

**BIDEN ADMINISTRATION'S 2023 TRADE
POLICY AGENDA WITH UNITED STATES
TRADE REPRESENTATIVE, AMBASSADOR TAI**

HEARING
BEFORE THE
COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

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United States House Committee on
Ways & Means
CHAIRMAN JASON SMITH

FOR IMMEDIATE RELEASE
March 17, 2023
No. FC-05

CONTACT: 202-225-3625

**Chairman Smith Announces Hearing on the
Biden Administration's 2023 Trade Policy Agenda with
United States Trade Representative, Ambassador Tai**

House Committee on Ways and Means Chairman Jason Smith (MO-08) announced today that the Committee will hold a hearing on the Biden Administration's 2023 trade policy agenda with United States Trade Representative, Ambassador Katherine Tai. The hearing will take place on **Friday, March 24, 2023, at 9:00am in 1100 Longworth House Office Building.**

Members of the public may view the hearing via live webcast available at <https://waysandmeans.house.gov>. The webcast will not be available until the hearing starts.

In view of the limited time available to hear the witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record can do so here: WMSubmission@mail.house.gov.

Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Friday, April 7, 2023**. For questions, or if you encounter technical problems, please call (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee.

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All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Please indicate the title of the hearing as the subject line in your submission. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

ACCOMMODATIONS:

The Committee seeks to make its facilities accessible to persons with disabilities. If you require accommodations, please call 202-225-3625 or request via email to WMSubmission@mail.house.gov in advance of the event (four business days' notice is requested). Questions regarding accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the Committee website at <http://www.waysandmeans.house.gov/>.

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**BIDEN ADMINISTRATION'S 2023 TRADE
POLICY AGENDA WITH UNITED STATES
TRADE REPRESENTATIVE, AMBASSADOR TAI**

FRIDAY, MARCH 24, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The committee met, pursuant to call, at 9:05 a.m., in Room 1100, Longworth House Office Building, Hon. Jason Smith [chairman of the committee] presiding.

Chairman SMITH. The committee will come to order.

Ambassador Tai, thank you for appearing here today. It is my pleasure to welcome you back to the best committee in Congress where you served with great distinction.

As you know, American families, they want and need results. They have lost 2 months of wages in the Biden economy, wholesale prices are continuing to weigh on small businesses, and our economy continues to struggle. Making matters worse, President Biden has left American workers on the sidelines, surrendered our economic advantage to China, and refused to consult with Congress.

To be clear, a country that cannot supply their own demand for food, energy, and medicine but must instead rely on other nations to fulfill those basic needs, they are no longer independent, but they are politically dependent.

Given that this is your first time appearing before the Ways and Means Committee in the new Republican majority, I believe today's hearing is an opportunity to establish a new path forward to put American workers first and China—and hold China accountable.

U.S. trade policy has historically been bipartisan. For example, President Trump's USMCA strengthened the trade relationship between North American countries and gave a stronger enforcement mechanism to stand up for American workers. I am glad to see some positive developments with regard to enforcement to ensure fairness for American farmers and energy producers competing in Canada and Mexico. But the American people expect us to go further and to use the tools at our disposal to level the playing field for our workers, farmers, and job creators.

Without a trade agenda that puts workers and jobs first, the United States is falling behind China and other competitors. China is forging ahead with an aggressive trade agenda that cheats America. It shapes the global playing field in its favor and threatens key American supply chains and the livelihoods of American farmers and workers. But rather than lead on trade, the Biden ad-

ministration's tax and trade policies surrender the world's customers to China and allow it to profit using taxpayer dollars.

The U.S. must be clear about the Chinese Communist Party's human rights abuses and predatory trade practices and work to stop them. The Phase One agreement negotiated by President Trump included specific enforcement provisions. Yet for some reason, the administration has yet to provide a comprehensive accounting of China's compliance.

Ambassador Tai, that should be a no-brainer, and we would love to hear that information.

In the meantime, the committee is prepared to take common-sense steps to strengthen our supply chains and reduce our dependence on China. That includes more U.S. production and deeper cooperation with allies. But during hearings in West Virginia and in Oklahoma, witnesses representing America's farmers, the energy producers, and manufacturers told this committee that they are hamstrung by red tape and the Biden administration's new taxes. They deserve better.

The Biden administration unfortunately has refused to recognize that the Constitution requires Congress to be at the center of U.S. trade policy. Through so-called trade frameworks that sidesteps Congress and fail to establish durable agreements, this administration is fueling the supply chain crisis and plunging American workers, farmers, and manufacturers into prolonged uncertainty. Endless dialogues and frameworks are no substitute for exercising Congress' constitutional authority—and giving the American people a voice—over trade. In order to succeed, this administration must recognize that Congress is in the driver's seat in setting priorities and deciding whether to approve any trade agreements. And trade at its core function should be used to benefit the American people and increase the wealth of our Nation and our economy. Trade plans are only worthwhile so much as they accomplish those goals and advance the well-being of the American people we all serve.

Ambassador, I am extremely optimistic that we can work together and deliver some real results for the American people. Together, we can stand up for workers and farmers and manufacturers, build on USMCA's progress, hold the Chinese Communist Party accountable, strengthen our supply chains, and restore American leadership in the world.

I am pleased to recognize the ranking member from Massachusetts, Mr. Neal, for his opening statement.

Mr. NEAL. Thank you, Mr. Chairman.

We want to welcome back Ambassador Tai, one of the distinguished alums of the House of Representatives. We are thrilled with the emphasis that she has placed upon the enforcement of these trade agreements. She, with me and the members of our side, along with former Chairman Brady, for months, day after day after day, renegotiated USMCA.

I think perhaps the chairman and I have a slightly different versions of how that happened, but we would also recall that, in the end, 193 Republicans voted for the agreement and 195 Democrats voted for a trade agreement that was endorsed by the AFL-CIO and the Teamsters Union, almost unheard of and thanks, in many ways, to the guidance that you offered along the way. U.S.

Chamber of Commerce, Business Roundtable, Teamsters, and the AFL-CIO endorsed that trade agreement.

So, this is your first appearance, and we want to congratulate not just you but President Biden on the strong and sustainable recovery that is focused on workers. More jobs have been created under his leadership in the last 2 years than on any other President's time in a full term. Wages are on the rise, and our investments in supply chains and infrastructure are bringing back "Made in America." This is how you rebuild an economy from the bottom up and the middle out, and I am grateful for your leadership in connecting this to our worker-centric trade agreement.

As our Nation's lead trade negotiator, you have put American workers and businesses first, strengthening relationships with global allies. And under your leadership, we are now used to USMCA's Rapid Response Labor Mechanism, which you have applied seven times already, standing up for workers' rights and showing the world what is possible with strong enforcement mechanisms.

Last year, the committee took decisive action on a bipartisan basis to hold Russia accountable for its horrific, unprovoked war in Ukraine. We banned Russian energy imports and suspended normal trade relations to inflict substantial economic pressure on Putin's regime.

Ambassador Tai, I encourage you to continue working with our partners and allies in isolating Putin and improving global supply chain resiliency.

Even in the face of these atrocities, we have seen unparalleled unity amongst our allies. Now is the time to capitalize on our connections and strengthen our economic ties, especially in Europe and Africa.

I had the opportunity to visit the World Trade Organization last year. I met with many of our allies yearning for a deeper U.S. engagement. So, I applaud your commitment to strengthening the institutions and commend you for delivering a successful outcome for MC12. I have seen firsthand the positive impact of WTO as it has had on global commerce, but more reforms are still needed, and you and I know, share that same view, especially with dispute settlement.

I share your concerns with recent rulings on national security, and also understand clearly that it is the integrity of that organization whose reputation is on the line.

You have embraced our climate goals as a key trade priority. Ways and Means Democrats probably contributed the largest Federal investment to protect our climate in the Inflation Reduction Act. And I am delighted with the fact that many who we might describe as climate deniers are attempting to take advantage of those tax credits. That is a good thing.

These types of worker-focused economic trade investments not only protect our planet, but they create good-paying jobs. Strong environmental protections, workers' rights, and human rights are all interconnected, which we established in USMCA and other trade agreements. In combatting this crisis, guardrails will need to be put in place to ensure that the environmental problem is not replaced with another substantial challenge. There are plenty of les-

sons to learn from the past, and climate solutions of the future should be grounded in those lessons.

Ambassador Tai, the House Democrats fought hard to establish a new structure for enforcement, and you have followed up on it, and we are grateful for it. USMCA now stands as a powerful beacon for what is possible when it comes to durable enforcement trade agreements, and I credit that work in consensus building to Congress in a bipartisan manner. It is the collaboration between Congress and the executive that allows trade policy to live up to its fullest potential. In this critical moment, that cannot be forgotten.

I saw our Senate colleagues deliver this message yesterday, and I share many of their concerns. We seek long-lasting solutions just as you do, and we firmly believe, when done right, trade is a powerful driver of good-paying, quality jobs in a thriving economy. Thanks for being here today. We welcome you back enthusiastically. And I yield the balance of my time. Thank you, Mr. Chairman.

Chairman SMITH. Thank you. Thank you, Ranking Member Neal.

Today's sole witness is United States Trade Representative, Ambassador Katherine Tai. The committee has received your written statement and it will be made part of the formal hearing record. You have 5 minutes to deliver your oral remarks.

Ambassador Tai, you may begin when you are ready.

STATEMENT OF MS. KATHERINE TAI, UNITED STATES TRADE REPRESENTATIVE

Ambassador TAI. Thank you so much, Chairman Smith, Ranking Member Neal, members of this august committee. Congress is our constitutional partner on trade, and I appreciate the opportunity to discuss the President's trade agenda with you today.

Under President Biden's leadership, this administration is writing a new story on trade, one that puts working families first and reflects more voices across the American economy, one that advances our global priorities and strengthens democracy here at home and abroad.

Whether you have a college degree or not, whether you have 5 employees or 500, whether you are in rural Ohio or in the heart of Baltimore, whether you are a small dairy farmer in Michigan or a steelworker in Pennsylvania, we are restoring fairness to our trade and economic system for you. This means vigorously enforcing existing commitments to reestablish confidence and trust in trade. And this starts with the USMCA, which has a very special relationship with this committee, which Congress and this committee passed on a strong bipartisan basis.

We are pressing Canada to ensure that U.S. dairy farmers are treated fairly, finally, and urging Mexico to address our concerns with the energy sector and with agricultural biotechnology. On the latter, we recently requested technical consultations with Mexico under the USMCA, and we will continue to consider all options available under that agreement to fix the problem.

Restoring fairness to the system also means empowering workers to compete fairly. We are using the USMCA's rapid response mech-

anism to promote workers' rights in Mexico, and we are seeing real change and success for workers in independent unions. In the last year, we have secured wins for workers at four different facilities. We have ongoing open cases, and will continue to work with the Government of Mexico. We are also working with the European Union, Japan, Canada, and Mexico actively to eliminate forced labor from global supply chains.

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

Speaking of new opportunities, the United States is leading with a positive economic vision around the world, and our partners and our allies are joining us. The Indo-Pacific Economic Framework is a major priority this year, and we are making significant progress. This framework will level the playing field for American workers and businesses, create more resilient supply chains, boost agricultural exports, build an inclusive digital economy, and help businesses compete in the region.

We also kicked off the America's Partnership for Economic Prosperity with 11 countries in our hemisphere. Regionalization is an integral part of building resilience in the world economy. By strengthening our relationships with our closest neighbors, we can drive sustainable, economic growth and bolster our collective prosperity.

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

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

On the multilateral front, our administration worked with WTO members to deliver tangible outcomes during the last Ministerial Conference, the first time in a decade, including on COVID-19 vaccines, fishery subsidy disciplines, and food insecurity. And we are committed to transforming the institution to be more responsive to the rapidly changing global economy and the needs of everyday people.

