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PRESIDENT'S 2018 TRADE POLICY AGENDA

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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PRESIDENT'S 2018 TRADE POLICY AGENDA

THURSDAY, MARCH 22, 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, Crapo, Roberts, Cornyn, Thune, Isakson, Portman, Toomey, Heller, Scott, Cassidy, Wyden, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, McCaskill, and Whitehouse.

Also present: Republican staff: Jay Khosla, Staff Director; Brian Bombassaro, International Trade Counsel; Rory Heslington, Professional Staff Member; Douglas Peterson, International Trade Counsel; and Shane Warren, Chief International Trade Counsel. Democratic staff: Elissa Alben, Senior Trade and Competitiveness Counsel; and Greta Peisch, International Trade Counsel.

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.

Good morning and welcome to today's hearing, during which we will discuss our Nation's trade policy agenda. I want to thank Ambassador Lighthizer for being here today and taking his very important time to be with us. He was last before this committee in June of last year, and the trade agenda looks quite different now than it did then.

Let us start with the North American Free Trade Agreement. Negotiations with Canada and Mexico began on August 16, 2017. Since then, we have seen good progress toward modernizing the agreement. In particular, I want to congratulate you on closing a strong chapter on SPS measures that would benefit American farmers and ranchers. But many crucial issues must be addressed before the negotiations can be brought to a successful conclusion.

Your first priority, in my opinion, should be strengthening protections for America's creators and innovators and, in particular, strengthening copyright protection and enforcement provisions and creating disciplines to ensure that regulation does not undermine the market value of patented products. It is essential that any agreement reached be fully enforceable through state-to-state and investor-state dispute settlement, and that market access gains, including in government procurement, are not weakened.

It is also important that you keep in mind that an updated NAFTA must be passed by Congress. That means that you must adhere to the negotiating objectives set out in the Trade Promotion Authority law passed in 2015 and that you deliver an agreement that will be supported by members who favor expanding trade with Canada and Mexico. There is no other viable path to enact a modernized NAFTA.

Now, I want to change the subject a bit. And next up, I have to discuss what I consider to be a significant step in the wrong direction: the administration's imposition of steel and aluminum tariffs.

I am deeply disappointed in the decision to impose global tariffs to address a problem caused by China. Tariffs are taxes, and so I am concerned about the harm that this action will impose on American manufacturers and families. And I am astonished at the process—or in reality, the lack thereof—for implementing the tariffs so far.

Ambassador Lighthizer, you have been tasked with working with our trading partners on exemptions from the new tariffs. These tariffs are slated to take effect about 14 hours from now. There is no clarity on country exemptions. And the recently announced process for product exclusions is prolonged and unnecessarily cumbersome. As such, I am hoping that you can make clear what is happening on this front today.

Let me turn now to an issue that is squarely within your responsibility. I am deeply concerned about Chinese mercantilist policies that disadvantage U.S. companies, restrict U.S. exports and investment, and harm American workers. From the beginning of your tenure, you have identified Chinese theft of trade secrets and the forced transfer of American technology as significant problems that must be addressed. That is why I supported and continue to support USTR's section 301 investigation.

But as you know, my continued support is contingent on the President choosing an appropriate remedy. That remedy should be targeted specifically at the perpetrators and beneficiaries of China's actions, and it must be part of the strategy to correct China's technology policies. Now, I really look forward to your comments on this.

Finally, I welcome the administration's decision to seek a renewal of Trade Promotion Authority. I particularly welcome the President's announcement that he would use an extension of TPA to aggressively negotiate new trade agreements.

I intend to use the extension process to get further details on your plan of expanding opportunities for American businesses overseas through new and ongoing negotiations and to emphasize that these negotiations must be conducted consistent with the objectives set out in TPA.

And I welcome any comments you have to offer on that today.

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

The CHAIRMAN. So with that, Senator Wyden, please go ahead with your statement.

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

Senator WYDEN. Thank you very much, Mr. Chairman. I also want to welcome Ambassador Lighthizer and look forward to hearing from him.

Colleagues, anybody reading the trade policy news on the business pages now probably suffers from a nasty case of whiplash trying to decipher all that news. It is hard to identify a coherent strategy that will help American workers, businesses, and farmers when the dust settles.

Since the summer, the administration has been engaged in negotiations with Canada and Mexico to update NAFTA, a project that is exceptionally important to our workers and the American economy. However, these talks are routinely broadsided by tweets from the President on subjects like the fantasy of Mexico paying for a border wall. It creates chaos, threatens to derail the discussions, and, at the very least, distracts from the important issues.

A decision with respect to steel and aluminum action was delayed for months as a result of political maneuvering. But then, in a meeting that was billed as a listening session, the President blurted out his plans to impose a 25-percent tariff on steel imports and a 10-percent tariff on aluminum.

What followed was more of the same: chaos. Lobbyists descended on Washington to get special carve-outs. Other countries, especially our longstanding allies, threatened retaliation. It was unclear who in the administration was responsible for making key decisions about tariffs that would take effect in very short order.

It is still an open question as to which countries will be excluded and which will be included in the tariffs. You would hope and expect that more information will be released. The tariffs are scheduled to go into effect tomorrow.

Now, with respect to the overnight news about China, I am pleased the administration appears to be taking a more deliberative approach. The fact is, China has stolen our intellectual property, held American companies hostage until they disclosed their trade secrets, and manipulated their markets in a strategic manner to rip off American jobs and industries.

I want to hear more this morning about how the administration will manage the 301 process going forward to get trade done right.

The bottom line is, the Trump administration stormed into office promising better deals, more certainty for businesses to create good-paying jobs in our country, and a stronger position in the world economy. But after 14 months, what has basically been delivered is mostly a whole lot of chaos. Total chaos on trade is not going to create a single red, white, and blue job in America.

So we are looking forward to hearing Ambassador Lighthizer discuss the Trump administration's agenda.

And we, very frankly, Ambassador, are counting on you to be a cool head in the middle of a very overheated atmosphere.

I look forward to questions and hearing from the ambassador.

The CHAIRMAN. Well, thank you, Senator.

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

The CHAIRMAN. Today I have the pleasure of introducing Ambassador Robert E. Lighthizer. Ambassador Lighthizer was sworn in as the 18th United States Trade Representative on May 15th of last year. Since members of this committee have gotten to know Bob well over the past several months, and because we have a lot to talk about, I will dispense with further introductions.

It is a pleasure to have you here with us today. I think very highly of you, Mr. Ambassador. So please continue with your opening statement, and we will go from there.

STATEMENT OF HON. ROBERT E. LIGHTHIZER, UNITED STATES TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC

Ambassador LIGHTHIZER. Thank you very much, Mr. Chairman, Ranking Member Wyden, and members of the committee. I begin by saying being referred to as a "cool head" is an unusual experience for me. But I hope that, over a period of time, I earn that.

I want to say also, although you have had hearings, I brought my two newly minted Deputies with me so that the committee can see them again: Jeff Gerrish, who is the Deputy for Europe, Middle East, and Asia; and C.J. Mahoney, who is the Deputy for Africa, China, and the Western Hemisphere; and then they each have some additional responsibilities.

But I think it is important—I will not do this again—but I think it is important to remind you that we have people there. We are grateful for the fact that the committee has confirmed them.

And I know that you, and probably mostly your staff, will rely on them and use them. And they are available and very eager to serve the United States Senate Committee on Finance.

It is a great opportunity for me to testify here. Before I take questions, I would like to very briefly make three points.

First, I would like to thank you, as I said, for giving me my Deputies and, in addition to the two here, another Deputy, Dennis Shea, who is going to be the Deputy in Geneva, whom you also confirmed; and Gregg Doud, who is the Chief Agricultural Negotiator.

Second, I would like to draw the committee's attention to the fact that in the last year, the trade deficit in goods and services rose to $556 billion, and the trade deficit in goods alone rose to $811 billion.

There are, of course, many reasons for trade deficits, but the President believes, and I agree, that persistent, enormous deficits, to some extent, reflect market distortions around the world that treat U.S. workers and businesses unfairly.

We also have a massive trade deficit, as everyone here knows, with China—$375 billion last year—and large deficits with the EU, Japan, and a few other countries.

I note that members here have a variety of views on these figures, but we believe they raise significant concerns. They indicate that global rules of trade sometimes make it hard for U.S. companies to export. They can discourage U.S. investors and businesses from entering into certain sectors of the global economy. Further, they indicate that, in the United States, the cost of globalization is falling more heavily on workers in some parts of the

economy that are exposed to trade. And this is troubling. Finally, they undermine the political support for the global trading system in the United States, and that is bad.

Third, I would like to very briefly summarize the President's trade agenda that we just put out, as the committee knows, pursuant to statute.

First, we at USTR will support the President's National Security Strategy. That means that our trade policy will help to build a stronger America, will preserve our national sovereignty, will respond to hostile economic competitors, will recognize the importance of technology, and will seek opportunities to work with other countries that share our goals.

Second, for U.S. companies and workers to be competitive in the overseas market, we need a strong economy here at home.

Third, we are negotiating trade deals that will work for all Americans. As the members know well, the President has asked us to seek significant changes in NAFTA. We have already had seven rounds of talks with our partners in Canada and Mexico, and I believe that substantial progress is being made, but we are quickly running out of time if we are going to have this Congress vote on a final passage.

We have also reached out to and begun discussions with Korea on the KORUS agreement. I am happy to talk about all this.

Now that we have a full team of Deputies in place, we intend to pursue vigorously free trade agreements in other parts of the world. We have a working group with the United Kingdom, which you are aware of, and expect to begin the process of entering into an FTA with them at the appropriate time.

We have told Japan that we are interested in having an FTA with them when it makes sense for them. And in addition, we hope to, working with this committee and others in the administration, pick out countries in Africa and Southeast Asia for which it would make the most sense to have an FTA, and begin that process. So that will begin very quickly: the consultations with this committee, as well as with other people in the administration.

As the chairman noted, we have asked for an extension of Trade Promotion Authority until 2020.

Fourth, we are enforcing and defending U.S. trade laws. The President said he would use all trade laws available to defend U.S. workers, and he is keeping that promise.

We are, in addition, vigorously defending our laws at the WTO. And we are prepared to talk about these things to you.

Finally, we seek to reform the multilateral trading system, which for too long has failed to promote liberalization. For too many members, it has become a litigation forum and not a negotiation forum, and we think that is unhelpful.

In short, the USTR, under the direction of President Trump, is seeking to build a better, fairer system for global markets that will lead to a higher standard of living for all Americans. I am excited to have the opportunity to work in this area. And mostly, I am excited to have the opportunity to work with the Senate Finance Committee.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Well, thank you, Mr. Ambassador.

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

The CHAIRMAN. The administration is set to announce soon the results of USTR's section 301 investigation into Chinese theft of trade secrets and forced transfer of American technology.

The remedies under consideration reportedly include tariffs on Chinese products, an action I have some qualms about. What in your mind are the appropriate criteria for determining if higher tariffs are justified, the appropriate level of any tariff increases, and the products to be covered?

Ambassador LIGHTHIZER. So that is an excellent question, and an important question. And I suspect that very soon the President will make his decision on this 301 on IP, and I hope as well that it will be supported by members of the committee. And I suspect it will be, if it is done properly. And no decisions are made until the President makes them, but I expect him to make them very quickly.

So the first question that we ask is, do we have a problem with IP theft? And of course we do. If you look at the record, going back to 1991, George Herbert Walker Bush brought a 301 against China for failure to protect IP. And it has continued. We had one from Clinton, neither of which really amounted to much.

And then we had a system of dialogues over a period of time in the WTO. During that time, on at least 10 different occasions, China made specific commitments not to do certain things in this space. It has not kept any of them.

So we start with the proposition that one of the most important parts of our economy is the IP protection. It is an extreme competitive advantage for the United States, and it is the core of an enormous number of sectors that you do not think of quite as high-tech.

We have done a study. We will put that study out very quickly. The members, of course, will have it as soon as we possibly can give it to you. It is an extensive study of about 200 pages. And it documents this very, very serious problem.

We see four parts to it. One part is, as you suggest, Mr. Chairman, China forces technology transfer if you want to do business in China. It is a huge area, and it affects almost every technology company that goes there.

The second part that we analyzed is, they force technology licensing at less than economic value.

The third one is, they have a program that is really hundreds of billions of dollars, the state-owned buying of technology in the United States. And it is very complicated and difficult, and it is not market-driven either. But it is very effective and something that we have to worry about.

And then the fourth leg of this, the way we see it, is the issue of just plain old ordinary cyber-theft.

Now, you asked about remedies. So technically, to me, among the things one would consider would be tariffs—and I will address that right now, because that is your specific question and I know concern, Mr. Chairman—but also restrictions on investment.

We have Senator Cornyn, who is one of the leaders in expanding the CFIUS program, something that we feel very strongly about and want to encourage. The idea, if the President decides to take this action, would be to do a lot of the kinds of things that you

want to do, but do them right now. We cannot be in a position, we believe, where China can go out and buy U.S. technology in a variety of ways that are troubling to us.

So the remedies that you would consider would be tariffs, and you would consider restrictions on investment.

Now, you asked specifically about tariffs. So how would you decide on the amount of tariffs that you would put in place? We have given this an enormous amount of thought. I want everyone, whether you agree with it or not, to know that this has been really studied. There are a variety of things in this plate of problems, in these four prongs, that are probably extremely costly to the United States economy, but difficult to quantify.

Let me give you a good example: cyber-theft. There are studies that have cyber-theft at $400 billion or $500 billion a year, theft of technology through cyber, but that is a hard thing to quantify.

So you look at the things that you can quantify. One of them is the effect on technology, forced technology transfer. And then the economists create an algorithm to decide what the cost, what the value of that should be. They begin using the system that USTR has used for years and years and years. None of these is foolproof, but they are designed to be fair.

Then if you decide that you are going to put tariffs on, the question then becomes, what products do you put the tariffs on? The rational approach, I would suggest, is that, number one, you would take products that are in the China 2025 category, which are things that they clearly are designing this program around, to get our technology, to get to where they are ahead of the China 2025. I know you know those things, but they are things like advanced robotics and new-energy vehicles and high-speed transportation, all the really high-tech things that China came out a few years ago and said, we are going to put hundreds of billions of dollars of our resources into a program of obtaining technology and use those things, not in an economic way, to become dominant in these spheres. And I have a list, and I will go through all of those if you like.

So those are the kinds of products a rational person would put on this list, I would suggest. Then with respect to the rest of them, what do you do?

What we did is, we created an algorithm, and it was basically based on past practice. And we did it in a way that I suspect every member would do it. And that is, you line up everything that you import from China and you have an axis, and the things that have the most effect on China and the least effect on the U.S., you have moving towards the left. And the purpose of your algorithm is to pick out things, to the extent you can, that are in that category, things that are in the category that have the maximum effect on China and the minimum effect on U.S. consumers.

So if we do this, and if we have tariffs—and the President has not made that decision, but I think he will make it quickly—you have a serious economic study of what the quantifiable cost is. And it is much smaller than the real cost, I would suggest. And then you use an algorithm basically to create a list of items that you would put tariffs on.

So for example, something that you get from China and a lot of other people, if you put a tariff on that, the effect on U.S. consumers would be minimized. That is kind of the idea of this.

So it is a sensible, moderate, appropriate amount if the President decides to do this. And it is calculated and created in a very businesslike, sensible way.

Now, the final thing I would say is that, with respect to at least one of these provisions of these four prongs, we believe there is a violation of our WTO rights. And in that case, we would bring a WTO case. With respect to things that are not covered by the WTO, we would then have other options pursuant to section 301.

I apologize for the fact that I have run over my time. That was a very lengthy answer. I will try not to do that again, but I wanted to kind of lay it out, because I know it is on your mind, Mr. Chairman, and the mind of other members.

The CHAIRMAN. Well, I thought it was good.

Senator Wyden?

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

So, Mr. Ambassador, the President makes the final decision. You make recommendations. And of course, we need information about what is ahead. That is what consultation is all about. So I want to get into a couple of issues on China, a couple of issues on steel and aluminum.

The first on China: on which products are you recommending that the President impose tariffs? This is your recommendation.

Ambassador LIGHTHIZER. Well, in the first place, I want to make it clear that I am *part* of the process. And it is not something that the USTR is doing.

Senator WYDEN. Right. But your recommendation.

Ambassador LIGHTHIZER. Yes, sir. We have the Council of Economic Advisers as well as our internal professional economic people who have put together this algorithm.

So the way I start with this is—and I think this is how it was done, Senator—the algorithm kicks out the entire amount. And then you say, what things are not on the algorithm that any sensible person would put on? And that would be a list of things, to me at least, that are on the China 2025 list.

So what is on the China 2025 list? And I will just go through this very quickly, but I will not if I am just taking your time.

Senator WYDEN. No, I am sure—I want to know which products you are recommending.

Ambassador LIGHTHIZER. Well, these are the ones, the ones that I care about.

Senator WYDEN. Good.

Ambassador LIGHTHIZER. Number one, I think the algorithm makes sense because it has maximum effect on them and minimum effect on our consumers, which is what we want. And there are a few consumer items which, in my judgment, should not be on there and they are not on there, but there are some items that I would put on that clearly would not be in the algorithm.

And those are things related to—and these are the things that China listed and said, we are going to take technology, spend several hundred billion dollars, and dominate the world. And these are things that if China dominates the world in, it is bad for America.

So here is their list: new, advanced information technology; automated machine tools and robotics——

Senator WYDEN. These are products that you are recommending should have tariffs?

Ambassador LIGHTHIZER. I believe these items should be—that is correct.

Senator WYDEN. Thank you. Anything else?

Ambassador LIGHTHIZER. Well, I mean, there are 10 of them here.

Senator WYDEN. Okay. Yes, that would be good. Let us hear all 10.

Ambassador LIGHTHIZER. All right. So, I mean, if you sit here, you are going to think this is basically America in 10 years, right? Aerospace and aeronautics equipment. Maritime equipment and high-tech shipping. Modern rail transport equipment. New-energy vehicles and equipment. Power equipment. Agriculture equipment. New materials in biopharma and advanced medical products. Now, every one of these they say they want to be mostly self-sufficient in within 2 or 3 years and basically world-dominant by China 2025. That is the sense of China 2025; that is what it is. And this is not like our spies figuring this out. They put this out and said this.

Now you see, the last time, in 2006—Senator Portman knows this—they put out a provision that said, we want to be dominant in solar panels and solar modules. And they followed that plan and basically put the United States and most of the world out of business.

So there is a lot of reason for concern. They did the same sorts of things in steel. They did the same sorts of things in aluminum. You can go down the list. But in this case, they specifically said, these are 10 that are in this category.

Senator WYDEN. Okay. What outcome are you seeking in your strategy with China?

Ambassador LIGHTHIZER. Well, that is a very good question. I would say two things. Number one, you would like change in the way they are approaching this thing, changed behavior. That would be what they do, ideally. And in some areas, I think there is potential for that; in other areas, there is not.

When I sit around with my colleagues in the administration and when I talk privately with Senators, I tell them—which I think is the truth—I think, at the end of the day, no matter what I do and what you do during your career—and hopefully you are going to focus more and more on this issue—China is still going to be a market-driven communist country. It is never going to be like we are.

It is always going to have a different system that challenges our system and wants to take over the world. That is my view. But there are a lot of areas where you can make a difference, and we should in those areas.

The second part of my answer is, there are some areas where you just have to protect yourself from them. So they are not going to change their attitude on these things, but we can at least be in a position where U.S. industry is not wiped out because of it. And if we do not do that, then shame on us.

Senator WYDEN. Okay.

Ambassador LIGHTHIZER. Particularly in a case—let me give you the list.

Senator WYDEN. I want to get one other question in with respect to steel and aluminum.

These tariffs go into effect tomorrow. Yesterday, you listed some countries that you are negotiating with and said that the tariffs might not apply to them during the negotiations. Which countries will not have tariffs applied to them as of tomorrow?

Ambassador LIGHTHIZER. So the idea that the President has is that, based on a certain set of criteria, that some countries should get out. There are countries with whom we are negotiating. And the question then becomes the obvious one, where you think, well, okay, as a matter of business, how does this work? So what he has decided to do is to pause the imposition of the tariffs with respect to those countries.

Senator WYDEN. Which ones are they?

Ambassador LIGHTHIZER. Well, all right. So we have the two NAFTA countries, and we know where they are. We have Europe. We have Australia. We have Argentina. We have Brazil. Who am I forgetting? Oh, and obviously Korea, where we are renegotiating the KORUS.

Senator WYDEN. But are the tariffs going to be paused for them? I mean, I am asking you specifically. We are the committee of jurisdiction here. Everybody here wants to be part of the consultation process. We have not had much recently.

Which countries—because this is going to happen tomorrow—will not have these steel and aluminum tariffs applied to them?

Ambassador LIGHTHIZER. It is the list that I just gave, Senator.

Senator WYDEN. Okay. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Stabenow?

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

And Ambassador Lighthizer, welcome again.

Ambassador LIGHTHIZER. Thank you.

Senator STABENOW. Let me just start off by saying that I think a goal for all of us ought to be exporting our products, not our jobs. And it gets complicated beyond that, certainly.

And I look at my colleague and friend, the chairman of the Ag Committee, and I am sure he will say the same thing on agriculture that I will, that we need markets; we need markets for our products, but we also need a level playing field to make sure that we are not exporting our jobs as we go.

I want to specifically ask you about currency manipulation. The President said day one of his administration he would label China a currency manipulator. It is well past day one, and that has not happened. We have also, in NAFTA, had seven NAFTA negotiating rounds, and USTR has not specified its objectives with regard to currency manipulation, which was included in the administration's NAFTA negotiating strategy.

So you indicated to me last year that you were, quote, "committed to developing effective approaches to address the problem of currency manipulation" and that you would work to get the best possible enforcement tools. We have lost, in manufacturing alone,

over 5 million jobs in our country related to currency manipulation. So what is the status of including strong and enforceable language on currency manipulation in the NAFTA negotiations?

Ambassador LIGHTHIZER. So as you know, because we have spoken a lot, I agree completely with your proposition. Currency manipulation is something that goes right across the line. It affects all the industries where we export and an awful lot of them where we do not, that we sell in our own market. It is a complicated and difficult issue.

It is something where the notion was, we would cover it in NAFTA, not because we believed the Canadians or Mexicans are currency manipulators, because we, at least right now, do not, but that it would become the kind of thing that you would put in other agreements and it would become sort of a model.

Senator STABENOW. That is right. So the question is, will there be or will there not be currency manipulation language, enforcement language, in NAFTA?

Ambassador LIGHTHIZER. Let me say, first of all, there are a number of things on which I do not know what will finally be in, because I am in the process, as you know, of negotiations. But I can tell you what my position is and what is going on.

So what is going on is, you are having the Treasury Department engaged in negotiations with their counterparts on this issue, not only with respect to NAFTA issues, but also with respect to KORUS. And I think it is important to know this. I asked my career people, "What happened the last time you had this level of discussion about currency, where we were talking about specific things in a hard way?" And they came back to me and they said, "We have never had discussions like this." We have never had Treasury ever be willing to—and this is not partisan—in any of these administrations—these are career people—ever get involved in this kind of discussion like we are doing now.

So it is an enormously important thing that we have happening. And a lot of it is because of push by you and a handful of other Senators who have just sort of said, "This is such an important issue." But it is transformative in terms of the way the Treasury Department is dealing with this.

Senator STABENOW. So what does that mean, though?

Ambassador LIGHTHIZER. Well, my hope is that we end up with language that deals with transparency and deals with competitive devaluations. And the other thing—just notionally, you have to think of it—you also want to be in a position where it does not affect, where we are not guilty of the provision ourselves, in a circumstance where we do some kind of quantitative easing.

Now, we clearly do not do it for competitive advantages. But it has to be woven in in a way that somebody cannot say, "Oh, now the United States has violated the agreement."

Senator STABENOW. Right. No, and I understand that. They say that about the Fed all the time, but it is not the same.

Ambassador LIGHTHIZER. But the notion of transparency and no competitive devaluations is very much at the heart of what we are doing, whether it is in this agreement or not. It is my view that it at least has to be enforceable here. That is my view.

But there are a lot of talks going on. They are very intense.

Senator STABENOW. Well, I hope that they produce results.

Excuse me, my time is about up.

We need results on this. There has been talk for years and years, as long as I have been here. And so I appreciate what you are saying. We need results.

And just finally, what about the U.S.–Korea Free Trade Agreement negotiations? Are we doing the same thing there? Because the regimen on enforcing against currency manipulation needs to be in every agreement.

Ambassador LIGHTHIZER. And if you said, where does it belong, more than anywhere else you would say China, Japan, and Korea. So listen, you and I are in complete agreement on both the pernicious effects of this and on where we ought to go. My hope is that I will prevail. That is more or less the status quo.

Senator STABENOW. Thank you, Mr. Chairman.

The CHAIRMAN. Your time is up.

We will now turn to—let us see who I have here.

Senator Roberts?

Senator ROBERTS. Thank you, Mr. Chairman. And thank you for making a very excellent statement at the opening of this hearing. I would like to be associated with your remarks.

Ambassador Lighthizer, Bob, welcome back to the committee.

Last year at this committee's trade agenda hearing, and in many conversations we have had since, we discussed concerns. I continue to hear in farm country the dire need to expand and explore new markets. Unfortunately, the ag economy has not seen improvements; it has become more concerning.

In the last year, the United States, I believe, has lost its title as a reliable supplier. That is certainly not a good thing. We have seen Mexico turn to Argentina to purchase wheat and Brazil for corn. These should be sales with the U.S., not the other countries.

The Kansas wheat crop is still on the ground. We have another crop coming on, I hope. But that crop should be on the Kansas City Southern railway headed for Mexico. And I think probably, at this juncture, I would like to give you a little farm report.

Wichita, KS—the latest crop report estimates that about 1 percent of the wheat in Kansas is in excellent condition—1 percent. Ten percent is good; all the rest is poor or very poor. That assessment comes at the same time that topsoil moisture supplies were rated as short or very short across 81 percent of our State.

I do not know what we did to mother nature, but she sure is not being very helpful. We are dry. We are having a drought. We have wheat at the Dodge City elevator hovering around $4; it was $7 about 3 years ago. We even have in eastern Colorado and western Kansas a hotline for people who are considering suicide. Now, that is pretty bad. I mean, that is a very dire situation.

We have a situation, however, that is being recognized by the White House and yourself. We just had a good visit about that. Thank you for being very candid.

Ray Starling, Special Assistant to the President for Agriculture, Trade, and Food Assistance, said the other day that insistence on free and reciprocal trade—and then obviously we plan to examine that on a case-by-case basis as those threats materialize. "We will do everything within our power to protect our farmers from that

sort of egregious behavior," he said. He then said, "If that results in retaliation against us, then that tells you something about the state of free and fair trade." My message back to Ray is that, if the shoe fits, he ought to wear it.

You said yesterday before Ways and Means in a 4-hour marathon, "You have to think about counter-retaliation, you have to think about programs for farmers who are in this situation. I mean, there are a lot of things outside my realm that have to be considered."

I would suggest probably talking with Sonny Perdue—I know you have done that—our Secretary of Agriculture.

And then you said that you have tasked one of your Deputies, Deputy USTR Jeffrey Gerrish—with a portfolio covering Asia—on the possibility of deals with the Philippines, Vietnam, and Japan. Would you put Taiwan in there, because they have visited with me, along with a lot of other people?

Senator Stabenow—who has left the committee right now—and I have talked at great length about some kind of relief for farmers on a case-by-case basis. I think somebody said on the staff that maybe we could have a Trump tariff payment, a TTP instead of TPP. I would much prefer we do something else. We need to sell our product, and we need to sell it to about everybody we can think of. So I encourage you to really think about this.

If we continue down this road, we may have to consider some kind of a payment on a case-by-case basis to farmers.

So my message to you is this: it is simple. In 2018, the USTR's trade agenda must include a focus on returning the United States to being a reliable supplier, and the USTR must actively pursue markets to sell our products—any place that you can sell grain, anything that you can give as hope to a very bad situation, not only in Kansas, but all over the country.

On the very day that this committee was talking to the President, sorghum producers were in my office. By the way, it is sorghum, not "sour gum" as some have said in the administration. And I do not understand how the basis points went off 80 points while we were talking with the President. Senator Toomey was flying at 30,000 feet talking about trade policy. Senator Portman, of course, used to be the trade rep, and he added his advice. Senator Thune, who is not here right now, and myself tried to protect agriculture, and we went all around the room.

I have had over a hundred people, Kansas farmers, in our Ag hearing room with kids, and they were wondering if they could farm the next year, this next crop year. I do not know what kind of a crop we are going to have, but it is bad unless the weather changes.

And we still have our past crop on the ground, and we are not moving it. So we are in a dire fix. We are trying to write a farm bill here, and it is with a backdrop of severe budget limitations. And we know that we have to do that, but if we have to go down the road with a special payment with regards to retaliation, that just adds another dustup right before the farm bill.

This is not a good situation. Now, I have gone over 30 seconds, but I just feel a lot better, because I woke up pretty cranky.

If you would like to respond, sir—I think we have had a private talk—I would be delighted to hear anything you might want to say.

Ambassador LIGHTHIZER. I would just say, since you are over your time, but I am not sure whether you are over my time—all I get is part of your time, so I will just say we are both over time.

I agree completely with your point.

Senator ROBERTS. Your time is my time; my time is your time.

Ambassador LIGHTHIZER. I agree completely with your position. I think that too often we think of agriculture on the defense. The fact is that every place where we have a market, and we have a lot of them, the market could be much bigger. And in most cases, it is protectionism, where we are going, that is holding us back, even the places like Mexico, as you say, where we sell $18 billion, China for sure—every one of these markets.

And then there are additional opportunities, and they are in East Asia and in other places. And we are in a position where we are going to very soon, as I say—I mean, like, next week—start the process of consulting, with a Deputy each doing one—consulting with the administration, consulting with the House, consulting with the Senate Finance Committee—and picking this out, deciding what our objectives are, and then going forward and deciding what the best way to get the FTA is.

