deliver brief statements on the executive business before the committee as well.

Senator Bob Dole

The Atlantic Building
950 F Street, NW., 10th Floor
Washington, DC 20004

JANUARY 16, 2018

The Honorable Orrin Hatch
Chairman
The Honorable Ron Wyden
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Orrin and Ron,

I am writing to offer my endorsement to the nomination of Dennis Shea for Deputy U.S. Trade Representative and U.S. Ambassador to the World Trade Organization.

I have known Dennis for nearly 30 years. Earlier in his career, Dennis served as my counsel in the Office of the Senate Republican Leader and later as Deputy Chief of Staff. Dennis was also a trusted policy aide during my 1996 presidential campaign, handling a broad range of sensitive and important issues. Following the campaign, I asked Dennis to join me in private legal practice.

Over the years, Dennis has demonstrated sound judgment, a strong work ethic and an ability to work well across party lines—key attributes for the diplomatic position for which he is being considered. He has a successful track record of getting things done. His past work in the Senate and his current work on the U.S.-China Economic and Security Commission provide a strong foundation for serving as our nation's representative at the WTO.

I am confident that Dennis will be a positive addition to the USTR team, and I urge that he be supported by the Finance Committee and confirmed by the U.S. Senate.

God Bless America,

Bob Dole.

James M. Talent

Former United States Senator, Missouri

January 16, 2018

The Honorable Orrin Hatch
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510–6200

The Honorable Ron Wyden
Ranking Member
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510–6200

Dear Mr. Chairman and Senator Wyden:

I understand you are holding a hearing on January 18th on the confirmation of Dennis Shea to the position of Deputy United States Trade Representative in the Geneva office. I want to take this opportunity to submit for the record this letter in support of Mr. Shea's nomination.

I have served with Mr. Shea for 6 years on the U.S.-China Economic and Security Review Commission; during most of that time, Mr. Shea served as the Republican Chairman or Vice-Chairman of the Commission. Mr. Shea has done a really superb job in that position, which carries with it considerable authority and responsibility. He has a balanced judgment, a wide ranging understanding of the issues (including trade issues, which are a substantial part of the Commission's portfolio), a commitment to fairness, and great management skills. Under his leadership and that of his Democratic counterparts, the Commission has developed into an important and influential advisory body to the Congress.

In addition, I have gotten to know Mr. Shea well personally, and I can attest to his honesty, dedication, and character. I feel certain that he would faithfully and effectively execute trade policy and would be a most cooperative partner with your Committee as you oversee those laws in the interest of the American people.

In short, I believe Mr. Shea would be a credit to the Trade Representative's office and hope you see fit to report out his nomination favorably to the full Senate.

I would be happy to provide any further information you request.

Sincerely,

James M. Talent,
Former United States Senator, Missouri

PREPARED STATEMENT OF C.J. MAHONEY, NOMINATED TO BE U.S. TRADE REPRESENTATIVE FOR INVESTMENT, SERVICES, LABOR, ENVIRONMENT, CHINA, AFRICA, AND THE WESTERN HEMISPHERE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT

Chairman Hatch, Ranking Member Wyden, and members of the committee, let me start by thanking the committee—and your staff—for holding this hearing today and for your engagement and professionalism through this nomination process.

I also thank my home State Senators, Senator Roberts and Senator Moran, for your gracious introductions and for being here today. I am proud to hail from Russell, KS, which is also the hometown of the former chairman of this committee, Senator Bob Dole. I note that this hearing is being held on the same day that the Congress is honoring Senator Dole with the Congressional Gold Medal. Any achievements I have had certainly pale in comparison to Senator Dole's. But I think it says something quite remarkable about our country that not one, but two people who grew up in the same small town of 4,500 in Western Kansas are appearing on Capitol Hill on the same day.

I would like to recognize the members of my family who are here today—my wife Becca, my mother Joyce, and my mother- and father-in-law, Susan and Bill Iverson. I'm also joined today by friends from Kansas and Washington and members of my second family at Williams and Connolly, including two of my mentors, John Buckley and Bob Barnett.

I am deeply honored to have been recommended by Ambassador Lighthizer and nominated by the President to serve as the Deputy United States Trade Representative for Investment, Services, Labor, Environment, Africa, China, and the Western Hemisphere.

One of my primary goals, if I am confirmed, is to ensure that USTR has a constructive and transparent relationship with this committee and the House Committee on Ways and Means, consistent with the framework set forth in TPA. An important part of USTR's mission is to facilitate a partnership between the executive and legislative branches on trade policy. I am fully committed to that goal.

USTR's chief priority in the Western Hemisphere at present is the renegotiation of the North American Free Trade Agreement. I fully support the goals set forth in USTR's published negotiating objectives for NAFTA. These negotiations are an opportunity to modernize the agreement and to create a more level playing field for American workers, especially those in the manufacturing sector. At the same time, however, I am fully committed to preserving and enhancing the gains that our country has achieved in NAFTA, notably for agricultural goods. Especially at a time of already depressed commodity prices, it is important that U.S. agriculture lose no ground and maintain its reputation as a reliable supplier.

While the NAFTA renegotiation is a critical priority, I am mindful that our single greatest trade challenge is our relationship with China. In the past 3 decades, China has succeeded in lifting millions of its citizens out of poverty. That is an amazing achievement that should be celebrated. But it has become increasingly clear that China is sustaining high levels of economic growth by pursuing an unfair, mercantilist economic policy that distorts world markets and inflicts harm on its trading partners, including the United States. Moreover, while much of China's growth is attributable to its relatively uninhibited access to the U.S. market, China maintains too many barriers to its own domestic market in too many sectors.

Years of dialogue have yielded some progress, but not nearly enough. It is time for new thinking and a new approach. Ambassador Lighthizer is committed to that; so am I.

I would also oversee USTR's Africa portfolio if I am confirmed. I look forward to working with my African counterparts to strengthen America's trading relationship with this strategically important region.

Another of my priorities, if confirmed, is to be a champion for America's services sector. This is an area where the United States enjoys a tremendous competitive advantage. But too many barriers to market access remain, particularly in the fast-growing area of digital trade.

I have full confidence that America's workers, farmers, service providers, and entrepreneurs can succeed in global markets. But to do so, they need greater and freer access to those markets, robust protection for intellectual property rights, and assur-

ance that our trading partners are playing by the rules. That's where USTR comes in, and that is where my full attention and energy will be devoted if I am confirmed.

Again, I thank the committee and look forward to your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Curtis Joseph (C.J.) Mahoney.
2. Position to which nominated: Deputy U.S. Trade Representative for Investment, Services, Labor, Environment, China, Africa, and the Western Hemisphere (with the rank of Ambassador).
3. Date of nomination: July 27, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: November 23, 1977, Russell, KS.
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):

   Russell High School (1992–1996).

   Harvard College (1996–2000); A.B. (2000).

   Yale Law School (2003–2006); J.D. (2006).
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):

   McKinsey and Company, business analyst, New York, NY (2000–2003).

   Securities and Exchange Commission, Enforcement Division, summer intern, Washington, DC (summer 2004).

   Research assistant to Professor William Eskridge, Yale Law School, New Haven, CT (summer 2004).

   Gibson, Dunn, and Crutcher, summer associate, Washington, DC (summer 2005).

   Law clerk to the Judge Alex Kozinski, United States Court of Appeals for the Ninth Circuit, Pasadena, CA (2006–2007).

   Law clerk to Associate Justice Anthony Kennedy, Supreme Court of the United States, Washington, DC (2007–2008).

   Williams and Connolly LLP, associate (2008–2014); partner (2015–present), Washington, DC.

   Yale Law School, visiting clinical lecturer, New Haven, CT (2015–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):

    N/A.
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):

    Director, Yale Law School Fund Board.

Trustee, Paul R. Mrockowski Irrevocable Trust.[1]

12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations):

Phi Beta Kappa (2000).

John Carroll Society (2008 to present).

Federalist Society (2003 to present).

Yale Law School fund board (April 2017 to present).

Blessed Sacrament Parish (2008 to present).

International Bar Association (2015 (approx.) to present).

Chartered Institute of Arbitrators (2015 (approx.) to present).

Y–ADR steering committee of the International Institute for Conflict Prevention and Resolution (CPR) (2015 to present).

Mory's Association (2004 to present).

Metropolitan Club (summer member 2017).

Kansas Bar Association (2007 to present).

District of Columbia Bar Association (2008 to present).

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

N/A.

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

McCain for President (volunteer legal work).

Romney for President (volunteer legal work).

Fiorina for President (volunteer legal work).

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.

I do not have complete records,[2] but based on my recollection and information on the FEC website, these are my contributions over the past 10 years:

Senator Tom Cotton (R–AR) ($1,700).

Senator Jerry Moran (R–KS)/Moran for Kansas/Free State PAC (approximately $1,000).

Representative Elise Stefanik (R–NY) (approximately $250).

Tim Nelson for MN State Senate (D–MN) (approximately $100).

Jeff Yarbro for TN State Senate (D–TN) (approximately $1,500).

John Couriel (R–FL) for FL Legislature (approximately $200).

Joshua Hawley (R–MO) for Attorney General (approximately $100).

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):

Phi Beta Kappa (Harvard College).

Bennett Prize for best thesis in American government (Harvard College).

Emerson Prize for best paper on legislation (Yale Law School).

Fellow of the Chartered Institute of Arbitrators.

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[1] I do not understand this question to call for the names of clients I have served at Williams and Connolly LLP. But I note that a list of those clients is attached hereto as Exhibit A.

[2] I note that only my donations to Senator Cotton appear on the FEC website under the donor name "Curtis Mahoney." The other amounts indicated are to the best of my recollection.

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

"Our Turn to Be Angry," *The Harvard Crimson* (1998). *http://www.thecrimson.com/article/1998/9/18/our-turn-to-be-angry-pbabdmittedly/*.

"Treaties as Contracts: Textualism, Contract Theory, and the Interpretation of Treaties," 116 *Yale L.J.* 824 (2007), *http://www.yalelawjournal.org/note/treaties-as-contracts-textualism-contract-theory-and-the-interpretation-of-treaties.*

"Dealing with 'Known Unknowns' in Document Exchange: A Comment on the ICCA Congress Session on Early Stages of the Arbitral Process," Kluwer Arbitration Blog (2014), *http://kluwerarbitrationblog.com/2014/04/29/dealing-with-known-unknowns-in-document-exchange-a-comment-on-the-icca-congress-session-on-early-stages-of-the-arbitral-process/*.

"Managing and International Commercial Arbitration," *CPR Corporate Counsel Manual for Cross-Border Dispute Resolution* (2017).

"USA," *The International Comparative Legal Guide to International Arbitration (2017), https://www.wc.com/portalresource/lookup/poid/Z1tOl9NPluKPtDNIqLMRVPMQiLsSwW3Cm83!/document.name=/IA17_Chapter-59_USA.pdf.*

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):

I have spoken on panels at various arbitration conferences and made legal continuing education presentations to lawyers during the past 5 years, but none of these was a "formal speech" with a prepared text. Each was on a topic relating to arbitration or appellate law. I have retrieved and attached slides I discussed on international arbitration.

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

The position of Deputy United States Trade Representative involves dispute resolution, negotiation, and coordination of interagency teams. I believe that my experience, both as an attorney representing clients in high-stakes transnational litigation and arbitration and, prior to that, as a management consultant working primarily for large, multinational corporations, has prepared me well to perform all three aspects of the job. My law practice focuses on complex litigation, with an emphasis on international arbitration, a forum that is similar to WTO dispute resolution in many respects. I have been responsible for formulating the litigation strategy in these disputes (including on issues of treaty interpretation), managing teams of lawyers across different jurisdictions, and negotiating complex settlement agreements with foreign parties. As a management consultant, I assisted clients in analyzing investments in foreign markets. In order to serve my clients, I have been required to master (often rather quickly) complex subject matter in various industry sectors, including in the technology, financial services, energy, and agricultural sectors. Through these experiences, I feel I have gained a good sense of the challenges facing American businesses overseas, particularly in Latin America, a region to which I have had substantial exposure in litigation and arbitration matters in recent years and which would be part of my portfolio at USTR if I am confirmed. These roles have also required me to interact with and communicate my clients' position to counterparties from different national and legal cultures. I am confident that the legal, negotiation, and management skills I have honed in my career will enable me to be an effective advocate for our Nation's businesses, workers, consumers, farmers, and ranchers.

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.[3]

[3] I do not understand this question to ask whether I will resign from any of the religious or social organizations I listed in answer to Question A.12.

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.

   Note that my only individual stock holding is International Business Machines, which I will divest if confirmed. All of my other securities holdings are in third-party managed retirement funds or widely held mutual funds.

   See attached Exhibit A (list of clients served during my time at Williams and Connolly LLP).