We are also taking full advantage of our APEC host year to build a more durable, resilient, and inclusive Asia-Pacific region. Another component of our trade agenda, of course, is realigning the U.S.-China relationship. That means making groundbreaking invest-

ments here at home to compete from a position of strength. That also means renewing our engagement with partners and allies to develop new tools to address the challenges posed by the PRC.

The comprehensive 4-year review on the Section 301 tariffs is a part of this realignment. We are taking a deliberate and strategic look at how we can serve our economic interests in light of the PRC's continued unfair policies and practices.

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

I want to close where I started. Congress is our constitutional partner on trade. The success of our initiatives depends on a robust partnership with all of you. Since last year's trade agenda hearings, USTR has held over 380 congressional consultations, including more than 80 on IPEF alone. And your feedback has been incredibly helpful in informing and guiding our work.

I have also heard your concerns about Congress' role on trade and transparency with the public, and I have asked my team to make further enhancements. That includes making it easier for congressional staff to review our negotiating text, releasing public summaries of that text, and holding public stakeholder meetings, especially with groups who traditionally have not been involved in the process. Moving forward, I will continue to work hand-in-hand with Members of Congress, your staff, and the public to develop effective trade policy together.

Chairman Smith, I want to say, I agree with you; I feel that there is bipartisan strength behind American trade policies, and there is a lot that we can do together. I look forward to continuing this work in the year ahead with all of you.

Thank you.

[The statement of Ambassador Tai follows:]

Embargoed until 9:00AM on March 24, 2023

**Testimony of Ambassador Katherine Tai Before the House Ways and Means Committee
Hearing on the President's 2023 Trade Policy Agenda**

**Washington, DC
March 24, 2023**

Thank you, Chairman Smith, Ranking Member Neal, and Members of the Committee. I appreciate the opportunity to be here today to discuss the President's Trade Agenda.

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

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

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

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

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

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

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

Engaging with Key Trading Partners and Multilateral Institutions

President Biden has said that the United States is opening an era of relentless diplomacy to address the challenges that matter most in the lives of all people.

Trade is an important part of this relentless diplomacy. Over the last year, we have been leading with a positive economic vision around the world, and our partners and allies are joining us.

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We launched negotiations on the Indo-Pacific Economic Framework for Prosperity to deliver real opportunities for our people throughout the region. We are focusing on priorities like labor standards, the environment, science-based and transparent regulatory systems, and an inclusive digital economy.

We had successful rounds of negotiations in December and earlier this month, and we are looking forward to a busy 2023 to make further progress.

We also kicked off the Americas Partnership for Economic Prosperity with eleven countries in our hemisphere.

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

We have also been busy on the bilateral front.

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

We are also negotiating a Global Arrangement on Sustainable Steel and Aluminum.

This will drive decarbonization while also limiting anti-competitive and non-market practices that contribute to worldwide excess capacity, including from the People's Republic of China (PRC), which threatens American workers and businesses. It also shows that effective climate action can also support good-paying jobs here at home.

We also launched new initiatives with key partners in other important regions.

Taiwan is a vibrant democracy and an important trading partner in East Asia, and we started the groundbreaking U.S. – Taiwan 21st Century Trade Initiative last June.

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

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

Last July, we launched the U.S. – Kenya Strategic Trade and Investment Partnership. We held our first round of conceptual discussions in February, and we will continue conversations this

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year to discuss important issues, including agriculture, digital trade, and supporting participation of women, youth, and others in trade.

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

On the multilateral front, our Administration has been clear that we are committed to the WTO. We continue to believe that the organization can be a force for good and address global challenges as they arise.

This was demonstrated when we worked with other WTO Members to deliver meaningful outcomes during the last ministerial meeting, including on COVID-19 vaccines, fisheries subsidies disciplines, and food insecurity.

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

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

Lastly, we are excited to serve as the APEC host this year, with the theme of “Creating a Resilient and Sustainable Future for All.”

This demonstrates our commitment to the Asia-Pacific, and we are taking full advantage of our host year to collaborate with partners to build a more durable and resilient global economy.

That includes lifting up workers and women entrepreneurs, empowering small businesses to enter the market, grow, and compete, and unlocking economic opportunities for those who have been underrepresented in all of our populations.

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

Advancing a Worker-Centered Trade Policy

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

We have been using the USMCA’s Rapid Response Mechanism (RRM) diligently to bring tangible changes and defend the right of workers to freedom of association and collective

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bargaining. From March 2022 through February 2023, we secured wins for workers at four different facilities. We have an open case and are working with Mexico to address violations at that facility, and just last week, the Government of Mexico accepted our request to review yet another case. This is important because it drives a race to the top by elevating labor standards across the region.

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

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

We also recognize that farmers, ranchers, fishers, and food manufacturers are key to our worker-centered trade policy.

Last August, I visited Spellman Farm, a sixth-generation family farm in Woodward, Iowa growing corn and soybeans.

Sam Spellman was explaining how he is focusing on sustainable farming, including researching the effects of cover crops and no-till on Iowa's soil and nutrient retention. I could sense the immense pride he took in his work, not only for his own farm, but in educating fellow farmers.

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

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

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

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

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

Re-Aligning the U.S. – China Trade Relationship

Another component of our trade agenda is the realignment of the U.S. – China trade relationship.

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This relationship is one of profound consequence. As the two largest economies in the world, our bilateral engagement affects not just the two participants, but the rest of world.

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

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

That means making groundbreaking investments here at home so that we can compete—and collaborate—from a position of strength.

That is exactly what our Administration is doing. We are fixing our roads and bridges through the Bipartisan Infrastructure Law, bolstering our capacity for critical technologies through the CHIPS and Science Act, and incentivizing the manufacturing of clean energy technology here at home through the Inflation Reduction Act.

That also means coordinating with our partners and allies to confront policies and practices that are fundamentally at odds with a global trading system based on market competition.

An example of this is the U.S. – EU Cooperative Framework for Large Civil Aircraft. We held a ministerial meeting last December. We are analyzing the PRC's non-market policies and practices in this sector, and we are considering tools needed to effectively counter them. We are also exchanging views on the long-term risks posed by the PRC's state-directed industrial dominance goals to market-oriented sectors.

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

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

Promoting Confidence in Trade Policy Through Enforcement

Doing trade the right way means standing up to the forces that have harmed and undermined workers, producers, and communities to not just thrive but sometimes also to survive.

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That is why the Biden Administration remains fully committed to vigorously enforcing our trade agreements. We will continue to use all of the tools at our disposal to combat unfair, non-market practices, defend American jobs, and create broad-based economic prosperity.

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

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

We also continue to engage with Mexico to address concerns regarding agricultural biotechnology.

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

We are also upholding the eligibility requirements in our preference programs, in line with our worker-centered agenda and in accordance to the statutory eligibility criteria.

In November 2022, after using all diplomatic means available to induce the government to remediate the issues, President Biden announced the termination of Burkina Faso's eligibility for the African Growth and Opportunity Act (AGOA) trade preference program, due to concerns with the unconstitutional changes in government in the country. We remain committed to working with Burkina Faso to meet the statutory benchmarks that would enable it to be reinstated in the AGOA program.

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

Promoting Equitable, Inclusive, and Durable Trade Policy and Expanding Stakeholder Engagement

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

Last month, along with Senator Durbin, I had the opportunity to visit a welding class in Chicago, with a group of local tradeswomen.

Embargoed until 9:00AM on March 24, 2023

Listening to their stories, I was reminded of what President Biden said during his State of the Union Address—that he ran for President “to fundamentally change things, to make sure the economy works for everyone so we can all feel pride in what we do.”

Fairness and equity must be bedrock principles in trade policy. That means having diverse voices at the table—especially underserved and marginalized communities that have been historically left out of trade policymaking—and incorporating their priorities into our policies.

That is why USTR released our Equity Action Plan last April. We developed this plan in accordance with President Biden’s Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

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

In January, the White House convened federal government officials and community leaders to release the Biden Administration’s first-ever National Strategy to Advance Equity, Justice, and Opportunity for AA and NHPI Communities.

This includes detailed plans from thirty-two federal agencies, including USTR, which build on the Administration’s previous actions to promote safety and equity for AA and NHPI communities.

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

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

Two years into this Administration, we are leading with a positive economic vision in key parts of the world, and we are already starting to see results.

None of this is possible without the devotion and professionalism of our USTR staff, and I am grateful for their expertise and dedication as we press forward to finish the job.

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

Chairman SMITH. Thank you, Ambassador Tai.

Before we move on to questions, I want to welcome our friend and colleague Greg Steube to the dais for the first time since becoming a member of this committee.

As many of you may know, Greg had a terrible accident earlier this year and was on the mend for some time. And as example of Greg's passion for this committee and hard work, he was out of the hospital just a few days calling me, saying, Can I still get on my subcommittees? Can you help me get on the right subcommittees?—while he was laying with a neck brace and everything else.

But earlier this week, we were at the Republican retreat, and I don't think that there was a dry eye in the room whenever Greg gave his testimony of the miracle that happened that day with Representative Vern Buchanan's staffer that actually saw him at the accident and was able to call the paramedics, and how everything worked right. It was an amazing, amazing story.

And I know I speak for everyone in this room, Greg, I welcome you to the Ways and Means Committee, and we are glad you are home.

Thank you.

And I would like to recognize Mr. Neal as well.

Mr. NEAL. Thank you, Mr. Chairman.

We are delighted you are back. And I want to say that the Democrats' caucus, that we unanimously wish you a speedy recovery.

Mr. STEUBE. Thank you.

I just want to thank everybody. It is weird to be on a committee for 2 months and not step foot in the actual room. But this is my first week back, and I want to thank the chairman for his understanding and our leadership that was very understanding of me going through the process to heal.

And I want to thank my colleagues on the other side of the aisle. Quite a few of you reached out to me during that time, and that was a blessing. And it shows that we are all human up here, and we are all up here to do what we have been called to do. So I want to thank you.

And I look forward to serving, and I look forward to serving with you, Mr. Chairman.

I yield back.

Chairman SMITH. Thank you, Mr. Steube.

We will now proceed to the question and answer session, and I will begin.

As you know, the Mexican Government is violating the terms of USMCA by essentially banning U.S.-grown corn from Mexico's market. Mexico is America's second largest export market for corn.

I recently led a bipartisan delegation to Mexico last week where we met with the President of Mexico and delivered the message that Mexico must uphold its USMCA obligations.

USTR has taken a critical step by initiating technical consultations with the Mexican Government. Effective enforcement is required to protect American workers and farmers, and I will insist on moving forward with dispute settlement if our concerns are not addressed.

What are the next steps the administration is prepared to take to ensure enforcement of USMCA in this matter?

Ambassador TAI. Chairman Smith, thank you for your very strong voice and leadership on this issue. The issues here are really critical to the integration of our economies and the long-standing and fruitful partnership in terms of agricultural trade between the United States and Mexico and Canada as well.

We requested technical consultations, as you referenced. We are going through a pretty intensive process of our teams sitting down, USTR with USDA, as well as the Mexican teams. And we are looking forward to more helpful clarifications from the Mexican side on exactly how the decree will work and what will be impacted by it.

Of course, all of the tools in the USMCA are there for a reason, and we stand ready to make use of those tools to help us to resolve this issue. It is not just a matter of USMCA rules. It is also truly a matter of vision for our shared prosperity across North America. And the biotechnology agricultural trade, the corn trade in particular, has been a very important part of the strength of our integrated agricultural markets.

Chairman SMITH. Last week, our delegation also visited Ecuador and Guyana, because U.S. engagement in Latin America is vital to securing key supply chains and countering China's influence in that region as well. China is aggressively investing in Latin American countries to spread its influence, just as it has done elsewhere in the world.

While the United States under this administration has been sitting on the sidelines in a lot of degrees, over 2 years into the administration, we have yet to see a comprehensive strategy on China. What is the administration's plan for a more proactive, aggressive strategy to counter China, not just in Latin America, but globally?