And it is not, if I have my way, going to be a 5-year negotiation to do all this stuff. It is going to be a focused negotiation where we get something very quickly for agriculture, but also other parts of the U.S. economy, and increase exports.

The CHAIRMAN. Okay.

Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman.

And to my successor in this job at USTR, I feel your pain. I heard you say earlier you were trying to figure out how to do your job in 23 hours rather than 24 hours a day so you can get some sleep. There is a lot going on right now; you are busy.

I want to focus, if I could, on exports, because I think in your answer to Pat Roberts you are correct: we export way below our weight and we can do much, much better in terms of opening markets for our products, including our ag products.

We are concerned right now with the combination of the potential retaliation from the steel tariffs and potential retaliation from China on a 301 that is not yet fully formulated. And so the concern is, we could actually be seeing a reduction of exports rather than an increase of exports, which is what we need and should have.

You know, in the context of other countries, the United States is a relatively small exporter per capita. I think we are somewhere between Tonga and Ethiopia on the list.

So you talked earlier about the potential of extending the Trade Promotion Authority. I hope that this committee and this body will strongly support that. The TPA extension that you are seeking, it is my understanding, will be automatic unless there is a resolution of disapproval, which I hope there will not be, and that will take you until July 30, 2021. Actually, you need that.

And second, we have to start developing some of these markets. So you mentioned earlier the United Kingdom. There was, I think,

a good decision by the EU this week saying, during their transition period, they are allowed to negotiate trade agreements.

You said there is a working group that has been formed there. If you could tell us in a moment a little bit about that, I think that is an extremely important opportunity for us with Brexit.

You talked about Japan. You talked about Southeast Asia. You talked about Africa. Putting Africa in context here, back in, let us say 2000, I think China had about a billion dollars' worth of trade with Africa, and we had about, more or less, $50 billion, I think. In inflation-adjusted terms, we are about where we were; China is now at $150 billion with Africa. So what a great opportunity for us in terms of those countries of Africa, the AGOA countries, and others. But also, what an important strategic opportunity for us. So I would like to hear what you have to say about Africa.

And then just in general, how can we increase the exports, not just of agriculture products, which are important to Ohio, but with regard to manufactured products and services?

I think trade agreements work. I know that you are in the middle of now renegotiating and modernizing NAFTA, the North American Free Trade Agreement, and I support that modernization. But I am sometimes concerned about the administration's position on trade agreements. We have them with only about 10 percent of the world. We send 47 percent of our exports to that 10 percent of the world.

In the aggregate, we actually have a trade surplus with our trading partners in FTAs, and yet they always seem to come up as a negative. I think they are a positive. Yes, they can be improved and modernized.

So a lot of questions there. I appreciate your responses. And again, I appreciate the job you are doing at USTR, which is a tough job right now.

Ambassador LIGHTHIZER. Thank you very much. And I am honored to be one of your successors. Well I, unlike you, expect to die after it. I am going to be more like Christian Herter. He basically was USTR and then just died.

So, as you say, there are a lot of things there. One of the——

Senator Portman. Some would say, that is what happens when coming to the Senate. [Laughter.]

Ambassador LIGHTHIZER. No, that would not be a staffer's view.

So, you know, there is an overriding problem in why we have not liberalized trade, and that is that the United States has low tariffs. Everybody can get through—they think they can get through litigation at the WTO what they will trade for, and so we have had no real trade agreements on a multilateral basis forever and ever and ever. Clearly, we agree completely that increasing exports is what we should do.

I am just sort of taking these in no particular order.

The African issue, I completely agree with. I am not only informed by you, but Senator Isakson. The first time I talked to Senator Isakson, he was, like, "Lighthizer, you had better focus on this," and Lighthizer focused on it. And not only the AGOA, where we are in a position to really insist in a new way that the people who have benefits from AGOA open up their market and reform in

the ways that people want them to, but also this idea of having an FTA with the appropriate African country.

We ought to pick out the right country, and we ought to have an FTA. It would be very good for them and potentially very good for us. So that is something that we are very serious about.

And I am informed on that. As I say, it is not a part of the world that I have enormous amount of expertise in, but I was informed by the members of this committee and others. So that is something that—I was literally just waiting to have these Deputies, because I just cannot do that and these other things.

The first thing I probably should have said in all of this is, we want to be more competitive, we want more exports. There is not universal agreement here, but the tax bill was an enormous step in that direction. Getting rid of regulations is an enormous step in that direction. These are all things that are at least as important as everything I am doing, right? I mean, these are things that make the whole economy more efficient and more effective, and that helps us export and helps us make money generally.

So I guess the last one, I would say, with respect to the UK, we have a working group. There are things that we can do because they are not really competencies that were ceded to the EU; there are certifications of lawyers and accountants. There are a lot of things like that, and we are making headway on those.

We are also making headway on the kinds of things you would expect to have to talk through, some of which are contentious, like the TRQ. We have a relationship with the EU; now what is our relationship with the EU and the UK after they break up? You know, there is a possibility of loss there if you do not do it right. And so that is a big issue, but we are making real headway.

Our sense is that, with the exception of that—and I met as recently as last week with my counterpart. I have talked to him often; he is an excellent guy, a smart guy. And my guess is that we are still a year away from being able to start real negotiations. And to some extent, that time will be dictated by a variety of things, none related to me. But it is something we want to be prepared to do the day that it is available.

So getting some new FTAs, we think, is really important. The kinds of things you have done to make us competitive are important.

And we also think we are going to get new exports out of the revision of NAFTA and KORUS and these other things. And if you believe in the basic ideas that we all have, which is that you have to improve services, you have to improve digital trade, you have to improve IP—if you believe all those things, which we believe, those should lead to new exports and make the United States——

Senator PORTMAN. Thank you. My time is up.

The Brexit negotiations can begin in earnest a year from now, so, you know, on March 30, 2019. So I think this committee would be strongly in support of that.

Thank you, Mr. Chairman.

Senator WYDEN. Mr. Chairman? Mr. Chairman? Without taking any time from Senator Bennet, who is next, if I could just be recognized for a minute——

The CHAIRMAN. Next will be Senator Grassley.

Senator WYDEN. Oh, it is Grassley and then Bennet. Okay. Could I just be recognized for a minute?

The CHAIRMAN. Sure.

Senator WYDEN. Thank you, Mr. Chairman.

Colleagues, Senator Cornyn and I both serve on the Intelligence Committee. And we there have the responsibility to protect some of America's most important secrets. And we have just learned, because of our committee assignment, that the chairman is having a birthday today. [Laughter.]

We have been able to excavate this fact. And I just wanted to mention this because I know Senators would like to wish the chairman well over the course of the day. And he is still punching away in the ring, and we hope that before the end of the year when he and Elaine go back to Utah, we can deliver some more bipartisan hits by working together.

So, Mr. Chairman, happy birthday.

The CHAIRMAN. Well, thank you so much. [Applause.]

I am not much for birthdays. When I was a kid, I was the only kid in the neighborhood who never had a birthday party, so I just never—and it even extends to today. It is a crazy psychological thing. [Laughter.]

Some people think that is my normalcy: a psychological thing.

[Attendees sing "Happy Birthday."]

[Applause.]

The CHAIRMAN. For a musician who writes music, that was the most discordant "Happy Birthday" I ever heard. [Laughter.]

Okay. Senator Grassley?

Senator GRASSLEY. Since I was down the hallway at the Judiciary Committee, maybe my staff or my colleagues have already talked to you about the administration considering a $60-billion tariff package against China related to section 301.

I understand 301 concerns with China related to intellectual property, but I must also remind you, Mr. Lighthizer, a State like Iowa stands to lose a great deal from retaliation.

China buys over one-third of America's annual soybean production, which equates to roughly $14 billion each year. As an example of how sensitive agriculture markets are, Iowa farmers still remember President Carter's grain embargo. An immediate 10-percent reduction in grain exports occurred when the embargo suddenly halted grain shipment. So, you know, that is 38 years ago, but that is still in the memory of farmers.

So, Mr. Ambassador, has your office by itself or in consultation with the USDA done any analysis of what potential retaliation means for farmers in the Midwest, whom China has already singled out for retaliation?

Ambassador LIGHTHIZER. We certainly, Mr. Chairman, have done a lot of analysis of that in the context of 301, but also in the context of other things. And the analysis is way beyond just USDA and us; it is also NSC and a whole variety of things.

And at some level, whatever you decide, it is really just speculation. But there has been a lot of effort, a lot of work done on it.

And when you come down to it, in almost every case, the most vulnerable sectors of the economy are the ones that export. And farmers are a very susceptible group, not only with respect to 301,

but every time we take a trade action, agriculture is in the crosshairs. And it is something that we are very sympathetic to and we have to be very careful about. And we have to decide—and we will work with you to decide—if that happens, how we react.

Senator Roberts, whom I know very well, remembers the Carter grain embargo, because it was an important part of his own political career, or reacting to it was an important part of his own political career. I know he is very concerned about it, that he has talked about it.

I do not get out of my own lane in terms of what programs we have, but I would note that it is unfair in this circumstance to farmers, particularly in this case soybean farmers who, number one, sell an enormous amount—as you say, $14 billion—to China.

And if you look at the ag sales to China, we sell a lot of things. I mean, if you think of it, we sell $130 billion worth of stuff to China altogether, and $18 billion is soybeans. That is a pretty big number. And if you look at it, you drop down to whatever the second crop is—Senator Roberts probably knows—but you get down to about a billion and a half is the second crop. Now, that might be big for them, whatever that crop is, but it is a huge drop-off. So any person who would look at this, would look and say, yes, soybeans are a real problem.

And soybeans, also from the point of view of retaliation, have the advantage of being grown all over the place. As near as I can tell, most everybody has some soybeans. So it is something we are worried about.

It is unfair, in my judgment, that farmers, particularly soybean farmers, would be singled out to have to take this hit.

Having said that, it is not possible to take the position that, because of soybean farmers, we are not going to stick up for our rights in a whole variety of ways and have hundreds of billions of dollars' worth of other exporters and domestic producers be punished because of unfair trade. It creates a conundrum.

And I guess my sense is that, working with this committee, we have to decide the extent to which we retaliate and the extent to which the Congress in its wisdom decides that there should be programs that deal with this situation, where people are unfairly targeted in a case where we are doing something really for the national good.

But the bottom line is, it is very serious. It is something we have worked on. We have spent a lot of time on it, USDA and Secretary Perdue and USTR, but also Commerce and Defense and NSC and NEC. It is something we spend a lot of time thinking about.

Senator GRASSLEY. I have 30 seconds to ask a question you can say "yes" or "no" to. Can I tell my constituents we are past the point of worrying about withdrawal from NAFTA?

Ambassador LIGHTHIZER. No.

Senator GRASSLEY. I still have 15 seconds left. [Laughter.]

I do want to tell you about a tool—and Senator Brown will probably bring this up as well—the Foreign Investment Review Act, which would give the administration new powers to prevent investment in the U.S. that originates from countries that do not believe in reciprocal trade benefits.

Our legislation represents a targeted approach for causing behavioral changes while not jeopardizing existing trade flows. And so this is a request that you would work with Senator Brown and us to give you and Commerce Secretary Ross new tools to prevent bad behavior by some of our trading partners. Thank you.

Ambassador LIGHTHIZER. Yes; the answer is "yes" to that.

The CHAIRMAN. Okay.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman.

Mr. Ambassador, it is always good to see you.

I want to follow up on what your response is going to be, with Commerce and other agencies, on retaliatory actions that are likely to be taken by other countries in regards to the steel and aluminum tariff. I say that because we expect there will be some reactions. And as I understand it, Commerce is working out a way for exceptions. You are involved in those conversations.

But I am concerned that, whereas a large company or industry may be able to have their voices heard, how do you deal with small companies that have critical supply chains that could be impacted by retaliatory action by another country where they do not have the resources to be able to get their message across to the administration?

How are you going to protect smaller companies, as we are going to certainly see a lot more activity, not just here but around the world, in regards to trade?

Ambassador LIGHTHIZER. Well, Senator, I would say, first of all, with respect to the 232, there are going to be two things going on. One is going to be the country exclusion process, which we are in the process of—and I am looking at it, and we have talked about that. And some countries are under consideration, and it is a decision that is ultimately going to be made by the President. It is not going to be made by me in any case.

Senator CARDIN. But on the company-specific——

Ambassador LIGHTHIZER. There will not be company-specific exclusions, but there will be product exclusions, which I think is probably what you are referring to, and they will be done at the Department of Commerce and, to the extent it is appropriate, on anything that any member here cares about.

Senator CARDIN. But how are you going to protect smaller companies? They are not going to have the same voice that large companies will have in regards to industry-specific issues.

Ambassador LIGHTHIZER. Yes, I mean, this is a far broader problem obviously than 232. It is a problem that deals with using the trade laws and dumping and countervailing, the whole disequilibrium between people who spend millions of dollars lobbying in Washington and people who do not have fancy lawyers who do that. So it is a far bigger problem then in this case.

The product exclusion process at the Department of Commerce will be one where, if somebody files an exclusion, it will be looked at by professional people, and they will make a decision. Hopefully it will not——

Senator CARDIN. Well, by what method will small companies be able to get into that process? That is my concern. Industries have the resources to do it; big companies have the resources. But I rep-

resent a lot of small companies that do not have that type of resource on their own. They can work through their trade groups if their trade group is interested in it, but if they are not, how do they protect themselves?

Ambassador LIGHTHIZER. Well, I mean, I am sympathetic to your position. I think the system is set up at the Department of Commerce so as to make it very easy to apply. That is not to say you get the same results, and that is a different question, but it is supposed to be easy to apply.

And to the extent you come to me and say, I have this or that constituent who has this problem and it is not being reflected, I will certainly go to the Department of Commerce, or my people will, and we will sit down with them, because it is supposed to be designed so as not to discriminate in that way. I hope it is. I am not that close to it, to be honest, to know about how it is set up.

Senator CARDIN. So I have another set of problems in regards to potential retaliatory actions. And I will use McCormick Spice as an example. It is a good American company. They source as much as they possibly can in our country. But you cannot move the equator, and they need products from other countries in order to have their spices. And that is exactly the type of concern we have: that they could be targeted for retaliatory actions when they have no choice.

What do I tell McCormick?

Ambassador LIGHTHIZER. Well, I do not know enough about where they buy spices. A lot of places, presumably, where they buy spices are not going to be on the list where they are going to be significantly affected by 232 on aluminum or steel.

One that probably does come to mind where they probably do is India. I would presume India, I do not know—I mean, once again, I am just not an expert in the spice industry. But the Middle East I remember from the old days, the whole spice trade, the whole opium trade, was basically started with Europeans getting spices out of India and selling them in China. So that is kind of my frame of reference.

To the extent they see specific retaliation, they ought to bring it to our attention. We focus, as we have said before, on soybeans and some of the very big issues, but it is conceivable you would have an issue with that. Also with India, my guess is that India may be in a position where they want to retaliate. I think there is some vulnerability there. India has a substantial trade surplus with the United States, and they have a system which is not particularly open. They have a system which has a number of vulnerabilities.

So to the extent there are individuals who have this problem, all I can say is, we will try to work with them. It is a serious problem and one that we have considered.

Senator CARDIN. I thank you for your willingness to work with our office. I can assure you that you will be getting some calls.

Ambassador LIGHTHIZER. I would be pleased to spend time with your people, many of whom are friends.

Senator CARDIN. Thank you.

The CHAIRMAN. Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman. Thank you for holding this hearing.

Mr. Lighthizer, I want to tell you how much I appreciate your candor and your willingness not to speak from a script in these hearings. So often that is what we hear. I do not necessarily agree with much of what you say, but I do believe you are giving us your candid view.

You mentioned in your written testimony and then again in your oral testimony the need to deal with hostile economic competitors. And I can never figure out who that is from the point of view of the United States at this point. But would you call Canada a hostile economic competitor to the United States?

Ambassador LIGHTHIZER. I would call them an economic competitor.

Senator BENNET. Okay; that is different from a hostile economic competitor.

Ambassador LIGHTHIZER. I agree with that.

Senator BENNET. What about Mexico? Are they a hostile economic competitor?

Ambassador LIGHTHIZER. Of course not; no.

Senator BENNET. What about the members of the EU? Are any members of the EU hostile economic competitors?

Ambassador LIGHTHIZER. In my view, they are not.

Senator BENNET. Okay. I think it is very important to make these distinctions, because our allies are hearing the administration describe them as hostile, when I do not think you mean to describe them as hostile. The President may have a different view, but they are hearing that. And I want you to know that, because we are hearing it as well.

I wanted also to go back to the discussion about agriculture. You pointed out that agriculture as a sector is the most vulnerable to retaliation of any sector that we have. Is that right?

Ambassador LIGHTHIZER. I mean, it is certainly in everybody's crosshairs——

Senator BENNET. And we have already seen——

Ambassador LIGHTHIZER. And it is vulnerable.

Senator BENNET. We have already seen it with sorghum.

Ambassador LIGHTHIZER. And it is even more vulnerable under the current economic environment.

Senator BENNET. Exactly, exactly. And you said you were sympathetic to that, that was the word you used, but that we could not give up our right to defend our action and that maybe the Congress could pass something up here that could mitigate the damage that is being done.

That is not what our farmers and ranchers want. Our farmers and ranchers want to be able to export the goods that they are producing here in the United States. They do not need sympathy; they need the administration to act responsibly.

And along the lines of what I was asking earlier about—our describing other countries as hostile—do you think the President has any awareness, Mr. Lighthizer, about the effect he has on the domestic politics of our allies when he makes these tweets or decides one day that we ought to increase tariffs by 25 percent on steel and aluminum?

I think he thinks he is scaring other people, but he is not really having that effect. I wonder whether you have a sense of the domestic politics in these other places.

Ambassador LIGHTHIZER. Listen, I am a Trump supporter. I love the President. I am a trade expert. I am not going to get engaged with you in a political thing. That is not what I came here to do.

Senator BENNET. Well, it is not a political thing. Would you agree that what he says can have an effect on agricultural commodity prices in the United States, if people believe that other countries are going to retaliate against the proposed trade policies of the United States, that our farmers and ranchers are already being affected in the commodity prices that they are seeing as a result of this rhetoric? Would you agree that there is a danger to that?

Ambassador LIGHTHIZER. What I would agree with is that we have trade rights that we have to defend and that too often farmers get the short end of the stick.

Senator BENNET. Well, that is right; they do.

Ambassador LIGHTHIZER. And we have to deal with—we cannot give up. The fact that we have an $800-billion deficit——

Senator BENNET. Nobody is asking you—I am not asking you to do that.

Ambassador LIGHTHIZER. So we have to balance this.

Senator BENNET. I am asking you to understand that everybody is listening and that our farmers and ranchers are bearing the brunt of it. And what I am not asking you to do is not fight for our fair rights to trade. That is not what I am asking for.

What I am asking for is for us to do it in a way that does not inadvertently—I hope it is inadvertent; I am sure it is not advertent—drive commodity prices down at a moment when our farmers and ranchers can least withstand that.

Ambassador LIGHTHIZER. I am sorry, what was the question?

Senator BENNET. I will just finish by saying I do not think it helps when the President—now, I am sure he did not consult with anybody here before he announced his tariffs—when he said, I am going to raise tariffs by 25 percent, and then 3 weeks later you come with a list of Australia, Korea, Canada, Mexico, the European Union, and some others and say, sorry, we did not really mean it.

This is not a business transaction, you know, for real estate in New York City. This is the trade policy of the United States of America. And I wish you guys would consult with us, or just the Republicans even, so that you can understand the effect that you are having in places like Weld County, CO, where we need to have strong commodity prices and where 80 percent of our wheat is exported overseas.

My time is up. I apologize, Mr. Chairman.

I will just acknowledge that my farmers and ranchers know very well that the day that the President announced these tariff increases, TPP was being signed in Chile by the enumerated countries there, and they are still waiting for this administration to have what it suggested would be its unilateral trade negotiations with every member of TPP to see that their equities are being thought of by this administration.

The CHAIRMAN. Senator, your time is up.

Senator BENNET. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Cantwell?

Senator CANTWELL. Mr. Chairman, I understand I missed the feting of your birthday, but I guarantee you, my voice was not needed. I am not a very good singer.

Senator BENNET. It could not have gotten worse. [Laughter.]

Senator CANTWELL. But happy birthday. Happy birthday to you.

The CHAIRMAN. It was plenty welcomed, though. I did not expect it.

Senator CANTWELL. Okay. Well, happy birthday.

The CHAIRMAN. Thank you, dear.

Senator CANTWELL. Ambassador Lighthizer, the Export-Import Bank does not have a functioning quorum. There are $35 billion in pending transactions stuck in that pipeline. Do you agree that the Export-Import Bank needs a functioning quorum?

Ambassador LIGHTHIZER. Yes.

Senator CANTWELL. What are the actions the administration is going to take to get us a new nominee?

Ambassador LIGHTHIZER. Well, first of all, Senator, as you know, that is not exactly the middle of my lane. But because it affects trade, it is something that I do care a great deal about.

When I was here originally, you asked me a question and you did not discern the subtlety of my support. But since I am here and confirmed, I can be more straightforward. The answer is, I clearly support it. I am working with White House personnel. I am happy to talk to you about it.

I think that Jeff Goettman, the COO, you ought to have in your office, unless you have met him. He is a very strong guy. My recommendation is that you sit down and talk to him. He is a guy who is somebody whom I have known for a long, long time.

And I am working with White House personnel. I realize it is a tricky issue, but I want to work with you on it to the extent I can, because I think it is important. And I think you could probably snap your fingers and get $20 billion worth of U.S. sales.

Senator CANTWELL. I am sorry, Mr. Ambassador; who are you talking about?

Ambassador LIGHTHIZER. The COO of the Ex-Im Bank is a guy named Jeff Goettman. He is a person whom I know well. He was put there, and he is the Chief Operating Officer. He is very worried about everything that you are worried about.

Senator CANTWELL. Okay. How are you suggesting we free up this—was that a snap of the fingers? Because believe me, today I would——

Ambassador LIGHTHIZER. No, no, no. No, I was saying if you can get the Ex-Im Bank operating again, you will find exports very quickly, a bunch of pent-up demand.

Senator CANTWELL. Trust me, I get that. So I am asking you, as part of the administration whose job it is to worry about trade, how are we going to get this nominee up from the White House—and somebody who actually supports the bank, not supports dismantling the bank?

Ambassador LIGHTHIZER. Well, I am working with—I am happy to work with you—I am working with White House personnel. It

is not exactly what is in my level of responsibility, although I am an ex-officio on the bank.

I agree with you completely in terms of outcome. And I am happy to talk to you offline and try to figure out some solution. You know the problem better than I do for sure, because the problem is not in the administration.

Senator CANTWELL. The problem is not the—don't you think that the White House needs to send us a name of somebody who supports the bank?

Ambassador LIGHTHIZER. All I want is to have a quorum on the bank and have it start working. That is as far as my interest goes. I want it to become functional. I think that is what you want too.

Senator CANTWELL. We will take you up on the offer——

Ambassador LIGHTHIZER. Okay.

Senator CANTWELL [continuing]. So we work every day to make sure that great U.S. products can reach the customers in international markets.

So speaking of that, one of my predecessors—I am kind of amazed that he said this—Warren Magnuson, said, "We cannot afford to ignore or misunderstand China." So I am pretty sure he probably said that in the 1970s or 1980s. Why? Because he realized that China was not only a market, but a competitor.

So I am somebody who believes in competition. There are days when we are going to compete with them, and there are days when we are going to cooperate, depending on what the agenda is.

So what avenues are we going to take to protect the $7-billion export agricultural market from my State from being retaliated against in this trade war that the President is basically embracing?

Ambassador LIGHTHIZER. Well, I would say there are a variety of things that I guess I would comment on. Number one, I do not think the President is embracing a trade war. I think that is not an accurate statement.

Senator CANTWELL. I am just talking about his tweets. If he has backed off on that—I believe anybody can learn, and if he has backed off on that, that is great.

Ambassador LIGHTHIZER. I do not believe the President intends to start a trade war, so I fundamentally disagree with the first part of what you said.

Senator CANTWELL. So this tariff, increasing the cost of products imported from China, you do not think is going to add to this?

Ambassador LIGHTHIZER. Well, let me ask you this, because I know you care about things beyond just the items that would be retaliated against. We have a $375-billion trade deficit in goods with China, the biggest in the history of the world between two countries, probably times five. All right?

We have them engaging in unfair activity and stealing technology. And by the way, when they get down the road and develop aerospace and take over that industry——

Senator CANTWELL. They are not going to take over aerospace, trust me.

Ambassador LIGHTHIZER. Well, they seem to have it on their list of China 2025. I know you are familiar with that. Aerospace and aeronautic equipment is one of the areas where they are taking

technology and expecting to become the dominant player. So I know you are concerned about these other issues too.

We had an enormous amount of discussion about retaliation. I am happy to reiterate it right now if you—well, perhaps not.

Senator CANTWELL. No. I guess here is where I am. I want a more sophisticated approach. I get that a kind of stomp-your-feet approach makes some people feel good. But in the integrated economy that we already have, it is more complex.

I think the S&ED—whether you are talking about Hank Paulson getting them to readjust on monetary policy or what we were able to do in getting a clean-energy strategy or the agreement we got on cybersecurity, which needs to be updated—it takes constant dialogue. It is not that there is not a WTO structure and complaints to be filed. But the notion that the President thinks and has said with his Commerce Secretary many times that there will be collateral damage, that there will be a retaliation and that is just part of what is going to happen, is just not something I think that an economy like the State of Washington, which is so trade-dependent, is ready to embrace.

They look at this very retro 1980s view of policy: let us start a trade war. We would like something more sophisticated.

Thank you, Mr. Chairman. My time is expired.

The CHAIRMAN. Thank you, Senator.

Senator Casey?

Senator CASEY. Thank you, Mr. Chairman.

Ambassador LIGHTHIZER. Mr. Chairman, at some point if I could have a minute, I would like to respond to that——

The CHAIRMAN. Sure.

Ambassador LIGHTHIZER [continuing]. Because I think it is just fundamentally wrong. If this is the right time, I will do it. Or I will do it at another time perhaps.

The CHAIRMAN. No, this would be fine. Go ahead and respond.

Ambassador LIGHTHIZER. Yes. I would say this. To suggest that what we are doing is not sophisticated or nuanced is nonsense.

I would also suggest to you that if you look at these dialogues that we have had—and we have had a bunch of them, all right—China joined the WTO in 2002. Before that, we had a George Herbert Walker Bush action against China for IP—no result. We had a Clinton 301 action against China for IP—no result. All right?

Now we start the JCCT, we start the Strategic Economic Dialogue. The deficit goes from about 100 to about 200 to about 250 billion. Then they decide while we are talking and getting essentially nothing done through these years of discussions, they say, well, here is the problem: the Strategic Economic Dialogue is not working; let us have a Strategic *and* Economic Dialogue. So they put that on the table.

They do that for a couple of years—the trade deficit continues to go up with every one of these. I have a chart that illustrates this, Mr. Chairman.

We have had every one of these so-called dialogues and have accomplished almost nothing. The trade deficit has gotten worse with respect to every single one of them.

And then this President came in and said, we are going to do exactly what you said. We are going to start a comprehensive eco-

nomic dialogue. And we are going to do it differently. We are going to have short-term goals. We are going to say, here are the specific things. And we had a 100-day plan.

At the end of the 100 days, we essentially got nothing. And the trade deficit last year shockingly went up again. So the idea that there is not a plan, that we are not exploring all of this, is just wrong.

So what we decided to do was focus the 301 on one of the things that has specifically been a problem and affects almost every single part of our economy, even agriculture.

And during the course of all these dialogues—you mentioned one of the early ones, Senator—during the course of all that, on 10 different occasions China made specific commitments to do things in the IP area and did none of them.

Senator CANTWELL. Ten seconds, Mr. Chairman.

The lunacy of an administration that cannot make a layup on the Export-Import Bank and increase exports and yet wants to shoot consumers in the foot with a tariff costing us something as the next step is something I disagree with.

Thank you.

The CHAIRMAN. Senator Casey?

Senator CASEY. Mr. Chairman, thank you very much, and happy birthday.

The CHAIRMAN. Well, thank you.

Senator CASEY. Pretty bad singers, but we tried. [Laughter.]

Mr. Lighthizer, thank you for being here and for your work, for your willingness to come back into public service at a difficult time.

I was struck by a lot of your opening statement, but one sentence that kind of jumped off the page, at the top of page 2 is, quote, "The costs of globalization are falling most heavily on workers." And I think it is those last five words that are maybe the most important thing you said: "falling most heavily on workers."

That has been the experience of Pennsylvania. We have had a record manufacturing job loss in the last generation. You know a lot of the numbers, but the numbers do not tell the story—just economic devastation that I cannot even imagine, lives completely destroyed, the trauma and suffering that flow from the job loss: suicides and family breakups and all kinds of trauma is probably the best way to describe it.

And it started to present itself in the 1980s. There was a 4- or 5-year period in the early 1980s when about half of the steelworker jobs in southwestern Pennsylvania were lost. It went from close to 90,000 to 45,000 in a couple of years, and it just continued from there. And I have to say that I do not think in the last generation either party has done nearly enough. Neither party has had, in my judgment—and this applies to multiple administrations, multiple Congresses—an answer for those workers. A lot of talk, a lot of studies, a lot of theorizing, but no answers, or at least no answers that delivered results.

And if you do not have a strategy that undergirds the development of an answer, I would say I do not think you can get there. So I am asking you about strategy today.

Obviously, to address some of the root causes of this problem, you have to have a strategy that addresses global steel overcapacity, which is the most current discussion topic.

Preventing China from stealing our future—there are so many instances where China has cheated over and over and over again on currency and intellectual property, trade deals. And when they cheat, we lose jobs in Pennsylvania and just get hammered over and over again, and there is almost no reaction to that, no response.

And then thirdly, we should be working with allies to address systemic trade cheaters generally, not just China.

So if you could—and I know this is a lot, and you can amplify it in writing if you want—but if you could address your strategy or the administration's strategy on global steel overcapacity, addressing that, pushing back on China, and then, thirdly, beyond the cheating that China does, working with allies to address those systemic trade cheaters.