Exhibit A

Below is a list of all clients Williams and Connolly LLP has billed[4] for my time since I started at the firm in 2008, where either (i) the firm's representation of the client is a matter of public record; or (ii) I have received permission to disclose the fact of the representation for purposes of this disclosure.

21st Century Fox and Affiliates
Airlines for America
Archdiocese of Washington
Ave Maria Law School
Bayer AG/Bayer Corporation
Carlyle Group, T.C. and Affiliates
Cato Institute
Coventry Group LLC
D.C. Preservation
Delta Air Lines, Inc.
Federal Realty Investment Trust
Genentech, Inc.
G–I Holdings, Inc.
William Held
Intel Corporation
Howard Karawan
KPMG LLP
Jesse Litvak
M&T Bank Corporation
MacAndrews and Forbes and Affiliates
Merck and Co., Inc. and Affiliates
Morrison and Foerster LLP

Ltda and Affiliates
Oneida Indian Nation
Gregory Patton
Pfizer
Rocky Mountain Christian Church
Lily Safra
Gonzalo Sánchez de Lozada
Douglas Shulman
AES Corporation
American Academy of Actuaries
Ave Maria University
Bank of America
Cahill, Gordon, and Reindel LLP
Catholic University of America
Contourglobal and Affiliates
Kevin B. Cox
Danaher Corporation and Affiliates
FBR and Co.
Fjordtech Industries, Inc.
Georgetown University
Frederick Heebe
Hunton and Williams
Kaplan Higher Education
Charles and David Koch
Nancy Lane
Louis Dreyfus Company and Affiliates
Man Diesel
Medstar Health
Missouri Wine and Spirits Association
Morzan Empreendimentos e Participações
Henry Nicholas
Pakistan, Islamic Republic of
Pernod Ricard USA
Prime Institutional Group LLP
Rogers Group
Samsung Electronics America, Inc.
School Choice Foundation
Sonic Automotive, Inc.

[4] I have not included the names of clients I have represented on a *pro bono* basis. Nor have I included the names of clients who were not billed for my time.

Southeast Toyota
Takata Corporation
TLC Network
UBS AG UBS Financial Services
United Methodist Church
Utah Highway Patrol Association
Washington Post
Sprint
Textron Inc.
Tria Beauty
UMC Development LLC
U.S. Chamber of Commerce and Affiliates
Walt Disney Company
Willis Towers Watson PLC

In addition to the matters listed above, the firm has billed for my time in the following non-public matters in which disclosure of the representation arguably would cause prejudice to the client and/or where the client has not consented to the disclosure:

- Representation of a private equity firm in a non-public, internal investigation regarding compliance issues.
- Representation of a technology company in connection with an ongoing Department of Justice investigation.
- Representation of various entities affiliated with the Roman Catholic Church, including individual U.S. dioceses, regarding, *inter alia,* issues of religious liberty and alleged clerical abuse of minors.
- Representation of South Korean auto manufacturer regarding potential petition for certiorari.
- Representation of U.S. public official in connection with non-public Department of Justice Investigation.
- Representation of Brazilian businessman in connection with confidential arbitration proceedings.
- Representation of former officer of U.S. bank in connection with bankruptcy proceedings.
- Representation of private equity executive in connection with confidential arbitration.

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.

   See attached Exhibit A (list of clients served during my time at Williams and Connolly LLP).

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.

   I testified on behalf of my client, the Archdiocese of Washington, in connection with DC City Council bill no. B22–0028.

   I assisted in preparing another Williams and Connolly partner in testifying on behalf of the Archdiocese of Hartford in connection with legislation pending before the Connecticut legislature regarding statutes of limitations.

   I co-authored a white paper on behalf of my client, the School Choice Foundation, analyzing the Establishment Clause implications of scholarship tax credit legislation.

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 will divest my IBM shares and abide by the ethics agreement I have executed.

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.

No.

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.

   Yes. I was the victim of identity theft in approximately 2000. An American Express credit was taken out in my name, without my knowledge or consent. The bill was not paid, and American Express filed suit against me in the District Court of Russell County, KS to collect the amount owed. I did not know about the account until I received notice of the suit. The individual responsible for taking out the account in my name filed an affidavit taking responsibility, the outstanding amount was paid, the matter was dismissed, and the credit bureaus removed mention of this episode from my credit report.

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.

   N/A.

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 C.J. MAHONEY

QUESTION SUBMITTED BY HON. ORRIN G. HATCH AND HON. RON WYDEN

Question. The President's submission of your nomination to Congress includes information on the country, regional offices, and function of USTR that would come under your responsibility, consistent with section 141(b)(5)(A) of the Trade Act of 1974, as modified by the Trade Facilitation and Trade Enforcement of 2015. That submission indicates that China would be part of that responsibility. However, conversations with you and Mr. Gerrish, also nominated to the position of deputy USTR, have raised questions about the scope of your responsibilities with respect to China.

Will you have primary responsibility for trade matters with respect to China?

Will the Assistant USTR for China Affairs report to you?

Will you be the point person for interagency discussions with respect to China?

Please describe your responsibilities with respect to China, as you understand them.

Answer. I will perform duties related to China as assigned to me by Ambassador Lighthizer. My understanding is that Jeff Gerrish, if confirmed, will have responsibility for Asia, including primary responsibility for China, and that I would assist Ambassador Lighthizer and Mr. Gerrish on matters involving China. My understanding is that the Assistant USTR for China would report to Mr. Gerrish. I anticipate that I would work closely with the USTR China office and the interagency on such matters when delegated responsibility.

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

Question. While the TiSA negotiations remain pending, American workers will rely on our existing trade agreements to support their ability to export services. As Congress made clear in the TPA law, our principal negotiating objective for trade in services is to expand competitive market opportunities for U.S. services and to obtain fairer and more open conditions for trade in services.

How you will fulfill this negotiating objective for services in the framework of our existing trade agreements, including the NAFTA and Korea trade agreements?

Answer. The U.S. service sector is a key driver of the U.S. economy and plays an important role in supporting and strengthening the U.S. manufacturing and agriculture sectors. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy U.S. economy. If confirmed, I look forward to working with you to evaluate the best options available to pursue U.S. services trade objectives as an integral part of the administration's trade policy.

Question. The United States has a complex trading relationship with China. As a general matter, we and China can benefit greatly from trade with each other. Yet, as a practical matter, American businesses have experienced serious problems in their efforts to access the Chinese market, and they often find themselves competing on an uneven playing field with Chinese companies. Such problems include government policies that destroy the value of intellectual property and policies that lead to overcapacity in some sectors.

Could you please explain how you plan to work toward improving the U.S.-China trading relationship, and how you will measure your success in making such improvements?

Answer. China, by far, poses the greatest trade-related risk to our economy due to its unfair trade practices and distortive, state-led, economic policy. If I am confirmed, I will look at how I can best work to ensure that our engagement with China is effective and results-oriented. In my view, we need to consider all available options, from actions in the WTO to section 301. The President has made clear that we need to restore balance to the U.S.-China trade relationship, and that means reducing our very large bilateral trade deficit and ensuring that trade is freer, fairer, and reciprocal.

Question. Multiple foreign governments have subjected U.S. companies to competition investigations that lack adequate due process protections. USTR recognizes the seriousness of this problem and has put forward negotiating objectives in NAFTA to help address the issue. This is an important step forward to ensuring U.S. companies are accorded due process by our foreign trading partners during competition investigations.

If confirmed, do you agree that the NAFTA competition obligations should serve as a baseline to pursue fair treatment by our trading partners of U.S. companies in competition proceedings?

Answer. I understand that USTR proposed text for a NAFTA 2.0 competition chapter that fulfills the negotiating objective agreed to by Congress in the 2015 TPA bill and was reflected in USTR's NAFTA 2.0 Negotiating Objectives. I also understand that the three NAFTA parties reached agreement on the text of the competition chapter in October of last year. While I have not seen the classified text, I understand that the new NAFTA competition chapter substantially updates the original NAFTA and goes beyond anything the United States has done in previous free

trade agreements to provide increased procedural fairness in competition law enforcement so that parties are given a reasonable opportunity to defend their interests and are ensured of certain rights and transparency under each nation's competition laws. My goal, if confirmed, would be to pursue high standard commitments on competition policy in any future agreements, and I hope that the new competition chapter in NAFTA can serve as a template for these efforts.

Question. American exporters use duty drawback to lower costs in order to be more internationally competitive. Drawback is restricted in NAFTA by article 303, while FTAs after NAFTA and the U.S.-Chile FTA do not contain similar language.

What is your position on the inclusion of drawback provisions in NAFTA renegotiations?

Answer. If confirmed, I will review the issue of duty drawback in NAFTA and consider how these and other provisions regarding trade in goods can best promote the competitiveness of U.S. firms and workers.

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. Millions of Americans are employed in the service sector in fields like science and technology, which accounted for about a third of U.S. exports. The United States has a competitive advantage in services with a $249 billion surplus in services trade with the world in 2016. Yet, this administration seems to be ignoring this crucial part of our economy altogether. In my view, we need to revitalize manufacturing *at the same time* that we seek new ways to support and grow the services sector. In fact, manufactured products are increasingly incorporating digital services; kitchen appliances made in the United States need to be part of the smart home to be competitive in tomorrow's marketplace.

Do you agree that pursuing the Trade in Services Agreement (TiSA) negotiations would serve U.S. interests in lowering barriers to U.S. exports in services, particularly digital services?

Answer. The U.S. service sector is highly innovative and a key driver of the U.S. economy, accounting for over 70 percent of GDP. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy economy and a core objective of U.S. trade policy. I understand that USTR is currently seeking strong services commitments in the ongoing NAFTA renegotiations and is also evaluating the full range of options available to pursue these objectives more broadly, including the Trade in Services Agreement. I am absolutely committed to expanding market access for service providers and look forward to working with you as we chart the best course forward.

Question. The NAFTA renegotiation is a chance to set a high-water market in many areas. The United States leads the world in the Internet economy—and that is in part due to the United States having the most innovation-friendly laws and policies in the world as I described in my opening statement. But U.S. leadership is threatened overseas by countries that block or discriminate against U.S. Internet services and adopt policies that stifle innovation.

If confirmed, do you commit to pursuing strong commitments in NAFTA which mirror U.S. law?

Answer. I recognize the enormous importance of the Internet economy to the United States and the growing importance of the Internet as a platform for distributing content and providing services. TPA directs our trade negotiators to secure commitments from other countries to adopt innovation-enabling laws and regulations similar to those in the United States. I fully support this objective and, if confirmed, would commit to work with you and the Congress to achieve it.

Question. In its updated public summary of negotiating objectives for the NAFTA renegotiation, USTR stated that it would "establish rules that limit non-IPR civil liability of online platforms for third party content," and "seek provisions governing intellectual property rights that reflect a standard of protection similar to that found in U.S. law, including, copyright and related rights (including, as appropriate, exceptions and limitations)."

Are you committed to fully pursuing these objectives?

Answer. I am committed to fulfilling all NAFTA negotiating objectives, including rules on non-IPR intermediary liability and other digital trade-related objectives, as

well as ensuring strong standards of protection and enforcement for intellectual property rights, to ensure that U.S. online platforms have the same types of protections in foreign markets that have helped make the United States the most innovative economy in the world.

Question. For several years now, foreign government subsidies and other market-distorting policies in the steel sector have resulted in massive global steel overcapacity—estimated by the OECD at nearly 700 million metric tons.

If confirmed, can you tell me how you and the rest of the USTR team will get countries like China to eliminate their steel excess capacity?

Answer. I share your concern that the current global overcapacity problem in the steel industry is having a detrimental impact on U.S. workers and companies. At the core of this problem is China's non-market economy system, which is creating global oversupply and excess capacity in these and other sectors.

To address this serious problem, if confirmed, I am committed to working with colleagues across the administration to address the root causes of the problem through the use of the tools made available by law. In addition, I understand that the administration is also fully engaged in working closely with other countries, including through the Global Forum on Steel Excess Capacity, to respond firmly to the causes and consequences of steel excess capacity.

Question. Mr. Mahoney, I understand you will be responsible for China policy in your role at USTR in Washington. There is no question that China's mercantilist trade policies have been a serious challenge both for American workers and the rules-based trading system as a whole. The President seems to be of two minds on China trade: some days he seems ready to take action and on other days he says he will trade away action for China's cooperation on North Korea. That is unacceptable. China has a trade strategy and it is not giving it up in exchange for favors from the United States in other areas. The United States needs a strategy, too. Last April, Senator Hatch and I, together with our counterparts on the House Ways and Means Committee, wrote to the President and identified six priority areas for the administration in its engagement with China, ranging from market distorting policies affecting manufacturers and agriculture to China's efforts to dominate advanced technologies from solar to semiconductors, where the U.S. traditionally has had the lead.

What are the top three trade challenges you see this year with respect to China and how would you address them?

Answer. The United States faces numerous trade challenges with regard to China. The three I highlight below by no means are the only challenges we face, but they are among the most significant.