Ambassador TAI. Well, Chairman Smith, as you know, China is the second largest economy in the world. And the relationship between the United States and China is one of profound consequence, not just to each of us and our economies and our workers and businesses, but to everyone's in the world at this point for the global economy.

I would direct your attention to many of the actions the administration has taken across the board with respect to standing up to Chinese challenges. The PRC practices and policies in the economic area are some of the most, again, important ones for us to take on, but to take on deliberately, strategically, thoughtfully, with a focus on ensuring that realigning our competitive footing with China and the PRC is ultimately effective.

So I want to assure you that every day that I am at work as the U.S. Trade Representative, I am in one way or the other working on China issues either directly or indirectly, as you have noted. I will continue to work closely with you and keep you apprised with respect to specific actions that we may take in the trade lane especially.

Chairman SMITH. Thank you.

The committee still has not seen the final product of USTR's China review and is still guessing when it comes to the administration's views on several policies established under the Trump administration. President Trump's Phase One agreement entered into force over 3 years ago, yet this committee has yet to see a full

scorecard of China's compliance with the agreement, including on issues related to IP theft and forced tech transfer.

When do you think we could see a report on China's compliance?

Ambassador TAI. So I think that you will have seen conclusions from our own analysis in the speech that I gave in October of 2021, in terms of our internal review of the U.S. approach to the China economic relationship over the course of the past several administrations.

In terms of—I take your question to be in terms of next steps, specifically with respect to Phase One. On this one, let me, again, commit to staying in close touch with you. This is very much in our sights and something that we spend a lot of time working on.

Chairman SMITH. Thank you.

U.S. imports from China currently enjoy most favored nation status due to permanent normal trade relations legislation for China that was passed in 2000 and remain in place today. I recognize that you have maintained the Section 301 tariffs that President Trump imposed, but China otherwise gets preferential treatment when it comes to trade, including qualifying for Column 1 in our harmonized tariff schedule.

Given China's aggressive and hostile approach toward the United States, I think it is important that we evaluate all aspects of our relationship, including trade. In addition to our Section 301 tariffs, are there available trade tools you see to hold China accountable?

Ambassador TAI. Chairman Smith, I think that there are a lot of tools that we have been developing over time, and I continue to believe that, with respect to our enforcement tools, there are a lot of updates and there are a lot of new tools that we can develop to ensure that this toolbox of enforcement in trade can keep pace with the times.

A lot of our enforcement authorities and our statutes date back to 1974, 1988, and probably the most recent one is 2002. Those are the most significant contributions to the trade toolbox. I think it is high time, if you think about how different the world economy is today from even the early 2000s, that we revisit how we can be most effective in competing in a very different world economy, something that I would be very interested in working with you on.

Chairman SMITH. As you know, child and forced labor abuses are rampant in the production of cobalt and other critical minerals, including in China and the Democratic Republic of the Congo. No American taxpayer dollars should fund these horrific practices, yet the administration is facilitating them through its Green New Deal agenda. At the same time, U.S. cobalt mining has essentially been taken offline in the United States.

Is this administration concerned that as it shutters domestic development of cobalt, its new and generous so-called green taxpayer handouts are going to activities that rely on critical minerals extracted through forced labor and child labor?

Ambassador TAI. So, Chairman Smith, I think that you are highlighting a particular problem that also goes back to remarks that you made in your opening relating to critical supply chains and the need for us to have more supply chains and more resilient supply chains.

In this area in particular, and I think across the board in terms of trade, we are today, in 2023, asking questions that we were not used to asking previously. We now want to know specifically where the links in the supply chain are, who is producing in that supply chain, and how they are producing. This means that our approach to trade needs to evolve and on critical minerals in particular.

I think that what we are doing with respect to the Inflation Reduction Act, how we are thinking about our critical supply chains, is changing very quickly. It is evolving. And this is an area as well that I would love to work with you and this committee on in terms of ensuring that the path for economic development for, not just the United States, but for the rest of the world and, in particular, those who have systems like ours and values like ours, can continue to be strong and can continue to be sustainable.

Chairman SMITH. Will the so-called critical minerals free trade agreements you are pursuing require Japan and the EU to ban the importation of minerals produced with forced labor before their companies' cars are eligible to receive the tax credits?

Ambassador TAI. So Japan and the EU have been two of our strongest partners in working on the eradication of forced labor, actually, in all global supply chains. So I am very confident that wherever we may land with those two partners, that this part of our agenda will continue to be strong and apply.

Chairman SMITH. I now recognize the distinguished member from Massachusetts, Mr. Neal.

Mr. NEAL. Thank you, Mr. Chairman.

Madam Ambassador, in your testimony, you noted that you are writing a new story on trade that puts working families first and creates a more resilient economy. We are delighted with your emphasis on enforcement of these trade agreements. Nothing is done more to diminish the reputation of international trade from the American vantage point than the lack of enforcement.

So, I know your positions. You have expressed them to me privately, and you have done a great job publicly. But we want, clearly, a story that has a worker-centered trade policy.

Could you speak to that as well as what you were successfully able to do in the USMCA trade agreement based upon the enforcement mechanisms and the aggressive and assertive manner in which you have embraced that concept?

Ambassador TAI. Certainly. I would be very, very pleased to. And I think that this committee in particular has a lot to be proud of in the USMCA.

The USMCA continues to be one of the most important touchstones of the worker-centered trade policy and where we want to grow that policy from.

If you think back to the renegotiation of the NAFTA, there were at least two different reasons why NAFTA was renegotiated. One was to update it and modernize it. It had been about 25 years old when that exercise started. The other one was to correct for challenges in that agreement and areas where concerns that were expressed at the outset around labor and environmental dynamics between our economies bore out over our experience with that agreement.

So one of the most important innovations and one of the most important keys to why the USMCA was able to garner such broad bipartisan support was the enhancements of the labor and environmental protections in that agreement and also a labor-specific enforcement mechanism that allows for the piercing through of the agreement to focus on specific facilities and how workers are treated there and whether or not those facilities are denying rights to workers in contravention of not just the agreement but also Mexican law.

Because of this mechanism and because we have been able to successfully use it multiple times now, to allow for workers in Mexico to vote for a truly independent union, to secure better wages and better benefits, we are also championing the interests of American workers who have had to compete with those Mexican workers. As a result, we have turned the narrative of trade on its head. We are now offering, through a trade agreement, a mechanism to empower workers. And this runs exactly counter to the narrative that we have collectively struggled against, which is that trade is something that we have done that has been hostile to the interests of our workers.

So, to your point, we know that we are on to something, that this is critical to establishing trade as a force for good, that trade works for people, not just big companies. And this is something that we are looking to replicate in our trade engagements through our negotiations and, frankly, through all the conversations that we have with our partners, to explain how to make trade a force for good and how to make trade work also for our people.

Mr. NEAL. Given your distinguished history with this committee, I want to also thank you. I know on the inside; you are an advocate for the congressional prerogative as it relates to the responsibilities that the Constitution lays to this committee and to the House of Representatives. If you want to use the last 56 seconds just to talk and reemphasize your support for the congressional role, that would be terrific.

Ambassador TAI. So I am on the administration team, but you all know that I come from this family to the administration. So I am keenly aware of USTR's own origin story, that we were created by these committees inside the administration, and where we sit at the intersection of the executive and the legislative branches. So that is absolutely right.

And I have ideas that I would like to come back to you and Chairman Smith about to show that there is a bipartisan path for these two coequal branches to come together to do trade and to do trade right by the American people and by the American economy.

Mr. NEAL. Thank you.

Chairman SMITH. The gentleman from Florida, Mr. Buchanan, is recognized.

Mr. BUCHANAN. Thank you, Mr. Chairman.

Ambassador, I also want to welcome you back. You are a big asset on the committee, and everybody knows that. So thank you.

You mentioned something—before I get in my other—I got a couple other questions. You mentioned that you had an action plan. Is that something you have shared with us? I haven't seen it, but is that something you are willing to do?

And I say that because we talked about working together. We want to help you have more success. If we have a better sense of what that plan is—or you got more time where we can talk about it. Because many of us travel overseas and other places, and it helps us because we meet with our embassies and other things, have a better sense of where we are at but, more importantly, where we are going.

So you said an action plan. Is that something you got that we can get a copy of or something we can look at or talk about?

Ambassador TAI. So, Mr. Buchanan, absolutely. The answer is yes. But let me just seek a little bit of clarification. An action plan across the board for our trade agenda, or were you asking more specifically about one part of the trade agenda?

Mr. BUCHANAN. I was just looking at what you said. You mentioned the action plan. But let us talk a little bit more about that a little bit later. But I just like the idea of a shared plan, a shared vision, with the Congress, with you, so we are all working together, because China is very active and engaged on the planet. And you said the world is different today. So the more we can work together, the more we will get done.

Ninety-five percent of the jobs—95 percent of the jobs are outside the U.S., so the opportunity—95 percent of the marketplace, I should say. In Florida, one in five jobs is trade-related. So it is a very, very big deal.

I want to talk to you about something we have talked about for a couple of years. You are very familiar with this. It is the reauthorization of MTB, Miscellaneous Tariff Bill, and GSP, Generalized Systems of Preferences. This is something—it is a job creator in our State. A lot of companies are saying, why can't we get something done? It has been over 2 years. It should be an easy layup. I know I have worked with my friends on the other side, and we have talked about that. It was something we thought we would get done a year and a half ago.

What is the holdup? And then give us your sense of a commitment to that. It just seems like that is something that should get done fairly quickly.

Ambassador TAI. Well, Mr. Buchanan, I think that there is a deal on the table. Even when I was still in my job for Ways and Means—

Mr. BUCHANAN. Bring it up here. Let's get this deal done.

Ambassador TAI. But, I mean, you know, I think that, again, in terms of respecting the coequal branches, both MTB and GSP are congressional programs. So I know that—I know that the staffs, the teams up here, and the members are working on this. I expressed yesterday when I was over at the Senate my support for the reauthorization of the GSP, one that updates the criteria to—

Mr. BUCHANAN. Okay. If I could reclaim my time just a little bit. I just want to get on a couple other things.

I introduced legislation, myself and Chairman Brady back then, a couple of years ago. That legislation, the companion bill, is in the Senate. And as you know, it passed 91 to 4. So it is related to these things.

Second, the other point I wanted to mention is just the idea of where we are at. I read something the other day that is kind of

hopeful, that you said something about the EU, we are making some progress, or you seemed—your comment seemed very enthusiastic. But when you look at the U.K., EU, Kenya, over a billion people on that continent. And I can tell you, I have been there maybe 10 times. You know, China is very active and engaged, not just there, but around the planet.

So when you look at—Taiwan and Japan would like to do another—I guess we did program one, another step. So there is a lot of opportunities out there. Is it we don't have enough resources or is it—why don't we get to more of these opportunities? Especially as it relates to, I think, the EU. You know, we have a lot of the same shared values. The U.K., I know they have had some challenges.

But I have traveled and met with a lot of these leaders around the world, 80 different countries, and they want our engagement. Everybody talks about—the first thing they want to talk about is security. Second thing is trade and commerce. So we just got to get more engaged in a big way, I think. That is my opinion.

What are your thoughts?

Ambassador TAI. Mr. Buchanan, I spend most of my time on the road. I am here in Washington all week this week because of the hearing so that I can spend time with all of you. And I have got to stay connected with the U.S. side, but also, I am doing everything that I can. I am spending a lot of time reestablishing old relationships, establishing new relationships, and exactly to your point, engaging with the European Union.

I haven't even counted how many times I have had meetings with my counterpart, Executive Vice President Valdis Dombrovskis. This year we have committed to each other that we will see each other every month, and we have kept that up January, February, and March, and I already have my appointment set with him in April when I will see him again.