Ambassador LIGHTHIZER. First of all, we do not have an enormous amount of time, but I would shorten my response by saying I agree with almost every single thing you said. And I only add the "almost" because I would have to dice it to make sure there was not something notionally.

I agree with all of it. I think you are exactly right as a matter of fact, and I think you are exactly right as a matter of tone.

And I think that administrations for years have not dealt with the problem. And it is not one of those problems that is going to go away with the invisible hand, because there is no invisible hand. Everybody else is acting.

I would also note that in the 1980s it was, at that point, a serious problem. Also at that point, the Reagan administration—and I had the honor to do this—negotiated voluntary restraint agreements with most of the people in the world, and it had a huge impact and saved that industry for that time, but not fundamentally.

So I start off by saying I completely agree with you.

Now, in terms of global steel capacity, you know the issues as well as I do. I mean, I have been dealing with it and litigating it and representing steel companies and representing workers. I agree with you that it is far more devastating than anyone who does not see it realizes. It is just absolutely devastating.

And it is way beyond some guy not having a job. It is families breaking up and opioid addiction and a breakdown of society. I mean, it is just so fundamental.

And the President is very—I know you have talked to him—the President is very moved by this. He is very empathetic on these kinds of things and very, very sympathetic to the people who are suffering.

So steel—what do you do on steel? You bring cases against unfair trade, and I think the industry has done that, the unions have done that, and this administration has been very good at prosecuting these and getting them to conclusion. But that only solves the problem with steel coming in here; it does not solve the problem with China doing it everywhere else.

So the President's view is that you try to do this with 232. That, I might say, is after years of basic discussion. And we can talk

about this Global Forum on Steel, because it is a classic example of the kind of thing that I was trying to discuss with Senator Cantwell. And that is, there are so many opportunities for these kinds of discussions, but people understand more and more that they do not go anywhere, these discussions, and almost nothing has been accomplished in that forum.

So you try to make it expensive for China to have excess capacity, and that is what we are trying to do in the 232—that is what you are trying to do with trade cases.

And then you work closely with our allies. And we have a trilateral group between the United States, Europe in the form of the EU, and USTR and this administration. We have already had two meetings. We had one right after the 232. And even with the disruption of that, the three of us put out a statement saying exactly what we were doing.

We have to deal with this problem of non-economic capacity creation and its negative effects on us. And I would love it if it was just steel, but it is not just steel; it is not just steel and aluminum. It is semiconductors; it is going to be all these things on this list. We are literally going to be the reciprocal of what other people do not want if we do not start standing up.

I mean, we have a plan: we are trying to make it more expensive for them to do these noneconomic things. Unfortunately, the WTO is not designed to deal with this kind of a problem.

So I should probably stop talking.

So we decided an additional action would be the 301 on IP. We expect to bring additional ones afterwards in areas where we do not have reciprocal response and where we are competing against states or against people who operate in a noneconomic way.

We are very comfortable when we are competing in a reciprocal way on the basis of economics. And win or lose, it is fine, but we cannot be in a position where our people cannot compete because they are competing with governments or competing with rules that discriminate against them.

Senator CASEY. Thanks. And I will have some questions for the record that deal with the NAFTA renegotiation on labor issues.

But, Mr. Chairman, thank you for the extra time.

The CHAIRMAN. Thanks, Senator.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman. And by the way, happy birthday, Mr. Chairman.

The CHAIRMAN. Well, thank you very much.

Senator THUNE. I heard I missed the opportunity to sing to you, but I am sure that was, with all the beautiful voices on this committee, quite a thing.

Senator WYDEN. Senator Bennet said you did not miss anything. [Laughter.]

Senator THUNE. Okay.

Ambassador, as I have conveyed to you before, while I support the administration's overall goal of free, fair, and reciprocal trade, I am very concerned about the fact that too little attention is being given to the collateral effect that many of these actions could have on other sectors of the economy, particularly the agricultural sector, which is critically important in my State of South Dakota. And

I look forward to hearing about the administration's plans to address some of those effects.

But I wanted to take up an issue that is in this year's trade agenda. You note that President Trump gave as a reason for withdrawing from the negotiations of the TPP that there is "no way to fix the TPP and that we do not need to enter into another massive international agreement that ties us up and binds us down." That is a direct quote.

So the question is, given the President's recent remarks at the Davos World Economic Forum in January that he would be open to rejoining the agreement, what is the administration's current approach to the Trans-Pacific Partnership?

Ambassador LIGHTHIZER. Thank you, Senator. So as you say, the President is not in favor of TPP. He said he went after it in the campaign. He was elected, and he did get out. He then indicated that he would, and I think his exact words were, he would be willing to discuss an improved TPP either with the 11 or individually with countries.

So the way I dice it is as follows. There are 11 countries in the TPP. The United States has an FTA with six of those, including all of the big economies with the exception of Japan. So of the five with which we do not have an agreement right now, you have $5 trillion in the case of Japan, where we have asked for and hopefully at the appropriate time will begin a process of negotiating an FTA. The next two of consequence are Malaysia, where the number is probably $300 trillion and change—this is their entire GDP—and then Vietnam, where it is about $295 trillion. And then after that, they get smaller fairly quickly.

So I guess what I am saying is, you could have a couple of FTA agreements that would essentially bring in a vast majority, 95 percent, of the growth potential that you could get out of a TPP. And that might be a more effective way to do it.

And then your response might be, well, you also want to upgrade these other six. And that is probably something that ought to be done too. So there are more ways to accomplish this. And it is one of these things on which there is no right answer.

Is that easier than sitting down and getting 11 people who have just come to agreement to change that agreement? I mean, that is something. You do more negotiating than I do, because you have to do that every day with your colleagues to make that judgment. In my opinion, I am better off going to these other countries, and it is easier than trying to get 11 people to change something that they just agreed to.

Senator THUNE. Let me shift to another issue. There is a significant amount of grain that is exported from my State of South Dakota. It goes through ports in the Pacific Northwest to Asian buyers. So it is countries like Japan, South Korea, and they are among our most active and loyal customers when it comes to corn and other grains.

And there are countries in Southeast Asia, as you mentioned, that are among the fastest-growing feed grain markets in the world. So my question is, what is the administration currently doing to maintain and build on the relationships that we have with these key Asian countries absent a TPP approach?

Ambassador LIGHTHIZER. Well, I would say there is an enormous amount of stuff that is being done at USDA, of which you, I am sure, know more about than I do.

I would also point out, as I just mentioned, that Japan is a country with which it is reasonable to suggest the United States have an FTA. And we have asked, and they are in their own position and their own political thing. But I suspect at some point that will be something to move forward with.

With respect to Korea, they are in a different category, right? Korea is not in the TPP.

Senator THUNE. Right.

Ambassador LIGHTHIZER. They are an independent country. And in the case of Korea, we are renegotiating KORUS. And I think that even the course of that renegotiation has been good for your agriculture sales. And I would note that Korea has bought a billion dollars more agriculture in the last year than they did before, and I suspect it is not unrelated to the fact that they want to get the deficit down and they want to show that this is an important agreement for the United States. I think it is an example of ways that pressure does have a positive effect on agriculture sales, and we ought to be using that pressure when we can.

So my hope is that we end up with a successful negotiation with Korea. If we do, I expect it to lead to additional sales.

With respect to Japan, the other one you just mentioned, that is, you know, more or less the position that I have. I think that we have asked; it is reasonable to expect at the appropriate time. This is probably not the appropriate time right now because they just started the TPP, but that is something that is coming very quickly.

The CHAIRMAN. Senator Warner?

Senator WARNER. Thank you, Mr. Chairman.

Ambassador Lighthizer, good to see you again.

Let me first of all add my voice to two of my colleagues'. One, I completely agree with Senator Bennet that the President's language about our allies, Mexico, Canada, EU—there are serious repercussions here. And I know you do not probably have access to his tweetage, but some restraint would be terribly appropriate.

And I also agree with Senator Cantwell, and you said you support the Export-Import Bank. Let us get it functioning, the sooner the better.

What I am going to talk about is something that falls in your lane, but not entirely in your lane, and that is, I think, the incredible growing threat of China.

You outlined some aspects of the China 2025 plan. What I did not hear you outline were areas—and the ranking member and I serve on the Intelligence Committee—that China has an extraordinarily organized plan of investment in: artificial intelligence, machine learning, quantum computing, where their goal is to leapfrog ahead of today's technologies and not be our equal, but bypass us.

We have talked a lot, and I think, again, for many administrations, we have allowed China to steal our intellectual property with virtually no pushback.

We now have an unprecedented organized effort by Chinese investors to invest actually in early-stage companies that we have

never seen before. And it is organized in a way that companies are not aware of the concerns I believe they should have.

I think we see in an unprecedented way the Chinese use their students who come over to this country and then, again, go back, oftentimes with intellectual property—and again, in an organized way that did not exist 2 or 3 years ago.

I have huge concerns about the number of American companies, frankly, that have been so anxious to access the Chinese market that they give up their intellectual property, they give up their source codes, in ways they would never do for entering into any other nation.

And you made an announcement yesterday, the administration did, about some areas they were going to try to concentrate on in trying to take on IP. I would like you to spell that out a little bit more.

But what I am concerned about is, quietly in some of the companies, like Huawei and Alibaba that people may be aware of—but there are 20-plus Chinese tech companies all with valuations north of $20 billion.

Senator Cornyn—I am trying to work with him as well. We are trying to reform some of the CFIUS process. But the CFIUS process alone will not get us there when some of these companies have such breadth and scope they can enter into our American market directly.

Now again, this is a little bit outside of your lane, but I would hope, rather than simply focusing on aluminum and steel, that you would look in a much more organized way at the national security concerns, the protection of our intellectual property vis-à-vis China and how we can have a, not just trade policy, but a whole-of-government policy to frankly warn American companies before they allow, I believe, some of these Chinese tech companies to take over our markets. They operate on totally different principles than any true market-based economy.

They have a market plan, they have industrial planning in ways that are exponentially greater—not something we should repeat. But how is the administration and how is USTR going to help take on this issue?

Ambassador LIGHTHIZER. Well, I would say, first of all, it is very encouraging to hear your description of the problem. I totally agree with it. I think in the final analysis, if you say what keeps me awake at night, that is what keeps me awake at night.

If you ask what is going to define whether or not I have done my job or you have done yours, it is going to be how we deal with this issue. So it is very encouraging.

Whenever I hear it, I always think, why doesn't the Intelligence Committee take so many of these other Senators who are not on it and make them sit in the SCIF and say, here, look at this stuff? And I think if you did, we would have a lot more people who are interested and sympathetic to your view.

It strikes me as almost impossible for a smart person to be exposed to what you are exposed to in that other committee and not conclude the way you conclude. So I completely agree with it.

I would say it is because of that that we have focused as our first major thing—we have NAFTA, we have KORUS, the steel thing is

what it is, we have cases that were brought. But from my point of view, the most important single thing was this 301 on IP. And it was because I start precisely where you are.

And I agree with you on this issue. I hope that Senators spend time on it, this issue of putting a million dollars into 10 little things and have one of them pop up and now you are in a position where it is likely a joint-use technology. It is going to have whatever the military effects are, but it is going to have all these effects in terms of our economy going forward—developed in the United States and gone from the United States.

So our remedy, in the 301, will deal with that, I believe, in ways that you will find helpful. And as we announce it and move forward, I hope that you will engage with the Secretary of Treasury specifically, just person-to-person on this issue, this issue of investment that you just mentioned.

Senator WARNER. Mr. Chairman, let me just add one quick comment.

Some of the low-hanging fruit—and this is outside of your lane—we have a 700,000-person backlog on security clearances, yet what ought to be one of our top priorities is making sure the chief security officer of every Fortune 1000 company has a security clearance so we can share the vulnerabilities that are out there and some of the nefarious means that some of these Chinese tech companies are going to use.

The CHAIRMAN. Thank you, Senator.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman.

Ambassador, thank you for your testimony.

In almost all past trade negotiations, intellectual property proved to be a sticking point that required high-level political decisions from us and our trading partners at the final stages of negotiations.

Given the IP concerns we have in NAFTA, especially those involving Canada's treatment of innovative, lifesaving U.S. medicines, what is your strategy for closing out the toughest chapters and delivering a strong IP chapter for U.S. innovators?

And what are you doing to make sure that intellectual property is a top priority in these negotiations so that innovators in my State of New Jersey and others around the country will feel protected?

Ambassador LIGHTHIZER. Well, of course, I am sure by that you are not suggesting that I give out my strategy. But I will say this. I am in complete agreement.

I think, as you say, in almost every single negotiation, IP is always the last thing to go. And the principal reason is that we are basically creators and the people we are negotiating with are basically takers. And so they have every instinct and incentive to want to have weak laws so they can get our IP. And we have the ones to do the opposite.

And ironically—and it is always a surprise to people, but it will not be to you, of course—Canada is very much in the group of countries that are the takers and not the protectors.

We think of Canada as having a similar view on most things that we do, and we think they would have that view on IP. I know you

know, and Senator Hatch for sure knows, that that is not the case; they have very weak laws.

So it is a high priority. It is something that will go down to the end and that I expect to—I view myself as being mandated by the committee to make substantial improvements.

Senator MENENDEZ. So the bottom line is, I get concerned, since this is virtually always the last thing. After everything else is agreed to, then why have a sticking point on IP?

But I will take from your comment—and correct me if I am wrong—that you intend to push for strong IP standards in the NAFTA agreement.

Ambassador LIGHTHIZER. That is absolutely true.

Senator MENENDEZ. Now, would you agree that having credibility when negotiating is essential to developing trust and getting a good deal for the United States in these negotiations?

Ambassador LIGHTHIZER. Yes, I would.

Senator MENENDEZ. Did I hear you say you would? I'm sorry.

Ambassador LIGHTHIZER. Yes. It struck me as an easy question to answer.

Senator MENENDEZ. Okay. Well, it would seem so. But have you ever briefed the President on the status of our trade relationship with Canada?

Ambassador LIGHTHIZER. Are you going to ask me to go through the numbers? I am happy to do it.

Senator MENENDEZ. No, I know the numbers. I am asking you, have you briefed the President?

Ambassador LIGHTHIZER. I have talked to him a lot, yes, and he was completely right that the numbers are all screwy. And I am happy to spend time—I do not——

Senator MENENDEZ. So let me read to you what your website says. USTR's website says that the U.S. goods and services trade surplus with Canada was $12.5 billion in 2016. Is that false? Is that false, "yes" or "no"?

Ambassador LIGHTHIZER. I am sorry; would you repeat the question?

Senator MENENDEZ. Sure. According to USTR's website, the U.S. goods and services trade surplus with Canada was $12.5 billion in 2016. Is that true or false, what is on your website?

Ambassador LIGHTHIZER. If it is on there, it could be. Yes, I will concede that it is. I am sure you would not give me misinformation, but I do not remember that number.

Senator MENENDEZ. So if it is on your website, I would assume that you maintain that it is a truism, right?

Ambassador LIGHTHIZER. Well, I would assume it is a version of the numbers. I am happy to go through these numbers with you, if you like. I can spend some time on it, if you like.

Senator MENENDEZ. Well, the point is that, as I think about, whether it is NAFTA or any other place in the world, that credibility is important to any negotiation. So when the President has a blatant disregard for the truth when discussing our trade surplus with Canada's prime minister, I cannot understand how that helps you in your negotiations.

Ambassador LIGHTHIZER. That is just completely wrong. That is just completely wrong. So here are the numbers. In 2017, the——

Senator MENENDEZ. Well, what numbers are you going to give me that are different than what is on your website?

Ambassador LIGHTHIZER. Can I——

Senator MENENDEZ. Are you going to give me—no, here is the point. I have limited time.

Ambassador LIGHTHIZER. I am happy to go through this.

Senator MENENDEZ. Are you going to give me different numbers than what is on your website?

Ambassador LIGHTHIZER. Look, I am happy to go through this. If you raise the issue, I am happy to go through it. Do you want me to go through it?

Senator MENENDEZ. Are you going to give me different numbers than what is on your website?

Ambassador LIGHTHIZER. I am going to give you the numbers. I am happy to do it and explain the issue. I know what you really want to do is get an explanation of these numbers rather than make a political point, so I——

Senator MENENDEZ. What I really want to do is reconcile—if you are going to tell me something different than what is on your website, then I am happy to listen to it.

Ambassador LIGHTHIZER. I am going to tell you——

Senator MENENDEZ. If it is the same thing as your website, I am not quite sure.

Ambassador LIGHTHIZER. I am going to give you the numbers. Can I do that or not?

Senator MENENDEZ. Well, let me go to a last question, because I take your website to have the right numbers. You told me that if it is on your website, it is true. So I take your website to be true.

Ambassador LIGHTHIZER. Unfortunately, like most things in trade, it is very complicated, and there are other numbers that show a massive trade deficit with Canada. And I am happy to take you through it.

Senator MENENDEZ. Then you should change your website, because the average American, including a member of the Senate, would look at your website and it says that the, according to your website, U.S. goods and services trade surplus—goods and services—with Canada was $12.5 billion.

So let me ask you this. Do you believe that an optional dispute mechanism is an effective way to make labor standards enforceable in NAFTA?

Ambassador LIGHTHIZER. An optional—I am sorry, an optional——

Senator MENENDEZ. An optional dispute mechanism.

Ambassador LIGHTHIZER. I have to run, as the chairman knows, so I cannot very well stand here and have you make this statement which I do not agree with at all on the issue of these trade numbers. So if you will not get—when people——

Senator MENENDEZ. Look, Ambassador, I am asking you a different question.

Ambassador LIGHTHIZER. I will submit, Mr. Chairman—can I submit in writing a response to the Senator on the trade numbers?

The CHAIRMAN. We would be happy to have that.

Ambassador LIGHTHIZER. Thank you.

The CHAIRMAN. We would be happy to have that.

Senator MENENDEZ. Can you answer me on the optional dispute trade mechanism?

Ambassador LIGHTHIZER. Perhaps Senator McCaskill will hear my point.

Senator MENENDEZ. Ambassador?

Ambassador LIGHTHIZER. Pardon me?

Senator MENENDEZ. Can you answer me on the optional dispute mechanism? Do you think that is an effective way to make labor standards enforceable under NAFTA?

Ambassador LIGHTHIZER. An optional dispute—oh, so you are saying—I think we ought to have labor standards enforced to the same extent other things are enforced, yes.

Senator MENENDEZ. Yes, so an optional dispute mechanism is an appropriate way to go ahead?

The CHAIRMAN. Senator, your time is up.

Senator McCaskill?

Senator MENENDEZ. Mr. Chairman, I hope that witnesses in the future can be responsive to questions, because anyone can eat up my time. I have been around here long enough—26 years between the House and the Senate—to know when there is a filibuster going on.

So at the end of the day, if you ask a question and you cannot get an answer, and the chairman is going to say your time is up—I would like to get an answer.

Senator WYDEN. Mr. Chairman, if Senator Menendez——

The CHAIRMAN. I am not against getting an answer, but——

Senator WYDEN. Senator Menendez, would you like to make sure you get an answer before you walk out of the room?

Senator MENENDEZ. I would like to.

Senator WYDEN. Go ahead.

The CHAIRMAN. Let us give him an answer—whatever.

Ambassador LIGHTHIZER. I think we ought to have enforceable labor standards, enforced the same way everything—I guess I am not quite getting the point of what you are saying. I think labor standards—I have been on record, I have said it many times—ought to be in the agreement in NAFTA and enforced in the same way everything else in the agreement is enforced. That has been my position from the beginning.

The CHAIRMAN. Okay.

Senator McCaskill?

Senator MCCASKILL. Thank you, Mr. Chairman.

I remember talking to you in my office before your confirmation, Mr. Lighthizer, and I remember telling you how worried I was about ag. And you said, well, you should be. And you know, it was startling to me. First of all, I appreciated your candor; that is unusual in this town to have somebody be that honest about it.

And I know you said to one of the other Senators earlier that, you know, it is going to be unfair what happens to Missouri soybeans, but it is for the national good. Well, it does not feel like it is for the national good to the soybean farmers.

You know, this is the thing about trade: in efforts to make trade more fair, there are always winners and losers in the countries that are trying to push the envelope in terms of trade. And ag is going to be a big loser here if this goes down the path that we are

going down, especially if you look at where our ag products go in Missouri, which is Canada, number one; Mexico, number two; and for soybeans China, number three.

So it is really worrisome to an economy that is dependent on agriculture that we are going to say, well, it is for the national good and you guys are just going to have to power through it.

I wanted to specifically—and also, of course, the other one I am worried about is Boeing. Do you anticipate that the airplane sales that President Trump, many of which had been in the works for years before he became President, do you anticipate all of those will go through with what you all are doing? Do you game this out with your algorithms that Boeing is going to continue to be able to compete in an evenhanded way with Airbus or, more importantly, with the Chinese companies that are developing competitors to the Boeing aircraft?

Ambassador LIGHTHIZER. What I said, and what I do say, is really that I share your concern. It was not meant——

Senator MCCASKILL. No. I know you were not being—you were not saying, "Too bad for them." I was not trying to make you Simon Legree here. You just acknowledged that ag is going to be the easiest target for retaliation.

Ambassador LIGHTHIZER. Yes. And it is something that I worry about a lot.

Senator MCCASKILL. Yes.

Ambassador LIGHTHIZER. And so does Secretary Perdue and so does the President. So with respect to NAFTA and your sales in NAFTA, it is my hope that we have a successful agreement and those sales are not threatened. So I want to kind of bake that in.

It is also my hope that we enter into FTAs that increase sales. And I have tried to make that point here today too.

Now, if we bring in intellectual property, I mean, if the President decides to do something on the 301, will China retaliate? That is something that is a real risk that we have talked about, we have gamed out; we have to decide what we want to do when it happens. And obviously, it is not something I want to talk to you about in this forum, but I want to sit down and get your counsel on what you think we ought to do.

Senator MCCASKILL. Yes, I would love to, because you did name aerospace on the list.

Ambassador LIGHTHIZER. And aerospace is something that specifically the Chinese have decided to be part of their China 2025, and they expect to dominate in that area. And they are spending over $300 billion to do that.

And they are going to—and Boeing for sure knows. I mean, they are very focused on this threat. They are focused on the retaliation threat of sales now, and they are focused on the noneconomic competition they are going to have to face from China down the road. So Boeing is in this very peculiar position where they see long-term——

Senator MCCASKILL. I would call it "precarious" rather than "peculiar."

Ambassador LIGHTHIZER. Yes, precarious. Long-term, they have a real risk from China in terms of what China is trying to do, and they have a short-term problem. So we are sympathetic to that.

And to the extent it comes to real actions afterwards, I want to work with you on that so that you are satisfied and——

Senator MCCASKILL. Okay. I am going to try to get to one more area before I get cut off. Japan was not on the list that you gave of the countries that have been exempted. Correct?

Ambassador LIGHTHIZER. No.

Senator MCCASKILL. Okay. And so some of this issue is about businesses that are relying on specialized steel imports. It is not a matter of price; it is a matter of availability. I mean, I have a small company in Joplin that relies on Japanese specialized steel to make the bearings, and it is not available in the United States.

So it is not one of these things where they can actually turn to a more expensive—they are not bringing this in because they are getting it cheaper than they can get it in the United States. They are bringing it in because they cannot get it.

Do you have some kind of mechanism in place to rocket those kinds of manufacturing facilities to the top of your exemption list? Is there some way they can navigate this? Because they have no choice, if they want to stay in business, than to use this Japanese specialized steel they are using.

Ambassador LIGHTHIZER. I agree with you. I am sympathetic. There is a process at the Department of Commerce to do that. I do not really have the people they do.

But if you have a specific constituent that you say is somehow lost in this process, if you bring it to me, I will——

Senator MCCASKILL. I think all the small manufacturers are going to be lost in this process. It is 90 days, it is complicated, the tariff starts tomorrow. There has been nobody reaching out to these businesses that are going to be dramatically harmed by this to say, what can we do to facilitate you continuing to even get the product you must have? Nobody is doing that, Mr. Ambassador.

The CHAIRMAN. Senator, your time is up.

Senator Carper?

Senator MCCASKILL. Okay. I just want to note for the record, Mr. Chairman, that earlier in the questioning everybody was going over 2 and 3 minutes. When you get to the end of the table, man, it gets tough.

Senator WYDEN. Mr. Chairman, the Senator has a valid point.

Is there a response that the Senator wants from the Ambassador now before we wrap up?

Senator MCCASKILL. I was just——

The CHAIRMAN. I do not have any problem with that, but it is just——

Ambassador LIGHTHIZER. No, I want to work with you.

Senator MCCASKILL. It is just low-hanging fruit on trade. And the notion that you and Secretaries Ross and Mnuchin cannot get in the room and get Export-Import done is weird.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you.

Senator Carper?

Senator CARPER. Ambassador, nice to see you.

A number of my colleagues have raised agricultural concerns with respect to the renegotiation of NAFTA and the loss of TPP: tariffs, the imposition of tariffs, and what the trickle-down effect

might be on them and their livelihood. I just want to echo those sentiments.

We only have three counties in Delaware. One of them, the southern-most county, is Sussex County, the third-largest county in America. Last time I checked, I think they were maybe the number-one soybean county east of the Appalachian Mountains. So soybeans have been mentioned here already; I want to just reiterate that.

I have a question on services. I think between 2006 and 2016, service exports from my State more than doubled, I think from about $1.5 billion to $3 billion. And those exports, I am told, support close to 20,000 jobs, which is a lot of jobs for Delaware.

This year's annual Economic Report of the President reiterates the fact that the U.S. has a trading deficit in goods but, as you know, a surplus in services. The report goes on to say that focusing, this is a quote from the annual Economic Report of the President, "Focusing only on the trade in goods alone ignores the U.S. comparative advantage in services." That is lifted right out of the report. And most of the administration's focus today seems to be on goods. We hear very little about expanding trade opportunities for services.

So I would just ask you two related questions. One, what is the administration doing to take advantage of our comparative advantage in exporting services? Two, what is the administration's position on restarting talks on the Trade in Services Agreement? Those two questions, please.

Ambassador LIGHTHIZER. Well, I would say, first of all, we acknowledge we have about, I think the number is about $750 billion worth of exports in services, and we have about $250 billion—I think these are approximately right——

Senator CARPER. And I would just ask, what is the administration doing to take advantage of our comparative advantage in exporting services? And what is the position on restarting talks on the Trade in Services Agreement?

Ambassador LIGHTHIZER. Well, on the NAFTA issue, we have a very, very aggressive pro-services agenda involving market access in a whole variety of areas, including delivery of services, all of which are included in that area. On financial services, we have a very aggressive plan. On telecommunications, we are trying to lock in the kinds of improvements that the Mexicans have made in their own law in the digital trade area, which is, of course, part of services. We have a very aggressive agenda there.

We have also started a negotiation, sort of under the auspices of the WTO. I say "sort of" because it is a group of countries that agree with us. Right now everything is stopped because you have one or two countries that do not want to do anything, so we have gotten a group of about 70 countries that want to negotiate on digital trade and get their own rules. And we are moving ahead on that as a way to get around this sort of hostage-taking and the, you know, the logjam that we have had.

The area of trade in services is something that has been dormant for some time. We are looking at it; we see areas of improvement. And the question is whether you start that negotiation up and whether or not that negotiation is the quickest way to actually

make improvement, or if you pick out some of the areas that are specifically under it and try to work with them among a plurilateral group of people who actually are trying to make progress. So we are trying to sort our way through that right now.

Senator CARPER. Now, my second question was, what is the administration's position on restarting talks on the Trade in Services Agreement?

Ambassador LIGHTHIZER. Well, that is what I said. So the TiSA agreement is something that we are studying. And the issue is, right now for us—and I would be happy to talk to you, you know, offline and get your thoughts on it—the issue is whether or not you take all those items.

And you are more likely to make progress in a shorter period of time in TiSA, or you are more likely to make progress if you deal with them in specific groups of like-minded people who actually have the desire to move forward in that area and not take hostages involving agriculture and all kinds of other stuff.

So it is something that we are still looking at. We now have our Deputies onboard as of this week. So we are at kind of a crucial time, and it probably makes sense for us to sit down and talk about it.

Senator CARPER. All right, fair enough. Thanks very much.

The CHAIRMAN. Thank you, Senator.

Senator Whitehouse?

Senator WHITEHOUSE. Thank you, Mr. Chairman.

How are you, Ambassador?

First of all, I am and have been for many years very, very concerned about what I view as an officially sanctioned and supported campaign by the Chinese government to, through cyber-attack, engage in industrial espionage and theft of American intellectual property in order to provide mercantilist advantage to their companies against ours. And I appreciate your focus on that.

I recall that there has actually been an indictment of Chinese military officials for that activity, and I hope that the administration continues to look at not only the trade aspects of this, but what law enforcement aspects might also be appropriate.

Industrial espionage and theft are industrial espionage and theft, even when the criminal perpetrators are from a foreign country.

The second thing I wanted to raise with you is an issue that is very peripheral to the main thrust of what this hearing has been about, but I think is an important one for our country.

I do not know; where do you come from?

Ambassador LIGHTHIZER. I am from Ohio.

Senator WHITEHOUSE. You are from Ohio. Okay. So you are not going to be much help in the sense of having a big coastal sensibility. But a lot of us in coastal States are seeing very significant harm to our ocean environments. And as a result, Senator Sullivan of Alaska, who gets it even worse than we do in Rhode Island, and I got together and cleared a bill through the Senate unanimously to try to address the problem of marine plastic debris, of ocean plastic junk.

Now, ocean plastic junk has been traced back, the bulk of it, to five Asian countries. And the reason that they are putting all this plastic junk into the oceans that then washes up on our shores is

because they have lousy upland waste-management infrastructure. So everything ends up washing down the creeks and rivers and into the oceans. This has, I think, been pretty clearly identified.

So my pitch to you is that, as you are considering our trade relationship with those countries, that you consider the advantage they are securing for themselves by failing to invest in adequate upland waste-management infrastructure and that we then face the consequences of all the plastic junk that piles up in our oceans and along our shores.