First, I agree with you that excess capacity is a major problem. China has expanded capacity in sectors like steel, aluminum, and solar panels well beyond what market signals would have generated, and the resulting over-production has been causing serious harm to our industries and workers.

Second, China's "Made in China 2025" industrial plan and other Chinese industrial policies are a major cause of concern for the United States. The 2025 plan provides massive subsidies to 10 value-added, high technology manufacturing industries, calls for preferences for Chinese products, services, and technologies, seeks to extract technologies from other countries and sets explicit goals for dominating China's domestic market as a precursor to going global and seeking increased market shares abroad. We need to protect our technology, ensure a level playing field and an open market in China, and work to discourage China from creating severe excess capacity in these industries.

Third, China's inadequate enforcement of intellectual property rights is also of serious concern. Particular problem areas include online infringement, trade secrets protection, and a weak patent regulatory system.

If confirmed, I look forward to working with you to ensure progress in all of these areas. I am committed to the use of the full range of appropriate U.S. trade policy and enforcement tools to achieve this end.

Question. The administration has mentioned the importance of labor commitments in trade agreements and the need for tougher enforcement of those commitments. But so far, it has taken no enforcement actions and the reports it was supposed to deliver on country-specific labor investigations have either been released late or not at all. The report on labor conditions in Colombia was released *4 months late.* No

reports have been produced in the investigations of the Dominican Republic, Peru, or Honduras. As for NAFTA negotiations, there are growing concerns that the administration is not going to get anything more than what the last administration did in TPP.

Will you commit to working with the Department of Labor to ensure that enforcement reports are timely released in all pending trade cases before the Department?

Answer. FTA partners should be held to their obligations, including those relating to labor standards. Lower labor standards in other countries create an unfair competitive advantage and harm American workers. I am aware of the Department of Labor's report on labor issues in Colombia and, if confirmed, I am committed to ensuring that compliance and enforcement of trade laws are priorities. I am also aware of the administration's close engagement with Colombia, as well as Honduras, Peru, and the Dominican Republic, to ensure that these FTA partner countries live up to their obligations, and I will work with Labor Secretary Acosta and his team to continue these efforts.

Question. Do you think it would be an acceptable outcome on NAFTA if the administration gets the same labor commitments from Mexico as the Obama administration got in the Trans-Pacific Partnership agreement? If not, where do you believe improvements are needed?

Answer. I strongly believe any new or renegotiated trade agreements should build on what the United States has achieved in past agreements, while meeting the objectives laid out by Congress in the 2015 TPA legislation. In the case of Mexico, the important constitutional labor reforms that were developed while the TPP was being negotiated have been enacted, and Mexico is now considering follow-up legislation to fully implement the reforms. I certainly believe both the United States and Mexico will want to make sure NAFTA 2.0 builds on these important and ongoing reforms in Mexico.

Question. This administration, including the Office of the U.S. Trade Representative, has fallen short on transparency and consultations with Congress, stakeholders and the public. Getting more transparency in our trade policy has been a top priority for me. Together with nine other Democratic members of this committee, I wrote to the President last week expressing concern that this administration is heading off track on transparency. It has issued no public summaries of its negotiating objectives with Korea. To put it simply, we won't end up with trade deals that benefit all Americans if we can't talk about proposals at town halls. That is why I insisted on new requirements to raise the bar when it comes to transparency.

If confirmed, do you commit to consulting closely with Congress and follow the letter and spirit of all transparency and consultations requirements established by the Trade Promotion Authority bill passed in 2015 and the enforcement bill passed in 2016?

Answer. If confirmed, I commit to following the consultation requirements mandated by law and to work closely with Congress in pursuing trade negotiations.

QUESTION SUBMITTED BY HON. CHUCK GRASSLEY

Question. Foreign governments are increasingly using competition laws to advantage their own companies or otherwise protect them from U.S. competition. Such actions risk stifling U.S. investment, innovation and competitiveness.

What tools does USTR have available to combat these unfair trade practices?

Answer. I agree that the recent escalation in use of competition laws to the detriment of U.S. companies is an issue of concern. I understand that USTR has been using a number of mechanisms, including direct bilateral communications with the relevant competition authorities, to ensure that U.S. companies are able to defend their interests to the fullest extent possible and be treated fairly under foreign competition laws. I fully support this effort.

QUESTION SUBMITTED BY HON. MIKE CRAPO, HON. PAT ROBERTS, AND HON. MICHAEL B. ENZI

Question. In the context of the Joint Committee on Commerce and Trade (JCCT), China made commitments to exchange information with the Commerce Department regarding its excess capacity in soda ash.

What does the administration's abandonment of the bilateral trade dialogue with China mean for the JCCT commitment on soda ash?

Answer. China does not have a good track record of following through on commitments that it made in the JCCT or any of the other high-level bilateral dialogues that we pursued with China. If confirmed, I will work with you as well as the U.S. soda ash industry in an effort to find the best path forward for addressing the industry's concerns about excess capacity in China's soda ash industry.

QUESTIONS SUBMITTED BY HON. JOHN CORNYN AND HON. JOHN THUNE

Question. Mr. Mahoney, if confirmed, you would play a lead role in the NAFTA renegotiations. As I have indicated to the President and Ambassador Lighthizer, I strongly support NAFTA, which has created significant market access for South Dakota agricultural commodities in Canada and Mexico. I believe it is critically important that we preserve and strengthen the benefits that NAFTA has provided to our agricultural industries in particular and to U.S. exporters more generally.

With that said, what do you see your role being in the renegotiations and what are your top priorities for a modernized NAFTA?

Answer. If confirmed, my role as deputy would be to oversee several of the offices within USTR, including the office of the Western Hemisphere, which, in turn, oversees NAFTA. If confirmed, I look forward to working with Ambassador Lighthizer to advance this administration's trade agenda with respect to NAFTA and my other areas of responsibility. As I stated in my hearing testimony, I am fully aware of the gains the agricultural sector has achieved as a result of NAFTA and am fully committed to preserving and enhancing those gains.

Question. Given the importance of trade agreements to agriculture and the U.S. economy generally, please describe how you would work to preserve existing trade agreements and to open up new markets.

Answer. The administration is committed to maintaining and expanding export markets for our farmers, ranchers, and food processing industries. If confirmed, I would be committed not only to preserving existing benefits to American agriculture but also to improving existing agreements, such as NAFTA. I would also work to expand market access for the U.S. agricultural sector in countries with whom the United States does not have a free trade agreement. The President has stated that the United States is open to negotiating trade agreements with any like-minded country that is willing to trade on fair and reciprocal terms. If confirmed, I would look forward to working with you, other members of Congress, and agricultural stakeholders, consistent with Trade Promotion Authority, to identify priorities for opening new markets or updating other existing agreements.

QUESTION SUBMITTED BY HON. RICHARD BURR, HON. JOHNNY ISAKSON, HON. ROB PORTMAN, HON. PATRICK J. TOOMEY, HON. DEAN HELLER, HON. TIM SCOTT, AND HON. BILL CASSIDY

Question. Drawback was initiated for the purpose of creating jobs and encouraging manufacturing and exports. Article 303 of NAFTA doesn't allow access to drawback.

Please analyze the advantages and disadvantages to the United States as compared to Canada and Mexico concerning our lack of access to duty drawback through NAFTA. Further, please analyze the advantages and disadvantages of not allowing duty drawback on NAFTA originated goods transferred through the United States.

Answer. If confirmed, I will review the issue of duty drawback in NAFTA and how these and other provisions regarding trade in goods can best promote the competitiveness of U.S. firms and workers.

QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

Question. Agricultural exports support an estimated 26,000 jobs in Michigan, both on and off the farm. Canada and Mexico are top markets for many of the food and agriculture products we grow and make in Michigan. At a time when many Michigan farmers are struggling with uncertainty and low prices, it is essential that any final NAFTA agreement does not jeopardize access to these markets.

If you are confirmed, will you commit to working with me to make maintaining and expanding markets for Michigan agriculture a priority in any revised NAFTA agreement?

Answer. The administration is committed to maintaining and expanding export markets for our farmers, ranchers, and food processing industries, including those in Michigan. If confirmed I would be committed to not only to preserving existing benefits to American agriculture but also improving NAFTA. I would consult you, other members of Congress, and agricultural stakeholders, consistent with Trade Promotion Authority, on the United States' approach to and positions in the negotiations.

Question. The U.S. sugar industry, which supports 142,000 jobs across the country and thousands of jobs in Michigan, is greatly impacted by our trading partners in the Western Hemisphere. Unfortunately, our U.S. producers have been hurt by very low prices and volatility caused by Mexico dumping large volumes of sugar on the U.S. market. I am hopeful that this dumping will be curtailed by the revised antidumping and countervailing duty suspension agreements negotiated last year. However, if Canada is granted additional U.S. market access for sugar and sugar-containing products in a revised NAFTA agreement, I am concerned that this could cause further harm to our domestic sugar industry and undermine these revised suspension agreements.

If you are confirmed, will you commit to working closely with me and representatives of the U.S. sugar industry to address these concerns?

Answer. I am aware of the concerns you note. As you are aware, authority over sugar imports is divided between USTR and the U.S. Department of Agriculture (USDA). If confirmed, I commit that USTR will work closely with you, other members of Congress, USDA, and sugar stakeholders should sugar-related issues with Canada arise in the NAFTA negotiations.

Question. Last year, Chairman Roberts and I wrote a letter to Secretary Perdue and Ambassador Lighthizer urging them to engage with their counterparts in Canada about Canada's new dairy pricing scheme, which has displaced U.S. exports of ultra-filtered milk and depressed world prices. I appreciate the administration's attention to this issue, but I remain concerned about this policy change and the potential for it to cause further harm to U.S. producers.

If you are confirmed, will you commit to fully examining all options to address this issue, both in the context of the NAFTA negotiations and otherwise? Will you commit to briefing my staff about the actions USTR is taking to address this problem?

Answer. I know Canada's dairy program imposes substantial barriers to market access and that this is an issue of great importance for America's dairy farmers. If confirmed I will certainly examine all options for addressing this issue and would be happy to brief your staff.

Question. Michigan farmers can compete as well as anyone in the global marketplace when the playing field is level. Unfortunately, our trading partners do not always play by the rules, and I have heard from many farmers who are facing unfair import competition or unwarranted barriers to export markets. Many of these challenges are with trading partners who will fall in your area of responsibility if you are confirmed. For example, Michigan asparagus growers have struggled with dumping from Mexico and Peru for several years.

If you are confirmed, will you make fair treatment of U.S. agricultural products a top priority? How will you press countries that violate their trade commitments to change their unfair trade practices?

Answer. Ensuring fair treatment of U.S. agricultural products is a top priority for this administration. I am fully committed to that goal and, if confirmed, I will commit USTR to look into the matter of asparagus imports from Mexico and Peru.

Question. If confirmed, your portfolio will include addressing our ongoing trade challenges with China. China's expanding protectionist approach and closing of their markets has created economic harm to businesses in Michigan seeking to export their products from polysilicon to electric bus batteries. At the same time, Chinese companies flood the U.S. market with goods, many times underpriced, putting American companies at a competitive disadvantage. In addition, the issue of excess steel overcapacity, particularly from countries like China, continue to harm the steel industry and steelworkers all across the country, including in Michigan.

What specific steps will you take to counter China's behavior and make headway on this issue?

What steps will you take to address the problem of excess steel capacity, particularly by China?

Answer. I am aware of the market access issues you identify and, if confirmed, will work with others in the administration, members of Congress, and stakeholders to eliminate barriers to the Chinese market and ensure greater reciprocity in our trading relationship with China in general. With regard to the issue of steel, China needs to stop engaging in unfair trade practices and fix its vast excess capacity problem. While China has taken some steps to reduce excess capacity in its steel sector, there has not been much if any progress so far; China's steel capacity and production remain roughly the same and China's steel exports to the world remain high. I understand that USTR is currently conducting a review of all the available tools to address the serious overcapacity problems in steel and other products. At the same time, we need to address the root causes of excess capacity, and as part of that effort I understand that USTR is continuing to work closely with other leading steel producing countries in the Global Forum on Steel Excess Capacity and other contexts. The goal of the Global Forum is to work with other governments to take effective steps to address excess steel capacity in China and elsewhere by addressing the underlying causes such as subsidies and other types of government assistance.

USTR is also working with the Department of Commerce, Customs and Border Protection, and other agencies to ensure that we enforce our trade remedy laws effectively at the U.S. border. In addition, as you know, the Department of Commerce conducted an investigation of steel trade pursuant to section 232 of the Trade Expansion Act of 1962 and submitted the results of the investigation to the President earlier this month.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. The solar panel and polysilicon trade dispute between the United States and China appears to be deadlocked. Currently, the Chinese market accounts for about 80 percent of the global demand for polysilicon. However, retaliatory duties imposed by China on U.S. exports of polysilicon have crippled our leading domestic manufacturers. Despite growing global demand for solar products, key U.S. polysilicon manufacturers continue to shrink. This is directly contrary to the economic interests of the United States and the stated goals of the Trump administration.