That is exactly to your point. There is so much that we need to do together right now. And there is a lot that we need to do to try to correct for the playing field being uneven around the world, to innovate in terms of our trade policies and to correct for, frankly, some very disruptive forces that we have seen both—

Mr. BUCHANAN. I am out of time. I just want to mention, if you can get us a copy of whatever plan and we can talk about that, because I think a shared plan between the Congress and yourself, the administration, would make a huge difference going forward.

Thank you, and I yield back.

Chairman SMITH. I now recognize Mr. Doggett for questions.

Mr. DOGGETT. Thank you, Mr. Chairman. And thank you, Ambassador, for your very valued leadership.

I know how you worked in a cooperative bipartisan fashion with Ambassador Lighthizer in order to secure an important trade agreement in this hemisphere, and I appreciate the cooperative spirit that you bring here today. I very much favor expanding trade so long as it is worker-centered and environment is protected, and that includes Asia.

Now, I have been over personally to the secure room, left my phone outside, didn't tell anybody what I read, to see the provisions that are being negotiated now with trading partners in Asia. I

guess the first concern I have is why that process is necessary. These documents have been shared with our foreign trading partners, with stakeholders, but not with the American people. And I think we would be better off if the language was public.

Second concern I have, even greater, is that I found the language to be good, helpful, with regard to the environment, with regard to workers, but so long as it is not enforceable, it is really fairly meaningless. And the only way to make it enforceable is to engage the Congress more directly in setting up that enforcement mechanism and honoring our constitutional responsibility. And I hope you will continue to advocate that point of view to others in the administration who may not share it.

One specific success from the USMCA was a significant limitation on the use of the investor-state dispute provision. While it is important to protect investors and American companies from systems that are not fair to them and other countries, there has been clear abuse. And I appreciate the fact that this administration and you have indicated that you will continue to exclude such abusive provisions from future trade agreements.

However, there are still a large number of investors-state dispute settlement provisions in existing trade arrangements. I am concerned about one particular example of abuse, and that is in Honduras, where a U.S. company, Prospera Inc., is suing the Honduran Government for close to \$11 billion, nearly two-thirds of the country's annual budget, questioning whether they should have a private court system, a private -- essentially, a country within a country.

Is the administration, are you evaluating existing a use of investor-state dispute provisions to see if they are consistent with a new 21st century trade policy?

Ambassador TAI. Well, thank you for all of your observations and your insights, Mr. Doggett. They mean quite a lot to me.

On this particular question in reevaluating existing trade agreements and how they line up with our current practice, I think in this area, and in a number of others as well, we know that there has been an evolution in our practice, and our older trade agreements reflect a previous era of how we have negotiated trade agreements.

This issue comes up from time to time. Let me take this back and give it a little bit more thought. It is not that we haven't thought about it, but it hasn't been a major area of focus. But let me take this back.

Mr. DOGGETT. Well, thank you very much. And I hope you will review it, and particularly the situation in Honduras with this whole private government structure.

As you know, one of my long-standing concerns going back to at least the Obama administration has been the enforcement of our agreement with Peru as a part of the overall concern about the destruction of the world's rainforest and the impact that that has on our planet.

The Obama administration failed to enforce provisions that we negotiated for audits on illegal timber harvest in Peru. The Trump administration expressed concern about it but failed to secure an audit. Obviously, the Peruvian Government has been in turmoil

and chaos for recent months. But can you give me any update on the enforcement of these provisions against illegal logging in Peru and its consideration and new agreements you are negotiating?

Ambassador TAI. Mr. Doggett, it remains very high on my radar. As you have noted, the current turmoil in Peru is something that informs our approach to raising issues around this trade agreement. But I also wanted to share with you that the logging annex in the Peru trade agreement continues to be a touchstone for how we are thinking about issues like deforestation, especially around the Amazon.

Mr. DOGGETT. Thank you very much.

Thank you, Mr. Chairman.

Chairman SMITH. I recognize the gentleman from Nebraska, Mr. Smith.

Mr. SMITH of Nebraska. Thank you, Mr. Chairman.

And thank you, Ambassador Tai. Welcome back to the Ways and Means Committee hearing room, where you spent a great deal of time.

I know you spoke about a new story for trade, and I understand that you are taking a different approach, and certainly that is the prerogative of a new administration. But I am very concerned that in this so-called new age of trade, you know, 2 years into the Presidency, that we have actually lost momentum on trade and that we have—I am concerned we have lost ground. And this is all while China is being very aggressive economically and building their own partnerships, while we are not as aggressive.

I do ask unanimous consent to include for the record a letter signed by 20 Ways and Means Committee members that I led regarding the need for a strong proactive trade agenda. I ask for unanimous consent.

Chairman SMITH. Without objection.

[The information follows:]



**Congress of the United States
House of Representatives
Washington, DC 20515-3605**

March 23, 2023

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Biden:

We write to express concern about your administration's lack of a clear trade agenda. More than two years into your term, your administration has not begun to negotiate any comprehensive and enforceable trade agreements, let alone concluded such an agreement. This lacking negotiating agenda puts U.S. farmers, workers, and job-creators at a disadvantage against China. When done right, trade is a bipartisan issue, and we are ready and able to assist the administration to pursue a comprehensive trade agenda that levels the playing field for American products, farmers, and workers and advances our values in an enforceable way.

Not pursuing new tariff-reducing enforceable trade agreements breaks a four decade long bipartisan approach to trade policy and means we are missing out on opportunities to advance U.S. economic interests, U.S. security, and create jobs right here in America. As a result, not only are market access opportunities but also our ability to influence other nations' policies related to trade, investment, and standards-setting is being ceded to China, whose influence around the globe continues to grow, to the economic and strategic disadvantage of the United States.

We cannot afford to take a back seat on trade if we want to remain a global economic leader. Already, China leads the world in international trade. Nearly two thirds of all countries now trade more with China than they do with the United States. China has even displaced the United States as the European Union's largest trading partner. While the United States has come to a virtual standstill in competition for economic influence because of a focus on dialogues, frameworks, and limited agreements that lack meaningful enforcement mechanisms and market access commitments, China and other economic competitors have taken advantage of our absence.

To the extent that your focus on less traditional dialogues and frameworks is a result of a desire to avoid agreements that require congressional approval, we urge you to reconsider this approach. Trade agreements approved by Congress are more durable than any trade-related initiatives that are concluded as executive agreements, and given Congress's exclusive

Constitutional authority over foreign commerce, you lack the ability to bind the United States in this area without congressional approval. Historically, Trade Promotion Authority (TPA) has been an important tool to ensure an appropriate balance of Congress setting negotiating objectives and consultation requirements that the President must follow in order to smooth the path to congressional approval. Yet TPA has been expired for almost two years and your administration hasn't engaged with Congress in any meaningful way to request reauthorization.

High-standard new trade agreements will positively impact the U.S. economy, adding billions of dollars to annual gross domestic product, strengthening key supply chains, and creating jobs for many of our constituents. The administration needs to look no further than the high-standard and successful United States-Mexico-Canada Agreement (USMCA), which received historic levels of bipartisan Congressional support, to see the potential breadth of support for pursuing ambitious and substantive trade agreements that protect and create U.S. jobs, counter China's aggression, and open new markets for our farmers. Your administration should use USMCA as a model and foundation in pursuing agreements with other allies and trading partners around the world that serve our economic and strategic interests.

We encourage you to strongly review your approach of using trade policy to compete with China. You will find that we are willing partners if you work closely with Congress to negotiate substantive, enforceable agreements to keep the United States strategically competitive globally.

Sincerely,



Adrian Smith
Member of Congress



Darin LaHood
Member of Congress



Ron Estes
Member of Congress



Carol D. Miller
Member of Congress



Beth Van Duyne
Member of Congress



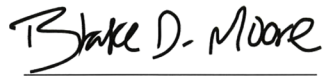
A. Drew Ferguson, IV
Member of Congress



Vern Buchanan
Member of Congress



David Kustoff
Member of Congress



Blake Moore
Member of Congress



Michelle Steel
Member of Congress



Nicole Malliotakis
Member of Congress



Randy Feenstra
Member of Congress



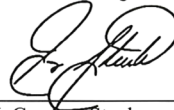
Claudia Tenney
Member of Congress



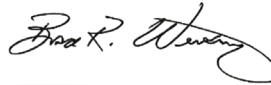
Michelle Fischbach
Member of Congress



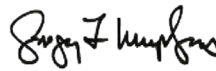
Kevin Hern
Member of Congress



W. Gregory Steube
Member of Congress



Brad R. Wenstrup, D.P.M.
Member of Congress



Gregory F. Murphy, M.D.
Member of Congress



Lloyd Smucker
Member of Congress



Jodey C. Arrington
Member of Congress

cc: Katherine Tai, United States Trade Representative, USTR

Mr. SMITH of Nebraska. Thank you.

Now, despite calls for new trade promotion authority from Democrats and Republicans in both Chambers—something I thought I would never say—but the administration has decided to attempt negotiation of new trade pacts without Congress. So this has already been touched on briefly. But since there seems to be some confusion, I do want to be clear that trade agreements must be approved by Congress, and they should provide real market opportunities for U.S. producers, reduce tariffs, strengthen trade enforcement, and certainly reflect American law and values.

I am glad to and honored to chair our committee's Trade Subcommittee. I cannot express strongly enough that the administration cannot just come up with new definitions of what a trade agreement is for some reason, and certainly not to give handouts for electric vehicles. And Congress will not, under any circumstance, relinquish our constitutionally mandated oversight of all trade matters. This concern, I believe, as we have heard already, is bipartisan and bicameral, and I hope you take the opportunity to address it today.

To compete in the global marketplace, we need real enforceable trade agreements. The administration's preferred framework approach, I am concerned, does not provide this.

Would it be accurate to say, Ambassador, that the executive orders and frameworks like IPEF and APEC could be dismantled when a new administration would take office?

Ambassador TAI. Well, Mr. SMITH, if I can back up just a little bit. In terms of your—

Mr. SMITH of Nebraska. My time is limited. So I want to give you a chance to respond, but if you could be brief.

Ambassador TAI. Let me put it this way: If you take a look at the world economy and you look at our place in it, after more than 3 years of pandemic and supply chain disruptions and pressures on the energy market and food insecurity because of Russia's invasion of Ukraine, you have to appreciate that we live in a very different world. We can't keep doing things the same way.

Mr. SMITH of Nebraska. I understand that.

Ambassador TAI. Those things have brought us to this world.

Mr. SMITH of Nebraska. And I appreciate that.

Ambassador TAI. And so our engagement with the rest of the world is informed by, not a desire, certainly not on my part, to bypass the Congress, but by a desire to adapt our trade policies to be more successful because they are responding to the world we are living in and not the world that we want to live in.

Mr. SMITH of Nebraska. Okay. Well, I worry that a framework might be considered successful, although still ineffective, in terms of establishing what we need to establish in the world economy, especially as leaders in the world economy. But I think it is safe to say that, if we want a stable environment to encourage investment and economic prosperity, that a congressionally approved trade agreement is what is necessary.

But, you know, take IPEF, for example. Let's just say a member nation were to blatantly go against the science, as Mexico has done under USMCA. I mean, I fear that there would not be tools for us to challenge what another country would be doing, and especially

as the chairman noted, the glaringly noncompliant ways that Mexico is headed with corn, especially when USMCA was approved and agreed upon by Mexico not long ago.

So changing gears just a little bit, let's focus on the TRIPS waivers, the notion that our country would give away intellectual property to other countries. In December, you directed the ITC to conduct a study on the proposed TRIPS waiver for COVID-related diagnostics and therapeutics. Glaringly, I would say, though, that you did not seem to ask ITC to perform any analysis on how such a waiver would actually impact our economy and, more importantly, our workers.

Can you explain why that analysis was not asked of the ITC in the letter that you sent?

Ambassador TAI. Well, Congressman Smith, I think that there are aspects of our letter that get to those questions. So we could sit down and take a look at that letter. I think it is about a two-page long letter.