In Alaska, the testimony from Dan Sullivan's witnesses was that—you know, we pick up our plastic junk in, like, trash bags on beach cleanup days. In Alaska, they have to do it with dumpsters and front-end loaders and barges, they get so much, because the Pacific is the worst, because those five countries are the worst.

So if we could simply get them to take their upland waste-management disposal responsibilities seriously, that would do two things. One, it would eliminate an unfair competitive advantage that they have by not paying attention to that. And two, it would provide a business opportunity for American companies that are expert in, guess what, waste management.

So I hope that this is an issue that will pop up on your radar screen. I do not expect it to be your first issue, but I hope it is not completely ignored, because it is a global problem.

The U.N. is beginning to address it. There has been a U.N. resolution about it. They have developed a whole Clean Seas initiative. NOAA has supported the International Marine Debris Conference just now in San Diego. The G7, Canada have announced they are going to try to make this a priority. The G20 has already released an action plan on this. So there is global progress moving forward that you should, I think, be consistent with.

And even the industry is supporting it. The European plastic trade association has made a new marine plastic pledge in January. And 74 plastics associations from 40 countries gathered together under the Global Plastics Association, including the American Chemistry Council, have made a declaration for solutions on marine litter.

So you would not be going against the stream; you would be going with the stream of both our international partners and our industry. And I take this time with you to urge that you put this on your list of issues, not necessarily at the top, but where we can be helpful, let us push in on these five countries and make sure they clean up their act.

Ambassador LIGHTHIZER. Thank you, Senator. I am generally aware of the problem, but more specifically aware of it now, and we will look at it.

Senator WHITEHOUSE. Great. Thank you. I will follow up.

Ambassador LIGHTHIZER. Thank you.

The CHAIRMAN. Thank you.

Senator Cassidy?

Senator CASSIDY. Hey, Ambassador, thank you for hanging in there, man.

Listen, if tariffs are on steel, but not on the finished products, it greatly disadvantages our fabricators. There are folks in Korea who are doing finished product and taking it across the ocean and

installing it in a major petrochemical plant in southwest Louisiana, depriving our fabricators of the business.

My concern is, if you do tariffs on the raw steel—and that has increased the price of inputs for our domestic fabricators—you further tilt it because now you have incentivized folks to build their finished product overseas, and you have increased the cost differential.

Any thoughts on that?

Ambassador LIGHTHIZER. We are, of course, aware of the problem of downstream effects. And that is always something that you have to consider when you take any trade action.

And your fundamental point is that you are generally better off putting tariffs and taking actions on finished products.

Senator CASSIDY. Correct.

Ambassador LIGHTHIZER. That is for sure true, in my judgment.

Having said that, you are in a position here where you have a specific problem and you have to figure out how you are going to deal with it.

So I think what we have to do—the President has decided to take this action—I think we have to monitor what you are saying very closely and see if there is something that we should be doing in the meantime somehow to mitigate the problem with respect to specific circumstances.

But your fundamental point is—and the President, by the way, completely agrees—your fundamental point is, you are far better off taking action on finished products than you are on input products.

Senator CASSIDY. Now, that seemed to be a little bit of a disconnect there. You fundamentally agree, the President fundamentally agrees, but you are only monitoring as opposed to implementing. We can predict—we are already losing projects to overseas fabricators because their cost of steel is significantly lower than ours, labor is lower, et cetera.

So let me just ask, if you fundamentally agree, why is there a hesitation in doing something about the finished product?

Ambassador LIGHTHIZER. Well, I am not—I guess what I am saying is, when you have a circumstance that you consider to be a national security issue on the 232, you cannot not take that action for that reason.

But to the extent there are specific cases we ought to be looking at, I guess what I am saying is, I am sympathetic, and I think we ought to be looking at them.

Senator CASSIDY. Now, secondly—and I do not know this; I am asking—there is a fabricator in, I think, Montana, Wyoming, one of those States, who tells me that he bid on a project and lost to a South Korean company. The South Korean company bid $900,000 for this steel project for a replacement part for a refinery up there. But the transportation costs, according to a logistics company, would be at least $600,000. So the Korean company bid $900,000, won the bid, and you can look at that and imagine there is a subsidy of some sort, because they would have to have taken all their inputs and install it for $300,000 after you factor in the logistics.

Are we doing anything about the subsidies that are accruing to folks perhaps in terms of transportation of these major pieces of a complex——

Ambassador LIGHTHIZER. Well, I mean, I do not know about, of course, that specific case.

Senator CASSIDY. I understand.

Ambassador LIGHTHIZER. But as a general matter, yes, this administration has been very aggressive on going after subsidies. Even, I think, people who view themselves as fundamentally free traders have to acknowledge that there is nothing fair about government subsidies. That just throws the whole thing askew. It is more of a Department of Commerce issue, but we are happy to take the facts of a specific circumstance and go to the Department and have them look at it.

You know, it is complicated. Will you bring your case? Then you bring the case, and can you prove injury and the like? But directionally, you are completely right: it is a huge problem.

And I have heard stories like this over the years from time to time, and they have always been bothersome. So to the extent you have a specific one, we would like to look at it.

Senator CASSIDY. I heard earlier that it is actually Commerce who is responsible for giving the exemptions. But I will say, just so you can pass this along, that we are requiring small fabricators who make custom pieces to give a specification as to the thickness of the steel, the diameter of the pipe, et cetera, when this is a one-off.

It is not something being stamped for a car door, of which you will do a million; it is something you are doing 50 of. And the means by which you obtain an exemption is somewhat onerous.

Is it at all possible that we could allow the exemption to go to the vendor to sell their steel as opposed to the purchaser who then has to justify their purchase by giving specs which, again, are a one-off?

Ambassador LIGHTHIZER. Yes, I guess I just do not know the detail enough on that. I mean, what you are saying strikes me as reasonable, but I do not know exactly how it is set up. I am happy to look into it if you like.

Senator CASSIDY. Please. Okay, thank you.

I yield back.

The CHAIRMAN. Thank you, Senator.

We will turn to Senator Brown, who is next.

Senator BROWN. Thank you, Mr. Chairman. And happy birthday, Mr. Chairman.

The CHAIRMAN. Well, thank you so much.

Senator BROWN. It is good to be with you on your birthday.

I have a couple of comments.

And, Ambassador, welcome again, and nice to see you. And thank you for your responsiveness pretty much all the time. I appreciate that.

I want to make a few comments before I get to just really one question. First, thanks for what you are doing on NAFTA negotiations. I appreciate the new approach. You know I place a lot of importance on the labor chapter and investor-state and strong and

enforceable currency provisions. I appreciate the cooperation with your whole staff and my staff, and with you and me personally.

I have tried many times—I want to make it clear today—I have said it at the White House, I have said it to you in meetings with staff, one-on-one, that I will strongly support a NAFTA agreement if it is good for workers. I have confidence that you will achieve that goal. And if you do, I think you will see, for sure, a lot of Democratic support for a renegotiated NAFTA.

There is one thing I want to express concern about, an article on the front page of, I believe, yesterday's *New York Times.* It indicates provisions are being discussed in the NAFTA talks that would make it harder for countries to maintain food labeling standards.

I do not want to take time to ask you to confirm if the reporting is accurate, I just want to urge you to make sure that a renegotiated NAFTA does not undermine, does not make it easier to block public health measures on food labeling.

That kind of special interest, multinational, corporate agenda is what made our trade agreements so backward and so, so reviled by so many in the American public.

The second statement I want to make briefly is, I know you told the committee that Korea would be excluded from the 232 tariffs. That is troubling, given their history of unfair trade practices. There are a lot of laid-off workers in Ashtabula and Mansfield and places in between in Ohio because of their subsidized imports.

I urge you to reconsider the exclusion. And, I would appreciate if your staff would follow up with Nora and me directly on your strategy to exclude South Korea.

And lastly, I want to talk briefly about China. I applaud your decision to launch a 301 into China's theft of U.S. intellectual property. We have to reset our trade relationship with China; I think it does that.

I know you have said tariffs may be part of the remedy if the President chooses to make that decision. As you know, tariffs are one tool in your toolkit and also temporary, so they can help buy time. But the Chinese, as you know, have a long, long history, and they may look at time a little differently from how we do.

I know you are considering proposals to address Chinese investment in the U.S., which tripled between 2015 and 2016. It has gone up tenfold in the last 5 years, so we should be concerned.

I mean, I welcome Chinese investment in my State, but I have concerns sometimes about their strategies and their subsidies of land and water and energy and capital and all they do.

Senator Grassley earlier mentioned, but it is worth mentioning again, that he and I have 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 our bill is to ensure that, as we do with CFIUS in national security, that foreign investments made here are in our national economic interest. Currently, there is no legal mechanism to do that.

We want to get this bill signed into law. My question is pretty simple, Ambassador. Will you commit to working with Senator Grassley and me on our legislation as part of the section 301 rem-

edy package and as part of the administration's overall trade agenda?

Ambassador LIGHTHIZER. Yes. Yes, absolutely I will. And I think the Korea thing will not be a problem. I am happy to work with you on that also.

Senator BROWN. Okay. Thank you so much.

The CHAIRMAN. Senator Scott?

Senator SCOTT. Thank you, Mr. Chairman. And happy birthday as well. Good to be with you and Senator Brown on your birthday, which I thought was nice of him.

Ambassador Lighthizer, thank you for your responsiveness. You and I have had many conversations, and the lines of communication have been open. And I appreciate your responsiveness.

One of the reasons why having open lines of communication with you is quite important to me as a South Carolina Senator is, South Carolina has really come back to life because of our trade. We have 6,000 companies employing more than 500,000 people, exporting over $2 trillion of goods around the world.

It is critically important for our major brands, from the Boeings, the Volvos, the Mercedes, the BMWs of the world, and our farmers to connect with about 96 percent of the consumers who live outside of the country. So it is critically important for us to have open lines of communication, and you have been very responsive, and I appreciate that.

We believe that good trade policy unlocks opportunity for American families and gives us the tools necessary to make sure our trade partners play by the same rules we do.

With those thoughts in mind, I think it is important for us to understand your approach to China. Much has been said, correctly, about China's lack of commitment to world economic policies championed by the WTO. And many have been accurately critical of the U.S.–China trade relations when it comes to manufacturing, IP, and technology.

Here are my questions for you, sir. How does the administration view China's efforts to open market access to U.S. companies in other sectors, such as financial services? And how do we balance, or is it possible to increase investment flows between the two countries in those sectors while continuing to challenge negative practices in other sectors?

Ambassador LIGHTHIZER. So, first I would say it has been a pleasure working with you. And I find our close working relationship to be important in terms of us getting it right. So I am grateful. And South Carolina has to benefit from this whole process.

Senator SCOTT. Yes, sir.

Ambassador LIGHTHIZER. If you do not, then we are doing something very wrong.

In terms of this question of financial services, what the administration has to demand is reciprocity. The administration has to demand and I think will take steps to—and I will deal with you offline on this, because it is a next, very important phase of this, so it is extremely timely.

But the essence, in my opinion, of financial services, of our policy, has to be that China cannot operate in the United States on rules that are more favorable than we can operate on in China.

And financial services are important for the reasons that you say. It is jobs, and it is this, and it is that.

But far more important than that is, it is, in many cases, the vehicle by which capital is allocated. And if capital is allocated in the state-capitalist way that China would do it as opposed to the market-driven way that we would do it, we are going to have different results in terms of how the economies work out and how our resources are allocated. So financial services are extremely important.

I have dealt with people in the industry. I want to deal personally with you now that I know this is another issue that you are interested in.

And it is a whole variety of things that are related but different, as you know. But to me, the fundamental rule has to be, they get the same rules that we get, and we have to be extremely careful about how those mechanisms are used to allocate resources for the next 100 years or 50 years.

Senator SCOTT. Yes. Good. Thank you.

As you know, South Carolina has a significant trade surplus with South Korea. And I understand that you guys are on track to continue the discussions on KORUS. When do you anticipate releasing objectives for the negotiations? And do you have a time frame when you think it will be finished? And how does USTR differentiate between renegotiation and amending the agreement when seeking new asks?

Ambassador LIGHTHIZER. So this is really important. So NAFTA we are renegotiating, and we are using TPA. On KORUS, of course, we are not. The objective from the beginning was to make this an easier, simpler thing to do. There is a mechanism under that agreement that we can use and that we are using.

In terms of where the lines are drawn, if it requires changing law, we cannot do it in this agreement. So it has to be things that we can do by the terms of the agreement or things they can do themselves that do not require changes in law.

But if it requires a change in law, then you have to do TPA. Our initial objective was not to do that, because we thought it would lead to this level of uncertainty, that we would go on and on and on, because TPA, as you know, is a process that requires literally years.

So our hope is that we will make—the final part of your question—our hope is that we are making progress. I met with my counterpart, Minister Kim, yesterday, I met with him the day before; I met with him last week. So it is impossible to predict when you will end the negotiation. But it certainly is my hope that we will do it sooner. I know it is important to you.

Senator SCOTT. Okay. I look forward to continuing the conversation offline on this subject as well.

Ambassador LIGHTHIZER. Good.

Senator SCOTT. Thank you.

Ambassador LIGHTHIZER. Thank you.

Senator SCOTT. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

My partner, Senator Wyden, has a question.

Senator WYDEN. Thank you very much, Mr. Chairman. It is really a statement, and I will be just about a minute or so.

Mr. Chairman, steel and aluminum tariffs go into effect in 12 hours. Before this hearing, we knew that Canada and Mexico would be exempt from the tariffs. And the Ambassador, when I asked him about it, gave us new information that Europe, Australia, Brazil, Argentina, and South Korea would also be exempt.

I bring this up only, Mr. Chairman, to note that you and I have felt so strongly, and our colleagues on a bipartisan basis have, that real consultation means that we have to get information so as to be able to do vigorous oversight, and that means getting it certainly well in advance of this morning and 12 hours before the tariffs go into effect.

So I only make that point because I want to work with you on improving consultation.

The second point, Mr. Chairman, I want to direct to the ambassador.

Ambassador, you are a veteran of the Finance Committee, and you know that folks here have real differences of opinion. We have pretty spirited debates.

I do want to tell you, to describe a member of the committee's position, as was the case with Senator Cantwell, as nonsense is unacceptable to me, and I just believe beneath you. So I hope you will keep that in mind when you next appear before the committee.

Ambassador LIGHTHIZER. Well, I will. And I certainly did not mean that as a—I guess what I was saying is that I disagree with that problem. And "nonsense" was an inappropriate term.

Senator WYDEN. Well, I appreciate your saying that, Ambassador, because, you know, you are an alum of the committee. We have pretty vigorous debates around here, and people differ constantly. But I appreciate your saying that that was not what you wanted to say.

Ambassador LIGHTHIZER. No. I disagreed, but you are completely right.

Senator WYDEN. I appreciate your clarifying.

Mr. Chairman, I am done. Thank you.

The CHAIRMAN. Well, thank you.

Ambassador, I have to say that I have always enjoyed working with you. You are a straight-up, straight-shooting guy. You are very competent. You have a world of experience behind you. I think we are lucky to have you. I think today's hearing proves that to a degree—not as much as I know you can show.

But I think very highly of you, and we just wish you the best in working for our country. And I have no doubt that you are going to continue to do a terrific job.

So we appreciate you taking time to be with us. And I hope this has not been too painful for you.

So with that, we will recess until further notice.

[Whereupon, at 12:24 p.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 on the administration's trade agenda.

Good morning and welcome to today's hearing, during which we will discuss our Nation's trade policy agenda.

Thank you, Ambassador Lighthizer, for being here today. You were last before this committee in June of last year, and the trade agenda looks quite different now than it did then.

Let's start with the North American Free Trade Agreement.

Negotiations with Canada and Mexico began on August 16, 2017. Since then, we've seen good progress toward modernizing the agreement. In particular, I want to congratulate you on closing a strong chapter on SPS measures that would benefit American farmers and ranchers.

But many crucial issues must be addressed before the negotiations can be brought to a successful conclusion.

Your first priority should be strengthening protections for America's creators and innovators, in particular: strengthening copyright protection and enforcement provisions and creating disciplines to ensure that regulation does not undermine the market value of patented products.

It is essential that any agreement reached be fully enforceable through state-to-state and investor-state dispute settlement, and that market access gains, including in government procurement, are not weakened.

It is also important that you keep in mind that an updated NAFTA must be passed by Congress. That means that you must adhere to the negotiating objectives set out in the Trade Promotion Authority law passed in 2015, and that you deliver an agreement that will be supported by members who favor expanding trade with Canada and Mexico.

There is no other viable path to enact a modernized NAFTA.

Now, I want to change the subject a bit. Next up, I have to discuss what I consider to be a significant step in the wrong direction: the administration's imposition of steel and aluminum tariffs.

I am deeply disappointed in the decision to impose global tariffs to address a problem caused by China. Tariffs are taxes, and so I am concerned about the harm that this action will impose on American manufacturers and families. And I am astonished at the process—or in reality, the lack thereof—for implementing the tariffs so far.

Ambassador Lighthizer, you have been tasked with working with our trading partners on exemptions from the new tariffs. These tariffs are slated to take effect about 14 hours from now. There is no clarity on country exemptions, and the recently announced process for product exclusions is prolonged and unnecessarily cumbersome.

As such, I am hoping that you can make clear what is happening on this front today.

Let me turn now to an issue that is squarely within your responsibility. I am deeply concerned about Chinese mercantilist policies that disadvantage U.S. companies, restrict U.S. exports and investment, and harm American workers. From the beginning of your tenure, you have identified Chinese theft of trade secrets and the forced transfer of American technology as significant problems that must be addressed.

That is why I supported and continue to support USTR's section 301 investigation.

But, as you know, my continued support is contingent on the President choosing an appropriate remedy. That remedy should be targeted specifically at the perpetrators and beneficiaries of China's actions, and it must be part of a strategy to correct China's technology policies. I look forward to your comments on this.

Finally, I welcome the administration's decision to seek a renewal of Trade Promotion Authority. I particularly welcome the President's announcement that he would use an extension of TPA to aggressively negotiate new trade agreements.

I intend to use the extension process to get further details on your plan for expanding opportunities for American businesses overseas through new and ongoing negotiations, and to emphasize that these negotiations must be conducted consistent with the objectives set out in TPA. And I welcome any comments you have to offer on that today.

PREPARED STATEMENT OF HON. ROBERT E. LIGHTHIZER, UNITED STATES TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT

Mr. Chairman, Ranking Member Wyden, and members of this committee, thank you very much for the opportunity to testify this morning. During my time at USTR, I have benefited from many helpful and productive conversations with the members of this committee. I am grateful for your counsel and look forward to our continued engagement.

My remarks will be brief—I want to cover three major points.

First, I would like to thank the members of this committee—and the rest of the Senate—for approving three Deputies for my office and my Chief Agriculture Negotiator. This has been a long process and I am glad we are now in a position to better support your priorities and those of the President.

Second, I would draw the committee's attention to the fact that last year, the U.S. trade deficit in goods and services rose to $568 billion, and that the trade deficit in goods alone rose to $811 billion. There are, of course, many causes for the trade deficits but the President believes—and I agree—that persistent, enormous deficits to some extent reflect market distortions around the world that treat U.S. workers and businesses unfairly. We also have a massive trade deficit in goods with China—$375.2 billion last year—and large deficits with the European Union, Japan, and others.

I know that the members here have a variety of views on these figures. But we believe that they raise significant concerns. They indicate that the global rules of trade sometimes make it harder for U.S. companies to export. They can discourage U.S. investors and businesses from entering certain sectors of the global economy. Further, they indicate that in the United States, the costs of globalization are falling most heavily on workers in those parts of the economy exposed to trade. And they undermine U.S. political support for the global trading system.

Third, I would like to summarize the President's Trade Agenda, which we released recently. We are focused on five major priorities.

First, we at USTR will support the President's National Security Strategy. That means that our trade policy will help to build a stronger America, will preserve our national sovereignty, will respond to hostile economic competitors, will recognize the importance of technology, and will seek opportunities to work with other countries that share our goals.

Second, for U.S. companies and workers to be competitive in overseas markets, we need a strong and robust economy at home. The Congress has passed and Presi-

dent Trump has signed a major tax reform bill. The administration has also begun making regulatory changes that will strengthen the U.S. economy.

Third, we are negotiating trade deals that will work for Americans. As the members of this committee know well, the President has directed us to seek significant changes to NAFTA. We have already held seven rounds of talks with our partners in Canada and Mexico, and I believe that we have made a great deal of progress. I have urged our trading partners to recognize that time is short if we are to complete a deal in time for consideration by this Congress. We have also reached out to South Korea to discuss potential improvements in our free trade agreement with that country.

Now that we have a full team of deputies, we intend to aggressively pursue other potential free trade agreements. We have a trade working group in place with the United Kingdom to lay the groundwork for when they are eligible to enter into a free trade agreement following their formal exit from the European Union. We have told Japan of our desire to negotiate a free trade agreement with them. We will work closely with the committee to decide upon opportunities for potential FTAs in Africa and Southeast Asia. Given this agenda, the President will soon ask the Congress for an extension of Trade Promotion Authority until 2021. We look forward to working with you on these new deals.

Fourth, we are enforcing and defending U.S. trade laws. During the Presidential campaign of 2016, President Trump said that he would use all available tools to defend our national interest and our national security—including sections 201 and 301 of the Trade Act of 1974, and section 232 of the Trade Expansion Act of 1962. Those promises are being fulfilled—and our trading partners are on notice that the President will act when necessary to defend our national security or to address unfair trading practices that threaten U.S. jobs. We are also aggressively defending the trade laws created by Congress—including our important antidumping and countervailing duty laws—in litigation at the World Trade Organization.

Finally, we seek to reform the multilateral trading system. For too long, the WTO has failed to promote trade liberalization. Too many members remain committed to an outdated Doha Round agenda that is incapable of addressing modern issues like digital trade. Too many WTO members think that they can get their way through litigation, rather than negotiation. Perhaps most worryingly of all, the WTO has proven to be wholly inadequate to deal with China's version of a state-dominated economy that rejects market principles.

In short, USTR—under the direction of President Trump—is seeking to build a better, fairer system of global markets that will lead to higher living standards for all Americans. I am excited about our efforts, and am happy to take your questions.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. ROBERT E. LIGHTHIZER

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

Question. I welcome the President's request for an extension of Trade Promotion Authority. I am seeking your assurances that, if extended, the administration will use this authority effectively. That means negotiating new trade agreements that comply with the negotiating objectives and procedures of TPA.

What new agreements is USTR considering? And do you commit that both in negotiating these new agreements, as well as in the ongoing negotiations regarding NAFTA and KORUS, USTR will comply with the objectives set out in TPA?

Answer. USTR is currently exploring potential bilateral deals with several countries, including the UK and countries in Africa and the Indo-Pacific, in order to secure greater market access for American farmers, workers, ranchers, and businesses. As you know, USTR frequently explores these options through our Trade and Investment Framework Agreements as well as through discussions that are more informal. Before USTR begins any bilateral negotiations, we will ensure to consult closely with you and your staff and to follow the requirements outlined in TPA throughout the process.

Question. As you know, U.S. law provides for a 12-year term of regulatory data protection for biologics. Securing a result consistent with U.S. law is an important outcome for the NAFTA negotiations.

What is USTR doing to secure strong provisions on regulatory data protection for biologics?

Answer. USTR understands the critical role that intellectual property plays in incentivizing the investment in research and development necessary to bring new pharmaceutical products to patients. Through the NAFTA renegotiations, USTR is pressing for high standards on intellectual property protections for pharmaceuticals, including biologics data protection, that appropriately recognize the value of innovative medicines so that these trading partners contribute their fair share to research and development of new treatments and cures. Specifically, USTR has been pressing for a robust data protection term for biologics in the NAFTA renegotiation.

Question. As Senator Nelson and I noted in our letter to you dated April 13, 2018, the United States has the world's strongest creative industries. America's creative industries were responsible for $177 billion in U.S. exports in 2015, and provide more than 4.5 percent of all private sector jobs in the United States. Unfortunately, Canada and Mexico do not place the same value on strong intellectual property protections as the United States. It was recently said that Canada maintains third-world IP standards, which indicates there is certainly room for improvement.

Will you please share with us how you will use the NAFTA talks to strengthen, rather than create exceptions to, current copyright standards, and how you will ensure the agreement protects the value of U.S. innovation?

Answer. We are using the NAFTA talks to ensure that U.S. creators have a full and fair opportunity to use and profit from their copyrights and related rights. Ensuring strong intellectual property protection and enforcement by our trading partners is a top trade priority, including in trade negotiations. As reflected in USTR's NAFTA renegotiation objectives and our proposed text, USTR continues to "[s]eek provisions governing intellectual property rights that reflect a standard of protection similar to that found in U.S. law, including, but not limited to protections related to trademarks, patents, copyright, and related rights, undisclosed test or other data, and trade secrets."

Question. TPA requires that U.S. trade agreements include robust and enforceable dispute settlement procedures. 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 frequently violate their IP obligations. And yet, until the recent dispute against China brought under the TRIPS Agreement, the United States had not initiated an IP dispute at the WTO in over a decade.

How do you intend to use the WTO dispute settlement system to ensure that countries comply with their IP and other WTO obligations?

Answer. Consistent with the President's trade policy agenda, USTR will use all available tools, including the WTO where appropriate, to ensure that American intellectual property holders receive fair treatment in trade and win the full benefit of the economic opportunities the United States has negotiated.

Question. Services constitute the largest sector of the U.S. economy, and enhancing trade in services is vital for American economic growth. And yet, services often seem to be under-appreciated during U.S. trade policy discussions.

In the context of ongoing and future trade negotiations, how do you intend to facilitate increased trade for America's world-leading services industry?

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. USTR is pursuing robust services outcomes in the ongoing NAFTA negotiations and other ongoing bilateral efforts. We are also pursuing talks on digital trade with a group of like-minded countries at the WTO, which of course has a strong services component. USTR is also evaluating the various options available to pursue these objectives in other forums and will continue to consult with you as we chart the best course forward.

Question. In recent years, India has maintained or instituted a host of concerning trade policies, including inadequate protection of intellectual property rights, draconian price controls on medical devices, and tariff increases on technology products. Despite these policies, India continues to benefit from the United States' GSP program.

To this end, I welcomed the WTO case that USTR recently filed against India's export subsidy programs. I also was pleased that USTR initiated a review of India's GSP eligibility and accepted two GSP petitions filed by the U.S. dairy and medical device industries concerning India's market access barriers.

However, I would like to know how these actions fit into the administration's broader strategy concerning India's trade policies. Can we expect to see other actions to oppose India's unfair trade practices, either at the WTO or through other means?

Answer. USTR is focused on improving the terms of our trade relationship with India, through both enforcement and negotiation efforts. The administration's filing of a request for consultations in the WTO on export subsidies and the initiation of a review of India's GSP eligibility followed efforts over some years to engage with India both multilaterally in the WTO and bilaterally in the Trade Policy Forum (TPF). We intend to continue to address our concerns with India on a range of trade restrictive measures through the TPF and the WTO. We will also consider additional tools and points of leverage, as appropriate, to push India to make the changes needed to rebalance the bilateral trade relationship. For example, USTR just submitted the first "counter-notification" at the WTO highlighting subsidy programs that India failed to notify despite its obligation to do so.

Question. In the Trade Facilitation and Trade Enforcement Act of 2015, Congress raised the *de minimis* threshold to $800, in order to reduce the burden on U.S. businesses. USTR also established in its NAFTA specific objectives of November 7, 2017, the goal of "provid[ing] for a *de minimis* shipment value that is comparable to the U.S. *de minimis* shipment value of $800."

How does USTR intend to meet the negotiating objective of increasing the *de minimis* shipment values of Canada and Mexico?

Answer. The United States put forth very ambitious negotiating objectives for the NAFTA Customs Administration and Trade Facilitation Chapter and is seeking commitments that meet this level of ambition. Included among the objectives is a *de minimis* value comparable to what the United States offers importers, so that U.S. exporters and companies can see new job growth and increased opportunities. The United States has been a vocal proponent of Canada and Mexico raising their respective *de minimis* shipment values during the NAFTA negotiations. Unfortunately, both of our NAFTA trading partners have been unwilling to move their very low *de minimis* levels to match the United States' level.

Question. Multiple foreign governments have subjected U.S. companies to competition investigations that lack adequate due process protections. I am also concerned about the imposition by some governments of overly broad remedies. The NAFTA specific objectives of November 7, 2017, recognize the importance of establishing rules to promote due process and responsible remedies in competition policy.

What steps have been taken in the KORUS and NAFTA negotiations, and what steps have been taken in bilateral discussions with other trading partners, to pursue fair treatment of U.S. companies in competition proceedings?

Answer. The United States has long been following the developments in foreign competition authority regimes and shares the concern expressed in the question. The United States is taking several, varying steps to address the concerns that are being raised by U.S. stakeholders, as well as concerns of our own.

For example, as indicated in the November 2017 NAFTA negotiating objectives, the United States identified two key objectives related to the question above:

- Establish or affirm basic rules for procedural fairness on competition law enforcement, including by: allowing representation by counsel; recognizing privileged communications; providing for the protection of confidential and privileged information and communications; ensuring access to information necessary to prepare an adequate defense, providing an opportunity to present rebuttal evidence and cross-examine witnesses; and ensuring the resolution of competition law cases before an impartial administrative or judicial authority.
- Ensure that, in calculating a fine for a violation of a national competition law, the party considers revenue or profit relating to the party's territory or commerce. Limit remedies relating to conduct outside the party's territory to situations where there is an appropriate nexus to the party's territory.

As you know, the competition chapter in the NAFTA negotiations was closed right before the commencement of the 4th negotiating round (*i.e.,* prior to the release of

the November negotiating objectives). We cannot discuss any specifics of the text due to the confidential nature of the negotiations, but can assure you that Canada and Mexico share our commitment to these objectives, and we worked very closely with both NAFTA parties on the obligations in the text.