Do you believe that the prolonged trade dispute over solar products has been harmful to our domestic polysilicon industry, and has resulted in the loss of thousands of jobs?

Are you aware of Chinese efforts to use the situation described above to lure U.S. polysilicon manufacturing capability to China and capture their more advanced manufacturing technologies?

Please describe what concrete actions you would take, if confirmed, to obtain access for U.S. polysilicon manufacturers to Chinese markets as soon as possible.

Answer. I share the concern about the harmful impact that Chinese duties are having on U.S. polysilicon producers. I understand that China imposed duties on U.S. polysilicon exports in retaliation after the United States imposed legitimate antidumping and countervailing duty measures on Chinese solar products that were found to be injuring the U.S. industry. I note the statement made recently by the Trump administration in connection with the President's imposition of section 201 safeguard relief for U.S. producers of solar products:

> The U.S. Trade Representative will engage in discussions among interested parties that could lead to positive resolution of the separate antidumping and coun-

tervailing duty measures currently imposed on Chinese solar products and U.S. polysilicon. The goal of those discussions must be fair and sustainable trade throughout the whole solar energy value chain, which would benefit U.S. producers, workers, and consumers.

I support that approach and, if confirmed, I look forward to working with you on this issue.

Question. U.S. companies are concerned about China's proposed draft regulations that, when combined with existing Chinese law, would require U.S. cloud providers to transfer valuable intellectual property, surrender use of brand names, and hand over operation and control of their businesses to Chinese companies in order to operate in China. These are requirements that no other countries apply to foreign cloud providers, and Chinese cloud providers continue to operate in the United States without these restrictions. U.S. cloud companies 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.

Please describe what concrete actions you will take, if confirmed, to level the playing field for U.S. cloud companies in China?

Answer. I recognize that U.S. leadership in the technology sector, including in the area of cloud computing, is a tremendous competitive advantage that we must maintain. I share your concern about the requirements China seeks to impose on U.S. cloud providers. I agree that our trade policy should 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 Chinese companies enjoy in the United States. If confirmed, I will make reducing barriers U.S. companies faces in this sector—in China and elsewhere—a priority.

QUESTIONS SUBMITTED BY HON. BILL NELSON

Question. As you know, Florida fruit and vegetable growers are dealing with the problem of Mexican agricultural goods being unfairly subsidized and dumped into the U.S. during the winter months—including tomatoes, blueberries, strawberries, cucumbers, and bell peppers. Florida growers say they have had a hard time bringing forward a trade case on the issue due to the seasonality of the dumping. However, some growers in other parts of the country object to a level playing field for Florida growers, fearing it could disrupt their relationship with Mexico.

In general, do you believe fair rules for perishable goods should be held hostage to histrionics, or should they be judged on their merits?

Answer. I understand that in the context of the NAFTA negotiations the United States has made a proposal to address this issue which is rooted in the provisions contained in Trade Promotion Authority since 2002. As Ambassador Lighthizer has consistently stated, our aim is to maintain and improve market access for American agriculture, manufacturing, and services. If confirmed, I intend to maintain and strengthen export opportunities for our farmers and ranchers, to help ensure that our agricultural products are treated fairly, to promote the strength of our manufacturing sector, and to expand opportunities for our services, including digital services. At the same time, when U.S. farmers believe that they have been injured by unfairly traded goods, those farmers should be entitled to seek a remedy.

Question. Will you commit to support the administration's current position of recognizing the seasonality of trade abuses against regional fruit and vegetable growers?

Answer. I support the administration's negotiating objectives on this issue, which were set forth in its published negotiating objectives for NAFTA 2.0.

Question. What do you believe you could add to the administration that is currently missing?

Answer. Ambassador Lighthizer has assembled an impressive team to combat the significant trade challenges our Nation faces. As a trial litigator with an international practice, I routinely litigate high-stakes matters before international tribunals and negotiate with foreign parties. The skills I have gained in my career thus far will, I believe, enable me to play an integral role in helping to advance the administration's trade agenda.

Question. If the President said something that you knew was false, would you perpetuate the falsehood if asked about it?

Answer. Any advice I give or statements I make in my capacity as Deputy USTR will be based on the facts as I understand them.

Question. Some argue that free trade creates an incentive for companies to move to low-wage countries that have little to no workplace regulations. What do you plan to do to address that concern?

Answer. I agree that lower labor standards in countries that have low wages, such as Mexico, affect American workers and businesses. I am committed to ensuring that NAFTA and other trade agreements meet the negotiating objectives that Congress has set out in TPA, including those regarding labor rights. The administration has undertaken a comprehensive review of U.S. trade policy to determine how best to ensure strong labor commitments for future trade negotiations, beginning with NAFTA. If confirmed, I will work with you and other members of Congress as we update and improve the NAFTA and examine ways to improve our relationship with other key trading partners as well.

Question. Do you believe most regulations that seek to protect consumers from fraud and abuse, protect worker rights, and preserve the environment help make America great, or do you believe they are mostly bad for America and a barrier to prosperity?

Answer. If confirmed, my responsibilities will be limited to trade policy. I do believe, however, that our trade agreements need to be structured in a way that gives Congress and the President sufficient flexibility to enact laws and regulations relating to consumer protection, labor conditions, and the environment. At the same time, it is important to ensure that our trading partners do not use domestic regulations to create unjustified trade barriers to American goods and services.

Question. If confirmed, how would your view on regulations influence your actions as Deputy U.S. Trade Representative?

Answer. If confirmed, my task will be to pursue trade agreements that are consistent with the objectives set forth in TPA, create a level playing field, and ensure that our trading partners do not use regulations to create unjustified trade barriers.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. During your confirmation hearing, you suggested that any advice you give in the formulation of the State Department's Trafficking in Persons (TIP) report would be based on the facts.

What is your understanding of USTR's role in drafting and making ranking recommendations for the TIP Report?

Answer. I understand that the Department of State is responsible for the TIP report. My understanding is that USTR works closely with the Department of State, as well as the Department of Labor and other agencies, to coordinate policy on trafficking and forced labor issues.

Question. What specifically will your role be in that process?

Answer. Again, I understand that, as part of the interagency process, USTR works with Department of State, the Department of Labor and other agencies, to coordinate policy on trafficking and forced labor issues, but the State Department is responsible for the TIP report.

Question. Do you support language in trade agreements, like the consistency plan with Malaysia in TPP, that works to address human trafficking in our trading partners?

Answer. I understand the importance of this issue and look forward to working with you and other members of Congress to determine how best to address it in the context of trade negotiations.

Question. Will you commit to this committee that, if confirmed, you will not take any action to influence the TIP report?

Answer. As noted, I understand that USTR works closely through the interagency process with the Department of State, as well as the Department of Labor and other agencies, to coordinate policy on trafficking and forced labor issues. I would expect

to play a role in that process. At the same time, I understand that the Department of State is responsible for the TIP report, and I agree with the concern you voiced at the hearing that commercial interests should not influence the factual determination that the State Department is required by law to undertake before issuing the report. I commit that I will not attempt to manipulate TIP rankings or otherwise improperly influence the TIP report.

Question. Our trade agreements only protect American workers to the extent that we aggressively enforce the provisions meant to reduce outsourcing and raise standards.

What is your plan for strengthening the enforcement of the labor provisions in our trade agreements?

Answer. The administration wants strong, enforceable trade agreements that work for the American people, and, if confirmed, I will work to ensure that all of our trading partners maintain fair labor practices to help level the playing field for American workers.

Question. Will you commit to brief my staff, and the committee at large, quarterly on your labor enforcement agenda?

Answer. I commit to regular engagement and briefings with your staff and the committee at large, as required under TPA. Consulting with the committee as frequently as possible will be a priority for me.

Question. If confirmed, you will be overseeing our trade relationships with the entire hemisphere. And given the administration's focus on trade deficits, it surprises me that the western hemisphere hasn't gotten more attention given the fact that we have trade surpluses with several of our trading partners in the region.

If confirmed, what will be your priorities for expanding our trade relationships with the other countries in the region?

Will your primary focus be to explore new agreements or renegotiate the ones we already have?

Answer. The President has made clear that NAFTA is one of his key priorities. I look forward, if confirmed, to working with Ambassador Lighthizer to modernize and rebalance this agreement so that it delivers the full benefits of trade to the workers, service providers, farmers, and ranchers of the United States. I believe the successful renegotiation of the NAFTA will provide a template for expanding trade opportunities with our existing trade agreement partners, and with other countries in the Western Hemisphere that want new or closer economic ties with the United States.

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.

Do you believe that China is a currency manipulator?

If confirmed, what are you going to do to ensure that countries stop manipulating their currency?

Answer. Currency manipulation is an issue on which President Trump campaigned, and I understand that he and his administration remain focused on this issue. It is my understanding that the administration, with the Department of the Treasury in the lead, is examining the full array of policy tools available to combat currency manipulation, including trade commitments. I fully support that effort.

Question. Colombia is trying to join the OECD, but several U.S. industry sectors say that Colombia first needs to fulfill international commitments it has already made before it should be allowed to join. In particular, there are components of Colombia's National Development Plan and its regulation of biologic medicines that disadvantage the U.S. biopharmaceutical industry and may violate both the WTO TRIPS Agreement and our free trade agreement with that country.

Do you believe Colombia should address these issues and fulfill its commitments to the United States before USTR supports Colombia's accession to the OECD?

Answer. I understand that the United States, and USTR in particular, has been clear throughout the OECD accession process for Colombia that it needs to address

a range of concerns in areas such as IPR, market access, and labor conditions. If confirmed, I will continue to use processes such as OECD accession to achieve trade and economic reforms that strengthen the ability of U.S. firms to compete in Colombia and other markets and ensure a level playing field for American workers.

QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER

Question. President Trump withdrew the United States from the Trans-Pacific Partnership (TPP)—a trade deal he called "the greatest danger to our country yet"—and promised that he could negotiate a much better deal. Since our withdrawal from the TPP, China continues to move forward with the 16-member Regional Comprehensive Economic Partnership and the 11 remaining TPP parties are looking to finalize a TPP without the United States.

The President and Ambassador Lighthizer have expressed a preference for bilateral trade agreements. Which countries would you suggest we approach for such negotiations?

What else should the administration be doing to ensure that the world does not continue to move forward, particularly in Asia, with growing Chinese influence?

Answer. As the President made clear in his recent speech at the World Economic Forum, the United States is committed to strengthening our trading relationships with like-minded countries that are willing to trade on a fair and reciprocal basis. As you know, the United States already has trade agreements with several of the TPP countries and substantial trade relationships others, namely Vietnam and Japan. I look forward to working with Ambassador Lighthizer, others in the administration, and members of Congress to identify appropriate candidates to engage in future trade negotiations, including countries that were part of TPP.

Question. Many of our trading partners deploy new and increasingly sophisticated tools, including price controls and discriminatory competition enforcement, to give their own industries a leg up at the expense of the United States' innovative industries. In some cases, such countries are flouting international trade rules and failing to faithfully implement competition and IP-related trade obligations to the United States. Such actions devalue U.S. IP, lead to unfair treatment of U.S. companies, and otherwise stifle investment, innovation and job growth.

If confirmed, will you commit to using all trade tools available to protect U.S. companies from such unfair treatment overseas?

Answer. I share your concerns and commit to using all available trade tools to address unfair trade practices, including those involving IPR, price controls, and competition policy.

QUESTIONS SUBMITTED BY HON. BENJAMIN L. CARDIN

Question. When evaluating potential trade agreements, provisions that set high standards on labor rights, the environment, human rights, and anti-corruption obligations are particularly important to me. While I had some concerns about TPP, it contained significant improvements over past trade agreements, especially regarding human rights and good governance measures.

Though some of these improvements apply to our NAFTA trading partners, others do not. Nonetheless, I think it is critically important to create a very high standard in the NAFTA negotiations that preserves the gains made on human rights and anticorruption commitments in TPP. This will send an important signal to any future parties to U.S. trade negotiations. It will also help create a more level global playing field for our workers, especially if we require the same high-standard agreement with all of our trading partners—as opposed to creating a patchwork of agreements that are inconsistent on these issues.

What are your views on incorporating high standards on labor rights, human rights, the environment, and anticorruption measures into a modernized NAFTA?

Will you ensure that even provisions that meet these high standards but do not necessarily affect our NAFTA trading partners be incorporated into the ongoing NAFTA renegotiations?