More specifically, the question that has been raised at the WTO is the interaction between intellectual property rules and where they have been set and the ability of people who need to access them. And we thought that was a legitimate question. I got a lot of feedback from this committee and over in the Senate in terms of the process that we tried to run, and so I have asked the ITC to run their process, which has included a public hearing just a couple weeks ago.

Mr. SMITH of Nebraska. Okay. Yeah, asking the stakeholders is one thing, but I would hope that, as you point out, that you are able to get an actual analysis on the impact to our economy, and like I said, more importantly the workers.

Thank you.

Chairman SMITH. Mr. Thompson, you are recognized.

Mr. THOMPSON. Mr. Chairman, thank you.

Ambassador Tai, welcome. It is always glad to have you here in the committee room.

There are no shortage of trade challenges and, at the same time, opportunities facing our country. As mentioned by Mr. Neal, the work we did on this committee to pass the USMCA showed that we can achieve a lot of high-quality trade agreement work working together on this committee. We can strengthen our economic and national security by creating good-paying U.S. jobs and deepening our ties with other nations. We can strengthen environmental and labor protections and raise the international standard in these areas to create a strong cycle of progress and trade.

While it is important to seek market access, labor, and environmental provisions, none of these commitments are worth anything unless they can be vigorously enforced. And that is why the work you are doing to enforce the terms of the USMCA trade agreement is setting the stage and expectations for future trade negotiations that benefit all American workers.

I have got a couple of questions. I will give them to you, and then you can take them in whatever order works best.

Mr. Smith—Nebraska Mr. Smith mentioned the corn issue, and the USMCA dispute with Mexico in regard to that is important. My district is home to a thriving biotech sector, and our success is de-

pendent in part on strong global intellectual property rules and also the enforcement of the rules which ensure the safe—that safe products can be sold and used without unnecessary interference from protectionist policies.

So I would like to hear from you about the administration's effort to hold Mexico accountable in the GMO corn case and what other opportunities there may be for biotech as we move forward.

I am also interested in Taiwan. And I would like to hear about the progress we are making with Taiwan in similar agreements that are helping to strengthen our national security.

And then lastly, my third question, the Canadian lumber issue. I understand that—we know it has been a long-standing dispute, but I understand that some of Canada's top lumber producers are interested in seeing this dispute resolve. So I would like to hear your thoughts on this, and if the U.S. and Canada can restart lumber negotiations.

Ambassador TAI. Thank you so much, Mr. Thompson. I will take your questions in the order in which you have posed them.

Mr. THOMPSON. Okay.

Ambassador TAI. In terms of corn and the importance of our biotechnology sector, especially in agriculture, I agree with you. We have regulations and standards here in the United States. We stand by the safety of our product. And we also know that innovation and agricultural production is also critical to food security as well as a responsible contribution to our climate future.

So, this is one of the areas that we are engaging with Mexico on, especially through this technical consultations phase where we get deep into the science around the basis for our confidence in the safety of our crop.

On Taiwan, I agree with you. Taiwan is in the top 10 of our trading partners, an economy that shares our values, and also has implications for our strategic outlook in the region. That is why we are, right now, negotiating the 21st Century Trade Initiative with Taiwan. We just published summaries of the proposals that we tabled with Taiwan for our first negotiating round and look forward to providing you with updates on the status of those negotiations. We will continue to work with Taiwan to enhance and strengthen our economic relationship with each other.

On Canada and the developments in terms of the lumber industry there, you are right, this is a long-standing challenge that we have had with Canada, one of the areas which our economies have traditionally not meshed well, and that market conditions and the incentives of the industries are really critical to creating opportunities for negotiation. So let me go back and revisit with my team that are tracking this and circle back with you.

Mr. THOMPSON. Thank you very much.

Thank you, Mr. Chairman.

Chairman SMITH. Thank you.

Floor votes have been called, but it is my intention to proceed to as many members for questions before recessing for the hearing. And then we will reconvene immediately after votes—the last vote is called.

Mr. Kelly from Pennsylvania.

Mr. KELLY. Thank you, Mr. Chairman.

Ambassador Tai, always good to see you. I think there is something that is uniquely American where people put service above self. You are certainly an example of that. And for you to come before us—it is so difficult. You are getting rapid fire questions all across the board of what is important to me, what is important to you, what is important to our country. And you are the person standing there taking that and trying to answer all this.

And, you know, I am going to come up with the same thing you and I have talked about for many years, something called GOES. And people say, what do you mean GOES? Well, it is grain-oriented electric steel. And so why would you be worried about that? And it comes down to, if we have not learned anything from these last few years with the pandemic, is if you don't produce it at home and you are relying on somebody else from someplace else in the world, you are in trouble. You are in trouble.

So Mexico comes up with this. And so Gloria and I have been talking about what is going on with the steel. So Mexico agreed they would limit their imports to historic levels in order for President Trump to exempt them from Section 232 steel tariff programs, but they are not living up to their end of that agreement, which is pretty much consistent with all our partners around the world; that they say one thing and then they completely get up from the table and walk away from the commitment that they made, maybe just touching it a little bit at a time.

In Butler, Pennsylvania, about a quarter of a mile from my real life, which as an automobile dealer, which was a lot easier. I mean, back there, if somebody says, I have got your back, you say, well, you know, I appreciate it. Here, if somebody says, I have got your back, the answer is, I know. I can feel the knife.

So this is what it comes down to. If we are not able to work together and honestly—and honest brokers—what Mexico has done—and they have made this end run about it. Canada also has done the same thing to us. Grain-oriented electric steel is the steel that goes inside the transformers. So I tell my friends, if you don't know what that is, look at phone poles. And if you see a gray canister up there, that is what I am talking about, because that is what pushes the steel through. It doesn't flow naturally—it pushes electricity through. It doesn't flow naturally.

And I am to the point, I don't know what we can do when that last producer of grain-oriented electric steel in America is in Cleveland-Cliffs in Butler, Pennsylvania. If we lose that mill because we have people around the world not living up to their commitment of what they would import and what they would not import—and you and I have talked about this. In the last administration, they told me they would address it. And if they had done that, you and I would not be having this conversation today.

It's a really complicated issue. And tariffs are a really complicated issue. So I would just ask you, because I know I can rely on you for this. Let's keep that conversation going and try to find out what it is we can do to limit this flow. When I look at the people who make grain-oriented electric steel—I am just going to go over this real quickly. Maybe I am not. I think I just lost it on my phone.

Anyways, Cleveland Cliffs is the last producer of this steel in America. The rest of it comes from all over the globe, but mainly from people that we would think are our closest allies because we have supported them so much in the past. So let's keep working on it.

I know the language from the past administration was well intended, but it should have been amended because it really didn't address the issue when it came to what our partners were going to live up to.

So if we can continue to have that discussion, I would sure appreciate it. I know that you get tired of hearing from me. I don't mean to be that much of a pest, but I am just looking at a really, I think, a national security problem that we have a blind eye to and are not paying attention.

So thank you for being here today. You do a tremendous job. It is good to see you. And thank you so much. Mr. Chairman, I yield back.

Chairman SMITH. Thank you. The gentleman from Connecticut is recognized.

Mr. LARSON. Thank you, Mr. Chairman, and thank you Ambassador Tai. And thank you for always bringing grace, dignity, acumen, and principals, centered leadership to this committee.

I want to associate myself with the remarks of Chairman Neal and the efforts with regard to USMCA. And my question is something again that you have done extraordinary work on, and I hope you will expand on. You are leveling the playing field for the American worker, and especially as it is related to rapid response, but also what else you see can be done to assist the American worker in your capacity.

Ambassador TAI. Well, thank you, Mr. Larson. And it was an honor to work with you on the USMCA in renegotiations when I was here on the committee. In terms of leveling the playing field, I would say that this is where we are really focused on terms of the worker-centered trade policy. I get asked quite a bit what does worker centered trade policy mean. It means a lot of things. First of all, it means remembering that our economy isn't just a collection of data and numbers. We are more than just trade flows and production numbers and GDP numbers. At the end of the day, what is the American economy? The American economy is comprised of people, our people. The American economy has to work for our people. So workers centered trade policy is putting that worker, that person right at the center how we think about trade policy. And that is a correction.

I think for a long time we relied on the assumption that what was good for bumping our numbers, what was good for, you know, creating that big pie, would all trickle down and work itself out. And that is what we have seen hasn't worked over the past couple of decades. While the pie has gotten bigger, no question, here at home and around the world, more than just the United States, a lot of us are looking at where that pie has ended up. And that leads to President Biden's mantra at this point that what we need to do is grow the economy from the bottom up and the middle out. Who is at the bottom of the economy? It is people like us. It is reg-

ular people. And that middle out is a vision for growing the middle class.

And so what we were doing in trade is understanding the role that we have had in creating an imperfect world in which the pie has gotten bigger, but not everyone has gotten access or an opportunity to enjoy that pie. And then to think about how we can advance trade policies. And this means that we are thinking about trade policy in a different way. We are reconfiguring our trade policies. We are going to do some of the traditional things that promote what we are after, which is more inclusive, sustainable, resilient growth, but also we are going to be trying to do the new things. And that is our trade agenda, which is to make sure that trade is a part of the economic policy toolbox that is working in concert with the investments that we are making in ourselves, as opposed to undermining and undercutting what we are trying to do in terms of our own growth and development trajectory.

Mr. LARSON. Thank you, Ambassador. As a former school-teacher, I used to have above my blackboard for students, "Excellence Cannot Be Denied." Thank you for your articulation of this and thank you for all the effort you bring to this job. I yield back.

Chairman SMITH. The gentleman from Arizona is recognized.

Mr. SCHWEIKERT. Thank you, Mr. Chairman. Ambassador Tai, the long-running conversation you and I have had, because you know my intense concern, that is the economy move—becomes much more technical, you know, whether it be biologics, whether it be, you know, data management, those things, that the speed, speeds up, speeds up, speeds up the value of that copyright, that patent, that it becomes shorter and shorter because the disruptions are coming faster. And, therefore, the constant conversation you and I have had is the speed, the efficiency, the fairness of the adjudication process, WTO ability dispute resolution. Tell me where we are at?

Ambassador TAI. Great. Well, I am delighted, Mr. Schweikert. And I know that you do like the technical aspects of all that we do, and it is demonstrated by your question about the WTO. Let me talk about the dispute settlement system at the WTO.

First to put it in the context, that the dispute settlement system doesn't exist in a vacuum. That it is part of the larger WTO institution that we value very, very much for what it stands for, for how it brings together 164 economies in the world and provides us with a forum for dealing with each other and being able to communicate with each other and to resolve the disputes that we have when they come up.

So the reform of the WTO dispute settlement system is tied to the consensus at the WTO that the entire WTO ought to be reformed to reflect the economy that we are living in today, and also to be able to keep up with the changes in our economy since the WTO was established almost 30 years ago.

So on WTO reform broadly, because I also want to make very clear the United States and our team at the mission to the WTO in Geneva is engaging across the board. We have a special responsibility on dispute settlement, but we are engaging at the committee level. We are bringing written proposals every meeting, and

we are also leaning in on how to make this a more functional negotiating forum.

Mr. SCHWEIKERT. Ambassador, you know my fixation also on the clock.

Ambassador TAI. On the clock, here we go. On dispute settlement, what we are doing is we are seeking a system that is singularly focused on helping two parties resolve a trade dispute, to be a dispute settlement system as the system was intended. Dispute settlement has evolved into an avenue for judicial rulemaking. It has become synonymous with litigation, very expensive and time-consuming litigation, to your point about the clock; and it allows countries to see through litigation what they could not accomplish by negotiation. So the results have significantly damaged U.S. interest through an interpretation that, for example, shields China's nonmarket practices and undermines our ability to defend U.S. workers and businesses.

You may also be aware of the recent national security decisions that have come out of the WTO system that are deeply concerning to us and to our national security sovereignty.