With Korea and other trading partners where such concerns continue to exist, we have actively and consistently engaged with the competition authorities to raise our concerns.

With Korea, we have made competition issues a priority and are continuing to engage to resolve concerns with respect to the KFTC's implementation of procedural fairness rights provided under KORUS.

QUESTIONS SUBMITTED BY HON. PAT ROBERTS

Question. Over a year ago, the administration withdrew from the Trans-Pacific Partnership (TPP) negotiations. Recently, the remaining 11 countries moved forward and signed an agreement. In the absence of a free trade agreement in the same region, the United States will miss opportunities to expand and explore trade with Pacific Rim countries. Last year, during the USTR trade agenda hearing, you expressed interest in working with Asia-Pacific countries on a bilateral basis to export U.S. agriculture products. However, over the last year, we have not seen much progress on this front.

During the House Ways and Means Trade Agenda hearing, you stated you planned to task Deputy USTR Gerrish with "thoroughly studying" countries that would be good candidates for trade negotiations. What criteria do you plan to use to make these determinations and what is your timeline for concluding this study?

Answer. The President understands that strong relationships with the countries in the Indo-Pacific region are economically and strategically important to the United States. With regard to possible FTAs in the region, we are engaging with countries who are interested in concluding agreements on terms that will lead to free, fair, and reciprocal trade and significantly improved market outcomes for U.S. companies, workers, farmers, and ranchers. My Deputy USTR, Jeff Gerrish, is traveling to the region next week to meet with trade officials in Vietnam and the Philippines, and he will also be working with trade officials from several countries in the region at the APEC ministerial meetings. I have another team that just returned from Japan, where they pressed the need to engage in FTA discussions. USTR will continue to consult with Congress and stakeholders as we contemplate next steps.

Question. In March, President Trump announced global tariffs on imports of steel and aluminum based on national security concerns. The President's proclamation provided an opportunity for our national security allies to work with the United States to address oversupply and potentially remove or modify tariffs if an agreement is reached.

What details can you share about the process and procedure USTR uses to determine country specific national security exclusions? Also, does USTR plan to consult with our national security agencies to identify the United States' ongoing security relationships?

Answer. The President's proclamations note that he may remove or modify the tariffs he has imposed pursuant to section 232 of the Trade Expansion Act of 1962, as amended, where he determines that the United States and a country with which we have a security relationship have arrived at satisfactory alternative means to address the threat to the national security caused by imports from that country, such that the President determines that imports from that country no longer threaten to impair the national security. There has also been an interagency process regarding security relationships in the section 232 context, which has included our national security agencies. USTR is advising the President with respect to matters within our expertise, but the President will make any determination about whether to remove or modify the tariffs for individual countries.

Question. President Trump, along with USTR and others in the administration, took steps early on towards increasing exports to China including historic beef and rice access, agreements on biotechnology, and continued enforcement action on Chinese subsidies and tariff rate quotas (TRQs) on certain agricultural products. Much of this activity stemmed from the U.S. China Comprehensive Economic Dialogue.

Since this dialogue, what has been the universe of bilateral engagement with China? Moving forward, what opportunities will the United States have to build on the early progress and engage with China to eliminate barriers to trade, particularly for the agriculture sector?

Answer. As explained more fully in USTR's 2017 Report to Congress on China's WTO compliance, the administration carefully reviewed the past 15 years of the United States' formal high-level trade dialogues with China, including the U.S.-China Comprehensive Economic Dialogue. The administration found that these dialogues did not lead to fundamental changes in China's trade, investment, and intellectual property rights regimes, but rather incremental and incomplete changes to Chinese policies and practices that it repeatedly failed to fulfill. Currently, despite the absence of a formal high-level dialogue, the administration is communicating with China about the systemic problems that have given rise to enforcement actions such as USTR's section 301 investigation and the types of steps that China needs to take, including on a wide range of agricultural matters, to make the U.S.-China trade relationship fair, balanced, and reciprocal.

Question. I have been pleased to hear that progress has been made in moving towards a modernized and strengthened NAFTA agreement. Now that seven rounds of negotiations have been completed, I hope that we continue to build momentum and work quickly to finalize a new agreement. Continued progress on issues like Canada dairy access could go a long way in helping our producers who have recently been in a rough patch.

What is your assessment of the NAFTA negotiations, and how can we continue to move full speed ahead towards finalizing a strong agreement so that the United States can continue to aggressively pursue new market opportunities around the world?

Answer. Renegotiating NAFTA remains a top priority of the Trump administration. Since early March, we have been negotiating on a more or less continuous basis. Technical experts have been holding discussions in all remaining area, and I have been in regular communication with my Canadian and Mexican counterparts on key U.S. priorities. We are making good progress, but as always, as you approach the end the most difficult issues must be addressed. Dairy in particular has been a difficult issue, but USTR has set out ambitious negotiating objectives in that regard.

QUESTIONS SUBMITTED BY HON. JOHN CORNYN

Question. For decades, U.S. trade and investment agreements have provided for neutral arbitration to resolve investment disputes. Yet despite this precedent, and also despite the fact that Trade Promotion Authority requires the administration to pursue FTA's with ISDS like protections, the U.S. negotiators have advocated to eliminate ISDS completely. ISDS is an essential enforcement mechanism for investor protections and must be maintained rather than weakened or abandoned. Robust ISDS protections are absolutely critical to the energy sector in my State.

Why is USTR insistent on eliminating ISDS from an updated agreement when TPA clearly shows Congress's support for it?

Answer. The administration is committed to pursuing an outcome in the NAFTA negotiations that puts the interests of American farmers, ranchers, businesses, and workers first. The administration is advocating for a flexible, opt-in approach to ISDS in the NAFTA that safeguards U.S. sovereignty and avoids incentivizing the off-shoring of U.S. jobs and manufacturing. Robust and modern investment protections will continue to be available for U.S. investors in Mexico and Canada through state-to-state dispute settlement mechanisms, just like it is for all other enforceable obligations in NAFTA. I look forward to continuing to work with the Congress on this issue, consistent with the broad negotiating objectives on investment protections set forth in the 2015 Trade Promotion Authority legislation.

Question. The President has made it clear that addressing our trade deficits with certain countries are the top priority, particularly with regard to NAFTA. There is a clear dispute about whether trade deficits are the right way to measure productive economic activity and jobs growth. Regardless of which side you land on that debate, it is a fact that the United States has a services surplus with both Mexico and Canada.

What aspects of the NAFTA negotiations do you think will best preserve and grow the United States services success story?

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. USTR is pursuing robust services outcomes in the ongoing NAFTA negotiations and other ongoing bilateral efforts. These include the highest possible standards for market access and non-discriminatory treatment; targeted commitments in important sectors like telecommunications, financial services, and delivery services; and robust digital trade obligations that will support the growth and prosperity of the U.S. service sector.

Question. One of the most important issues for Texas's agriculture sector is market access. I hear on a regular basis from Texas farmers of their desire to see the U.S. actively pursue new trade agreements with key trading partners in Asia. Our dairy, beef, and cotton growers need this in order to stay competitive in those priority markets as their competitors from the EU, Oceania, and elsewhere negotiate new deals. At the top of that list is Japan and Vietnam, but others in Asia such as allies in Southeast Asia would make good partners as well.

Will the administration move forward with the bilateral trade deals in Asia that it has promised to pursue?

Answer. Yes. The United States will continue to lead in the Indo-Pacific region by building our trade relationships with countries bilaterally and through our engagements with APEC and ASEAN. Concerning FTAs with nations in Southeast Asia, the President has expressed the willingness of the United States to engage with interested countries on terms that will lead to free, fair, and reciprocal trade and significantly improved market outcomes for U.S. companies, workers, farmers, and ranchers. My Deputy is visiting the region next week to speak with trade officials to explore the possibility of beginning talks for such deals.

Regarding Japan specifically, President Trump recently confirmed his interest in negotiating a bilateral trade deal in his meeting with Prime Minister Abe. Both leaders agreed to intensify U.S.–Japan trade and investment consultations, which USTR is leading. In fact, a USTR team just returned from Japan last week, where they discussed the scope of discussions with Japan and pressed them on the need to begin work on a bilateral FTA.

Question. I am highly concerned at China's concerted effort to vacuum up dual-use technologies, many of which have direct military applications. In some ways, China has weaponized investment to evade the current CFIUS process, circumventing review and gaining access to sensitive technologies. I have been working on legislation to modernize CFIUS so that it can review certain types of transactions it currently cannot.

Do you agree that we should take a look at the current CFIUS statute and make sure that CFIUS can handle these additional types of transactions that may have national security impacts?

Are you concerned that China has weaponized investment to evade national security review?

Answer. I agree on both counts. CFIUS only reviews a fraction of proposed foreign investment in the United States, and some transactions that are outside the current scope of CFIUS authorities do raise national security concerns. Further, certain transactions—including transactions involving China-based acquirers—may be deliberately structured to evade CFIUS jurisdiction. Through the Department of Treasury, as Chair of CFIUS, USTR has been actively engaged with your staff and others in Congress to modernize CFIUS so that it can review certain types of transactions that are currently outside its jurisdiction. In January, the administration voiced support for the Foreign Investment Risk Review Modernization Act (FIRRMA), which you sponsored, noting that the bill would protect national security and preserve the longstanding U.S. open investment policy.

QUESTIONS SUBMITTED BY HON. JOHN THUNE

Question. A significant amount of the grain exported from my State of South Dakota goes through ports in the Pacific Northwest to Asian buyers. Countries like Japan and South Korea are among our most active and loyal customers of U.S. corn

and other grains, and countries in Southeast Asia are among the fastest-growing feed-grain markets in the world.

How is the administration working to maintain and build on the relationships we have with key Asian countries?

Answer. As the President stated at the APEC summit in Vietnam last November, the United States is working to establish a new and stronger partnership with the Indo-Pacific region. We see tremendous opportunities in the region to deepen our trade ties, enhance economic and job growth, remove barriers to goods and services, and expand U.S. exports. The United States will continue to lead in this important region by working to combat unfair trade practices and by building our trade relationships with countries bilaterally and through our engagements with APEC and ASEAN, including through free, fair, and reciprocal bilateral trade deals. We just completed an agreement in principle with Korea to update KORUS which preserved agricultural market access for U.S. farmers. Regarding Japan, President Trump recently confirmed his interest in negotiating a bilateral trade deal in his meeting with Prime Minister Abe. Both leaders agreed to intensify U.S.–Japan trade and investment consultations, which USTR is leading. USTR had a team in Japan just last week to move talks forward and encourage the negotiation of a bilateral FTA.

Question. The farm economy has been struggling with low commodity prices—farm income is down 50 percent compared to 2013 and crop prices are down 40 percent in just the last 5 years. Farmers are very concerned that the administration's current trade policies could cause retaliation by the United States' largest trading partners, kneecapping prices received by our producers and further hurting the already depressed farm economy. We should be seeking additional trade opportunities to support rural America and the rural economy, not jeopardizing agriculture's export markets.

What is the administration doing to increase agricultural exports?

Answer. USTR is working closely with USDA to address a number of bilateral issues that block or impede exports of U.S. agricultural products. With regard to possible new trade agreements, we are open to engaging with countries who are ready to conclude agreements on terms that will lead to free, fair, and reciprocal trade and significantly improved market outcomes for U.S. companies, workers, farmers and ranchers. USTR will continue to consult with Congress and stakeholders as we contemplate next steps. At the same time, USTR will support the President's agenda by using strong enforcement tools to eliminate unfair trade practices that affected U.S. exporters, including our farmers.

Question. I appreciate the administration's focus on the negative economic impact of China's industrial policies, forced technology transfer, intellectual property theft, and unfair trade practices. However, the administration's proposed tariffs in response to these practices raise significant concerns. By some estimates, tariffs the range proposes by the administration would wipe out over a third of the benefit that American families are now seeing from the tax-reform legislation that took effect at the start of this year. We cannot afford to jeopardize that positive economic result with a destructive trade war that would create serious consequences for U.S. economic growth and job creation.

Has the administration taken into account the negative, offsetting effects this action would have with respect to tax reform and other options exist for dealing with China that do not endanger the livelihood of America's consumers, businesses, and farmers?

Answer. On a long-term basis, the United States simply cannot afford to let China illicitly obtain the crown jewels of our economy, our intellectual property. The proposed list of products that may be subject to tariffs was based on an extensive interagency economic analysis that targeted products that benefit from China's industrial plans while minimizing the impact on the U.S. economy and consumers, taking into account alternative country sources for each product. The list is not final, and interested parties, including businesses, have an opportunity to provide public comment on the proposed list and appear at a public hearing.

Question. As I know you are aware, there is strong support among the members of this committee for retention of an investor-state dispute settlement (ISDS) mechanism in the updated NAFTA agreement. I've been concerned by reports that USTR continues to advocate for weakening the ISDS option in chapter 11 of NAFTA by making it optional for any of the three countries to join it. The history of this provision demonstrates that ISDS is important to U.S. companies, and that it is not a

threat to U.S. sovereignty since its panels cannot alter U.S. law or regulations. U.S. companies have used ISDS 40 times under NAFTA, and have prevailed in 11 cases and settled the others on favorable terms. Moreover, the United States has won all of the NAFTA ISDS cases brought against it—20 in all.

Why is USTR continuing to target ISDS when weakening or eliminating it will cost significant support from the business groups, like the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, and their member companies, which it is intended to benefit, as well as so many members of Congress who have clearly expressed our support for this provision in the updated NAFTA agreement?

Answer. The administration is committed to pursuing an outcome in the NAFTA negotiations that puts the interests of American farmers, ranchers, businesses, and workers first. The administration is advocating for a flexible, opt-in approach to ISDS in the NAFTA that safeguards U.S. sovereignty and avoids incentivizing the off-shoring of U.S. jobs and manufacturing. NAFTA will of course cover a broad range of strong, modern investment protections which can be enforced through state-to-state dispute settlement just like other obligations in the agreement. I look forward to continuing to work with the Congress on this issue, consistent with the negotiating objectives set forth in the 2015 Trade Promotion Authority legislation.

Question. De minimis thresholds are increasingly important to small e-commerce businesses that leverage the Internet to sell low-value items to customers across the globe, but do not have the resources to manage complex customs regimes. Unfortunately, both Canada and Mexico continue to erect customs and trade facilitation barriers that limit the success of Internet-enabled goods exporters, many that ship small, low-value packages. Canada has a $20 CAD customs *de minimis* threshold and Mexico has a $50 threshold—both of which stand in stark contrast to the United States' $800 threshold, which I worked to increase in the Trade Facilitation and Trade Enforcement Act. Mexico also has proposed changes to eliminate streamlined customs procedures to disadvantage U.S. e-commerce companies exporting to Mexico. USTR has committed to seeking parity with Mexico and Canada on *de minimis* in the renegotiations of NAFTA.

What progress has been made on *de minimis* thresholds in the negotiations?

Answer. The United States has been a vocal proponent of Canada and Mexico raising their respective *de minimis* shipment values during the NAFTA negotiations, and has worked closely with U.S. stakeholders on this matter. We are aware this is a highly sensitive issue in both Canada and Mexico, but it is a very important issue to the United States. I have personally pushed this issue with my counterparts, but we have seen no appetite in either Mexico or Canada to adjust their levels upward.

Question. How is USTR engaging with other countries in raising their *de minimis* levels so that U.S. goods shipped abroad can receive parity?

Answer. The United States engages in all forums to advocate for countries to raise their *de minimis* levels. This advocacy includes work in APEC, the World Customs Organization, the World Trade Organization, and raising *de minimis* levels to help American competitiveness is an objective in bilateral initiatives, including trade and investment frameworks.

Question. American innovation and intellectual property support more than 45 million U.S. jobs in manufacturing, agriculture, entertainment, high tech, and beyond. America's ability to support and grow those jobs depends on our ability to protect intellectual property in the United States and abroad.

Answer. What approach is USTR taking in the NAFTA negotiations to ensure that intellectual property protections are strengthened?

Answer. We are using the NAFTA talks to ensure that U.S. right holders have a full and fair opportunity to use and profit from their intellectual property rights in Canada and Mexico. As reflected in USTR's NAFTA renegotiation objectives, USTR continues to "[s]eek provisions governing intellectual property rights that reflect a standard of protection similar to that found in U.S. law, including, but not limited to protections related to trademarks, patents, copyright, and related rights (including, as appropriate, exceptions and limitations), undisclosed test or other data, and trade secrets." Unfortunately, our trading partners have been unwilling to fully commit to improving their intellectual property regimes.

Question. What steps are you taking to see that the IP chapter is given the top priority it deserves?

Answer. We tabled an ambitious text and we have pushed strong intellectual property protections in the IP chapter at all levels—from USTR professional staff right up to my personal interventions with my counterparts in Mexico and Canada. USTR is seeking robust commitments for IP protection and enforcement that update and modernize the IP Chapter of NAFTA consistent with the Trump administration's commitment to ensuring strong intellectual property protection and enforcement.

QUESTIONS SUBMITTED BY HON. RICHARD BURR

Question. I appreciate USTR's work on the section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. China's violations of trade laws have disadvantaged many U.S. businesses and workers, and I share the desire to see actions taken to ensure that U.S. companies are able to compete freely and fairly in China.

Going forward, it is my hope that as negotiations occur with China to address the issues identified, USTR will make every effort to ensure that there are not unintended consequences, such as the retaliation of North Carolina's agriculture exports. Can you assure me this will be the case?

Answer. Our goal is to maximize pressure on China to change its behavior while minimizing any negative effects on American businesses, including those in agriculture. Economies around the world—including China's domestic economy—will benefit if China responds by making needed reforms to its trade distortive policies, instead of adopting new and harmful policies to block trade and distort world markets.

We note that China has historically put unfair limits on U.S. exports of competitive, high-quality agricultural products through a variety of policies. The Trump administration is committed to vigorous enforcement to defend the interests of America's farmers and ranchers. As we take a stronger approach to the way we handle trade, we will use all of our authorities to ensure that we protect and expand our agricultural interests.

Question. In December 2017, Senator Tillis and I wrote to you regarding Colombia's reference price system that poses a significant barrier to the entry of value-added textile products made from U.S.-grown cotton and U.S.-spun yard. The system, in place since 2013, results in the application of a value added tax that is higher than the actual value of the merchandise, and additional decrees since then have made the prospect of importing goods with U.S. content into Colombia even more onerous.

Will you commit to working to resolve this issue and raising it in the appropriate venues for discussion with the Colombians?

Answer. The Office of the U.S. Trade Representative has been closely following the Colombian Government's developments on this issue since it was first brought to our attention a few years ago. Since Colombia introduced its new measure on reference pricing earlier this year, USTR has been working with colleagues at the Departments of Commerce and State to collect additional information on the directive and its application. We have been regularly raising the issue with Colombian authorities and will continue to do so.

QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON

Question. Your testimony mentions the groundwork being laid to enter into bilateral agreements with the UK, Japan, and countries in Africa and Southeast Asia.

Now that you have your Deputies, what is the timeline for following through on these intentions, especially with Japan?

Answer. With respect to the UK, the UK cannot formally negotiate and sign trade agreements with non-EU countries until it has exited the EU (commonly known as Brexit), which is scheduled to take place on March 29, 2019. In July 2017, UK Secretary of State for International Trade Dr. Liam Fox and I established a U.S.–UK Trade and Investment Working Group in order to deepen our current trade relation-

ship and to lay the groundwork for a potential future free trade agreement once the UK has left the EU. That working group is continuing to meet regularly with the last meetings held in March 2018 in Washington and the next meetings to be held this summer in London.

With respect to Japan, President Trump recently confirmed his interest in negotiating a bilateral trade deal in his meeting with Prime Minister Abe. Both leaders agreed to intensify U.S.–Japan trade and investment consultations, which USTR is leading. A USTR team just returned from Japan, where we discussed the scope of talks and pressed them on negotiating a bilateral trade agreement.

With respect to bilateral deals with Africa and Southeast Asia, we are in the process of identifying potential partners who are ready to enter into exploratory talks regarding free, fair, and reciprocal arrangements, so it would be premature to signal a timeline.

Question. How does Japan's participation in the Comprehensive Trans-Pacific Partnership affect our ability to negotiate a bilateral agreement with a key Pacific ally?

Answer. Both Japan and the United States have many existing trade agreements with other countries. A U.S.–Japan bilateral trade deal is the preferred approach and views such a deal as an opportunity to improve upon some of the major concerns with, and shortcomings of, the CPTPP agreement. The United States was by far the largest economy—and Japan was the second largest economy—among the TPP countries, and it makes sense for the United States and Japan to have a bilateral trade agreement.

Question. I appreciate your announcement about finding an African country to enter into a bilateral trade agreement. While I am excited about this opportunity, I am concerned that we could be missing opportunities to expand markets for not only American goods, but also our services, if we only pursue bilateral agreements.

Given regional economic integration, such as ECOWAS, the South African Customs Union and the East African Community, how do these efforts throughout sub-Saharan Africa affect our ability to negotiate bilateral agreements in a region where I fear we may be behind other competitors, such as China and the EU?

Answer. The United States has expressed an interest in pursuing deeper trade ties on the continent that go beyond the unilateral preferences offered by AGOA. Our vision is to begin by establishing a model with an African partner on a bilateral basis that we can then expand to other partners in the region. We have the opportunity to explore such a model agreement and ways it can help strengthen African regional integration and expand our two-way trade relationship in both goods and services.

Question. Just like the President and our allies, I share your concerns about China's unfair trade practices. I believe that coordinated and concerted action against China is the only way to get them to change their behavior. Unilateral action from the United States will just lead to China redirecting its trade to other countries—on top of what they are already doing.

What discussions have you had with our allies and partners?

Do they agree with our assessment? And are they willing to take simultaneous, coordinated action?

Answer. Most of our allies and trade partners share the same concerns about China's state-driven, mercantilist policies on trade and technology transfer.

Many countries also agree that China continues to game the WTO's international rules-based trading system and the openness of our economies in ways that threaten all of our economies and our long-term competitiveness.

In addition, we have maintained a sustained engagement effort with our allies and other like-minded countries in confronting China.

- Through a series of high-level meetings, we continue to work closely with Japan and the European Union to ensure that WTO members maintain their rights to use non-market economy methodologies in antidumping proceedings in order to curb China's distortive economic behavior.
- During the WTO Ministerial Meeting in Argentina last December, the EU Trade Commissioner, the Japanese Trade Minister and the U.S. Trade Representative issued a joint statement recognizing that "forced technology trans-

fer" threatens the proper functioning of international trade, the creation of innovative technologies, and sustainable growth of the global economy. Together, we agreed to enhance trilateral cooperation in the WTO and in other fora to address this and other critical trade concerns.

Earlier this year, the EU Trade Commissioner, the Japanese Trade Minister and the U.S. Trade Representative underscored "their shared objective to address non market-oriented policies and practices."

QUESTIONS SUBMITTED BY HON. ROB PORTMAN

Question. As part of our World Trade Organization (WTO) commitments, the United States bound its tariff rates. Because of this, I am concerned that the proposed tariffs on Chinese goods violates WTO rules.

Do you believe that these tariffs violate WTO commitments, and if not, why?

Answer. China's behavior has been undermining the global trading system and the WTO for years, using its protected market to force technology transfers and by acquiring leading technology companies overseas. Mercantilist trade policies, like China's Made in China 2025 initiative, clearly state that China seeks to take away domestic and international market share from foreigners, in defiance of global norms. The world's second-largest economy should not continue to ignore fundamental precepts of the global trading system.

The administration has been clear from the outset that most of China's policies covered by the investigation cannot be addressed under WTO rules. Further, we have made clear that if and when we determined that a particular aspect of China's trade distorting technology transfer policies could be addressed through WTO dispute settlement, we would pursue that option.

Indeed, one of the matters covered in the investigation—technology licensing requirements—does appear to be inconsistent with China's WTO obligations. Accordingly, USTR has initiated formal dispute settlement on this issue.

Question. China's behavior is a threat to the multilateral trading system. However, since the WTO is a consensus body it will be difficult to change rules, make reforms, and update agreements to correct China's behavior.

What is your strategy for WTO reform both broadly for the world, and specifically in regards to China?

Answer. The United States is focusing on three areas of reform: dispute settlement, monitoring and implementation, and development.

On dispute settlement, we are seizing on the opportunity to have a serious discussion about the failure of the WTO Appellate Body to follow and apply WTO rules, which undermines the functioning of the rules-based trading system, and about the need for members of the WTO to exercise their authority appropriately to manage the WTO's dispute settlement system. These discussions are critical if WTO dispute settlement is to assist in addressing the systemic distortions caused by China's nonmarket economy.

On monitoring and implementation, the United States has been providing leadership on the issue of notifications and transparency in order to correct a substantial shortcoming in the functioning of the WTO. In contrast, China's economic and trading system continues to be opaque and its record on transparency in the WTO continues to be a concern for many WTO members.

Finally, we see scope for a serious look at how we incorporate development issues into WTO work. These issues touch on core questions of how WTO members evaluate the relationships between trade rules, market opening, and prospects for economic expansion and development. China is at the heart of this paradigm and, in our view, should be treated as the global trader and producer that it is—and not like developing countries who do not compete on the same level.

Question. What steps have been taken pursuant to this strategy?

Answer. I have personally engaged with my counterparts from dozens of countries on these issues. At the December 2011 WTO Ministerial Conference, we received quite a bit of support and agreement from other countries. Discussions on each of these areas of reform are ongoing in Geneva, with the understanding that consensus

views take considerable time and considerable effort to establish. However, the United States views this hard work as necessary to keep the WTO relevant.

Question. During the time that you have to receive feedback and finalize the tariff list, do you—and others in the administration—plan to begin negotiating with China during that time?

Will those negotiations focus on addressing specific practices by China?

If so, what will those specific practices be? The end of joint venture requirements? The cessation of all distortive practices for certain priority sectors or the end to a handful of distortive practices across all sectors?

Answer. The administration has been clear about its concerns with China's unfair trade practices. There is a wide range of such practices, including those applicable to U.S. farmers, manufacturers, and service providers, and many have been problematic for years despite prior promises. For the 301 investigation, USTR looked into China's market-distorting forced technology transfers, theft of intellectual property, cyber-intrusions of U.S. commercial networks, and China's failure to abide by its WTO obligations. We are looking for fundamental change from China, including—but not limited to—the possible solutions you have highlighted.

Under section 301 of the Trade Act of 1974, USTR conducted an open and exhaustive investigation and determined that China's unfair trade practices harm America's economy. The administration has also identified specific programs that China needs to address. These are identified in numerous reports, including USTR's report on China's compliance at the World Trade Organization, USTR's Special 301 Report, and the Department of Commerce's determination that China remains a non-market economy.

The administration has been and continues to be open to hear what steps China will take to address these critical concerns. As you may know, a delegation comprised of Ambassador Lighthizer, Secretary Mnuchin, Secretary Ross, and other senior administration officials traveled to China on May 2nd to meet with Chinese counterparts to discuss these issues. We are meeting again this week in Washington.

Question. Data from the Department of Commerce, shows that in 2016 foreign students attending U.S. institutions of higher education spent $39.4 billion in foreign funds on U.S. services. In other words, a $39.4 billion export that reduces the trade deficit. Do you support restrictions on student visas for Chinese students studying in the United States as part of the section 301 remedy?

Answer. USTR is not managing any section 301 responsive actions involving visas. We would refer you to the Department of State for general questions about U.S. visa policy.

Question. I know that there is still interest in beginning to negotiate a Free Trade Agreement (FTA) with an African country. I think this would be a helpful bulwark against China. What are you doing to identify such a country and what qualities, features, and conditions are you looking for when it comes to identifying ideal future trading partners both in Africa and other parts of the world?

Answer. The administration is still at an early stage of identifying a potential African partner with which to negotiate a free trade agreement. We would first engage in exploratory talks to clarify mutual expectations as well as consultations with Congress. We are in the process of defining the range of criteria for selecting an African negotiating counterpart, and we welcome your views. The advantage of such an FTA to the United States would be to ensure free, fair, and reciprocal access to a growing African market, and for the African partner it would represent an important opportunity to build on the successes of the African Growth and Opportunity Act.

QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

Question. I remain concerned that the administration's trade agenda is centered on reducing the U.S. trade deficit, which fails to provide an accurate measure of a country's economic health. The United States has experienced its largest trade deficits when manufacturing output was highest and unemployment low. When the economy is growing and Americans have more disposable income, consumers can purchase more goods and services from both domestic and foreign sources, which will inevitably increase the trade deficit. Last year, the U.S. trade deficit increased

12 percent compared to 2016, yet our economy experienced tremendous growth and saw the unemployment rate drop to 4.4 percent, the lowest level since 2000. It would be unwise for USTR to jeopardize these economic gains by implementing policies that restrict imports and increase prices for American consumers and businesses.

How do you rationalize strong growth in the U.S. economy last year, despite the United States incurring a higher trade deficit with its trading partners?

Answer. The President is concerned about trade deficits, especially since some of our trading partners have enormous surpluses and have simultaneously sustained high growth rates. The administration has made reducing trade deficits a priority given that they are evidence, among other things, of unfair trade practices by our trading partners. Reducing trade barriers and increasing our exports is a major priority. Insomuch as barriers are reduced and U.S. exports increase, it will further benefit our economy.

Question. As you and your team strive to complete the NAFTA renegotiations, I urge you to continue advocating for stronger intellectual property protections and greater access to Canada's dairy market. I also have concerns about including a sunset provision in the revised agreement. To my understanding, under your proposal, NAFTA would automatically terminate after 5 years unless the member nations agree to continue the agreement for another 5 year term. This framework would reduce investment in the United States, both domestically and from abroad, and would immediately curtail U.S. exports. Businesses need to plain their supply chains well beyond a 5 year time horizon and would move production and sourcing locations outside of North America if such a sunset provision were included in the finalized agreement.

If the administration believes that it has the unilateral authority to withdraw from NAFTA, why is USTR also advocating for a sunset provision, which will risk investment in and exports from the United States?