Answer. I strongly believe any new or renegotiated trade agreements should build on the best text available, including in some cases what the United States has

achieved in past agreements, while also meeting the objectives laid out by Congress in TPA. On labor and the environment, if confirmed, I am committed to working with Ambassador Lighthizer and members of Congress to strengthen our trading partners' labor and environmental standards by including strong obligations on these issues into the core of a renegotiated NAFTA which would be subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement. Regarding anticorruption, I understand USTR has proposed an anticorruption chapter in the renegotiations that would include high standards. I also believe that the NAFTA can serve as a model for other agreements and, if confirmed, would work to achieve that goal. As to human rights issues, I support and will abide by the objectives set forth by the Congress in TPA.

Question. Several industries in the United States, including the heavy trucking and pharmaceutical sectors, face major market-distorting government activities in Colombia that limit U.S. access. These actions are inconsistent with both Colombia's existing international commitments, including the U.S.-Colombia Trade Promotion Agreement and the standards for membership in the Organisation for Economic Co-operation and Development (OECD), which Colombia seeks to join. These distorting activities are undermining jobs and manufacturing in the United States.

Under your leadership, what concrete steps will USTR take to press Colombia to reverse these barriers?

Answer. I understand USTR has worked over a period of years to address barriers to U.S. goods entering Colombia. This includes using the tools and processes made available under the U.S.-Columbia free trade agreement, and the OECD accession process that Colombia has yet to complete. If confirmed, I will work to ensure that Colombia is meeting its international obligations and adhering to the high standards of organizations like the OECD.

QUESTIONS SUBMITTED BY HON. SHERROD BROWN

Question. In your testimony before the Finance Committee, you indicated that you believed a renegotiated NAFTA should include enforceable labor standards that are consistent with Trade Promotion Authority (TPA).

Do you believe TPA serves as a ceiling for labor obligations in U.S. free trade agreements? Do you believe the Trans-Pacific Partnership labor chapter should serve as the basis of the labor chapter in any renegotiated NAFTA?

Answer. In any negotiations, I would seek to achieve the goals laid out by Congress in TPA. The administration wants strong, enforceable trade agreements that work for the American people, and, if confirmed, I will work to ensure that all of our trading partners maintain fair labor practices to help level the playing field for American workers.

Question. As you know, the U.S. lost the trade case that it brought against Guatemala under the CAFTA–DR agreement for failing to meet the agreement's labor obligations. Do you believe a renegotiated NAFTA agreement should include updated labor chapter text to reflect the dispute panel's decision in the Guatemala case and to guard against any future losses for the United States?

Answer. I am aware that USTR has stated its strong disagreement with some of the interpretations reached by the panel in the Guatemala case, including with respect to whether Guatemala's failure to adhere to its labor obligations affected trade. No FTA panel can set "precedent" for future panels, but I understand the concerns you and others have raised regarding this matter. If confirmed, I look forward to consulting closely with you and your colleagues on these important issues in the future.

Question. In your opinion, what improvements should be made to the state-to-state dispute settlement provisions in NAFTA to ensure timely responses and remedies in the event of labor or environmental violations?

Answer. On NAFTA, I am committed to ensuring that the renegotiated agreement strengthens our trading partners' labor and environmental standards and, if confirmed, I will work to ensure that these commitments are included into the core of NAFTA and are subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET AND HON. ROBERT P. CASEY, JR.

Question. China has put forward very aggressive strategic plans which are at direct odds with many of the areas which the United States enjoys a competitive advantage.

How do you intend to work with Commerce and the other arms of the Federal Government to take a coordinated approach to ensure our past experiences, such as the outright assault on our steel and aluminum industrial base, cannot be repeated?

Answer. We have numerous trade issues with China, including those you identified. China also has begun to pursue a range of problematic industrial policies, such as Made in China 2025, designed to create or accelerate artificially China's ability to become a manufacturing leader in several high technology, high value-added industries, like information technology, aviation, electric vehicles, and medical devices.

I am fully committed to using the full range of U.S. trade policy and enforcement tools to address China's aggressive strategic plans, in coordination with other parts of the government through the interagency process. If confirmed, I will look forward to working with you on these matters.

Question. What tools do you view as available to you through U.S. trade law to address some of the well documented violations from China when it comes to state sponsored economic espionage, including cyber enabled economic espionage? Of the tools available to you, please discuss how you hope to work in coordination with our ambassador to the WTO and other agencies, such as Commerce and the U.S. Treasury to address some of these issues?

Answer. The United States has a wide range of tools available to combat the problem you identify, including the ongoing section 301 investigation, coordination with our allies, and potentially recourse in the WTO. If confirmed, I will work closely with the ambassador to the WTO, the Departments of Commerce and State, and other parts of the U.S. Government through the interagency process to ensure a coordinated and effective response to this serious issue.

Question. Can you discuss how you intend to coordinate with Mr. Shea, if you are both confirmed, and our Europeans allies on China market economy status as well as China 2025 strategy and their actions related to forced tech transfer and economic espionage?

Answer. I understand that the administration already has a number of personnel working on the market economy status matter, the Made in China 2025 industrial plan, and technology transfer issues. If confirmed, I will work with Mr. Shea and others to help guide and support this team in its important work.

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 issue is exacerbated by the administration's failure to act on its 232 steel investigation. Delay has resulted in a sustained increase in imports of steel to the United States compared to last year.

Can you 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. I share your concern that the current global overcapacity problem in the steel industry is having a detrimental impact on U.S. workers and companies. At the core of this problem is China's non-market economy system, which is creating global oversupply and excess capacity in these and other sectors.

To address this serious problem, if confirmed, I am committed to working with colleagues across the administration to address the root causes of the problem through the use of the tools made available by law. In addition, I understand that the administration is also fully engaged in working closely with other countries, including through the Global Forum on Steel Excess Capacity, to firmly respond to the causes and consequences of steel excess capacity.

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[1] *https://www.steel.org/~/media/Files/AISI/Public%20Policy/Member%20Map/2016/Pennsylvania.pdf?la=en.*

Question. It is our view, and I hope one we share, that Americans can out-compete anyone in the world if the playing field is level. That requires strong, enforceable labor and environment provisions. The labor provisions the United States agreed to in TPP are completely inadequate. This is a view many of the Democrats on this committee share, as do my constituents in Pennsylvania.

Do you believe TPA is a floor or a ceiling with respect to strong commitments on labor?

Answer. TPA represents Congress's direction to the administration for negotiation of trade agreements. I understand there are different views about how to apply that direction regarding labor provisions. If confirmed, I will work closely with Congress to ensure that labor provisions in our trade agreements are consistent with Congress's intention.

Question. Is it your belief that going beyond the objectives outlined in TPA would be a violation of TPA?

Answer. I am committed to adhering to TPA objectives and requirements, and, if confirmed, I will consult closely with you and the committee at large on these important issues.

QUESTIONS SUBMITTED BY HON. MARK R. WARNER AND HON. CLAIRE MCCASKILL

Question. The President has suggested that terminating NAFTA would result in the "best deal" for our country.

What do you predict would be the immediate impact on American exports if the President announces withdrawal?

Answer. I understand USTR's priority is to renegotiate NAFTA so that it works for all Americans. Any renegotiation necessarily creates some uncertainty. If confirmed, I would work with Ambassador Lighthizer and the Congress to reach a NAFTA 2.0 that enhances the benefits for U.S. workers, service providers, farmers, and ranchers under the existing agreement.

Question. In Missouri, 64 percent of our food and agricultural product exports are sent to our NAFTA partners, Canada and Mexico.

In your testimony you mentioned your commitment to preserving and enhancing the gains our country has achieved in NAFTA, particularly for agricultural goods. Can you elaborate on how you plan to achieve this goal?

Answer. I understand the importance of preserving the gains achieved through NAFTA over the past 20 years. If confirmed, I will ensure USTR continues to work with members of Congress and food and agricultural trade advisors to improve and modernize trade rules related to non-tariff trade barriers that affect agriculture and to expand market access in areas that remain largely closed to U.S. producers, such as the Canadian dairy market.

Question. The United States is a leader in digital services, due to the emergence of the Internet and rise of cross-border data flows. Data flows, which were practically nonexistent just 15 years ago, have grown exponentially, and are essential for technological advances that are cornerstones of our economy.

How will trade negotiations ensure that we protect and expand opportunities for digital services? If confirmed, how will you address issues of forced data localization, the transfer of private keys, and attempts to force U.S. companies to hand over their software source code?

Answer. I recognize the enormous and growing importance of digital trade to the U.S. economy. I also recognize the significant challenges our companies face as a result of restrictions on data transfer and rules forcing the localization of data. I understand that USTR is already seeking to address these issues, for example, in the ongoing NAFTA renegotiations and in discussions about possible new e-commerce rules at the WTO. If confirmed, I will look forward to working with the Congress to consider a broad range of tools, including trade negotiations, to bolster America's competitive position in the digital realm and thereby to strengthen the U.S. economy.

Question. The Trade in Services Agreement (TiSA), currently being negotiated by countries that represent nearly 70 percent of the world's service market, has the potential to expand growth opportunities for the U.S. services industries. Eliminating

service trade barriers could increase U.S. services exports by as much as $1.4 trillion, supporting as many as 3 million new jobs in the United States.

How do you plan to address trade barriers in the services market?

Answer. The U.S. service 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 core objective of U.S. trade policy. I understand that USTR is currently seeking strong services commitments in the ongoing NAFTA renegotiations and is also evaluating the full range of options available to pursue these objectives more broadly, including the Trade in Services Agreement. I look forward to working with you as we chart the best course forward.

Question. NAFTA enables U.S. firms to participate in Mexican and Canadian government procurement on a non-discriminatory basis. Because of the reciprocal access provided in NAFTA, U.S. businesses can successfully secure contracts worth hundreds of millions of dollars with government entities in Canada and Mexico. Doing away with these rules is counterproductive.

Will you ensure that you will preserve the procurement provisions in NAFTA so that U.S. firms do not incur irreparable harm?

Answer. I understand that procurement opportunities in Canada and Mexico are important to many U.S. firms. If confirmed, I will work to advance the interests of American businesses competing for government contracts abroad, including through the NAFTA renegotiation.

Question. The USTR plan for modernizing NAFTA includes raising the *de minimis* Customs threshold that facilitates the flow of low-value goods. In 2016, Congress raised the U.S. threshold to $800 as a way to cut the red tape that burdens small U.S. businesses as they expand into international markets. The Canadian and Mexican *de minimis* thresholds are significantly lower than the U.S. threshold.

How will you work to level the playing field for small businesses and achieve parity for the United States?

Answer. Canada and Mexico are the top export destinations for small business, with over 84,000 U.S. small businesses selling to customers in Canada and 55,000 to customers in Mexico, respectively. The administration's objectives for the NAFTA include many priorities identified by small business stakeholders, including providing for a *de minimis* shipment value in Canadian and Mexican law comparable to the U.S. *de minimis* shipment value.

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. Extreme weather events and global sea level rise borne of climate change threaten manufacturing and transportation infrastructures around the world. Do you believe that climate change poses a threat to the global supply chains upon which world trade depends? How do you propose the U.S. Government address the threats that climate change poses to global supply chains and the economy?

Answer. If confirmed, I will not have responsibility for climate policy. And I note that the Trade Facilitation and Trade Enforcement Act of 2015 specifically prohibits USTR from using trade agreements to establish new obligations or change U.S. laws relating to greenhouse gas emissions. That will be a question for the Congress and administration officials who are responsible for environmental policy.

Question. Do you believe that U.S. trade negotiating objectives should include multilateral environmental agreements that seek to address climate change?

Answer. If confirmed, I am committed to adhering to the negotiating objectives set out by Congress in TPA and the Trade Facilitation and Trade Enforcement Act of 2015, which specifically prohibits using trade agreements to establish new obligations or change U.S. laws relating to greenhouse gas emissions. If confirmed, I am committed to working with you and other members of Congress to ensure that our trade agreements comply with congressional guidance in this area.

Question. In determining the appropriate remedies in the imported solar panel case, should the administration look at broader effects, for instance, how tariffs might harm the deployment of renewable energy in the United States?

Answer. As you know, the administration has already taken action in the solar safeguard manner, after considering the findings and recommendations of the Inter-

national Trade Commission. Section 201 of the Trade Act of 1974 authorizes the President to take "all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs." If confirmed, I will seek to ensure that, in providing its recommendation to the President, the Trade Policy Committee considers all effects of potential section 201 actions, whether alleged by the parties or found to exist by the International Trade Commission.

Question. Do you agree that trade isn't always a zero-sum game, that some policies that hurt our competitors may also hurt Americans?

Answer. Trade policy is an enormously complex area, and, on any given issue, there potentially are competing interests and conflicting points of view. I am committed to hearing all points of view and working with members of Congress to develop trade policies that are informed by the facts and best advance the interests of the country as a whole.

Question. If the petitioners in the solar case do not resume production, should any tariffs or other trade relief be considered?

Answer. It is my understanding that one of the two petitioners in the section 201 proceeding on solar cells and modules is still producing. The other is in bankruptcy but plans to resume producing once import relief under section 201 takes effect.