Mr. SCHWEIKERT. So, I think one instance—and I—just because I am staring at the clock—

Ambassador TAI. We are engaging on a reform process that requires 164 economies and members of the WTO to agree. And this is not about us dictating the terms, it is about us being very honest about what our interests are, what we need the dispute settlement to do for us, but also to craft a renewed and better dispute settlement system with our partners at the WTO.

Mr. SCHWEIKERT. And, Ambassador Tai, as the conversations continue for the last few years, I know a number of our EU trading partners, even some of our free market economies in Asia have the same concerns as you have articulated and we have articulated. I understand this is supposed to be a consensus operation, but at some point we have some bad actors who may not join that consensus. How do we use our ultimate leverage? The vast majority of the world's trading partners believe that the reforms are necessary.

Ambassador TAI. Yes, we have consensus around the fact that reforms are necessary. It is reflected in the MC 12 joint statement that came out. The hard work comes now in terms of actually doing the reform. And I want to assure you that our very dedicated team, led by our ambassador to the WTO Ambassador, Maria Pagan, is doing that every single day in Geneva.

Mr. SCHWEIKERT. Please let us know what we can do to be of help, but to move it along. At some point, the calcification of this discussion is getting tiresome.

Ambassador TAI. We would be happy to get back to you.

Mr. SCHWEIKERT. Thank you, Ambassador.

Chairman SMITH. The gentleman from New Jersey is recognized.

Mr. PASCRELL. Good morning, Ambassador. It is always a pleasure, and we have a lot of faith in you. And thank you for your service.

I agree with the Independent Mexican Labor Export Board's concern that Mexico's reform—you call it a transition period—will end

next May with a large segment, a large segment of the old protection contract system still intact. I think you would agree with me on that. To date, only 1 percent of the contracts submitted to a vote have been rejected.

Please describe what you are doing to ensure the Mexican Government has sufficient oversight to manage risks in this transition period.

Ambassador TAI. Thank you so much, Congressman Pascrell. I know how close to your heart these particular issues are. We always knew that the Mexican Government had set out for itself an extremely ambitious reform, and that was even before COVID hit. I have a lot of confidence in that Independent Mexican Labor Exports Board that was created by the USMCA implementing legislation, and I know that they are very concerned about what is happening on the ground.

This is an area, Mr. Pascrell, where I would like to stay very close with you and to work with you on how we can continue to work with Mexico using the tools that we have, both inside the agreement, outside the agreement, tools from the legislative branch to get Mexico on as positive a track as possible. This is an area where the Lopez Obrador administration and the Biden administration have overlapping visions in an area where our counterparts in the labor department in Mexico are really dedicated and have their hearts absolutely in the right place. So, I would be happy to work with you on what more that we can do.

Mr. PASCRELL. I also wanted to raise Canada and Mexico's implementation of the forced labor provisions of the new NAFTA. Please provide a status update, if you can, on the steps each nation is taking to prohibit the importation of goods produced with forced labor. I would appreciate that very much.

Ambassador TAI. Certainly.

Mr. PASCRELL. And I appreciate it, also, that your team is energetic in using the new NAFTA's Rapid Response Mechanism to hold labor rights' violations accountable and make them serious, seriously a concern of our government and not papered over. I ask you. That is very important. And there is a marriage here. This is not just the Mexican Government. We are talking about corporations, some of which have gone to Mexico and made a laugh at what they have done. They think they can get away with anything. And we talk about what you folks do, day in and day out, but we ought to talk to the corporations because we are going to need the cooperation, their cooperation, if we are going to follow through on the mandates of the new law that we are dealing with right now.

I appreciate the small number of cases actually filed, can and should be more proportional to the number of labor rights' violations we know are occurring in Mexico.

And, Chairman, I listened very carefully to what the President of Mexico just said 2 days ago about us, and I didn't like it. And we have had some battles, as you well know, and you were at some of them. I don't know where he is coming from. We have been pretty supportive, and we should be of Mexico. But I am not going to be any wind player for the President of Mexico. Don't ever think that. What do you think—

Well, my time is up. And I thank you, and I yield back, Mr. Chairman.

Chairman SMITH. Thank you, gentleman. We had a lovely two-and-a-half hour conversation with the President in Mexico on our delegation, and I will be happy to talk to you more about it later. I would like to recognize the gentleman from Kansas.

Mr. ESTES. Thank you, Mr. Chairman. And thank you, Ambassador Tai, for being here today. I know with votes, we have got people coming in and out, an impact there. I know you are familiar with the process, familiar with the room, working diligently both in your current role as well as here before that with the committee.

So, you know, I guess I am a little concerned. I guess I would like to see more. I mean, this is your third appearance or the third year that you have been before the committee. And a lot of things are just continuing on without much new being accomplished through that and competed through that process.

And there is so many good trade things that we can address, I think, that both Republicans and Democrats agree with. And I think if we could get—in my opinion, I think we need the administration to be engaged a little bit more on actually getting some of these things done. I don't know if there are some obstacles that are being put in your way that are keeping you from doing some of the things, I think, we all agree with you as well, once accomplished.

I want to talk about two or three things before my time runs out. I will start with digital service taxes, and the OECD process with Pillar One. You know, as we have talked for the last couple of years about the digital services taxes that were being implemented by various countries, how much of an impact and a burden that was going to place on particularly American companies.

And so I was very supportive of OECD's effort with Pillar One and the effort moving forward there to help make sure that we address that and get a consistent playing field across all of the developed world and the world of the OECD community. But I am concerned now that we have kind of dropped the ball on—not dropped the ball, just paused with Pillar One in order to look at Pillar Two. And then the Pillar Two discussion's taking all of the time and energy and distraction away from that.

So I guess my questions, as we get closer and closer to December of this year when the 301 suspension expires, are you looking at reactivating that, moving that forward, because it has taken so long to go through and bring closure to Pillar One?

Ambassador TAI. Mr. Estes, this is a great question and scenario where USTR has worked very closely with the Treasury Department because they lead in the OECD negotiations, and of course, we are responsible for the 301 action. I have to confess that I am not up on the latest in terms of the OECD work in the Pillar One, Pillar Two. But let me just affirm to you that the 301 statute is one of our most important statutes, and those DSTs are suspended pending successful conclusion.

Mr. ESTES. Well, thank you. And I understand there is some dynamics there between Treasury, and I had some similar questions with Secretary Yellen when she was here as well in terms of what do we do going forward.

I want to talk a little bit about our trade, particularly, with China. Obviously, as I think the United States, probably—we should have gone in a different direction in terms of our relationship with the Indo-Pacific region and trade arrangements there. But I am concerned now with some of the approaches China has made over the years that everybody agrees with in terms of intellectual property theft and restrictions that they put on American industry.

So where are you at now? What is your current status on the view of China's aggressive approach to trade, and what should the U.S. be doing more of to help counter the CCP?

Ambassador TAI. Well, thank you for that question. This is something that we do a lot of thinking on and, also, are working quite a bit on as well. As you may be aware, we are currently in the process of a statutory, what we call comprehensive four-year review of the section 301 actions which are based on the 2018 301 findings around economic harm from China's IP rights abuses and forced tech transfer policies.

Overall, we are using a lot of different approaches, both domestically here and to continue to invest in ourselves to be able to compete from a position of strength. We are working in multilateral settings where we are members, along with China, like the WTO, the G-20. We are also working in smaller settings, like the G-7 and bilaterally with other parties. The Indo-Pacific Economic Framework as well is an area where we are really trying to work with parties with whom we have shared interests across the board in terms of the challenges that we face.

But in this area, you are right, I agree with you, there is a lot more for us to do. We are primed to do it. And I commit to staying in good touch with you and this committee as we prepare for next steps.

Mr. ESTES [presiding]. All right. Well, thank you. In my discussions with some of our countries from around the Indo-Pacific region, they want us to be engaged. And so my time has expired.

And so now the gentlelady from New York, Ms. Malliotakis, is recognized.

Ms. MALLIOTAKIS. Thank you. I figured, usually, I am last in asking questions, but I am smart, and I came here now. I went and voted first, so now I can actually move up in the timeframe here.

Thank you, Ambassador, for being with us. I appreciate the discussion that we are having today. Obviously, trade is so critical. It is critical for our allies, right? It is critical for the United States to make sure that we are growing our GDP. And I know in the third quarter, it was down comparatively to previous years. And so there is one real opportunity for us to grow our GDP; it is trade.

On that front, I would like to talk to you a little bit about Taiwan. And, obviously, Taiwan is a great partner. And I also want to talk about our neighbors to the south. And, you know, we see China investing heavily in those areas. I think some of the smart things for us to be looking at are ways that we can build the trade relationship with our neighbors in Central and South America, and as well as our allies, right; talking to whether it is U.K.; whether it is Taiwan; whether it is Poland, which is a great like-minded

country where we are seeing more pharmaceuticals being manufactured.

But, first, let's start with Taiwan, because many of us here are friends of Taiwan, and I appreciate the U.S.-Taiwan 21st Century Initiative which began last year. However, the initiative doesn't touch upon the issue of market access. And this is something that I believe would be tremendously beneficial to our ally and to the United States as we try to reduce our dependency on China. With Taiwan being a U.S. top-ten trading partner, I would hope that there is a plan to start negotiations with Taiwan on furthering trade and market access soon. Is there a pathway that you are taking at this moment to do that?

Ambassador TAI. Congresswoman, it is nice to meet you. Welcome to the committee. And I have to say that I really admire your strategic thinking here, and I am very inspired by it. I am delighted to engage on the specific question of Taiwan and market access. This allows me to scale out a little bit, and I don't want to take too much time because I know you want to get to other topics as well. But there is an important element of our traditional trade practice which not enough people understand or see. And it gets way into the technical aspects of how a traditional trade agreement works and how the tariff liberalizations work as well. The tariff liberalizations are generally—there are references that you get if you can meet a certain rule. And so a certain amount of content in the thing that is being traded has to have been created in the partnership or in the region in order to qualify. That number is never 100 percent. So there is always, by design, some seepage from outside of the partnership or the region that you are negotiating with that also benefits from the liberalization.

One of the concerns that we have, and this is around the world, but certainly in the Asia-Pacific region is we have seen through the pandemic how far-reaching our supply chains go and how many of them are concentrated in terms of production. In one particular economy that is sometimes very open to us and quite often not really open and where geopolitically increasingly we have become very nervous.

And so when it comes to market access in the sense of tariff liberalizations, we are trying to take very strategic steps to make sure that when we do engage on these types of topics with our partners in this region, that we are doing it in a way where we can strengthen each other, where we are building resilience for each other, and we are not further entangling ourselves in dangerously vulnerable supply chains. And that is why we have not moved there.

Ms. MALLIOTAKIS. I appreciate that, but are we at least trying to work toward that with Taiwan? Because I think that is important on market access, but also with regards to—and it is another issue, it is a different hearing, but the double taxation issue that Taiwan faces when trying to invest here in the United States.

Ambassador TAI. I am happy to talk about double taxation. That also involves my Treasury colleague, so I want to acknowledge that.

Let me put it this way, in terms of trying to bring this advanced and more strategic thinking, especially to the tariff liberalization

negotiation, I will tell you that it is a very lonely place to be. But, Congresswoman, this is something where you see the dots that we are trying to connect. I would be delighted to work with you and anyone else who can bring expertise to this conversation to help us advance it.

Ms. MALLIOTAKIS. I would certainly like to have a follow-up meeting with you on that issue.

One last thing is, just—and I have no time, so I am just going to leave it out there for you to consider—what COVID had showed us was our dependency on China could be very dangerous in the future. We need to be mindful of that. And I am particularly concerned about active pharmaceutical ingredients of which 95 percent U.S. imports for ibuprofen are from China; 45 percent of the penicillin. I just want to lay that out there for this administration to consider. Let's not wait. Let's start moving now. And I think, again, that is another opportunity for us when we talk about near-shoring and friend-shoring, working with our allies in like-minded nations, there could be a very good strategic partnership there.