Answer. All of our trading relationships should be frequently reviewed to ensure that they continue to serve the interest of the American people. The proposed performance review mechanism will achieve this goal. Constant scrutiny of these agreements is necessary to ensure that they serve our interests, and the traditional withdrawal mechanism has not provided an incentive for parties to keep the agreement beneficial to Americans. This is why, in the NAFTA, the administration is seeking to provide a mechanism to ensure that the parties assess the benefits of the agreement on a periodic basis. There is no evidence that the performance review provision would have an adverse impact on the United States. Indeed, the U.S. economy, which is the largest in the world and dwarfs those of Canada and Mexico, has boomed during the renegotiation of NAFTA and will continue to be the destination of choice for investors.

QUESTIONS SUBMITTED BY HON. DEAN HELLER

Question. As a strong proponent of an all-of-the-above energy policy, I have long championed using the best in conventional and alternative energy technologies to deliver the greatest possible savings to Nevada's consumers. In a place like Nevada, where we're blessed with an abundance of sunshine, alternative energy necessarily includes solar, and that means thousands of solar jobs. In fact, more than 6,500 Nevadans work for the over 120 solar companies, including 15 manufacturers, that operate in our State.

While I commend the President on his efforts to strengthen the economy and protect American jobs, I believe we must always closely examine our trade policies, including the recent solar tariffs, to ensure they are having the intended effect.

Based on your preliminary analysis, what has the net impact of these tariffs been on solar jobs in this country?

Answer. Under section 201 of the Trade Act of 1974, when the U.S. International Trade Commission (ITC) reaches an affirmative determination of serious injury, the Trade Policy Committee (TPC), chaired by the USTR, reviews any recommendations made by the ITC, public comments, and testimony delivered in relation to the public hearing to develop a recommendation for the President. The TPC's recommendation considers all relevant facts related to the case, including the impact a given action may have on solar jobs, and develops an appropriate and feasible recommendation for action within the President's authority. This process also includes the consider-

ation of the extent to which the adjustment of such workers may be facilitated by existing programs. Accordingly, the statute requires the President to take into account a cost-benefit analysis that any action will have greater economic and social benefit than harm.

Section 204(a) of the Trade Act of 1974 requires the ITC to "monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition." The statute then requires the ITC to report the results of its monitoring to the President no later than halfway through the initial period the safeguard measure is scheduled to be in place. The administration will carefully review that report when it arrives.

Although the administration is not monitoring developments, we note that a number of foreign and domestic companies have announced or continued with plans to open manufacturing facilities in the United States for the production of solar cells or modules. The planned facilities would increase the number of U.S. manufacturing jobs in the solar industry and help maintain levels of employment elsewhere within the industry.

Question. Tariffs can be a blunt instrument and oftentimes must be tailored to maximize their benefit. In the case of solar, the President thoughtfully included an exclusion process for products that are not made in the United States.

Will you commit to meeting with a group of stakeholders whose companies have significant investment planned in my home State of Nevada to ensure these solar tariffs capture all relevant nuances?

Answer. Following the President's decision on solar products, USTR announced an opportunity for companies to request product exclusions from the safeguard. On February 14, 2018, USTR issued a Federal Register notice providing for a public comment period that concluded on April 16th. USTR is currently in the process of reviewing the requests that we have received, and will meet with stakeholders as appropriate to implement the President's proclamation.

QUESTIONS SUBMITTED BY HON. RON WYDEN

CHINA IP/TECH TRANSFER (SECTION 301 INVESTIGATION)

Question. Some administration officials have stated that the United States is currently negotiating or that it intends to enter into negotiations with China to address the concerns identified in USTR's section 301 determination.

Is the administration currently discussing with China the issues identified in the section 301 determination, and if so, which U.S. agency or agencies are leading those discussions?

Has the administration requested that China modify laws, regulations, or other measures relating to the section 301 determination since that determination was issued and if so, which measures?

Answer. The administration has been clear about its concerns with China's unfair trade practices. These practices include China's market-distorting forced technology transfers, theft of intellectual property, cyber intrusions of U.S. commercial networks, and China's failure to abide by its WTO obligations..

Under section 301 of the Trade Act of 1974, USTR conducted an exhaustive investigation and determined that China's unfair trade practices harm America's economy and published a detailed report on related policies. In addition, the administration has identified very specific programs that China needs to address. These are identified in numerous reports, including USTR's report on China's compliance at the World Trade Organization and the Department of Commerce's determination that China remains a non-market economy.

The President hopes that China will take concrete action to address its unfair policies and practices such as distorting markets, forcing technology transfer, and stealing technology. China must also finally follow through on commitments to lower its barriers to U.S. exports and cease its WTO-inconsistent behavior.

If China takes these actions, trade between the United States and China will be more free, fair, and reciprocal. The United States will finally be able to export more products to China and the trade deficit will narrow.

The administration has been and continues to be open to hear what steps China will take to address these critical concerns. As you may know, a delegation comprised of Ambassador Lighthizer, Secretary Mnuchin, Secretary Ross and other senior administration officials traveled to China on May 2nd to meet with Chinese counterparts to discuss these issues. The administration will continue to be open to China's views on how to change its unfair trade practices.

STEEL AND ALUMINUM (SECTION 232 INVESTIGATIONS)

Question. Which countries have requested exemptions from the steel and aluminum tariffs imposed under section 232?

Of the countries listed, with which ones is the administration currently negotiating a possible exemption? For each, please identify the lead administration official responsible for the negotiation.

Please list the criteria the administration is using in the negotiations to determine whether to exempt countries from the steel and aluminum tariffs

Beyond the section 232 proceedings, what is the administration's strategy for addressing global overcapacity in steel and aluminum?

With respect to the quota agreement recently announced with Korea, what product categories will be used to set product specific quotas? How will the agreement be enforced, and what steps is the administration taking to ensure that the agreement does not incentivize increased imports of specialty or high value products?

Answer. The President's proclamations identify countries with which the United States is engaged in discussions on satisfactory alternative means to address the threatened impairment to the national security caused by imports of steel and aluminum. The Department of Commerce is leading discussions with the European Union, on behalf of its member countries; USTR is leading discussions with the other identified countries.

The President's proclamations identify the criteria for determining whether to exempt a country from the tariffs the President proclaimed pursuant to section 232 of the Trade Expansion Act of 1962, as amended. These criteria are whether the United States has a security relationship with a country, and whether the United States and that country can arrive at satisfactory alternative means for addressing the threatened impairment to the national security caused by imports from that country.

In proclaiming the tariffs, the President recognized that certain countries share our concern about global excess capacity in the steel and aluminum sectors, a situation that is contributing to the threatened impairment of U.S. national security. We continue to work with willing partners to address the root causes of this excess capacity, including through cooperation in relevant international fora.

An annex to the President's April 30, 2018 steel proclamation identifies the product categories to which the quota on steel articles from the Republic of Korea will apply. Further information on the quota, including as regards enforcement, is available at the website of U.S. Customs and Border Protection *(https://www.cbp.gov/trade/quota/bulletins/qb-18-118-steel-mill-articles).*

NAFTA

Question. Shortcomings in Mexico's implementation of labor reforms have created serious concern that it will be unable to live up to its commitments in NAFTA. Please describe your plan to ensure that the NAFTA parties, and particularly Mexico, implement the labor commitments that they ultimately agree to in the current negotiation.

Do you agree that the labor legislation currently pending in Mexico's Senate, if adopted in its current form, would not be consistent with labor commitments the United States is seeking in NAFTA? If so, what steps is the administration taking to ensure that there are effective mechanisms available to the United States—other than dispute settlement—to ensure that Mexico expeditiously implements NAFTA labor commitments, including commitments with respect to freedom of association and collective bargaining?

Answer. Among our top priorities for the NAFTA are improvements that create incentives to increase manufacturing in the United States, lower the U.S. trade deficit with the NAFTA countries, and improve export opportunities for U.S. pro-

ducers and workers. To support these priorities, we are working to ensure that the renegotiated agreement provides strong labor standards. In accordance with the objectives Congress set out in TPA, we are prioritizing the inclusion of high-standard labor provisions directly in the core of the agreement rather than in a side agreement as is currently the case with the NAFTA. We are also working to ensure that the labor obligations are subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement.

Regarding labor standards in Mexico, we are closely monitoring the implementation of Mexico's landmark constitutional reforms that will overhaul its system of labor justice. NAFTA provides an opportunity to lock in this progress. We understand the concerns that have been raised regarding some elements of the proposed labor legislation in Mexico, particularly on collective bargaining and protection contracts. We are consulting with Mexico on these issues and on ways to address these concerns.

Question. It is also the case that very few of our trading partners have implemented obligations to provide a conditional safe harbor to online service providers with respect to liability for copyright infringement. Please describe what you plan to do to get our trading partners to implement those existing obligations.

Answer. USTR takes the proper and complete implementation of all FTA commitments seriously and engages with trading partners on a regular and sustained basis to advance implementation of all of FTA commitments.

Question. This administration has made steady progress on its effort to renegotiate NAFTA. I am encouraged by the fact that you have closed six chapters and seemed to be getting close on others as well. Of course, negotiations often get harder as time goes on and more difficult issues need to be resolved. And, the environment won't get any easier with elections occurring in all three countries this year. That said, I would like to reiterate a point that I have made to you before—the substance should drive the timing in this negotiation. It is too important to our workers that we get enforceable labor and environmental standards and upgraded obligations across the board—we can't just throw up our hands and walk away or hastily accept unambitious outcomes because we have failed to meet some artificial deadline. Have you set a deadline for concluding negotiations?

Answer. I completely agree. We are seeking to conclude a modernized and rebalanced NAFTA as soon as possible. However, the substance will determine the pace of this negotiation and we will not limit the United States to an artificial deadline. We will not conclude a bad deal for the sake of expediency.

Question. At the 2017 trade agenda hearing, you stated that you were prepared to negotiate until we get a high-standard agreement unless there is a total stalemate, in which case, you said, you would be back in front of this committee to consult with us. Is that still your commitment?

Answer. As the United States Trade Representative, I place great importance on the both the history of the agency's relationship with Congress and its requirements under statute. This administration is committed to following the guidelines for consultations with Congress for trade agreement negotiations that were developed in 2015.

Question. Chapter 19 of the NAFTA has been used successfully by Canada to roll back U.S. protections against unfair trade, particularly for softwood lumber producers in Oregon and across the country. Frankly, it is a relic that does not belong in any trade agreement and I urge you to get rid of it. You have spoken at some length about concerns you see regarding the impact of a different mechanism—ISDS—on U.S. sovereignty. While as you acknowledge the United States has never lost a case under ISDS, it has lost dozens of cases under NAFTA chapter 19. Furthermore, while ISDS remedies are limited to penalties, chapter 19 allows these tribunals to function as U.S. courts and compel U.S. agencies to reverse protections for American manufacturers.

Does chapter 19 in your view create concerns regarding U.S. sovereignty?

Will you be satisfied with a renegotiated NAFTA agreement that includes chapter 19?

Answer. This administration agrees with you that chapter 19 disputes brought by Canada and Mexico have been detrimental to our robust trade remedy regime. As indicated in our negotiating objectives for NAFTA, our objective in a renegotiated NAFTA is to preserve the ability of the United States to enforce rigorously its trade

laws, including antidumping, countervailing duty, and safeguards laws, as well as eliminate the chapter 19 dispute settlement mechanism. We have not deviated from this objective in our discussions with Canada and Mexico and are working with both countries to strengthen our respective trade remedy regimes so that they can more adequately and vigorously address dumped or subsidized injurious trade.

Question. On April 11th, Secretary Perdue told the Senate Agriculture Appropriations Subcommittee that he was not optimistic that our challenges with Canada in the dairy sector would be resolved. He indicated that it is not one of your top priorities—that you have larger issues. It is one of my top priorities. As I laid out at last year's trade agenda hearing—before USTR launched negotiations—addressing challenges to our dairy industry is a key issue in a renegotiated NAFTA. That means, at a minimum, eliminating the Class 7 pricing program and obtaining gains in market access. In your view, is a NAFTA renegotiation a success if it fails to eliminate Class 7 and improve access to Canada's market for our dairy producers?

Answer. I have personally been engaging with my Canadian counterpart on the dairy issue and it is at the forefront of our negotiations. The administration understands that Canada's pricing policy (Class 7) is harming U.S. dairy exports and is working at the highest levels to address this critical issue in NAFTA renegotiation. The administration is also seeking to open up Canada's market to the full range of U.S. dairy, poultry and egg products through NAFTA renegotiation. These are both high priorities for the United States.

Question. It is my firm belief that our trade agreements must protect the free exchange of ideas and information, and the access of American-made digital products and services around the world. Other countries are increasingly erecting barriers, threatening to erode U.S. leadership in digital trade. That is why it is so important that a renegotiated NAFTA set a new high-water mark on obligations that protect the Internet as an open platform for commerce as well as the free exchange of ideas of all kind. This means it must have robust commitments on data flows and localization, clear commitments on intermediary liability, as well as copyright commitments that reflect U.S. law and its support of creation and innovation. Do you agree with me that NAFTA is a critical opportunity to set a new standard on the frontier of digital trade and are you seeking to address each aspect of a digital trade agenda?

Answer. I agree that a renegotiated NAFTA provides the opportunity to pursue the highest possible standards for ensuring key U.S. objectives in with respect to digital trade, helping to safeguard U.S. leadership in this critical area. We have tabled an ambitious set of proposals, in consultation with you and others in the Congress. I am confident that the United States is currently on a path to achieving the strongest outcome on digital trade issues ever negotiated in a U.S. trade agreement.

Question. As NAFTA discussions progress, it becomes even more important for the administration to consult with Congress. We are partners in this effort and share the administration's goals. I'd argue there isn't a member of Congress who doesn't think NAFTA can be improved to the benefit of U.S. workers, businesses and farmers. And, Congress is the body who will be asked to pass the legislation that gives effect to the deal you negotiate. For these reasons, as decisions get harder and trade-offs are made to strike a deal, it is critical that the administration follows the letter and spirit of the consultations requirement in TPA, including the Guideline for Transparency Engagement promulgated by USTR. To that end:

Will you recommit to make yourself available in a timely manner—*i.e.,* before key decisions are made and communicated to trading partners—to the committee when it requests your presence for consultations?

Answer. As I said during that hearing, it is my intention to fulfill the consultation requirements as outlined by TPA. I, along with the USTR senior and professional staff, have dedicated over 2,600 employee hours to consultations with members of Congress and their staff.

Question. The TPA guidelines state that: "In formulating and adjusting U.S. negotiating positions with respect to the negotiating objectives found in the Trade Priorities Act, USTR will consult with relevant congressional committees." Will you commit to ensure that any adjustments to U.S. negotiating positions discussed by negotiators with our trading partners are first the subject of consultations with the committee, even if such adjustments are not proposed in writing?

Answer. The TPA requirements and guidelines require USTR to engage in detailed information exchange throughout the negotiations. It is my intention to continue to fulfill these requirements.

Question. The TPA guidelines state: "During key negotiating meetings, USTR will consult intensively with the Committees on Finance and Ways and Means." Will you commit to ensure that committee staff is updated on the negotiations on a regular and timely basis, including during key meetings, such as ministerial discussions? Will you commit to make senior policy staff on your political team available for intensive consultations during key negotiating meetings?

Answer. As the USTR, I have made it a habit of personally calling the chairman and ranking member, or in some circumstances their senior staff, to deliver news on upcoming actions, and it is my intent to continue personally relaying important messages in this way. Furthermore, by my own approximation I have personally conducted over 85 meetings and calls with congressional members, while my staff has conducted over 649 such meetings and calls. In total, we estimate that USTR has spent over 2,600 man-hours in consultations with congressional staff and members. Moving forward, I can assure you that USTR will continue to consult with congressional members and staff in a timely fashion.

Question. In written questions for both your confirmation hearing and the 2017 Trade Agenda hearing, I asked you about the trade-distorting measures undertaken by British Columbia and other provinces that have a severe impact on wine exported from the United States, including Oregon wine. The United States originally requested consultations with Canada on January 18, 2017 through the World Trade Organization's dispute settlement mechanism. Your administration updated the request in October, but didn't expand it to the full range of Canadian federal and provincial laws and regulations that disadvantage U.S. exports. And, that dispute has not proceeded.

Are you committed to addressing these barriers in the renegotiated NAFTA?

What is the status of the dispute at the WTO?

Answer. Policies restricting sales of U.S. wine in Canada are a major problem. We are considering the most effective steps to address those British Columbia measures governing the sale of wine in grocery stores, as well as other measures in Canada that may be harming our wine exports. Whether we go to a dispute settlement panel or address these measures in the NAFTA negotiations, we are working to get this problem resolved for U.S. wine makers.

With regard to the status of dispute settlement proceedings at the WTO, the United States and Canada held consultations in October 2017 concerning British Columbia measures governing the sale of wine in grocery stores. In March 2018, the United States joined consultations between Australia and Canada concerning the same British Columbia measures, as well as other provincial and federal measures identified by Australia in its request for consultations.

ASIA-PACIFIC TRADE AGENDA

Question. The remaining participants in the Trans-Pacific Partnership (TPP) last month signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Press reports indicate that the President on April 12th directed you and other senior economic advisors to initiate discussions with TPP countries on U.S. reentry into the TPP. The President then tweeted that the United States "would only join TPP if the deal were substantially better" and that the United States is "working to make a deal with" Japan.

Have you been directed to initiate discussions with TPP countries on U.S. reentry into the TPP?

Answer. As the President has stated, we believe that multilateral and multi-country agreements like TPP limit the depth of commitments participating countries make. We have offered to move forward with countries in the region on a bilateral basis, and we look forward to negotiating and concluding free, fair, and reciprocal trade agreements.

Question. Has Japan expressed interest in a bilateral free trade agreement with the United States? If not, what "deal" is the administration working on with Japan? What are the U.S. priorities for this deal and what specific issues would the administration like the deal to address?

Answer. President Trump and Prime Minister Abe recently met, and President Trump made clear his preference for negotiating a bilateral trade deal with Japan. Among other objectives, the administration would aim to maximize export opportunities to Japan through removal of a broad range of tariff and non-tariff barriers to U.S. exports.

Question. Has USTR identified improvements that, if achieved, would constitute a "substantially better" TPP deal? If so, in what areas would it be seeking improvements to the TPP? If not, when will USTR identify its priorities for improving the TPP?

Answer. As noted previously, the United States is focused on the negotiation and conclusion of bilateral trade deals to address the numerous barriers to trade and investment throughout the Indo-Pacific region. Such negotiations will offer the United States the opportunity to improve upon some of the concerns and shortcomings of the TPP.

Question. As the CPTPP moves forward, what is the administration's strategy to ensure that U.S. farmers and manufacturers are not disadvantaged as compared to their competitors in Canada and Mexico when exporting to Japan, Vietnam, and other CPTPP countries?

Answer. The administration aims to negotiate and conclude free, fair, and reciprocal trade deals across the Indo-Pacific region. For example, the President already has made clear his desire to negotiate a bilateral deal with Japan, and USTR is currently leading talks to advance this objective.

GEOGRAPHICAL INDICATIONS

Question. In order for our companies to stay competitive globally, we need strong enforcement when countries ignore their trade commitments to us and a comprehensive strategy to counter the intentional use of trade policies to create artificial barriers to our products. Last year, Chairman Hatch and I together sent a letter to the Acting USTR on the misuse of geographical indications (GIs) that puts at risk U.S. market access opportunities. The EU has a track record of using trade deals to throw up new barriers that make it harder for the United States to sell various foods and wines in the EU and other key markets by misusing GIs. In questions for the record for last year's trade agenda hearing, I asked you how you were going to use the NAFTA discussions to continue to engage with Mexico in particular to prevent that result.

Can you provide an update on that effort to engage with Mexico on GIs and their negotiations with the European Union?

Answer. We have consistently raised our strong objection to the practice of protecting GIs through international agreements without adequate fairness, transparency, or due process, including through the Mexico-EU trade agreement. We are discussing the outcomes of this negotiation in detail with Mexico. USTR will use all appropriate trade tools to combat unfair GI practices, in Mexico and elsewhere.

Question. Is there anything we can do to address GIs in Canada in NAFTA?

Answer. The United States seeks fairness in the GI systems in all trading partners, including Canada. We seek robust IP commitments in the NAFTA, including with respect to geographical indications.

Question. How you plan to confront this problem more generally?

Answer. We are working intensively in many forums to ensure that GI-related trade initiatives of the EU, its member states, like-minded countries, and international organizations, do not undercut our market access. USTR, with the Department of Agriculture, Department of Commerce and many other U.S. agencies is promoting and protecting access to foreign markets for U.S. exporters of products that are trademark protected or are identified by common names. We are using every available opportunity to advance these objectives including free trade agreement negotiations, Asia-Pacific Economic Cooperation (APEC), WIPO, and the WTO. USTR is also continually engaging bilaterally to address concerns resulting from the GI provisions in existing EU trade agreements, agreements under negotiation, and other initiatives.

WTO AND OTHER PLURILATERAL INITIATIVES

Question. As we have discussed in the past, the United States is the world's leader in the services sector, which accounts for 30 percent of U.S. exports and supports

millions of jobs. But, we can't take that competitive advantage for granted. We must continue to address barriers to U.S. service exports so that we can continue to be a worldwide leader in the sector. In the past, you have said that the administration was evaluating whether to pursue the multilateral Trade in Services Agreement (TiSA) and developing a strategy to eliminate service barriers worldwide, including on new digital services.

What is the outcome of that evaluation of TiSA and what strategy has been developed?

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. USTR is currently pursuing robust services outcomes in the ongoing NAFTA negotiations and other ongoing bilateral efforts. USTR is also pursuing an aggressive agenda on digital trade, including through participation in plurilateral discussions at the WTO involving e-commerce. USTR is still evaluating additional options for pursuing our services trade objectives, including TiSA, and will continue to consult with you as we chart the best course forward.

Question. Ongoing negotiations for an agreement to eliminate tariffs on environmental goods have been on hold for more than a year. Trade in environmental goods presents major opportunities for American businesses and workers given that over 80 percent of clean energy investments will take place outside of the United States and the United States is a leading producer of a number of environmental technologies, ranging from water filtration equipment to turbines to air quality monitoring equipment. Last June, you indicated that the administration was in the process of reviewing the Environmental Goods Agreement (EGA).

What is the status of the administration's review? If it is still pending, when will it be complete? If it is complete, what is the administration's assessment?

Answer. The administration continues to review the EGA, among other initiatives, and I look forward to working with you and other members of Congress and stakeholders as we consider how best to move forward in order to advance U.S. manufacturing interests in this sector.

Question. Fishing and fisheries are important to Oregon's coastal economy, and ensuring that other countries play by the rules is vital to ensuring fairness for Oregon's fishers. In the President's Trade Policy Agenda, the administration detailed its support for "strong prohibitions on subsidies that contribute to overfishing and overcapacity and those that support illegal fishing activities." The administration also advised that it will "continue to press for an ambitious agreement on fisheries subsidies that includes enhanced transparency and notifications of fisheries subsidies programs."

Please provide an update on your efforts to pursue these goals, as well as the status of ongoing negotiations at the WTO regarding these issues.

Answer. At the WTO's Ministerial Conference in December 2017, members agreed to continue negotiations to prohibit harmful fisheries subsidies with the goal of concluding an agreement by the next WTO Ministerial in December 2019. WTO Members have since agreed to a robust work program to advance the fisheries subsidies negotiations. The administration will continue to actively participate in these negotiations and advocate for prohibitions that apply to all members, including the largest subsidizers, which will help level the playing field for the U.S. fishing industry. I look forward to working you and other members and stakeholders as we further advance these negotiations.

E-COMMERCE

Question. In recent years, we have seen a true transformation in trade, where even a very small business in Oregon can reach customers globally due to the Internet. This disaggregation of trade means that we are seeing more and more shipments come in through small packages, rather than shipping containers. That is why Congress raised the *de minimis* threshold for small shipments entering the United States in the Trade Facilitation and Trade Enforcement Act of 2015. I was pleased that USTR's summary of negotiating objectives indicates that you are asking Canada and Mexico to raise their thresholds to the level of the United States. But, we need to look beyond Canada and Mexico at what discussions are going on around the world regarding how to capitalize on the opportunities and address chal-

lenges posed by the new reality we are living in. To me, it is critical the United States be a leader in those discussions, with USTR play a prominent role.

Will you commit to me that will be the case not only at the World Trade Organization, but also at the World Customs Organization, and any other relevant international bodies?

Answer. The United States put forth very ambitious negotiating objectives for the NAFTA Customs Administration and Trade Facilitation Chapter and is seeking commitments that meet this level of ambition. We have been seeking new commitments on faster and less burdensome release of goods, transparency and automation in customs procedures, and in how the government works with and interacts with traders. Included among the objectives is a higher *de minimis* value, so that U.S. exporters and companies will also enjoy including new job growth and increased opportunities. Based on input and feedback we have received from U.S. stakeholders and Congress, we know that faster, more transparent, and less burdensome formalities make trade easier and more profitable for U.S. traders. USTR is committed to seeking reciprocal reforms and modernized borders from our trading partners as the United States offers at its borders, and will seek such commitments in all international fora.

ETHICS COMPLIANCE

Question. Given the wide range of bilateral trade negotiations recently launched by the administration, it is more critical than ever that both the President and top administration officials are in full compliance with ethics laws as they negotiate on behalf of the United States. The American people must have full confidence that the results of such negotiations are in the interest of the United States as a whole and not designed to benefit particular companies or sectors to which administration officials have financial or other ties.

With respect to the recently announced steel and aluminum tariffs, for example, the President has stated that the United States Trade Representative has chief responsibility for negotiating country exemptions. In his ethics agreement, Ambassador Jeffrey Gerrish, who was recently confirmed as Deputy United States Trade Representative, committed not to participate for one year after his withdrawal from Skadden (his previous law firm) in any particular matter involving specific parties which were former clients, unless first authorized to participate. Ambassador Gerrish recently served as counsel to U.S. Steel Corporation, a major U.S. steel company affected by these negotiations, and was a registered lobbyist for the company from Q4 2007–Q1 2009 and from Q4 2014–Q2 2016.

Furthermore, in his ethics agreement, Ambassador Gerrish committed to divest certain assets, including holdings in a major energy company, within 90 days of confirmation and committed not to participate in any particular matter that to his knowledge has a direct and predictable effect on the financial interests of such entities until divestment was complete.

Has Ambassador Gerrish participated in negotiations with foreign governments related to steel and aluminum tariff exemptions and if so, when did he first do so?

Answer. Yes, but he did not participate in any particular matters involving specific parties which were former clients. He first participated on March 16, 2018.

Question. If Ambassador Gerrish did participate in such negotiations, did he receive authorization from the USTR Designated Agency Ethics Official (DAEO) before doing so? If so, please describe the basis for that authorization and provide a copy to the committee.

Answer. Ambassador Gerrish has had and continues to have discussions about ethics issues with appropriate USTR officials, and he is in full compliance with applicable ethics requirements.

Question. Ambassador Gerrish's ethics agreement states that within 90 days of confirmation (which took place March 5, 2018) he will divest his interests in the entities listed in Attachment A of his ethics agreement. Has he divested his interests in these entities? On what date was divestiture completed?

Answer. Ambassador Gerrish has fully complied with all requirements of his ethics agreement. He filed a 278–T periodic transaction report and filed his Certification of Ethics Agreement Compliance with the Office of Government Ethics on May 1, 2018.

QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

Question. Last year, Chairman Roberts and I sent you and Secretary Perdue a letter asking you to address the impact of Canada's new dairy pricing ("Class 7") scheme on the U.S. dairy industry. In 2017, this new policy cost Michigan dairy farmers an estimated $40 million in lost income. At a time when our dairy farmers are already facing significant financial hardship, this unfair practice cannot continue.

I appreciate your engagement on this issue, but will you continue to prioritize finding a solution for U.S. dairy farmers in the NAFTA renegotiation?

Answer. The administration understands that Canada's pricing policy (Class 7) is harming U.S. dairy exports and is working at the highest levels to address this critical issue in NAFTA renegotiation.

Question. Michigan cherry growers are continuing to struggle with a flood of cheap imports of tart cherry juice concentrate, primarily from Turkey. During your confirmation, you committed to work with me and Michigan's cherry industry to address this, and I appreciate your attention to this issue.

The U.S. cherry industry has submitted a petition to have Turkey's duty-free access for tart cherry juice concentrate revoked under the Generalized System of Preferences (GSP) program. The petition also noted that Turkey has exceeded the GSP program's competitive need limit (CNL) by supplying more than 50 percent of all U.S. imports of tart cherry juice concentrate every year since 2013. How long will it take to make a determination on this petition? If Turkey is exceeding the CNL threshold for tart cherry juice concentrate, will you move to terminate their duty-free treatment for this product?

Answer. USTR will be making a decision on which GSP product petitions to accept for review in the coming weeks. In the most recent GSP renewal, Congress established a new deadline of November 1st for GSP CNL decisions. The President makes the final decision on all GSP product removals. USTR will continue to work with you and the U.S. cherry industry to address its concerns.

Question. One of the challenges in addressing this issue is the lack of information about production and processing capacity, market conditions, and potential countervailable subsidies in Turkey. Will you consider requesting that the U.S. International Trade Commission undertake a section 332 investigation into these factors and their impact on the U.S. cherry industry?

Answer. We are always willing to discuss any appropriate measures to collect any necessary additional information.

Question. As we have discussed, including strong and enforceable language on currency manipulation in NAFTA, and other trade agreements we are negotiating, is critical. Given what seems to be an acceleration of discussions between the NAFTA parties recently, what is the status of including language on currency manipulation in the NAFTA negotiations?

Answer. As I have said before, this administration believes it is critical to ensure that trading partners do not manipulate exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage. Secretary Mnuchin and I are working closely with our Canadian and Mexican counterparts on how best to achieve this in the NAFTA.

Question. As you are aware, the long-standing dispute with China on solar products has also ravaged the U.S. polysilicon industry, which is a critical component for semiconductors. Hemlock Semiconductor, located in Michigan, is one of the largest polysilicon producers in the world. This dispute has blocked market access for U.S. polysilicon in China and threatens a critical manufacturing industry in the United States. In January USTR announced, it would be engaging in discussions about how U.S. polysilicon can gain market access in China. Thank you for your commitment on this issue.