PREPARED STATEMENT OF HON. DENNIS SHEA, NOMINATED TO BE DEPUTY U.S. TRADE REPRESENTATIVE/U.S. AMBASSADOR TO THE WORLD TRADE ORGANIZATION, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT

Chairman Hatch, Ranking Member Wyden, and distinguished members of the committee, it is a great honor to appear before you today. I am humbled by President Trump's decision to nominate me to serve as U.S. Ambassador to the World Trade Organization. I am particularly grateful to Ambassador Lighthizer for his confidence in recommending me for this position.

Before I go any further, I want to introduce my wife Elizabeth and our daughter Juliette. Elizabeth and Juliette are the two most important people in my life, and I want to publicly thank them for their love and support.

As Ambassador Lighthizer stated during the recent WTO ministerial in Buenos Aries, the WTO has done an enormous amount of good over the past 23 years. But as he rightly points out, the WTO needs to improve in a number of areas. Too many countries fail to live up to their WTO obligations without any consequence. Too many, including some of the world's wealthiest nations, seek exemptions from these obligations by claiming status as developing countries. The WTO has shifted from a forum with a focus on facilitating negotiation among sovereign states to a litigation-centered institution.

If confirmed, I expect that institutional reform at the WTO will be a major part of the U.S. agenda. Along these lines, the U.S. recently tabled a proposal that, if adopted, would bring about improved compliance by all WTO members with the important transparency and notification requirements of the various WTO agreements.

Let me note that, as a former staffer to Senator Bob Dole, I appreciate the critical importance of the agricultural sector to the U.S. economy. The United States is the world's leading agricultural exporter, with exports of food and other agricultural products supporting nearly 1.1 million full-time civilian jobs.

If confirmed, I will work with my administration colleagues, including USTR's Chief Agricultural Negotiator, to pursue the objectives outlined by the administration's Task Force on Agriculture and Rural Prosperity—namely, opening markets abroad to American agriculture, ensuring fair and science-based regulatory treatment for American products, and implementing strong enforcement policies that hold our trading partners to their WTO commitments.

As the committee knows, I have had the privilege of serving on the bipartisan U.S.-China Economic and Security Review Commission for more than 10 years. From 2012 to 2017, I served as either the Commission's chair or vice chair. I am very grateful to Senate Majority Leader McConnell for giving me this opportunity.

In its annual reports to Congress, the Commission has extensively documented China's continuing failure to abide by both the spirit and letter of many of its WTO

obligations. Areas of concern include market access barriers, particularly in the services sectors; forced technology transfers; intellectual property theft on an unprecedented scale; indigenous innovation policies; discriminatory use of technical standards; massive government subsidies that have led to chronic overcapacity in key industrial sectors; and a restrictive foreign investment regime. New challenges include the Made in China 2025 Plan and the country's growing digital protectionism.

In recent months, the Chinese leadership has sought to portray China as the prime defender of the global trading system when the reality, as reflected in China's compliance with its own WTO obligations, is quite different. While I intend to work constructively with my Chinese counterparts in Geneva, I am convinced that challenging the distortions created by China's mercantilist practices must be a top U.S. priority.

A critical issue now pending before the WTO is whether members, including the United States, are legally obligated to treat China as a market economy under their own trade-remedy regimes. As both the USTR and U.S. Department of Commerce have made clear, China is and remains a non-market economy and should be treated as such. Bolstering support for this position within the WTO—a position also shared by the European Union—will be a critical task.

Let me close by saying that, if you send me to Geneva, I intend to wake up each and every morning asking myself these questions: What can I do today to advance American interests? What concrete steps can I take to improve the economic well-being of our Nation's workers, farmers, ranchers, and businesses, both large and small?

You have my assurance that I will work closely with this committee and its staff not only to report about what is happening at the WTO but also to seek your input on key decisions. It will be a two-way street.

Mr. Chairman, Ranking Member Wyden, thank you for the opportunity to share these comments and I look forward to your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Dennis Clarke Shea.
2. Position to which nominated: Deputy U.S. Trade Representative/U.S. Ambassador to World Trade Organization.
3. Date of nomination: July 11, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: October 9, 1961, Philadelphia, PA.
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):

   Regis High School, New York, NY (1975–1979).

   Harvard College, Cambridge, MA (1979–1983), A.B., 1983.

   Harvard Graduate School of Arts and Sciences, Cambridge MA (1982–1983), A.M., 1983.

   Harvard Law School, Cambridge, MA (1983–1986), J.D., 1986.
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):

Assistant, accounting department, Cravath, Swaine, and Moore, New York, NY (Summer 1983).

Summer associate, Mudge, Rose, Guthrie, Alexander, and Ferdon, New York, NY (Summer 1984)

Summer associate, White and Case, New York, NY (Summer 1985).

Associate, Skadden, Arps, Slate, Meagher, and Flom, Washington, DC (1986–1988),

Counsel, office of the Senate Republican Leader, Washington, DC (1988–1991).

Candidate for U.S. Congress, New York, NY (1991–1992).

Deputy Chief of Staff and Counsel, office of the Senate Republican Leader, Washington, DC (1993–1995).

Policy Director/Senior Policy Advisor, Dole for President, Washington, DC (1995–1996).

Counsel, Verner, Liipfert, Bernhard, McPherson, and Hand, Washington, DC (1997–1998).

Consultant, AEI/Brookings Institution project on the independent counsel statute, Washington, DC (1998–1999).

Director, BKSH and Associates, Washington, DC (1998–2002).

Executive Director, President's Commission on the U.S. Postal Service, Washington, DC (2003).

Assistant Secretary for Policy Development and Research, U.S. Department of Housing and Urban Development, Washington, DC (2003–2005).

Senior advisor to the chairman, National Republican Senatorial Committee, Washington, DC (2005–2006).

Vice president for government affairs—Americas, Pitney Bowes Inc., Washington, DC and Stamford, CT (2007–2009).

Member, U.S.-China Economic and Security Review Commission, Washington, DC (2007–present).

Principal, Shea Public Strategies LLC, Alexandria, VA (2009–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, Advisory Committee on International Postal and Delivery Services, U.S. Department of State, Washington, DC (2008–2009).

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):

Principal, Shea Public Strategies LLC.

Consultant, Bipartisan Policy Center.

Consultant, J. Ronald Terwilliger Foundation for Housing America's Families.

Consultant, Make Room Inc.

12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations):

Member, Bar of New York State.

Member, Bar of the District of Columbia.

Member, Harvard Club of Washington, DC.

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

Candidate for U.S. Congress, 7th Congressional District of New York, 1991–1992.

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Fundraiser/manager, Pitney Bowes Political Action Committee (2008–2009).

Volunteer, Trump for President (2016).

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.

Collins for Senator (9/9/2007)—$1,000.

McConnell for Senate 2014 (2/28/2008)—$1,000.

Elizabeth Dole Committee Inc. (4/25/2008)—$500.

Elizabeth Dole Committee Inc. (6/26/2008)—$1,000.

Elizabeth Dole Committee Inc. (9/30/2008)—$500.

Pitney Bowes Inc. Political Action Committee (10/31/2008)—$100.

Pitney Bowes Inc. Political Action Committee (11/14/2008)—$100.

Pitney Bowes Inc. Political Action Committee (11/28/2008)—$100.

Pitney Bowes Inc. Political Action Committee (12/15/2008)—$100.

Pitney Bowes Inc. Political Action Committee (12/31/2008)—$100.

Pitney Bowes Inc. Political Action Committee (3/31/2009)—$100.

Pitney Bowes Inc. Political Action Committee (4/30/2009)—$50.

Bluegrass Committee (12/28/2009)—$500.

Shelby for U.S. Senate (3/22/2010)—$500.

Friends of John McCain (4/22/2009)—$500.

McConnell Senate Committee 2014 (5/06/2010)—$500.

Jane Norton for Colorado Inc. (5/14/2010)—$500.

Dan Coats for Indiana (5/27/2010)—$500.

Friends of John McCain (6/01/2010)—$250.

David Vitter for U.S. Senate (6/21/2010)—$500.

Collins for Senator (8/6/2010)—$250.

Carly for California Inc. (9/30/2010)—$500.

Romney for President Inc. (6/27/2012)—$500.

Romney for President Inc. (10/25/2012)—$250.

Romney Victory Inc. (10/25/2012)—$250.

National Republican Senatorial Committee (9/15/2014)—$500.

Lindsey Graham 2016 (12/10/2015)—$300.

Friends of John McCain (9/9/2016)—$250.

National Republican Senatorial Committee (11/06/2016)—$250.

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):

Harvard National Scholarship (1979–1983).

Harvard Graduate National Scholarship (1983–1986).

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

Annual Reports, U.S.-China Economic and Security Review Commission (2007–2016) (signed as member of the Commission).

Op-ed, "A Home for Housing Reform," *U.S. News and World Report* (April 3, 2017) (with Michael Stegman).

Research paper, "Underscoring the Importance of Competitive Contracting at HUD: Why Performance-Based Contract Administrators Are Critical" (April 2017).

Op-ed, "To Preserve Stability in the Asia Pacific, Finish the Pivot," *Wall Street Journal* (March 17, 2017) (with Jim Talent).

Research paper, "Forging an Enduring Bipartisan Consensus on Affordable Rental Housing," Bipartisan Policy Center (February 22, 2017) (with Michael Stegman).

Op-ed, "Here Are 4 Steps Ben Carson Should Take as HUD Secretary," *HousingWire* (January 10, 2017) (with Anand Parekh).

Op-ed, "Affordable Housing Policy: A Bipartisan Path Forward," *Affordable Housing Finance* (December 15, 2016) (with Michael Stegman).

Op-ed, "Ban China's State Firms From Acquiring U.S. Companies," *Wall Street Journal* (December 8, 2016) (with Carolyn Bartholomew).

More than 30 opinion columns for *MSNBC.com* on political, legal, and cultural topics (1997–1999).

Article, "Shooting Starr," *National Review* (November 9, 1998).

Article, "Impeaching Abusive Judges," *Policy Review* (May 1997).

Op-ed, "Cleaning the Rules of Campaign Finance," *The Washington Times* (April 20, 1997).

Op-ed, "All Quiet on the Preference Front," *The Washington Times* (March 14, 1997).

Op-ed, "Innovative Program to Combat Crime," *The Washington Times* (February 27, 1997).

Op-ed, "Winning Back Reagan Democrats," *The Washington Post* (February 16, 1993).

Article, "Unions, Union Security, and Union Membership," 11 *Seton Hall Legislative Journal* (May 1987).

Book review, "The New Urban Reality" (P. Peterson, ed.) 23 *Harvard Journal on Legislation* 667 (1986).

Comment, "Union Restrictions on the Right to Resign: A Proposal for a New Reasonableness Test," 22 *Harvard Journal on Legislation* 551 (1985).

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):

House Space, Science, and Technology Committee, Subcommittee on Space, hearing on "Are We Losing the Space Race to China?" (September 27, 2016).

U.S. Senate Committee on Banking, Housing, and Urban Affairs, hearing on "Evaluating the Financial Risks of China" (July 14, 2016).

House Foreign Affairs Subcommittee on Europe, Eurasia, and Emerging Threats, hearing on "China's Energy Engagement With Central Asia and Implications for the United States" (May 21, 2014).

House Armed Services Committee, hearing on the "2013 Report to Congress of the U.S.-China Economic and Security Review Commission" (November 20, 2013).

House Committee on Science, Space, and Technology, Subcommittee on Investigations and Oversight, hearing on "The Impact of International Technology Transfer on American Research and Development" (December 5, 2012).

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

For the past 10 years, I have served as a member of the U.S.-China Economic and Security Review Commission, and each year since 2012, I have served as either the Commission's Chairman or Vice Chairman. The Commission is a 12-member congressional advisory body charged with annually assessing the economic, trade, and security relationship between the United States and the People's Republic of China. The United States Congress created the Commission

when the U.S. granted Permanent Normal Trade Relations to China, opening the way for the country's accession to the World Trade Organization (WTO).

A key focus of the Commission's work is assessing China's compliance with its WTO obligations. As the Commission has documented in its annual reports, China's compliance record has been and continues to be deficient as it pursues a set of industrial policies that have adversely impacted workers, farmers, and businesses here in the United States. I am eager to join President Trump's trade policy team to address these deficiencies, advance U.S. interests at the WTO, defend American businesses against unfair claims from foreign nations, and reform the WTO dispute settlement system. I am committed to the administration's goal of increasing market access for U.S. exports and dismantling trade barriers through a vigorous enforcement agenda.

I believe my policy and legal background will enable me to hit the ground running if confirmed as Deputy USTR. As the Chairman and Vice Chairman of the Commission, I have traveled extensively throughout the Asia Pacific, leading delegations that have interacted with representatives of governments throughout the region. I believe this experience has also prepared me well for the diplomatic component of the Deputy USTR's responsibilities. In addition, as a former Senate staffer, I appreciate the important role that Congress plays in helping shape U.S. trade policy and look forward to working closely with the members of the Senate Finance Committee if confirmed.