Ambassador TAI. I copy that.

Ms. MALLIOTAKIS [presiding]. And the committee stands in recess. So I now became the chair, I guess, temporarily. Thank you. [Recess.]

Chairman SMITH. The committee will come back to order. Mr. LaHood, you are recognized.

Mr. LAHOOD. Thank you, Mr. Chairman. And welcome back, Ambassador Tai. Great to have you here, and thanks for being with us.

As you know, Ambassador Tai, trade policy is incredibly important to me in my district and my constituents. I represent a heavy agricultural district and a manufacturing district whose jobs and economic successes rely on market access around the world and opportunities to send our great American products all across the globe. Knowing that, I don't think it should be a surprise to anyone here that I have been incredibly frustrated that another year has passed without kind of a proactive substantive policy on trade and progress on enforceable trade agreements from the Biden administration.

I know you, Ambassador Tai, where you were, in the Senate yesterday, or maybe the day before the Senate Finance Committee, and I know there was frustration over there. There was a Politico article yesterday. It said: Ambassador Tai plays defense as Senate rips into trade agenda. In that article, it says: Senators on both sides of the aisle criticized Ambassador Tai for not initiating trade agreements with foreign partners, opting instead for frameworks that lack the same market access provisions and enforcement mechanisms as traditional pacts.

And, you know, we have talked about this a little bit before, Ambassador Tai. But as we sit here today 2 years into this job, we don't have an FTA with the U.K.; we don't have an FTA, Free Trade Agreement with Kenya; we don't have an FTA with Taiwan. We have no request to Congress for TPA. We continually allow China to take advantage of our IP at the WTO. And we have this issue with allowing Europe to set the playing field on digital to the disadvantage of U.S. businesses and workers. So those are just a

few things that I think express my collective frustration and others.

And as a member of the Trade Subcommittee, and I am also a member of the new Select Committee on China, which has raised awareness in a bipartisan way that what we see every day in the Indo-Pacific region is the growing threats of China. And considering that, having a really insufficient trade engagement in that region, I believe, is unacceptable.

And I know you mentioned IPEF. And as I look at IPEF today, I believe the framework is actually getting weaker.

Just take the digital pillar as an example. USTR has chosen to engage in a framework that lacks tangible policy and avoids congressional consultation or approval. And I am hoping to hear your views on that. And I worry that we are not countering or providing strong enough alternative to the growing pressure of nonmarket economies.

Instead of increasing U.S. leadership in the Indo-Pacific region, countering China's influence, and leaning in on opportunities like digital trade to set global rules and standards that would put countries like China at a disadvantage, we are missing an opportunity to use trade as an offensive tool.

And so I mentioned those things—again, as we look at every conversation as part of the Select Committee on China when we talk to our like-minded allies in the Indo-Pacific region, whether it is Japan, whether it is South Korea, whether it is Australia is they are craving our leadership economically. And I just, I guess, express my frustration and my concerns about 2 years in, and we have not made any progress on any of these things.

So with that, I would love to hear your specific ideas or comments on IPEF, and whether it prevents real economic and substantive alternatives to China's pressure in the Indo-Pacific region.

Ambassador TAI. Well, it is good to see you, Mr. LaHood. And let me say a couple of things before I get to your specific question on IPEF. I hear your frustrations. And I think that in your frustrations, I would have like to make two points. One is you are seeing a key part of our trade agenda, which is that it is not the traditional trade agenda. And that is out of a recognition that a lot of the challenges that we were facing today, whether it is supply chain challenges, whether it is the challenges that we are facing from nonmarket economy practices, like those from the PRC to Russia's invasion of Ukraine, that a lot of these have roots in a traditional trade approach that have brought us to where we were today.

So, yes, we were not pursuing traditional, fully liberalizing trade agreements because we see those as part of the problem that we were trying to correct for. So your frustrations are affirming that, yes, we were not pursuing a traditional trade agenda.

But what I would like to point out to you—and I would be delighted spend more time with you as well—is to have you see those things that we are doing. That we were putting forward a trade agenda to try to correct for exactly some of those challenges that you have highlighted, especially with respect to nonmarket economic policies and practices that have really made the playing field

extremely tilted, and that we are going to have to adapt to, respond to for as long as those practices are there.

So I am delighted that you are a member of Way and Means Committee. I think that there are two of you who are also on the China Select Committee. I am looking for an opportunity to come up to brief that committee and to get to know all of you better to talk about some of the economic pieces of this.

Let me get to the Indo-Pacific Economic Framework. You are absolutely right, our parties in the region are thirsting for engagement with us on economic matters. That is what we are bringing through the framework, including through the digital engagement. We have got very robust, very enthusiastic participation from 13 partners in the region, 12 of whom are actively engaging with us through now two rounds of negotiations. And I am happy to spend more time with you there as well.

But our vision is for an economic engagement, in the Indo-Pacific that is, first of all, durable and well-supported here at home. And, second of all, that promotes the shared interest that we have with all of our parties there around adapting to a very disrupted global economy that will bring more resilience, more sustainability and inclusiveness to all of our economies by working together. And I would be delighted to spend more time with you and explain how what we are doing here connects with those goals.

Mr. LAHOOD. Well, I am out of time. I just appreciate your willingness to meet with the Select Committee on China on this.

The last point I will make is what the CCP fears the most is bipartisan support, engagement by the Congress in the Indo-Pacific region. We look forward to working with you on it. Thank you.

Chairman SMITH. Ms. Sánchez is recognized.

Ms. SANCHEZ. Thank you, Chairman Smith, and Ranking Member Neal for the opportunity to discuss the Biden administration's 2023 trade agenda. And I want to thank you, Ambassador Tai, for returning once again to brief us about the efforts you are leading to advance a worker-centered trade agenda, and for your, you know, always willingness to be accessible and available.

Over the past 2 years, you have led the administration and supporting U.S. leadership at the WTO, along with calling for its much-needed reform. And I want to commend you for the strong stance you have taken to defend our national security while ensuring a commitment to a rules-based trading system. I also want to highlight your continued leadership to support implementation and enforcement of strong environmental commitments and labor standards through the Rapid Response Mechanism under the USMCA.

As a former labor lawyer, I am proud that our efforts have led to an unprecedented number of union elections in Mexican facilities. To that end, the USMCA model includes the updates that many of us here in Congress want to see reflected across our trade agreement under the Western Hemisphere.

Ambassador Tai, you have stated that the American partnership for economic prosperity will build upon the strong core of trade agreements in the hemisphere. Yet, the United States has not effectively enforced several existing agreements with countries in the region, including member states of the Dominican Republic, Cen-

tral American Free Trade Agreement, CAFTA–DR. Therefore, I was hoping that maybe you could speak to the administration’s views on the best way to improve labor enforcement under CAFTA. And would it be practical to undertake a renegotiation of CAFTA with congressional approval to update labor standards and include a Rapid Response Mechanism like we see in the USMCA?

Ambassador TAI. Congressman Sanchez, it is wonderful to see you. I really appreciate this question because we do care deeply about our partnerships with our neighbors in the Western Hemisphere.

In terms of the DR–CAFTA, as you will recall, DR–CAFTA is one of our pre-made tan agreements. And there were enhancements and improvements like the ones we made in USMCA. The earlier version happened in May 10 to labor, environment provision, enforceability of those.

So to your point about the opportunity for levelling up, if you will, the DR–CAFTA, it is something that we think about in a number of different ways with respect to that particular agreement.

On the America’s partnership, let me just touch on that briefly, which is we know that in our own hemisphere, we have the most existing traditional free trade agreements that we have are in this hemisphere. And yet, the partners with whom we have those agreements continue to want something different and more from us. And I think it really does reflect the changing nature of the world economy and the needs that we have around promoting resilience, sustainability, and inclusiveness.

So whether it is with partners with whom we have an FTA already, or those that we do not, the program we are advancing right now through our trade agenda is meant to address those items.

To your specific question about how to revisit some of these pieces of the DR–CAFTA in the context of America’s partnership, I would be delighted to explore that with you. I think there is a lot of potential here. We are really focused on our regional resilience in a new way, and I think that there is a lot of opportunity.

Ms. SANCHEZ. Thank you. I am wondering if you foresee any tension between states that are parties to both APEC and CAFTA and their compliance with differing agreements if one has a stricter standard?

Ambassador TAI. I have been thinking about it differently in terms of the America’s partnership. There are 11 of us right now. So that is the United States plus ten. Of those ten, eight of them have free trade agreements with us; two of them do not. We didn’t want to make the FTAs a, you know, disqualifying factor, because we want to think about the region as a whole.

We want to advance an agenda here that is complementary to the existing arrangements that we have. And this is an area, as we get into more detail, that I would be very happy to continue to work with you on.

Ms. SANCHEZ. Great. I have one last question, and my time is short. I will submit it for you to respond to in writing. But thank you so much for your time, and, again, for always being willing to be accessible for questions or input. I yield back.

Chairman SMITH. The gentleman from Pennsylvania is recognized.

Mr. SMUCKER. Thank you, Mr. Chairman. And thank you, Ambassador Tai, for testifying today.

I have noticed the Biden administration has a bad habit of redefining things that don't fit your agenda. For example, last year, the administration redefined the definition of a recession. Now the administration is redefining what is considered a free trade agreement. USTR has also been working to redefine Congress' role in developing trade arrangements as exhibited in our lack of former involvement in IPEF and APEC. And you are also redefining what consultation with Congress means.

Before our Senate Finance counterparts yesterday, you told multiple Senators that you have been in close consultation with Congress as you negotiate critical mineral agreements with Japan and the EU.

But I want people to know, I want my constituencies to know what activities USTR is defining as close consultation. Apparently, you believe that close consultation is leaving documents in a SCIF for Members to review, but not share with constituents, and then holding two staff-level Zoom hearings.

I don't believe that is sufficient consultation to move forward with signing any critical mining agreement that our constituents have not been allowed to see. I know many of my colleagues have raised already today and will continue to raise similar concerns, and I hope that it conveys the point that Congress finds this wholly inadequate consultation with Congress.

Pivoting from definitions, I want to raise a few constituent-specific trade matters. The first relates to GSP. And I hear from so many constituent companies about how GSP has been an effective tool for them to strengthen their supply chains, to create high-paying jobs at home and overseas, and to invest in sustainability. And I know Congress is responsible for renewal.

But I would like to ask, what tools does USTR have at its disposal, or what tools could Congress provide as part of renewal to ensure that any new eligibility criteria in GSP promotes a race to the top, both across and within GSP countries, but also avoids harming the GSP users like I have heard from that are meeting or exceeding the program development totals, or goals, I should say? I am sorry.

Ambassador TAI. Well, Mr. Smucker, I really like your question, although your lineup was a little bit brutal. Let me just say on consultation—look, I am here before you right now, and so let me just commit to a desire to be as knit up with this committee as possible on issues.

And if you have specific concerns with respect to the critical minerals, which I am sure that you will, please always feel free to reach out. And I am taking the feedback. And we will commit to do better as well.

On about GSP—look, I think that GSP ought to reflect the state of modern U.S. trade policy practice. We have an established bipartisan, bicameral consensus in U.S. trade policy that trade includes labor and the environment. And this is something that I carry with me in all of my conversations with my counterparts from around

the world to say that you should be like us and acknowledge that trade is more about just goods crossing a border, but it is about economic engagement and making our economies work together. So GSP in terms of—

Mr. SMUCKER. Ma'am, sorry, I would love to keep—I do want to—

Ambassador TAI. I think it needs to reflect both labor and environmental criteria. It should reflect that race to the top. And, yes, it should be usable. But that is because GSP is at heart a development tool. And I think we—

Mr. SMUCKER. We hope to—we hope to continue to work—there is additional USMCA enforcement challenges that a Pennsylvania company, QVC, is facing that I just wanted to bring up as well. As you know, Canada committed to ensuring U.S. home shopping programming could distribute in the country under annex 15-D of USMCA.