Have you engaged in the discussions on this issue? How?

What actions have you taken to stop China's retaliation on the U.S. polysilicon industry?

What steps do you plan to take to help the U.S. polysilicon industry?

When do you plan to take these steps?

Answer. When President Trump announced safeguard relief for U.S. manufacturers of solar cells and modules, he committed that "[t]he 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." The Office of the U.S. Trade Representative has been engaged in such discussions with U.S. stakeholders in an effort to find a solution that is beneficial to both the U.S. solar industry and the U.S. polysilicon industry, and which would be acceptable to China. Those discussions are ongoing.

Question. USTR is engaged in negotiations with several countries in light of the President's announcement and implementation of tariffs on certain steel and aluminum imports to the United States.

What are your criteria for country exemptions and negotiations as they relate to the steel and aluminum tariffs?

Are your criteria consistent for each country?

Answer. The President's proclamations identify the criteria for determining whether to exempt a country from the tariffs he proclaimed pursuant to section 232 of the Trade Expansion Act of 1962, as amended. These criteria are whether the United States has a security relationship with a country, and whether the United States and that country can arrive at satisfactory alternative means for addressing the threatened impairment to the national security caused by imports from that country. The President's proclamations relating to section 232 also describe the issues the United States is discussing with partner countries relating to satisfactory alternative means. These include measures to reduce global excess capacity by addressing its root causes and measures to increase domestic capacity utilization.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

BILATERAL TRADE AGREEMENTS

Question. Please identify the countries that the President is in bilateral negotiations with at this time. Which countries is he targeting for bilateral trade agreements and what is the timeline for beginning these negotiations?

Answer. USTR is currently exploring potential bilateral deals with several countries in order to secure greater market access for American farmers, workers, ranchers, and businesses. These include the UK, Japan, and countries in Africa and the Indo-Pacific. As you know, USTR frequently explores these options through our Trade and Investment Framework Agreements as well as through discussions that are more informal. Before USTR begins any bilateral negotiations, we will ensure to consult closely with you and your staff.

Question. Who will be the lead negotiator of bilateral agreements—or any agreements for that matter: USTR or the Department of Commerce?

Answer. As USTR, my statutorily mandated responsibility is to be the President's principal trade advisor and lead trade negotiator for the United States. I intend to continue fulfilling that role. As USTR has always done, and where required by statute, I will continue to work closely with all members of the President's cabinet, Congress, and the Trade Advisory Committees in order to develop a balanced trade policy that furthers the priorities of the President and the American people.

Question. In your view, does USTR have the personnel/expertise on board to be able to negotiate more than one bilateral agreement at a time?

Answer. As you know, in March, the Senate confirmed three of my deputies, C.J. Mahoney, Dennis Shea, and Jeffrey Gerrish, as well as my Chief Agriculture Negotiator, Gregg Doud. Our new senior leadership team joins more than 200 highly qualified civil service staff already at the agency who bring decades of negotiating experience to the table. Rebalancing America's trading relationships to better serve our workers, farmers, ranchers, and businesses is a principal objective of this President. I am fully confident that USTR will be able to accomplish this mission.

SECTION 301 ACTION

Question. The recent 301 case investigated two important issues that companies want to see addressed: IPR protection and forced technology transfer. Despite the recent announcement of WTO, tariff and investment restriction action, it remains unclear what the administration's strategy is in this case and more broadly for U.S.-China relations, and what you would consider to be successful resolution of these issues. I would like some clarity on these issues:

How will the proposed tariffs address the problems of IP protection and forced technology transfer in China, and bring it to a successful resolution?

Answer. By targeting products that benefit from Chinese industrial policies, including Made in China 2025, the proposed tariff list aims to apply pressure on China in sectors that China deems important.

Question. What actions would China need to take to improve IP protection and end forced technology transfer to end the tariffs you plan to implement? Specifically, how will issues around cloud computing be addressed?

Answer. The administration has been clear about its concerns with China's unfair trade practices. These practices include China's market-distorting forced technology transfers (including in the cloud computing sector), theft of intellectual property, cyber intrusions of U.S. commercial networks, and China's failure to abide by its WTO obligations.

The administration has also identified very specific programs that China needs to address. These are identified in numerous reports, including USTR's report on China's compliance at the World Trade Organization, USTR's Special 301 Report, and the Department of Commerce's determination that China remains a non-market economy.

The appropriate response from China should be to change its behavior, which China's government has pledged to do many times in the past but has not. Economies around the world—including China's domestic economy—will benefit if China responds by making needed reforms to its trade distortive policies, instead of adopting new and harmful policies to block trade and distort world markets.

Question. How long will the administration keep tariffs and investment restrictions in place before it decides this course of action is or isn't working? What metrics will be part of that evaluation?

Answer. The administration has made no final determination with respect to the length of time the proposed tariff action or any investment restrictions would be imposed.

Question. Given that the Comprehensive Economic Dialogue is stalled, what active steps is the administration taking to get China to the table to negotiate a resolution to these issues and other economic and trade issues?

Answer. As you may know, a delegation comprised of Ambassador Lighthizer, Secretary Mnuchin, Secretary Ross, and other senior administration officials traveled to China on May 2nd to meet with Chinese counterparts to discuss these issues. The same delegation met this week to further discuss ways to resolve challenges in the U.S.-China trade relationship.

The President calls on China to take concrete action to stop distorting markets, forcing technology transfer, and stealing technology. China must also finally follow through on commitments to lower its barriers to U.S. exports and cease its WTO-inconsistent behavior.

If China takes these actions, trade between the United States and China will be more free, fair, and reciprocal.

DAIRY TRADE

Question. Does the United States remain committed to addressing concerns about Class 7 policies as part of NAFTA talks?

What progress is being made to address the Class 7 pricing program in the NAFTA renegotiation context?

Answer. The administration understands that Canada's pricing policy (Class 7) is harming U.S. dairy exports and is working at the highest levels to address this critical issue in NAFTA renegotiation.

TRADE ENFORCEMENT

Question. I appreciate USTR's effort to remove Indonesia's import restrictions on horticultural imports. These restrictions cost growers in Washington State tens of millions of dollars in lost sales and added costs each year. As a result of USTR's work, Indonesia lost its appeal at the World Trade Organization last year. However, Indonesia has decided to close its market to apples during August, September, and October of this year, when 30 percent of the fruit is shipped to Indonesia.

What is USTR's plan to address Indonesia's decision to close its market to apples during certain months of the year?

Answer. We continue to attach a high importance to resolving Indonesia market access concerns, including the import restrictions on apples. Indonesia's seasonal restrictions on horticultural products—including apples—were found by the WTO Dispute Settlement Body to be inconsistent with Indonesia's WTO obligations. USTR will continue to pursue the WTO dispute as quickly and vigorously as possible in order to obtain effective market access for U.S. producers.

USTR will also continue to press for removal of the planned seasonal restrictions on apple imports in other forums. In particular, USTR made this issue a priority at the Trade and Investment Framework Agreement (TIFA) meeting with Indonesia held on May 14th.

POLYSILICON

Question. As you know, the United States has been engaged in a longstanding dispute with China over solar products, which has crippled the U.S. polysilicon industry. The domestic polysilicon industry is a high tech manufacturing industry, and is critical for U.S. semi-conductor independence. The industry has the potential to be a large net exporter to China.

In his announcement of the section 201 action, the President said that USTR would be working to resolve the persistent issues plaguing the domestic polysilicon industry. Please explain what concrete steps you plan to take to achieve a resolution for the U.S. polysilicon industry.

Answer. When President Trump announced safeguard relief for U.S. manufacturers of solar cells and modules, he committed that "[t]he 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." The Office of the U.S. Trade Representative has been engaged in such discussions with U.S. stakeholders in an effort to find a solution that is beneficial to both the U.S. solar industry and the U.S. polysilicon industry, and which would be acceptable to China. Those discussions are ongoing.

Question. Is polysilicon currently part of an ongoing USTR effort? If not, what is USTR's timetable to address the challenging issues facing the domestic polysilicon industry?

Answer. As noted above, USTR has been engaged in discussions with U.S. stakeholders in an effort to find a solution that is beneficial to both the U.S. solar industry and the U.S. polysilicon industry, and which would be acceptable to China.

Question. How have Chinese tariffs on U.S. solar products, such as polysilicon, impacted the U.S. polysilicon industry?

Answer. The Office of the U.S. Trade Representative has been informed by U.S. polysilicon producers that Chinese tariffs have effectively blocked U.S. polysilicon from entering the Chinese market.

Question. I understand that there is currently a fund held at the Treasury Department of roughly $1.4 billion in duties collected from solar imports from China into the United States. Is that accurate?

Answer. The "fund" mentioned in this question appears to be a reference to the antidumping and countervailing duty cash deposits collected by U.S. Customs and Border Protection on entries of solar cells and modules from China that are subject to U.S. antidumping and countervailing duty measures. Such cash deposits are held by U.S. Customs and Border Protection until the final antidumping and countervailing duties are determined by the U.S. Department of Commerce ("Commerce")

and the entries on which the cash deposits were paid are "liquidated." At that point, the actual duties owed are assessed against the cash deposits, and any additional duty owed beyond the cash deposits is collected, or any excess portions of the cash deposits are refunded; the duties collected are transferred to the General Fund of the United States. The Commerce determination of the final duties is subject to appeal to the U.S. Court of International Trade, the U.S. Court of Appeals for the Federal Circuit, and possibly even the U.S. Supreme Court. Liquidation of these cash deposits occurs only after all judicial review of the Commerce determination has been completed.

Question. How has this effective tax on solar investments in the United States helped or hurt the U.S. solar industry? Is there any evidence that the 2012 tariffs on certain Chinese manufactured solar panels helped U.S. solar manufacturers, particularly the petitioner SolarWorld, which subsequently still declared bankruptcy?

Answer. The Office of the U.S. Trade Representative does not track the effect of U.S. antidumping and countervailing duty measures. Such measures are imposed by Commerce following investigations conducted by Commerce and the U.S. International Trade Commission that result in affirmative determinations that dumping/subsidization exists and that such dumping/subsidization has caused material injury or threatened to cause material injury to the U.S. industry producing the like domestic product.

Question. How does USTR and/or the Treasury Department plan to use those funds to support the U.S. solar manufacturing industry?

Answer. Neither the Office of the U.S. Trade Representative nor the Department of the Treasury has legal authority to use collected cash deposits to support the U.S. solar manufacturing industry. However, as noted above, President Trump committed earlier this year that "[t]he 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." The Office of the U.S. Trade Representative has been engaged in such discussions with U.S. stakeholders in an effort to find a solution that is beneficial to both the U.S. solar industry and the U.S. polysilicon industry, and which would be acceptable to China. Those discussions are ongoing.

ALUMINUM TARIFFS

Question. I understand the Department has self-initiated an antidumping investigation regarding Chinese aluminum sheet.

Other than the aluminum industry, have you consulted with other downstream users of aluminum sheet products?

It is my understanding beverage cans are outside the scope of the antidumping investigation. Will other aluminum products be considered outside the scope as well?

What process did the administration take to determine what items are out of the scope of the ongoing antidumping investigation?

What impact do actions in the 232 investigation have on this investigation?

Answer. I would refer you to the U.S. Department of Commerce for questions relating to this antidumping investigation.

DIGITAL TRADE

Question. What steps are you taking to bridge the remaining gaps between the U.S., Mexico, and China on digital trade in the NAFTA renegotiation? Where do the negotiations on digital issues stand in the talks?

Answer. The United States has tabled an ambitious set of proposals on digital trade in the NAFTA renegotiations, and we have made substantial progress in our negotiations to date. While we are continuing to work with Mexico and Canada to resolve some outstanding issues, I am confident that the United States is currently on a path to achieving the strongest outcome on digital trade issues to date in a U.S. trade agreement.

E-COMMERCE

Question. I was encouraged by your reiteration of commitment to work on e-commerce issues at the conclusion of the meetings in Brussels with Japan and the EU earlier this month. An e-commerce work program at the WTO is a step in the right direction toward addressing trade issues affecting a number of technology companies in Washington State.

What are USTR's goals for a successful outcome of these talks?

Is the United States committed to achieving agreement on high-standard objectives on digital trade similar to those under discussion in the NAFTA renegotiation talks?

Answer. Digital trade is essential to the U.S. economy, and USTR is pursuing an aggressive agenda on digital trade in a range of forums, including at the WTO. At the WTO Ministerial in Buenos Aires in December, I joined 70 other trade ministers in initiating exploratory work on negotiations on digital trade issues at the WTO. That work is now underway, and the United States was among the first members to submit a paper outlining potential priorities for the initiative as part of the ongoing exploratory discussions. This paper, which is publicly available, outlines the highest-standard provisions for safeguarding and promoting digital trade, including provisions that guarantee cross-border data flows and ensure fair treatment of digital products and services. As this initiative moves forward, USTR will continue to push for an outcome that delivers commercially meaningful results for U.S. companies and consumers.

QUESTIONS SUBMITTED BY HON. BILL NELSON

Question. I want to commend you for your leadership on providing an equitable way for regional fruit and vegetable growers to combat unfair trade practices. You deserve a lot of credit for having the courage to stick firm on the issue. However, there's been rumors that you may be willing to give up on the current U.S. proposal for letting regional growers use seasonal data in anti-dumping and countervailing duty cases, in order to win other concessions in NAFTA renegotiations. I want to give you the opportunity to put those rumors to rest. Please answer each of the following questions.

Do you plan to withdraw the current U.S. proposal for dealing with the problem of Mexican agricultural goods being unfairly subsidized and dumped into the U.S. during the winter months?

Do you foresee any possibility of giving in on that proposal?

Should Florida growers have anything to fear about your resoluteness on this issue?

Answer. It would be inappropriate to comment on any rumors regarding the negotiations due to the confidential nature of the discussions. That being said, as we have maintained throughout the negotiations, we want to help ensure that our agricultural products are treated fairly.

QUESTIONS SUBMITTED BY HON. BENJAMIN L. CARDIN

Question. As you know, the NAFTA rules of origin for heavy-duty trucks and buses are different than those for light duty passenger cars and trucks. In particular, to qualify for preferential treatment, the largest commercial vehicles are required to contain North American content equal to at least 60 percent of their value. Light duty vehicles must meet a 62.5 percent benchmark. Heavy-duty and light-duty vehicles also have different tracing requirements.

The 2.5-percent variance in the above content levels reflects the significant differences between the two industries. For example, in 2017, passenger cars and light-duty trucks sold a combined 17 million new units, while the market for new heavy trucks was 300,000 vehicles. The average sale price of heavy trucks is approximately three times that of passenger vehicles. And, due to their robust manufacture and challenging service lives, heavy trucks and buses include significantly more steel than their smaller counterparts.

Would you please assure this committee that, when you have concluded renegotiating the rules of origin provisions with our North American partners, the new rules will continue to reflect the differences between the heavy commercial vehicle and passenger car industries, including a lower regional value number for trucks and buses and different tracing requirements?

Answer. USTR understands that there are differences between the heavy truck and passenger car industries. We are working with our heavy truck industries to understand how to reflect these differences in the rules of origin provisions of the renegotiated NAFTA.

Question. During the March 22nd hearing, I raised a few concerns with you regarding the process by which companies may apply for exclusions from the section 232 steel and aluminum tariffs. In particular, I am concerned that the exclusion process may be very difficult for small businesses. For instance, based on the guidance issued by the Commerce Department, it appears that exclusion may only be requested on a company-by-company basis, rather than allowing smaller companies to seek exclusions—a resource-intensive process that requires extremely detailed specifications—jointly or via trade associations. In addition, if granted, I understand that an exclusion, in most cases, is only available to the company that petitioned, as opposed to extending to the product. The fact that the exclusions will be provided to individual companies could further tip the balance against smaller players; whereas larger companies can afford legal counsel with respect to exclusion requests, smaller companies will have to spread that cost over fewer sales.

Do you agree that the Commerce Department's exclusion process should take into account the challenges and resource constraints faced by smaller businesses?

Answer. I would refer you to the U.S. Department of Commerce for questions relating to the procedures for seeking product exclusions from the section 232 tariffs.

Question. Newspapers are a vital civic resource that helps keep citizens connected to their schools, local businesses, and with one another. Over the last 10 years, local newspapers, like *The Baltimore Sun* and community newspapers throughout my State, have faced strong headwinds. Historically, advertising provided the lion's share of revenue, but this advertising revenue has been cut in half, as a result of the Great Recession and market forces.

Recent countervailing and antidumping duties on Canadian imports of newsprint imposed by the Department of Commerce have exacerbated the challenges that community newspapers face. As a result of these duties, newspapers have seen the price of newsprint go from $600 to a $800 ton—a more than 30 percent increase.

I understand that this trade dispute stems from a single actor that operates one mill and was recently acquired by a hedge fund. I also understand that other U.S. paper producers universally oppose this action, including the American Forest and Paper Association.

Newspapers have publicly stated that they cannot absorb these tariffs, and will need to implement expense and revenue measures, such as cutting jobs in their operations, reducing news coverage in communities, cutting back on days of print distribution, and raising subscription prices on the printed newspaper which hurts citizens—particularly the elderly in rural communities that are reliant on print. Overall, the tariffs will likely have the effect of convincing customers to reduce demand for a product from U.S. producers that the tariffs are intended to help.

Are changes in our trade laws needed that would allow decisionmakers at the Commerce Department and the International Trade Commission to acknowledge the economic damage to U.S. businesses and their customers that can occur when trade remedies are imposed?

Is there sufficient discretionary authority for mitigating such unintended effects?

Answer. Under U.S. law, the domestic industry for a particular product can submit a petition to the U.S. Department of Commerce and U.S. International Trade Commission (ITC) alleging that it is being injured or threatened with injury by dumped or subsidized imports. Throughout the investigation, particularly during the injury phase conducted by the ITC, parties have the opportunity to submit information on the administrative record in the form of questionnaire responses and through hearing testimony for the Commission to consider when making its final determination regarding injury or threat thereof.

Question. Since the March 22nd hearing, there have been several major developments related to the China section 301 investigation. The tariff list resulting from

that investigation on the U.S. side was released on April 3rd; China responded with its own list on April 4th; and President Trump asked USTR to consider proposing $100 billion in additional tariffs on April 5th.

I strongly agree with USTR's assessment that we have significant problems related to intellectual property and other market access-related issues with China. We should protect U.S. workers, businesses, and innovation.

That being said, I would like to know more about USTR's long-term plans to address these issues, beyond tariff escalation. As you may know, the Finance Committee's Subcommittee on International Trade, Customs, and Global Competitiveness recently held a hearing on market access challenges in China since the country's accession to the WTO. When asked, the panel of witnesses for that hearing seemed to agree that more certainty was needed with respect to the administration's strategy to hold China to its commitments in order to protect American industry and level the playing field for our workers.

Could you elaborate on what you see as a productive path forward with China?

What steps need to be taken to ensure that the Chinese government will follow through on market access and IP-related commitments in a timely way?

Answer. China's behavior has been undermining the global trading system and the WTO for years, using its protected market to force technology transfers and by acquiring leading technology companies overseas. Mercantilist trade policies, like China's Made in China 2025 initiative, clearly state that China seeks to take away domestic and international market share from foreigners, in defiance of global norms. The world's second-largest economy should not continue to ignore fundamental precepts of the global trading system.

China should respond to the findings and the action of the section 301 investigation by undertaking the necessary economic and policy reforms and market liberalization needed to end its trade-distortive practices. In contrast, counter-reactions—either unilaterally or through attempted recourse to WTO dispute settlement—would do nothing to address the harmful impacts of China's policies.

The President hopes that China will take concrete actions to address its unfair trade practices and policies soon. China must also finally follow through on commitments to lower its barriers to U.S. exports and cease its WTO-inconsistent behavior.

If China takes these actions, trade between the United States and China will be more free, fair, and reciprocal.

Question. How can we best engage our allies who share our position?

Answer. Most of our allies and trade partners share the same concerns about China's state-driven, mercantilist policies on trade and technology transfer.

Many countries also agree that China continues to game the WTO's international rules-based trading system and the openness of our economies in ways that threaten all of our economies and our long-term competitiveness.

We have maintained a sustained engagement effort with our allies and other like-minded countries in confronting China.

We continue to work closely with Japan and the European Union to ensure that WTO members maintain their rights to use non-market economy methodologies in antidumping proceedings in order to curb China's distortive economic behavior.

During the WTO Ministerial Meeting in Argentina last December, the EU Trade Commissioner, the Japanese Trade Minister, and the U.S. Trade Representative issued a joint statement recognizing that "forced technology transfer" threatens the proper functioning of international trade, the creation of innovative technologies, and sustainable growth of the global economy. Together, we agreed to enhance trilateral cooperation in the WTO and in other fora to address this and other critical trade concerns.

Earlier this year, the EU Trade Commissioner, the Japanese Trade Minister, and the U.S. Trade Representative underscored "their shared objective to address non-market-oriented policies and practices."

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. Ambassador Lighthizer, during your confirmation hearing, I asked you about a matter in Australia that my constituents had brought to my attention. I am told that the Government of New South Wales (NSW) expropriated a company's mining license and left investors, including those from the United States, with no recourse to challenge the action or ability to seek compensation. These were rights the investors had when they made the investments, but were later nullified by an act of the NSW Parliament.

Thank you for your previous response and for agreeing to look into the matter. I understand that USTR has since formally requested consultations with Australia under the Australia–U.S. Free Trade Agreement (AUSFTA). However, I understand the federal and NSW governments have shown little interest in finding a resolution.

What is the status of the consultations USTR previously requested under AUSFTA?

Has USTR linked this issue to discussions on a permanent exclusion from the section 232 tariffs?

What other means or mechanisms are you exploring to resolve this dispute?

Answer. The administration places a high priority on ensuring full compliance with the obligations in our trade and investment agreements, including the Australia–United States Free Trade Agreement. Accordingly, we initiated consultations under the Investment Chapter of that Agreement to address a discrete investment dispute in the energy sector involving U.S. investors. We are continuing to engage with Australia regarding this ongoing matter.

Question. Ambassador Lighthizer, you've stated several times that you believe labor obligations in NAFTA should be subject to the same enforcement mechanisms as other aspects of the agreement. However, it is my understanding that USTR is advocating for a non-binding dispute settlement mechanism that could allow parties to disregard penalties imposed for a failure to comply with labor or other provisions. In other words, it appears that while you support having an enforcement mechanism that applies equally to all parts of the agreement, that mechanism may be useless in compelling parties to adhere to the deal.

Under the non-binding system you have proposed, what incentive will our trading partners have to live up to their labor and other obligations if they can simply disregard penalties for noncompliance?

How is such a system an improvement on what was negotiated in TPP, which at least provided for binding penalties for violations of labor obligations?

Answer. I am committed to vigorously enforcing our trade agreements, including by incorporating enforceable, high-standard labor provisions into the core of the agreement rather than in a side agreement as is currently the case with the existing NAFTA. As you may know, current NAFTA dispute settlement procedures do not work, and NAFTA violations eventually are litigated at the WTO instead of through NAFTA panels. In consultation with Congress, we are considering a number of options in the renegotiation that will allow us to enforce vigorously the new labor obligations, as well as ensuring that the obligations are subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement. We also seek to make sure that any improved dispute settlement system permits the United States to retain its sovereign ability to enact laws and regulations.

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

Question. During the tax debate, I wrote a letter to the President, which you were copied on, asking for details on how the administration is acting in a coordinated fashion to curb outsourcing. To your knowledge, is there an interagency policy to coordinate strategy on curbing outsourcing?

Answer. Ensuring that American firms, especially those located here, have the tools to remain competitive in the global marketplace is a principal objective of this administration. As the President's Trade Agenda outlined in five major pillars, the administration is aiming to decrease offshoring incentives by supporting our national security, strengthening the U.S. economy, negotiating better trade deals, aggressively enforcing U.S. trade laws, and reforming the multilateral trading system. President Trump believes that each of these pillars is necessary to increase the

competiveness of U.S. firms and to obtain more efficient global markets and fairer treatment for U.S. workers. We work on these objectives together with other appropriate agencies to ensure that we are moving toward this goal.

Question. To your knowledge, does interagency guidance exist requiring the assessment of outsourcing impact prior to the administration's advancement or endorsement of policy?

Answer. There are several interagency processes for assessing the trade impacts of administration decisions. Specifically, USTR oversees the Trade Policy Committee (TPC) and the Trade Policy Staff Committee (TPSC). The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 100 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through Federal Register Notices and public hearings. USTR also oversees the trade advisory committee system, established by Congress in 1974. There are 28 of these committees, with a total membership of up to 700 advisors. USTR regularly consults with the TPC, the TPSC, and the trade advisory committees when developing the administration's trade policy. This includes evaluating the potential effects of offshoring.

Question. We now know that the 2017 tax bill creates incentives for corporations to move tangible assets overseas; that is, the bill creates incentives for companies to locate manufacturing abroad (pp. 109–110 of CBO's "The Budget and Economic Outlook: 2018 to 2028"). How does this policy align with the President's goal to curb outsourcing? Did Treasury consult with USTR on the impact on outsourcing from the international tax provisions they negotiated in the tax bill?

Answer. The President's economic advisors, including USTR and the Department of the Treasury, coordinate closely on all matters affecting the U.S. economy. The tax bill has proven a huge boon to U.S. businesses and workers.

Question. NAFTA didn't simply have a direct impact on jobs in the years following its passage, but has had lasting impacts on workers ever since. Including the looming threat of a company moving to Mexico absent wage or workplace concessions. In many ways it put companies ahead of workers. U.S. workers can outcompete anyone in the world if the playing field is level. Can you discuss how exempting profits from a new overseas factory from U.S. tax helps level the playing field for workers in the United States?

Answer. Among our top priorities for NAFTA are improvements that create incentives to increase manufacturing in the United States, lower the U.S. trade deficit with the NAFTA countries, and improve export opportunities for U.S. producers and workers. We are vigorously pursuing these goals throughout the renegotiations, including by strengthening rules of origin and bringing strong labor and environment provisions into the core of the Agreement, and subjecting them to the same dispute settlement mechanisms as other provisions in the Agreement. U.S. trade agreements, including NAFTA, do not deal with domestic tax policy.

QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL

Question. The President announced on April 5th that he would consider adding another $100 billion in tariffs against China as part of a section 301 remedy. Can you discuss the process by which USTR and other administration officials will develop the list of products that will be covered by the tariff?

Answer. Trade analysts from various U.S. Government agencies continue to implement the President's instruction announced on April 5th. Any list that comes out of that process will be subject to public comment as was the original list.

Question. USTR has highlighted our interest in finding remedies that inflict maximum pain against China and minimum pain on the United States. What kind of analysis have you done to ensure that is the case? Can you explain exactly how the algorithm works?

Answer. Trade analysts from several U.S. Government agencies identified products that benefit from Chinese industrial policies, including Made in China 2025. The list was refined by removing specific products identified by analysts as likely to cause disruptions to the U.S. economy, and tariff lines that are subject to legal or administrative constraints. The remaining products were ranked according to the likely impact on U.S. consumers, based on available trade data involving alternative

country sources for each product. The proposed list was then compiled by selecting products from the ranked list with lowest consumer impact.

Question. Can you explain how tariffs on apparel and footwear would address the IPR and forced technology transfer issues underlying the section 301 case?

Answer. Neither apparel nor footwear were on the proposed list of products set forth in USTR's Federal Register notice published on April 6, 2018. As we review products for a potential second list, an interagency team of career staff international trade experts and economists will base any proposal on extensive economic analysis, using widely accepted sources of trade and other economic data.

Question. Has USTR studied the economic impact for the proposed section 301 tariffs? Have you looked at the downstream impact the proposed tariffs will have on businesses, both large and small? What about the impact on consumers?

Answer. Yes. The interagency team of trade analysts and economists accounted for various economic factors in its analysis. The analysis identified products that benefit from Chinese industrial policies, including Made in China 2025. The list was refined by removing specific products identified by analysts as likely to cause disruptions to the U.S. economy, and tariff lines that are subject to legal or administrative constraints. The remaining products were ranked according to the likely impact on U.S. consumers, based on available trade data involving alternative country sources for each product. The proposed list was then compiled by selecting products from the ranked list with lowest consumer impact. This list is not final, and businesses, both large and small, have an opportunity to provide public comment on it, and many participated in a hearing this week on this topic.

Question. What kind of consultations have you done with U.S. companies who rely on imports from China to talk about the potential impact this will have on their businesses?

Answer. After the launch of the 301 investigation in August 2017, USTR held extensive stakeholder outreach including soliciting input for the advisory committee system, a Federal Register Notice with public comment period, and a public hearing.

We received over 70 written submissions during the public comment period and heard from witnesses with varied interests and perspectives on China's technology transfer acts, practices, and policies. The majority of the submissions and witnesses support USTR's determination that China engages in unreasonable and discriminatory technology transfer acts, policies, and practices that burden or restrict U.S. commerce.

Furthermore, the April 6th Federal Register Notice announcing the proposed list of products invited comments from all interested parties. The interagency section 301 committee, chaired by USTR, conducted 3 days of public hearings beginning on May 15th. We have briefed Congress throughout the process. We have also consulted with the advisory committees before initiating the investigation, and provided further opportunities for input during the investigation.

Question. Has USTR conducted any kind of analysis of the supply chains that will be affected by the 301 tariffs? Did this analysis include an evaluation of available capacity in other markets to produce covered goods? How quickly does USTR believe companies can shift sourcing away from China?

Answer. Yes. In compiling the proposed list of products for the $50-billion list, the interagency team of trade analysts and economists had considered and accounted for alternative country sources for each product, thereby minimizing the effects on supply chains. In addition, interested parties also have the opportunity to provide additional information regarding supply chain issues for each product during the notice and comment period.

Question. Have you done any kind of analysis on the potential for retaliation from China against U.S. industries, specifically agriculture?