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.

   I am not aware of any.

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.

   I am not aware of any.

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.

   From 2007–2009, I registered as a lobbyist for Pitney Bowes. Issues covered:

   H.R. 2829, Financial Services and General Government Act, and the revenue forgone provision affecting the U.S. Postal Service.

   Issues relating to the delivery of military mail.

Implementation of the Postal Accountability and Enforcement Act and related issues.

Funding for search-by-radius capability for National Sex Offender Public Registry.

H.R. 3163/S. 334, the Healthy Americans Act, and issues relating to health-care reform.

Regulatory restrictions on the use of the mail for the delivery of proxy materials.

H.R. 689/S. 1356, The Industrial Bank Holding Company Act of 2007, and similar legislative proposals restricting commercial ownership of industrial loan corporations.

H.R. 2764, Consolidated Appropriations Act, 2008.

Issues related to mail screening at executive branch and Federal agencies.

H.R. 281, Universal Right to Vote by Mail Act of 2007 and S. 979, Vote by Mail Act of 2007 and electronic voting issues.

H.R. 1, the American Recovery and Reinvestment Act, provisions concerning the disclosure of health data.

Employee Free Choice Act.

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

   If confirmed, I will sign the ethics agreement and will take the actions specified in it.

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.

   No.

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 HON. DENNIS SHEA

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

Question. I support the WTO's mission to negotiate multilateral trade agreements. Unfortunately, WTO negotiations have been ineffective in recent years, as many countries have refused to engage in serious discussions to reduce trade barriers. While the United States must continue to lead at the WTO, we cannot wait on the unambitious. That is why I also strongly support plurilateral trade agreements among like-minded countries, including the proposed Trade in Services Agreement, or TiSA.

Do you agree that the stalled TiSA negotiations should be reopened? And if so, what steps will you take to reinvigorate and lead those negotiations?

Answer. The U.S. services sector is highly innovative and a key driver of economic growth. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy economy and a core objective of U.S. trade policy. I understand that USTR is currently seeking strong services commitments in the ongoing NAFTA renegotiations, engaging with a group of 70 WTO members about possible new e-commerce rules at the WTO, and also evaluating the range of options available to pursue services trade objectives more broadly, including the Trade in Services Agreement. I look forward to working with you as we chart the best course forward.

Question. I strongly support the inclusion of robust and enforceable dispute settlement procedures in our trade agreements. Such procedures ensure that our trading partners comply with their commitments, including those concerning the protection of intellectual property. As you know, many WTO members, including very large economies, routinely violate their IP obligations. And yet, in the context of the WTO, the United States has not initiated an IP dispute against a single country for more than a decade.

How do you intend to use the WTO system, including its dispute settlement procedures, to protect IP and to ensure that countries comply with their IP obligations?

Answer. If confirmed, I will consider all available tools to address serious deficiencies in IP protection and enforcement and to ensure that our trading partners comply with their IP obligations. Those tools include our trade remedy laws, WTO litigation, negotiations, and other mechanisms under U.S. law.

Question. Many industries in the United States are increasingly concerned about the need for stronger U.S. leadership and engagement within international organizations, including the World Trade Organization. There have also been growing concerns and the U.S. Government doing more to push back against initiatives at an array of international organizations that undermine core U.S. economic interests and manufacturing.

Last year's biased High-Level Panel on Access to Medicines that attacked U.S. innovation—a deeply flawed and biased report that attacked U.S. innovation and intellectual property and sidestepping the real conversation about access to medicines, a report that was roundly condemned by the U.S. Government and not endorsed by the U.N. Secretary General—is a good example. Yet this problematic report continues to resurface in international initiatives, including several on the agenda for next week's World Health Organization executive board meeting.

How would you make sure that USTR sought to defend innovation and intellectual property against problematic initiatives at international organizations, and en-

gage to reset the conversation to ensure initiatives that do not undermine American interests?

Answer. The Trump administration is committed to ensuring that U.S. owners of IP have a full and fair opportunity to use and profit from their IP around the globe. If confirmed, I will ensure that this objective is not undermined by our trading partners in international organizations, including by working with other agencies, such as the Department of State and the Department of Health and Human Services, to preserve U.S. trade equities in the UN and WHO respectively.

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. This administration, including the Office of the U.S. Trade Representative, has fallen short on transparency and consultations with Congress, stakeholders and the public. Getting more transparency in our trade policy has been a top priority for me. Together with nine other Democratic members of this committee, I wrote to the President last week expressing concern that this administration is heading off track on transparency. It has issued no public summaries of its negotiating objectives with Korea. To put it simply, we won't end up with trade deals that benefit all Americans if we can't talk about proposals at town halls. That is why I insisted on new requirements to raise the bar when it comes to transparency.

If confirmed, do you commit to consulting closely with Congress and follow the letter and spirit of all transparency and consultations requirements established by the Trade Promotion Authority bill we passed in 2015 and the enforcement bill passed in 2016?

Answer. If confirmed, I commit to consult closely with Congress, including members and staff on the Senate Finance Committee, and to follow all transparency requirements set by law.

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 other means. 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.

Will you actively prosecute this case before the WTO, and be willing to bring similar cases for other industries where the facts warrant it?

Answer. I understand that USTR is conducting a review of all available tools to address the severe overcapacity problems in the aluminum sector and other sectors, working to address the root causes of those problems, and pressing China to stop the unfair trade practices that have led to this situation. Those tools include our trade remedy laws, WTO litigation, negotiations, and other mechanisms under U.S. law.

If confirmed, I will vigorously support the enforcement and defense of our trade remedy laws, and will aggressively utilize all available WTO mechanisms to help combat the distortive trade practices that have led to severe excess capacity situations like the one we see in the aluminum sector.

Question. I share many of the administration's concerns about WTO dispute settlement. The Appellate Body has overreached and needs to be reined in. There are critical issues in front of the WTO including China's demand for market economy status. But the administration has not yet told Congress or its trading partners what reforms it needs to resolve its standoff with the Appellate Body.

If confirmed, will you commit to make this issue a top priority and work with me and other Finance members on your strategy to address it?

Answer. Across administrations and with bipartisan support, the United States has repeatedly expressed its grave concern with over-reaching by the WTO Appellate Body. I appreciate your personal interest, and that of other members of the committee, in this critical issue for U.S. economic interests. If confirmed, I look forward to coordinating closely with you and the committee on an appropriate responsive strategy.

QUESTION SUBMITTED BY HON. CHUCK GRASSLEY, HON. MIKE CRAPO, HON. PAT ROBERTS, AND HON. MICHAEL B. ENZI

Question. Since 2012, India has imposed an anti-dumping duty on imports of soda ash from the United States. The Indian Government had recommended that the duty be withdrawn effective July 3, 2017, but the decision is being challenged in court and the duty remains in place while the court case is pending.

U.S. domestic soda ash producers have expressed concern with the Indian court's legal justification for extending the soda ash duty. As the Deputy USTR and U.S. Ambassador to the WTO, do you commit to assisting the U.S. soda ash industry to ensure the WTO-consistent application of India's anti-dumping laws and practices?

Answer. Yes, if confirmed, I will work with the administration to ensure that India, as well as all WTO Members, abide by their WTO obligations under the WTO's anti-dumping agreement.

QUESTIONS SUBMITTED BY HON. JOHN CORNYN AND HON. JOHN THUNE

Question. The United States has raised concerns about the effectiveness of the WTO Dispute Settlement Body.

Do you agree with those concerns? What kind of dispute settlement panel reforms do you think need to be made before the panel vacancies can be filled?

Answer. The WTO dispute settlement process suffers from many systemic issues, and I agree with the concerns voiced by the President, Ambassador Lighthizer, and others. If confirmed, I intend to devote significant attention to this problem and look forward to working with you and others on the committee to help reform the WTO.

Question. Given the importance of trade agreements to agriculture and the U.S. economy generally, please describe how you would work to preserve existing trade agreements and to open up new markets.

Answer. I agree that carefully crafted trade agreements can be a significant benefit to the U.S. economy, including our agricultural producers. Markets can also be opened for our exporters through negotiations, enforcement actions, and other mechanisms. If confirmed, I will use the entire set of tools available to open markets around the world for the benefit of U.S. workers, farmers, ranchers, and businesses.

QUESTIONS SUBMITTED BY HON. RICHARD BURR, HON. JOHNNY ISAKSON, HON. ROB PORTMAN, HON. PATRICK J. TOOMEY, HON. DEAN HELLER, HON. TIM SCOTT, HON. BILL CASSIDY, AND HON. DEBBIE STABENOW

Question. If confirmed, your portfolio will include addressing our ongoing trade challenges with China. China's expanding protectionist approach and closing of their markets has created economic harm to businesses in Michigan seeking to export their products from polysilicon to electric bus batteries. At the same time, Chinese companies flood the U.S. market with goods, many times underpriced, putting American companies at a competitive disadvantage. In addition, the issue of excess steel overcapacity, particularly from countries like China, continue to harm the steel industry and steelworkers all across the country, including in Michigan.

What specific steps would you take to counter China's behavior and make headway on this issue?

What steps will you take to address the problem of excess steel capacity, particularly by China?

Answer. With regard to the issue of steel, China needs to stop its unfair trade practices and fix its vast excess capacity problem. While China has issued measures to begin addressing the severe excess capacity in its steel sector, there has been little, if any, progress. I understand that USTR is currently conducting a review of all the available tools to address the serious overcapacity problems in steel and other products. At the same time, we need to address the root causes of those problems, and as part of that effort I understand that USTR is continuing to work closely with other leading steel-producing countries in the Global Forum on Steel Excess Capacity and other contexts. The goal of the Global Forum is to work with other governments to take effective steps to address excess steel capacity in China and

elsewhere by targeting the underlying causes such as government subsidies and other government assistance.

USTR is also working 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. In addition, as you know, the Department of Commerce conducted an investigation of steel trade pursuant to section 232 of the Trade Expansion Act of 1962 and submitted the results of the investigation to the President earlier this month.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. The solar panel and polysilicon trade dispute between the United States and China appears to be deadlocked. Currently, the Chinese market accounts for about 80 percent of the global demand for polysilicon. However, retaliatory duties imposed by China on U.S. exports of polysilicon have crippled our leading domestic manufacturers. Despite growing global demand for solar products, key U.S. polysilicon manufacturers continue to shrink. This is directly contrary to the economic interests of the United States and the stated goals of the Trump administration.

Do you believe that the prolonged trade dispute over solar products has been harmful to our domestic polysilicon industry, and has resulted in the loss of thousands of jobs?

Are you aware of Chinese efforts to use the situation described above to lure U.S. polysilicon manufacturing capability to China and capture their more advanced manufacturing technologies?

Please describe what concrete actions you would take, if confirmed, to obtain access for U.S. polysilicon manufacturers to Chinese markets as soon as possible.

Answer. I share the concern about the harmful impact that Chinese duties are having on U.S. polysilicon producers. I understand that China imposed duties on U.S. polysilicon exports in retaliation after the United States imposed legitimate antidumping and countervailing duty measures on Chinese solar products that were found to be injuring the U.S. industry. I note the statement made recently by the Trump administration in connection with the President's imposition of section 201 safeguard relief for U.S. producers of solar products: "The U.S. Trade Representative will engage in discussions among interested parties that could lead to positive resolution of the separate antidumping and countervailing duty measures currently imposed on Chinese solar products and U.S. polysilicon. The goal of those discussions must be fair and sustainable trade throughout the whole solar energy value chain, which would benefit U.S. producers, workers, and consumers." I support that approach and, if confirmed, I look forward to working with you on this issue.

Question. U.S. companies are concerned about China's proposed draft regulations that, when combined with existing Chinese law, would require U.S. cloud providers to transfer valuable intellectual property, surrender use of brand names, and hand over operation and control of their businesses to Chinese companies in order to operate in China. These are requirements that no other countries apply to foreign cloud providers, and Chinese cloud providers continue to operate in the United States without these restrictions. U.S. cloud companies 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.

Please describe what concrete actions you will take, if confirmed, to level the playing field for U.S. cloud companies in China?

Answer. I recognize that U.S. leadership in the technology sector, including in the area of cloud computing, is one of our great national strengths 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. I recognize, as I understand USTR's leadership in Washington does, that barriers in China have been severe and contrast sharply with the open market in the United States. If confirmed, I will vigorously support USTR's efforts to reduce barriers to U.S. companies in this sector.

QUESTIONS SUBMITTED BY HON. BILL NELSON

Question. Please describe how your previous work helped prepare you for the role you seek to serve as Deputy United States Trade Representative.

Answer. My experience in the public and private sectors in law and policy has prepared me to navigate the blend of legal, economic, and policy concerns inherent in international trade matters. More specifically, my position as a Commissioner on the U.S.-China Economic and Security Review Commission has given me a deep knowledge of China's market-distorting activities and practices, which are a major source of concern for global trade. I look forward to helping develop and implement solutions in Geneva that benefit U.S. trade interests.