Answer. We have considered that China may retaliate, but how China ultimately responds is, of course, China's decision. The appropriate and constructive response from China to our action should be for China to change its behavior, which China's government has pledged to do many times in the past but has failed to carry out. The administration stands ready to defend our producers that may be harmed by foreign country retaliation, in particular farmers and ranchers who are often the first to be targeted by trade actions. As we take a stronger approach to the way we handle trade, we will use all appropriate authorities to ensure that we protect and preserve our agricultural interests.

Question. Please describe the goal of our negotiations with China. Are there specific actions expected from China in order to remove tariffs? Will you use specific benchmarks to measure success?

Answer. The administration has been clear about its concerns with China's unfair trade practices. These practices include China's market-distorting forced technology transfers, theft of intellectual property, cyber-intrusions of U.S. commercial networks, and China's failure to abide by its WTO obligations.

Under section 301 of the Trade Act of 1974, USTR conducted an exhaustive investigation and determined that China's unfair trade practices harm America's economy. The administration has also identified very specific programs that China needs to address. These are identified in numerous reports, including USTR's report on China's compliance at the World Trade Organization, USTR's Special 301 Report, and the Department of Commerce's report on China's non-market economy.

The President calls on China to take concrete action to address its unfair policies and practices such as distorting markets, forcing technology transfer, and stealing technology. China must also finally follow through on commitments to lower its barriers to U.S. exports and cease its WTO-inconsistent behavior.

If China takes these actions, trade between the United States and China will be more free, fair, and reciprocal.

Question. How does the administration consider the supply chain of the U.S. economy when setting tariffs? Did USTR staff speak with companies who are sourcing from China to discuss their supply chains? Did the USTR analyze other potential sources for products that are currently made in China?

Answer. As discussed in the response above, the interagency team of trade analysts and economists had considered and accounted for alternative country sources for each product in compiling the proposed list of products, thereby minimizing the effects on supply chains. In addition, interested parties also have the opportunity to provide additional information regarding supply chain issues for each product during the notice and comment period.

Question. Why do you believe the proposed tariffs will have the effect of pressuring China to change its policies?

Answer. By targeting products that benefit from Chinese industrial policies, including Made in China 2025, the proposed tariff list aims to apply pressure on China in sectors that China deems important.

Question. When the administration discusses the trade deficit, does this only address trade in goods or does this include trade in services as well?

Answer. The administration looks at all trade balances when assessing trade flows—goods and services, goods alone, services, agriculture, manufacturing, and resources.

Question. Under the proposed tariffs, stakeholders can petition to not have their products subject to the tariff. Can you describe that process? If a company is in the petition process when the tariffs take effect, will they be subject to the tariff? Will they be able to get a refund on the tariff if their product is exempt after the tariff takes effect?

Answer. Sections E, F, and G of the April 6th Federal Register notice set forth the process to comment and testify about specific products subject to the proposed tariff. USTR has not made any final determination with respect to the proposed tariff action, including any effective date.

Question. The aluminum sector is facing tariffs set under the 232 action, as well as an ongoing Department of Commerce antidumping investigation regarding aluminum sheet from China. Does the administration consider the impact of both tariffs on manufacturing that uses aluminum?

Answer. I would refer you to the U.S. Department of Commerce for questions relating to the antidumping investigation of imports of aluminum sheet and its relationship to the President's section 232 action.

QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

Question. The Senate report accompanying the 2018 National Defense Authorization Act asked the U.S. Trade to consider marine debris in future trade agreements.

Yet, disappointingly, the President's 2018 policy agenda does not mention "plastic" or "marine debris."

How will you consider the direction given in the NDAA and incorporate it into your office's work on future trade agreements?

Answer. The Office of the U.S. Trade Representative (USTR) has taken into consideration both the Marine Debris Act and the NDAA, and we are actively working to incorporate this guidance into our bilateral and regional trade policy initiatives, including through the environment cooperation work programs with our trading partners.

Question. Around 80 percent of the plastic in the oceans comes from land. Of that plastic, more than half comes from just five countries: China, Indonesia, the Philippines, Thailand, and Vietnam.

Are there opportunities with these countries to push waste management improvements and other efforts to mitigate their contributions to the global marine plastic debris problem?

Answer. Yes, USTR is actively exploring opportunities with these countries to discuss and encourage waste management improvements and other efforts to mitigate their contributions to the global marine plastic debris problem, including under existing Trade and Investment Framework Agreements (TIFAs).

Question. How will you include marine debris in future multilateral or bilateral negotiations with these and other priority countries?

Answer. Environmental protections are important negotiating objectives that Congress has set out in TPA for future U.S. trade agreements, including obligations for the parties to effectively enforce their environmental laws, such as laws that would address land and sea pollution. Additionally, USTR was directed under the Marine Debris Act and the NDAA to consider including marine debris in future multilateral or bilateral negotiations with these and other priority countries. I look forward to working closely with you and other members as we consider possible future FTAs with additional trade partners.

Question. What role will the U.S. Trade Representative's office play in helping rapidly developing economies in Africa avoid the same waste management issues we've seen in rapidly developing economies in Asia?

Answer. USTR supports developing countries following sound development strategies, as reflected in the statutory eligibility criteria of the African Growth and Opportunity Act as well as Trade Promotion Authority. USTR's efforts are complemented by those of other U.S. Government agencies operating in Africa, including the U.S. Agency for International Development. As USTR considers possible African partners for exploratory FTA talks, we will make efforts to incorporate environmental obligations, consistent with guidance outlined in TPA.

Question. Where does marine debris rank among the United States' many trade priorities with China, the greatest contributor of plastic from land into the ocean?

Answer. Marine debris is among the many trade and environment policy priorities we have with China, and we are working to address marine debris in multilateral fora to which we both belong, such as APEC and G20.

Question. How can the U.S. Trade Representative coordinate with NOAA, the State Department, and EPA to provide technical assistance and research support for countries needing to improve their waste management regimes and reduce plastic waste entering the ocean?

Answer. USTR is already coordinating closely with NOAA, the State Department, and EPA to include marine debris as a priority in existing environmental cooperation work programs that support implementation of our FTAs to improve waste management regimes and reduce plastic waste entering the ocean. USTR, NOAA, the State Department, and EPA are currently considering technical assistance and research to address marine debris and waste management under the Environment Plans of Action with Singapore, Jordan, and Oman, as well as an ongoing program in Panama to prevent land-based trash from flowing into the Caribbean Sea.

Question. What role will the U.S. Trade Representative's office play if a new international treaty on land-based sources of marine debris were developed? How quickly could the USTR incorporate a new treaty into future trade agreements?

Answer. The 2015 Bipartisan Trade Priorities and Accountability Act (2015 TPA) provides that USTR ensure that our trading partners comply with their obligations under certain common multilateral environmental agreements (MEAs) through trade agreement negotiations. I look forward to consulting with you and other members of Congress closely on any proposed future additions related to marine debris.

Question. You opposed the Paris Agreement, characterizing it as "another unfair trade barrier that America cannot afford." In reality, the Paris Agreement would not have penalized American exports nor favored imports from overseas. In fact, the trade risk comes from withdrawing from the Paris Agreement, as every other country in the world begins implementing it. Canada is in the process of implementing an economy-wide carbon price. Several European countries are discussing implementing a carbon tax, and Mexico, Columbia, and Chile have also indicated that they will begin pricing carbon. And China has begun implementing a cap and trade system to limit carbon emissions.

As the rest of the world charges ahead with pricing carbon in order to meet national emissions reductions goals under the Paris Agreement, what is the risk that these countries will impose tariffs on U.S. goods to compensate for the fact that we are not pricing carbon?

Answer. The President has clearly articulated his views regarding the Paris Climate Agreement, while at the same time expressing his support for a balanced approach to climate policy that lowers emissions while promoting economic growth and ensuring energy security.

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 United States address the threats that climate change poses to global supply chains and the economy?

Answer. I defer to other relevant Cabinet officials regarding U.S. and global climate change policy matters.

Question. The U.S. helped negotiate the Kigali Amendment to the Montreal Protocol. The Kigali Amendment would phase down emissions of hydrofluorocarbons (HFCs), a powerful greenhouse gas used as a refrigerant. It is supported by American manufacturers, which have developed alternative molecules to replace HFCs and would see increased sales were it to be implemented. However, the Trump administration has yet to indicate whether it will send the Kigali Amendment to the Senate for ratification. The Kigali Amendment is good for American business, American workers, our international leadership, and the planet.

Do you support the Kigali Amendment? If not, why not?

Answer. The administration continues to review the Kigali Amendment to the Montreal Protocol, and USTR and other relevant agencies are participating in the interagency review process led by the National Security Council (NSC).

Question. As you know, President Trump recently announced his intention to impose tariffs on $60 billion of imported goods from China. While China's troubling record of intellectual property theft warrants U.S. action, I'm concerned that American families may end up paying for these tariffs in the form of higher prices for clothing, toys, electronics, and household goods.

Are you working to ensure that tariffs on Chinese goods are tailored to ensure minimal price affects for middle-class families? Do you anticipate these tariffs will lead to higher prices for clothing, toys, electronics, and household goods? Why or why not?

Answer. The proposed tariff list was selected based on a methodology that balances the application of maximum pressure on China's unfair industrial policy, and minimizing any impact on the U.S. economy. The interagency team of trade analysts and economists had accounted for various economic factors in its analysis. The proposed tariff list identified products that benefit from Chinese industrial policies, including Made in China 2025. The list was refined by removing specific products identified by analysts as likely to cause disruptions to the U.S. economy, and tariff lines that are subject to legal or administrative constraints. The remaining products were ranked according to the likely impact on U.S. consumers, based on available

trade data involving alternative country sources for each product. The proposed list was then compiled by selecting products from the ranked list with lowest consumer impact.

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

Anybody reading the trade policy news on the business pages is probably suffering from a nasty case of whiplash. Trying to decipher all that news, it is hard to identify a coherent strategy that will help American workers, businesses, and farmers when the dust settles.

Since the summer, the administration has been engaged in negotiations with Canada and Mexico to update NAFTA—a project that is incredibly important to U.S. workers and the American economy. However, those talks are routinely broadsided by tweets from the President on subjects like the fantasy of Mexico paying for a border wall. It creates chaos, threatening to derail the discussions, or at least distract from the important issues.

A decision with respect to steel and aluminum action was delayed for months as a result of political maneuvering. But then, in a meeting that was billed as a "listening session," the President blurted out his plans to impose a 25 percent tariff on steel imports and a 10 percent tariff on aluminum.

What followed was more of the same: it was chaos. Lobbyists descended on Washington to get special carve-outs. Other countries—including longstanding allies—threatened retaliation. It was unclear who in the administration was responsible for making key decisions about tariffs that would take effect in very short order.

It's still an open question as to which countries will be excluded and which will be included in the tariffs. You'd hope and expect that more information will be released over the coming weeks. But the tariffs are scheduled to go into effect tomorrow.

With respect to the overnight news about China, I'm pleased the administration appears to be taking a more deliberative approach. The fact is, China has stolen our intellectual property, held American companies hostage until they disclose their trade secrets, and manipulated their markets in a strategic manner to rip off American jobs and industries. I want to hear more this morning about how the administration will manage the 301 process going forward in order to get trade done right.

Bottom line, the Trump administration stormed into office promising better deals, more certainty for businesses to create jobs in America, and a stronger position in the world economy. But after 14 months, it's mostly delivered a whole lot of chaos. Total chaos on trade isn't going to create a single red, white, and blue job.

So I'm glad Ambassador Lighthizer is here with the committee today to discuss the administration's trade agenda, because I am counting on him to bring a cool head to this heated situation. And I look forward to questions.

COMMUNICATIONS

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The American Farm Bureau Federation (Farm Bureau) offers the following statement for the record on the hearing: "President's 2018 Trade Policy Agenda."

Trade is critical to the livelihood of the U.S. agricultural sector because it spurs economic growth for our farmers, ranchers, and their rural communities. Agriculture supports jobs in the food and agricultural industries and beyond. The fact is that 95 percent of the world's consumers live outside of the United States and over 20 percent of U.S. farm income is based on exports. Expanding opportunities for U.S. crop and livestock producers to access international markets will boost farm income in the United States, while preserving existing access is critical to maintaining farm income at current levels. U.S. agricultural exports amounted to $140.5 billion in 2017. Imports, critical for certain products, especially out of season produce, totaled $119 billion in 2017.

Trade agreements have significantly contributed to the decades-long positive growth in trade by U.S. agriculture. Between 2003 and 2017, U.S. agricultural exports to countries we have trade agreements with increased from $24 billion to $63 billion annually, 45 percent of all agricultural exports. Existing trade agreements have proved successful in tearing down tariff and non-tariff trade barriers that hinder U.S. farmers' and ranchers' competitiveness and prevent us from taking advantage of consumer demand for high quality U.S. food and agricultural products throughout the world. For consumers, trade agreements provide access to new varieties of food products and off-season supplies of fresh produce.

NAFTA

One of the most talked about trade agreements, the North America Free Trade Agreement (NAFTA), has been overwhelmingly beneficial for farmers, ranchers, and associated businesses all across the United States, Canada, and Mexico for decades. With NAFTA, U.S. farmers and ranchers across the nation have benefited from an increase in annual exports to Mexico and Canada from $8.9 billion in 1993 to $39 billion in 2017.

The NAFTA negotiations between the United States, Canada, and Mexico seek to modernize the agreement and provide greater benefits to the economics of North America. Despite these numerous benefits, there are reasons to update and reform NAFTA from agriculture's perspective. Improvements that eliminate and reduce tariff barriers, eliminate redundant regulatory costs, expedite transit across borders, and hasten the resolution of disputes between members would go a long way towards more efficient trade between NAFTA partners. The rules related to biotechnology, sanitary and phytosanitary measures and geographic indicators need to be improved in order to reflect the progress that has been made in these areas over the decades since NAFTA was enacted.

U.S. agricultural exports to Canada would grow if tariff barriers to dairy, poultry, and eggs were reduced or eliminated. The recent Class 7 pricing program instituted by Canada has eliminated an important export market for U.S. dairy producers of ultra filtered milk products and needs to be removed.

While there are several areas where the NAFTA agreement could be modernized to improve trade in agricultural goods, however, it is critical that the modernization

effort should recognize and build upon the strong gains achieved by U.S. agriculture through the tariff eliminations, the recognition of equivalency of numerous regulatory issues, and the development of integrated supply chains that have arisen due to the agreement.

Trade in goods consists of not only final consumer products but also intermediate inputs and raw materials, as firms reorganize their activities around regional markets for both inputs and outputs, spurred in part by greater foreign direct investment (FDI).

This integration enables agricultural producers and consumers in the region to benefit more fully from their relative strengths and to respond more efficiently to changing economic conditions. The creation of a larger, single market has given producers access to cheaper suppliers of inputs, which allows U.S. producers to be more price competitive domestically and abroad.

U.S. agriculture depends upon a growing international economy that provides opportunities for farmers and ranchers to sell their products. Modernization of NAFTA will expand market opportunities for U.S. agriculture.

TRANS-PACIFIC PARTNERSHIP

The 11 countries of the Trans-Pacific Partnership, after the U.S. withdrawal in January 2017, have agreed to form a new agreement. The CPTPP (Comprehensive and Progressive Trans-Pacific Partnership) was recently signed and will be ratified by the participating countries in the next months.

The Farm Bureau was a strong supporter of the TPP and we encourage the Administration to engage with the TPP countries to discuss joining the CPTPP. Our analysis of the TPP found that U.S. agricultural trade would increase by over $5.5 billion annually due to the removal of tariff and non-tariff barriers in the TPP region.

JAPAN

The Farm Bureau supported the Trans-Pacific Partnership (TPP) agreement due to the gains for U.S. agricultural exports from the lowering of tariff and non-tariff barriers with the TPP partner countries. The majority of the export gains were with Japan, due especially to the lowering of Japanese tariffs on beef, pork, dairy, and other products. We encourage the discussions by the Administration with Japan about trade concerns. We also support efforts by the United States to rejoin the TPP, now called the CPTPP (Comprehensive and Progressive Trans Pacific Partnership.

CHINA

The U.S. exported over $22 billion in agricultural products to China in 2017, ranking as the #2 export market for U.S. farmers and ranchers. This market in China is especially critical for U.S. soybean growers as $14 billion of the $22 billion of soybean exports in 2017 went to China.

Any effort to impose tariffs on Chinese imports by the U.S. runs the risk of retaliatory measures against U.S. agricultural exports. Previous U.S. Government action against China on tires resulted in China retaliating against U.S. poultry exports. The impact on American farmers and ranchers, and the associated businesses, must be considered when pursuing trade actions. U.S. agriculture has strongly supported, for decades, efforts to open the world to our agricultural and other trade products.

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Chairman Hatch and Ranking Member Wyden, thank you for the opportunity to submit these comments for the record to the Committee on Finance. This largely mirrors our comments from last year. As usual, we will preface our comments with our comprehensive four-part approach, which will provide context for our comments.

- A Value-Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure very American pays something.
- Personal income surtaxes on joint and widowed filers with net annual incomes of $100,000 and single filers earning $50,000 per year to fund net interest pay-

ments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates between 5% and 25%.

- Employee contributions to Old-Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), which is essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age 60.

Far be it from the Center to interfere with a dispute between the Committee and the White House over steel tariffs and NAFTA. Such arguments are like those over immigration, where some business owners want employees to stay in the shadows and be abused, others want legal employees (though non-union—repealing right to work laws would end illegal immigration because no one would hire an undocumented worker with union representation) and still others in the conservative camp simply hate the illegality or the ethnicity of the immigrants (speaking of the White House).

The real similarity in the short term is that attacking unions for the past 30 years has taken its toll on the American worker in both immigration and trade. That has been facilitated by decreasing the top marginal income tax rates so that when savings are made to labor costs, the CEOs and stockholders actually benefit. When tax rates are high, the government gets the cash so wages are not kept low nor unions busted. It is a bit late in the day for the Majority to show real concern for the American worker rather than the American capitalist or consumer.

Reversing the plight of the American worker will involve more than trade, but I doubt that the Majority has the will to break from the last 30 years of tax policy to make worker wages safe again from their bosses. Sorry for being such a scold, but the times require it.

Some of our prior comments to the Trade Subcommittee from June of 2016 on our standard tax plan still apply, even though that hearing was on agricultural exports. Allow us to repeat them now.

The main trade impact in our plan is the first point, the value-added tax (VAT). This is because (exported) products would shed the tax, *i.e.,* the tax would be zero rated, at export. Whatever VAT congress sets is an export subsidy. Seen another way, to not put as much taxation into VAT as possible is to enact an unconstitutional export tax.

The second point, the income and inheritance surtax, has no impact on exports. It is what people pay when they have successfully exported goods and their costs have been otherwise covered by the VAT and the Net Business Receipts Tax/Subtraction VAT. This VAT will fund U.S. military deployments abroad, so it helps make exports safe but is not involved in trade policy other than in protecting the seas.

The third point is about individual retirement savings. As long as such savings are funded through a payroll tax and linked to income, rather than funded by a consumption tax and paid as an average, they will add a small amount to the export cost of products.

The fourth bullet point is tricky. The NBRT/Subtraction VAT could be made either border-adjustable, like the VAT, or be included in the price. This tax is designed to benefit the families of workers, either through government services or services provided by employers in lieu of tax. As such, it is really part of compensation. While we could run all compensation through the public sector and make it all border adjustable, that would be a mockery of the concept. The tax is designed to pay for needed services. Not including the tax at the border means that services provided to employees, such as a much-needed expanded child tax credit—would be forgone. To this we respond, absolutely not—Heaven forbid—over our dead bodies. Just no.

The NBRT will have a huge impact on trade policy, probably much more than trade treaties, if one of the deductions from the tax is purchase of employer voting stock (in equal dollar amounts for each worker). Over a fairly short period of time, much

of American industry, if not employee-owned outright (and there are other policies to accelerate this, like ESOP conversion) will give workers enough of a share to greatly impact wages, management hiring and compensation and dealing with overseas subsidiaries and the supply chain—as well as impacting certain legal provisions that limit the fiduciary impact of management decision to improving short-term profitability (at least that is the excuse managers give for not privileging job retention).

Employee-owners will find it in their own interest to give their overseas subsidiaries and their supply chain's employees the same deal that they get as far as employee-ownership plus an equivalent standard of living. The same pay is not necessary, currency markets will adjust once worker standards of living rise.

Over time, this will change the economies of the nations we trade with, as working in employee owned companies will become the market preference and force other firms to adopt similar policies (in much the same way that, even without a tax benefit for purchasing stock, employee-owned companies that become more democratic or even more socialistic, will force all other employers to adopt similar measures to compete for the best workers and professionals).

In the long run, trade will no longer be an issue. Internal company dynamics will replace the need for trade agreements as capitalists lose the ability to pit the interest of one nation's workers against the others. This approach is also the most effective way to deal with the advance of robotics. If the workers own the robots, wages are swapped for profits with the profits going where they will enhance consumption without such devices as a guaranteed income.

If Senator Sanders had been nominated and elected, this is the type of trade policy you might be talking about today. Although the staff at the Center supported the Senator, you can imagine some of us thought him too conservative in his approach to these issues, although we did agree with him on the $15 minimum wage. Economically, this would have had little impact on trade, as workers at this price point often generate much more in productivity than their wage returns to them. This is why the economy is slow, even with low wage foreign imports. Such labor markets are what Welfare Economics call monopsonistic (either full monopsony, oligopsony or monopsonistic competition—which high wage workers mostly face). Foreign wages are often less than the current minimum wage, however many jobs cannot be moved overseas.

As we stated at the outset, the best protection for American workers and American consumer are higher marginal tax rates for the wealthy. This will also end the possibility of a future crisis where the U.S. Treasury cannot continue to roll over its debt into new borrowing. Japan sells its debt to its rich and under-taxes them. They have a huge debt to GDP ratio; however, they are a small nation. We cannot expect the same treatment from our world-wide network of creditors, an issue which is also very important for trade. Currently, we trade the security of our debt for consumer products. Theoretically, some of these funds should make workers who lose their jobs whole—so far it has not. This is another way that higher tax rates and collection (and we are nowhere near the top of the semi-fictitious Laffer Curve) hurt the American workforce. Raising taxes solves both problems, even though it is the last thing I would expect of the Majority.

We make these comments because majorities change—either by deciding to do the right thing or losing to those who will, so we will keep providing comments, at least until invited to testify.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

LEARNING RESOURCES, INC.
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Statement on Possible Chinese Toy Tariffs

My name is Richard Woldenberg, and I am CEO of Learning Resources, Inc. located in Vernon Hills, IL. I am submitting this testimony on behalf of our company. Our company is a family business which develops and markets educational products and educational toys in the United States and dozens of other countries. We outsource the manufacturing of our products overseas, and as a result, we are a significant

importer (of our own products) into the United States. Many of our products are made in China under our control.

We have grave concerns about reports that the President intends to impose high tariffs on toys made in China by the end of March. The imposition of tariffs on toy imports is completely unrelated to allegations of Chinese theft of intellectual property and forced technology transfers in other industries, and is rife with risk and unintended consequences. Our industry is highly dependent on China as a manufacturing hub, and thus an easy target in trade disputes with China. I fear that the future of our company, and the many jobs we provide, are at stake here. We are a small business under the Federal Government definition and believe that the problems we will face under a harsh import tariff regime will be experienced by many other small business importers in the United States.

Our Company

Learning Resources, Inc. (LR) was founded in 1984 and is located in Vernon Hills, IL and has about 150 employees in the United States and the U.K. The company is part of our family business group which turned 100 years old in 2016; I am the third generation of my family to run this business, and we were proud to welcome the first member of the fourth generation into our business last year. LR develops and markets proprietary educational toys and materials in Vernon Hills but has manufactured most of its 1,200 products overseas since the late 1980s. Jobs at our company pay well, turnover is low and we are an important member of our community, injecting many millions of salary and benefit dollars into the local economy annually. In 2013 and again in 2016, LR tried and failed to find factories located in the United States interested in making our products. In other words, we know from recent experience that we have no realistic option to make our products in the United States, with or without the coercive pressure of tariffs. High tariffs will just shrink our business and impoverish our consumers.

Toy Tariffs Will Hit the Wrong Target

Our China factories are not state-owned

Our business largely depends on factory relationships in China. To my knowledge, we do not do business with any Chinese government-owned or controlled entities. The factories that we use are private businesses, typically family businesses like ours. These businesses are subject to law, and pay fair wages to make our products in a responsible manner. The factories are subject to Code of Conduct audits and certifications, and must also pass compliance audits by local authorities. The high quality products we make in our Chinese factories satisfy U.S. safety standards and other international safety standards. We do good business in China with good people.

Losses by our partner factories will hurt us. Our partners are hard-working and honest people who do a great job making consumer goods for Americans to buy and enjoy. They do not have deep capital reserves, however. Their economic suffering at the hands of U.S. tariffs will come out of our pockets, in the form of higher costs, lost production capacity, ruined teams or forgotten know-how, weakened balance sheets and broken trust. When the President pushes Humpty Dumpty off the wall, we know he cannot be put back together again.

Chinese enforcement of our property rights has been reliable

We have *never* experienced intellectual property theft by our factories. We register our intellectual property in China, as elsewhere, and rely on Chinese lawyers and Chinese courts to enforce our rights in our innovations. We have been successful in enforcing our rights in China, in part because of our legal ability to close the U.S. market to infringers. We are not confident we will have the same leverage when the President closes U.S. markets to all Chinese toy companies preemptively.

In fact, a greater issue in our business is the economic health of our factories, which can be shaky at times. We have seen factories go out of business, leaving our U.S. business endangered. In one notorious case, a big factory closed overnight, leaving our business exposed with many important proprietary molds in legal limbo. However, within a short period of time, a Chinese judge ruled in our favor in the local insolvency proceeding and allowed us to recover our molds in time for Christmas toy production. The Chinese judge's decision to uphold our property rights in the molds saved our holiday selling season. In our experience, Chinese courts and Chinese judges have been respectful of our property rights even though we come from another country.

Our company has no realistic ability to move its supply chain to another country

We have business reasons for the assignment of products to specific factories, whether in the United States or in other countries. There are many considerations for these decisions. Based on our market knowledge, we locate our manufacturing in the most efficient way possible. We know of no other markets where we can get the range of services and skills necessary to make our products at the best possible cost. We have also made repeated attempts to develop a U.S.-based supply chain but cannot do so on any basis, even inefficiently. We have no known realistic alternative to our current supply chain.

Our products are used in American schools

Toy tariffs will harm American schools because many toy companies cross over into school supply. Notably, our company was formed to supply schools with hands-on learning tools in 1984. U.S. Customs regulations treat our educational products as "toys," which means that the cost of tariffs will force us to raise the cost of school products. The big losers will be poorly-equipped American schools, and the American families depending on them. This is yet another example of the self-destructive nature of import tariffs aimed at the wrong target.

Our industry is greatly weakened right now

The demise of Toys R Us is a material event in the American toy industry. Not only did TRU have U.S. market share of 20–25 percent, leaving a huge hole for many companies in the wake of its liquidation, but it also played a special role in the market for the introduction of hot new toys. The absence of TRU from the marketplace removes a critical industry marketing vehicle, not to mention a brand ambassador and a critically important source of revenue. Notably, TRU inflicted massive losses on many toy companies in September 2017 when it sought Chapter 11 bankruptcy protection, and again in March 2018 when it announced plans to fully liquidate. This was a kind of a "Double Indemnity" event for the toy industry. Adding tariffs at this time will devastate the health of an already weakened American toy industry employing hundreds of thousands of Americans.

The vast majority of imports are made by small businesses

It is well-known that 97 percent of U.S. importers are Small Businesses (U.S. Census data, 2014). The average import value per annum per congressional district is about $1.5 billion from Small Business alone. The annual import value (2015) for the U.S. Small Business community was a very healthy $631 billion *(https://www.census.gov/foreign-trade/Press-Release/edb/2015/exh1d.pdf).* Toy tariffs will certainly be a Small Business tax. According to the U.S. Census Bureau, there were more than 191,000 small business importers in 2015 in the United States. Toy tariffs will put many small business jobs at risk and there should be no presumption that those jobs will come back if Mr. Trump later reverses course.

Just Because We Start a Fight Doesn't Mean We Will Have the Power to End it

The effect of toy tariffs is unknown and may be irreversible

Our industry has never experienced high tariffs. The burden of toy tariffs was last felt in the early 1990s and the removal of those small tariffs led to dramatic industry growth. In that same time period, retail prices have fallen on an adjusted basis while innovation has skyrocketed. It is reasonable to assume that high tariffs will sharply reverse that progression. The cost of tariffs will have to be passed on to American consumers, and the financial burden of the tariffs will drain cash availability at victimized toy companies. The outcome of this grand trade experiment cannot be foretold but it is certainly not going to be pleasant. Jobs lost because of this ill-considered policy may never return. The historic lessons of Smoot-Hawley need to be taken seriously.

Retaliation may leave a permanent mark on certain industries owing to lack of trust

The imposition of tariffs on our industry has no precedent. No one has a plan to deal with it, and our factories will immediately become financially sick. Under these circumstances, when the U.S. Government demonstrates a willingness to act capriciously and unpredictably, trust can be forever damaged. Who will be willing to invest in reliance on prevailing trade practices after that? We will have to deal with this externality for years to come. That's a cost we will never get back.

Retaliation will be followed by reinvigorated foreign competition

The likelihood of retaliation for high tariffs is great. Market access removed because of aggressive trade actions may cede market control to foreign competition. As everyone knows, it's easier to retain a customer than to win one back. The government

is playing with our life's work with these tariffs, and the future is murky. We will have no control over the removal of measures taken in response to the President's provocative tariff plan.

Conclusion

Regardless of the justifications supporting toy tariffs, no one is going to miss the point that costs are going to skyrocket. In the wake of tax reform designed to improve corporate competitiveness, the high toy tariffs will come as a shock to an unsuspecting corporate community preparing for expansion. The voters' anger will only mount as job losses pile up and prices rise.

There must be another, better way to fix trade imbalances with China, and it is Congress's responsibility to find it. Thank you for considering my views.