Question. Please describe how U.S. interests are served through the World Trade Organization (WTO). In other words, how does it benefit the United States?

Answer. On a day-to-day basis, the WTO provides opportunities for advancing U.S. interests through its negotiating arm and dispute settlement body, as well as more than 20 standing committees (not including numerous additional working groups and working parties). These groups meet regularly to permit WTO members to exchange views, work to resolve questions of members' compliance with commitments, and develop initiatives aimed at systemic improvements. If confirmed, I look forward to leading the USTR WTO team, which has a track record of building coalitions of like-minded members to effectively pressure non-complying economies to bring measures into conformity with WTO rules, advancing transparency and predictability in global trade rules, and averting the need to resort to dispute settlement.

Question. If the President told you he wanted to withdraw from the WTO as soon as possible, what would your response be?

Answer. The United States' commitment to the WTO is an historic one that has endured for decades. I intend to ensure that the U.S. participation in the WTO is working to advance our national economic interests. This includes, in particular, an assurance that other WTO members are fully implementing their own obligations and that U.S. sovereignty is protected.

Question. What specific changes would you make to the WTO to make it work better?

Answer. Some aspects of the WTO's functions clearly need attention—judicial over-reach by the Appellate Body is the prime example. Improved transparency and better ways of dealing with development in a WTO context are other priorities. Advanced developing countries, in particular, must be willing to contribute commensurate with their status in the global economy.

Question. What do you believe you could add to the Trump administration that is currently missing?

Answer. I look forward to providing additional resources to implement the President's trade agenda. I am aware that USTR has a very full plate and I will provide daily support and leadership to the agency's WTO office.

Question. If the President said something that you knew was false, would you continue the ruse if asked about it?

Answer. If confirmed, I intend to rely on and communicate the facts as I understand them.

Question. Do believe China is currently a currency manipulator? If so, please explain why. If not, why not?

Answer. Currency manipulation is an issue on which President Trump campaigned, and one on which he and his administration remain focused. It is my understanding that the administration is examining the full array of policy tools available to combat currency manipulation, including trade commitments.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. Mr. Shea, as you know, China is demanding market-economy status at the World Trade Organization, even though it does not meet any of the six U.S. statutory factors used to determine market-economy status. I remember Ambassador Lighthizer's comments before this committee last year that it'd be "cataclysmic for the WTO" if it granted China market economy status. I also know that

China is challenging the EU at the WTO over the same issue, and that we supported the EU with a third-party submission.

What steps will you take to ensure that the WTO does not side with China on the market economy issue, if confirmed?

And should the WTO side with China, how would you advise Ambassador Lighthizer to respond?

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 SUBMITTED BY HON. BENJAMIN L. CARDIN

Question. In my role as ranking member on the Senate Foreign Relations Committee, I often get questions from our allies on U.S. economic leadership and the level of engagement that can be expected of the United States in multilateral institutions, including the World Trade Organization. Many domestic industries in the United States are also increasingly concerned about the need for stronger U.S. leadership and engagement, particularly on transparency and promoting good regulatory practices in international organizations.

In your role as a leading U.S. voice in Geneva, how would you seek to work constructively with officials at the WTO and other organizations to push for transparency, accountability, and reform that would support U.S. economic interests and leadership?

Answer. The United States' commitment to the WTO is a historic one, and progress on trade issues in Geneva often relies on U.S. leadership. If confirmed, I intend to work closely with my counterparts in Geneva—both from other WTO member countries and the WTO Secretariat—to push forward on the necessary reforms to the WTO that Ambassador Lighthizer has identified. I also intend to be involved in trade issues in the OECD with the goal of further encouraging member-driven decision-making.

QUESTIONS SUBMITTED BY HON. SHERROD BROWN

Question. As I mentioned in your confirmation hearing, I am concerned that many decisions by the WTO have undermined U.S. trade remedy laws.

If confirmed, how would you seek to defend and protect U.S. trade remedy laws from additional and unfounded attacks at the WTO?

Answer. I agree that having a strong trade remedy regime must be a key priority for the administration. I intend to fully defend U.S. interests to ensure that this is the case both at the WTO and in other international forums. I will also work with other like-minded countries to ensure that the problems that lead to the increased use of trade remedies as a response to unfair trade (*e.g.,* overcapacity due to over-subsidization) are addressed appropriately and conclusively to ensure that market-oriented conditions exist in the industries effected.

Question. Should the United States consider not complying with WTO decisions if USTR considers them be an overreach and unfounded?

Answer. I am very concerned with WTO decisions that go beyond the scope of what the United States agreed to in Uruguay Round negotiations or that otherwise impact laws passed by Congress and regulations promulgated by the U.S. Government. If confirmed, I look forward to working with you to consider the implications of such decisions.

Question. In your confirmation hearing, you identified the need to improve transparency among WTO members, particularly on subsidy programs, and the need to ensure member countries are treated as developed or developing appropriately. Are there any other changes you would seek to make at the WTO if confirmed? Do you believe the U.S. should propose a comprehensive package of WTO reforms?

Answer. If confirmed, I will seek to work with other WTO members on reforming the WTO. However, I do expect that the United States will need to lead this process.

Some aspects of the WTO's functions clearly need attention—judicial over-reach by the Appellate Body is the prime example. Improved transparency and better ways of dealing with development in a WTO context are other priorities. Advanced developing countries, in particular, must be willing to contribute commensurate with their status in the global economy.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET AND HON. ROBERT P. CASEY, JR.

Question. Mr. Shea, China has put forward very aggressive strategic plans which are at direct odds with many of the areas which the United States enjoys a competitive advantage.

How do you intend to work with Commerce and the other arms of the Federal Government to take a coordinated approach to ensure our past experiences, such as the outright assault on our steel and aluminum industrial base, cannot be repeated?

Answer. I understand that USTR is conducting a review of all available tools to address the severe overcapacity problems in steel, aluminum and other sectors, working to address the root causes of those problems, and pressing China to stop the unfair trade practices that have led to this situation. Our tools include WTO litigation, negotiations, and other mechanisms under U.S. law. In addition, USTR is working 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. As you know, the Department of Commerce also conducted investigations of the steel trade and aluminum trade pursuant to section 232 of the Trade Expansion Act of 1962 and submitted the results of those investigations to the President in January 2018.

If confirmed, I will vigorously support the enforcement and defense of our trade remedy laws, and will aggressively utilize all available WTO mechanisms, to help combat the distortive trade practices that have led to severe excess capacity situations like those in the steel and aluminum sectors.

Question. What tools do you view as available to you through the WTO process to address some of the well documented violations from China when it comes to state sponsored economic espionage, including cyber enabled economic espionage? Of the tools available to you, do you hope to work in coalition with our allies to address these issues?

Answer. In August 2017, the U.S. Trade Representative initiated a section 301 investigation related to China's forced technology transfer, intellectual property and innovation policies and practices, including cyber-enabled trade secrets theft. If confirmed, I will work closely with USTR's leadership in Washington on all appropriate next steps in circumstances where it is determined that WTO action may be appropriate.

Question. Can you discuss how you intend to coordinate with Mr. Mahoney, if you are both confirmed, and our Europeans allies on China market economy status as well as China 2025 strategy and their actions related to forced tech transfer and economic espionage?

Answer. I understand that the administration already has large teams working on the market economy status matter, the Made in China 2025 industrial plan, and technology transfer issues. If confirmed, both Mr. Mahoney and I will help guide and support those teams in their important work.

QUESTIONS SUBMITTED BY HON. MARK R. WARNER, HON. CLAIRE MCCASKILL, AND HON. SHELDON WHITEHOUSE

Question. Extreme weather events and global sea level rise borne of climate change threaten manufacturing and transportation infrastructures around the world. Do you believe that climate change poses a threat to the global supply chains upon which world trade depends?

How do you propose the U.S. Government address the threats that climate change poses to global supply chains and the economy?

Answer. If confirmed, climate policy will not be part of my portfolio. However, I do believe that environmental policy should be set through congressional legislation.

Question. Do you believe that the U.S. trade negotiating objectives should include multilateral environmental agreements that seek to address climate change?

Answer. If confirmed, I will adhere to the negotiating objectives established by Congress in TPA and the Trade Facilitation and Trade Enforcement Act of 2015. Those laws specifically prohibit creating new obligations or changing U.S. laws relating to greenhouse gas emissions via trade agreements. If confirmed, I will work with you and other members of Congress to ensure that trade agreements comply with U.S. law.

Question. In determining the appropriate remedies in the imported solar panel case, should the administration look at broader effects, for instance, how tariffs might harm the deployment of renewable energy in the United States?

Answer. Section 201 of the Trade Act of 1974 authorizes the President to take "all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs." I am not in a position to discuss what the administration considered in the proceeding on solar cells and modules. If confirmed, I will seek to ensure that, in providing its recommendation to the President, the Trade Policy Committee considers all effects of potential section 201 actions, whether alleged by the parties or found to exist by the International Trade Commission.

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

This morning the Finance Committee meets to discuss two nominations for important trade-related positions in the administration. The Honorable Dennis Shea is nominated to serve as Deputy United States Trade Representative stationed in the Geneva office. And Mr. C.J. Mahoney is nominated to serve as Deputy United States Trade Representative for investment, services, labor, environment, Africa, China, and the Western Hemisphere. Try fitting that on a business card.

I'll start with Mr. Shea. If confirmed to be the Deputy USTR in Geneva, Mr. Shea will be in charge of representing the United States at the World Trade Organization. In my view, both sides, Republicans and Democrats, have raised important concerns with the WTO, which is meant to be a rules-based organization that judges cases with an even hand. It remains capable of knocking down barriers and serving as a venue for America to get justice for its exporters of everything from airplanes to wine. But in some cases, the WTO's Appellate Body has overreached.

In negotiations, the WTO can be too slow and too unwieldy to make progress in important areas and seems, at times, to be caught flat-footed in the face of China's trade tactics.

Meanwhile, the Trump administration has seemingly dropped some vital priorities altogether. A deal on environmental goods that would be a win-win for red, white, and blue jobs and the fight against climate change—*stalled.* A deal on trade in services, which would help cement our lead in tech—*stalled.*

And furthermore, after a whole lot of campaign talk about getting tough on trade cheats, the Trump administration has not brought forward a single original WTO case challenging trade barriers by any other country. It's not for lack of wrongdoing around the world. So it's my hope that Mr. Shea can articulate today what this administration hopes to accomplish in Geneva.

Next, Mr. Mahoney is up for an equally challenging job at USTR. A big part of his role will be leading the NAFTA renegotiations to get the best possible outcome for American workers and businesses. It's long been my view that NAFTA should be completely overhauled.

That means high-standard, enforceable commitments on labor and the environment; removing chapter 19, which hampers our ability to fight unfair trade ripoffs; and addressing challenges that are specific to dairy, wine and key manufacturing industries. NAFTA must also set a high bar on combating currency manipulation, market-distorting state-owned enterprises and trade cheats that work every day to evade our trade enforcers and undercut U.S. jobs.

On top of that, it's important to protect the free exchange of ideas, information and commerce over the Internet. In this context, that means a balanced approach to copyright and platform liability protections like those found in U.S. law. I have

said it before, and I'll say it again: no administration should expect to have my support for a trade agreement that fails to include provisions that protect the Internet as an open platform of commerce, speech, and the free exchange of ideas of all kinds.

That's an ambitious agenda, but it's worth fighting for. The Trump administration cannot throw its hands up after 6 or 9 months and say it's too hard to do this right.

If confirmed, Mr. Mahoney will also face a big challenge with respect to China. A key part of the Trump campaign's economic message was getting tough on China's unfair trade practices. Well, we're now almost exactly a year into the Trump administration. If the administration has a policy regarding trade with China, *I'm not sure anybody here knows what it is.* Senator Hatch and I, as well as other members of this committee, have laid out our concerns on this issue. But there's been a rather stunning lack of action from the administration. It hasn't even named an assistant United States Trade Representative for China—which is a position that doesn't even require Senate confirmation.

So if there is a plan to deal with China's trade practices, then this committee and the American people are in the dark as to what it is. If there is not a plan, then everything the American people heard in 2016 about cracking down on China was just a bunch of empty campaign patter. And that's inevitably going to cost jobs here at home.

So it's my hope that Mr. Mahoney, if confirmed, can right the ship and make some forward progress on these issues. This is not academic stuff—when you talk about renegotiating NAFTA and taking on China's trade tactics, there are thousands and thousands of U.S. jobs hanging in the balance.

I also need to add that the administration has a long way to go in terms of transparency on trade. And it's not just for sport. The administration is required to meet certain benchmarks for transparency that are spelled out in black-letter law. And it needs to improve on that front.

I want to thank Mr. Mahoney and Mr. Shea for being here today. I look forward to questions.