And I understand that President Biden is meeting with the Prime Trudeau this week, and I am asking for your commitment to work on this enforcement issue with my office. And we will also be following up, by the way, with a formal letter. This has a huge impact on the Pennsylvania-based company QVC.

Ambassador TAI. I know this issue well, and I would be happy to work with you on it.

Mr. SMUCKER. Thank you, Ambassador.

Chairman SMITH. The gentleman from New York is recognized.

Mr. HIGGINS. Thank you, Mr. Chairman. Ambassador Tai, thank you very much for being here. And, also, thank you very much for being so responsive to our concerns on behalf of our constituents in western New York about the ill-advised property tax in Canada that is imposed on vacant and underutilized properties.

It was intended to address a problem with foreign interest purchasing large swaths of land in both Toronto and Vancouver, and then holding that, thus taking supply off the table, increasing the cost of housing and the availability of housing, or decreasing in the availability of housing. So, I just want to thank you for that.

China and Russia are involved in a big land grab in Africa for rare earth elements: Cobalt, copper, and lithium. These are essential elements to developing electric vehicles and semiconductor manufacturing. They are the primary inputs for future global economic growth.

So today, it is a global gold rush for these minerals. Combined, China owns about 80 percent of these minerals, followed by the United States at about 6 percent. Eighty percent of the United States' refined materials are imports from China. The production of electric vehicle batteries, worldwide, China has 553 gigawatt hours; the United States has 44 gigawatt hours.

According to S & P Global, lithium-ion manufacturing capacity will have more than double by 2025. China will have 65.2 percent; Germany will have 11.3 percent; the United States 6.3 percent. There are 200 battery mega factories being built between now and 2030. 148 of them will be in China; 21 will be in Europe, and 11 in the United States.

You know, there is a lot of tough talk here and generally in the Congress about being tough on China. While that is true, I think

we have to be tougher on ourselves about China. The Biden administration, I think, is responding to that with both the Inflation Reduction Act and also the CHIPS and Science Act to incentivize reshoring, friend-shoring, call it what you will.

My concern is giving China's dominance in the continent of Africa and in area of electric vehicle lithium ion and manufacturing, is that too little too late relative to the United States trying to catch up? And what is the vision with the Inflation Reduction Act and the CHIPS and Science Act relative to that competition?

Ambassador TAI. Thank you so much, Congressman Higgins. I agree with you, and I really appreciate your highlighting all of the data and statistics to demonstrate the dominance of the PRC in the global marketplace in a lot of these areas. Let me address your question with respect to Africa first, which is I tend not to think about it as—well, first, I don't think it is too little too late. First of all, we can't think like that, but also I just don't think it is true.

With respect to Africa, where I would like to start in terms of our partnership with Africa is to ground it in our partnership with Africa being inherently valuable for being good partners—a good partner to Africa. In terms of the demographics of Africa, the use of its population, the growth in terms of its population, as well as all of its other resources, Africa has the potential to become the engine to drive, not just its own growth as a continent in these next decades, but a driver of global economic growth.

Our connections with Africa, historically, in terms of our people, our communities, diaspora communities that are recent, that have been here for hundreds of years are a part of this strength and connectivity and the reason why we should be partnering with Africa in the first place.

To the point in terms of industrial competition and looking at some of these critical supply chains and where the industries of today and the future are growing up, you are absolutely right, it needs to be a combination of policy approaches that we take that involve investing here at home, but also working out how to secure supply chains that are more resilient, that make us less vulnerable and open up more opportunities for us and for our parties to be able to thrive in the global economy as it continues to evolve.

So you are right, absolutely, that in terms of the investments that we make, but also in terms of the adaptations to our trade policy, we got to make a way for our industrial vision and trade vision work together, and that is absolutely what we are focused on.

Chairman SMITH. Mr. Feenstra is recognized.

Mr. FEENSTRA. Thank you, Mr. Chairman. And I thank you, Ambassador Tai, for being here today. I am from Iowa. We are the breadbasket to the world. We are the second largest exporter of agricultural goods, number one, and when it comes to grain as an export.

And so it has been a challenge for us. I mean, it has been a real struggle to watch this administration that we are sort of in a trade deficit right now when it comes to agricultural goods for the first time in decades. And we have not seen any new markets being opened.

I will say this, I do appreciate your work on Mexico and the GMO issue. We got to get it resolved. This is paramount to the

Midwest and the agricultural markets. And I can't tell you that—if you can pass along information to the administration is that we are not flyover. We actually do a lot of good things for the economy in the agricultural breadbasket of America. And it just seems like we get neglected because he never mentions us.

But that is not what I want to talk about. I want to talk about continuing the section 301 tariffs on amino acids and expanding those tariffs to include lysine and threonine.

After the African swine fever hit China and their hog population, the demand for amino acids that went into their food plummeted, and the excess was dumped here right here in America.

To the detriment of amino acid producers in Iowa and across the country, the United States and China are the world's major amino acid producer. But if this dumping by China goes unchecked, the America-based amino acid industry will be devastated and actually go out of business. So this is critical to our supply chain and offshoring and actually fighting against our geopolitical rival in China.

So my ask to you is will you commit to continuing to work on section 301 tariff, keep it, and then also expanding it to include such things as lysine and threonine?

Ambassador TAI. Congressman, I have now been to your great state of Iowa. In fact, I visited the Iowa State Fair last summer with Secretary Vilsack. So I just want to say Iowa is not flyover for me. I know how strong Iowa is for our agricultural economy and care very deeply and am always inspired and impressed by the farmers and the agricultural producers from your State.

Let me say one thing on market access. We have been expanding market access for our producers. And our agricultural economy, we know, is one of the strongest producers in the world. As we adapt our trade policies, we will not forget you. We are not forgetting you. And I have a list with me that I won't run through right now of all of the market opening that we continue to do for our farmers, our ranchers, our producers, and especially to champion the interest of the small ones and the family farmers and producers as well.

Mr. FEENSTRA. Thank you.

Ambassador TAI. On the amino acids, let me say this, because I think—I just want to highlight, in terms of the 301 program, it is a very important program for us. It is important for us to bring a responsible, strategic approach to it. As a result, we have an ongoing review of the section 301 actions and those tariffs where we opened a portal, we invited a stakeholder comment. I trust that the amino acid producers in Iowa have participated in that process. And we have committed to running a serious deliberative process where we do everything to do right by our entire economy. So let me just highlight for you that that is going on, and we take that very seriously.

Mr. FEENSTRA. And it has got to be solution-based. We have got to get it done, okay?

Yesterday, in a response to my great Senator, Senator Grassley, you said that you weren't currently engaged on tariff liberalization. But—this is your quote. But when it is fit for the partner and when times are right, we are happy to do what is right, the right thing for the economy. So what are the conditions that indicate that is

a right time to start tearing down some of these tariff barriers and opening a lot of these markets for Iowa farmers?

Ambassador TAI. Well, thank you for paying attention to that hearing and not relying on the reporting by Politico which is not always nice. But those do sound like my words. What I want to say is there is no allergy to pushing on our partners to reduce their barriers. The problem is that our traditional approach has been a whole of economy, aggressively tariff liberalizing approach, which has led to a lot of the vulnerabilities that we are facing today.

So I am looking for parties from Congress, trading parties from our stakeholders to think about how you can use a tool like tariff liberalization to advance the greater cause of resilience, sustainability, and inclusiveness in our trading relationships. And in that context, if we can harvest this tool to promote those goals, I am all for it.

Mr. FEENSTRA. And my time is up. But I just wanted to note, you know, China continues to build their economic relations. They opened ten new free trade agreements in this last 5 years, and they are now trading with 120 countries. We are falling behind. That is a real problem for the American farmer. Thank you, and I yield back.

Chairman SMITH. Ms. Sewell from Alabama is recognized.

Ms. SEWELL. Thank you, Mr. Chairman. And welcome, Ambassador Tai. First, I would like to thank you for coming to my hometown of Selma, Alabama, to trace the footsteps of John Lewis and the civil rights foot soldiers on the 50th anniversary of the Bloody Sunday.

I know that you personally see the Office of the USTR as a mechanism to promote human rights and civil rights around the globe, so I hope that the pilgrimage to Selma was an inspiring experience for you.

I also need to thank you and Secretary Blinken and Ambassador Salazar and the entire Biden administration for your tireless efforts to hold the Mexican Government accountable for their illegal seizure of Vulcan facilities and ports in Mexico.

Just yesterday, I joined a letter with the rest of the Alabama delegation to the Mexican ambassador demanding answers for Alabama workers and Vulcan Materials, which is headquartered in Birmingham, Alabama.

Ambassador Tai, I know that both of us are strong supporters of the USMCA and the updated labor, environment, and enforcement provisions that we negotiated and secured in the new agreement. But I am very concerned that President Lopez Obrador is seriously threatening the progress and good will that has been established since the implementation of the USMCA.

I think I already know the answer to this, but I was hoping to get your commitment to continue to stay engaged on this issue and to send a very clear message that this illegal seizure is not acceptable.

Ambassador TAI. Yes, ma'am.

Ms. SEWELL. Thank you. As you know, I also represent the steel workers in my district. I was a supporter of the Section 232 Steel Tariff, because I know that China and other bad actors overseas are actually dumping steel on the global market in an effort

to kill the U.S. steel industry. We know that this has a dramatic and a devastating action, but we have to make sure that we are enforcing it correctly.

I also know that the Biden administration is negotiating a global arrangement on steel and aluminum with the EU, so that we can find a long-term decision to the steel overcapacity, while also partnering with our allies to promote the production of a more environmentally friendly steel like that produced in Alabama.

Can you tell me how those negotiations are progressing? And what happens if the EU walks away from the table? Do the 232 tariffs go back in the U.S., or in the EU?

Ambassador TAI. So Congressman Sewell, I will respond to that question backwards. Yes, let me take it off of the EU and say, if we don't succeed, that is right, the 232 tariffs come back on EU steel and aluminum. And the EU retaliatory tariff across the board, on a lot of our agricultural products in particular, would come back as well.

I do want to let you know, and this is getting to the top of your question, that I have very strong partnership with my European counterpart, that is, Executive Vice-President Dombrovskis. We have committed to staying in touch every single month this year to ensuring that our team stay on track to meet the deadline of October 31 that we have imposed on ourselves for a successful conclusion of these negotiations.

The investigation is exactly as you have described it, which is to update our steel and aluminum trade, create a new framework that promotes fair trade, that combats overcapacity, which has been so devastating to us in market-based economies, and also to push for cleaner production and trade as we look to the future. It has to do both of these things.

It is not easy. The technical aspects, in particular, are quite challenging in terms of getting our two systems to mesh, but I want to assure you that we were working very hard, and I remain very optimistic that our teams will get us there.

Ms. SEWELL. Well, thank you so much for all of your engagement on these issues. Again, I can tell you that Vulcan Materials in Alabama workers are really, really concerned about that seizure and really hope that the United States will continue to put pressure on the Mexican Government. Thank you.

Chairman SMITH. Mr. Arrington is recognized.

Mr. ARRINGTON. I thank the chairman. And, Ambassador Tai, good to see you. I feel for you every time I see you and we have this opportunity to have a conversation, especially because it is public, and I want to be kind and polite and sweet like my people back in West Texas, but my people are also brutally honest, and they feel like that is only way that we are going to ever accomplish anything if we are honest and direct. I don't see any action out of the Presidency, out of the White House and under his leadership, President Biden, that demonstrates that trade is a priority.

We have worked with you as a former Ways and Means staff person. I think I know what you are inclined to do. I think I know that you believe that trade is critically important, not just the agriculture, which is very trade dependent, and it is the lifeblood of the

region that I hail from. But you understand how important it is to the overall U.S. economy and our future growth.

For all of President Trump's shortcomings, and for all of the reasons some people weren't crazy about his personality or his leadership style, President Trump was totally committed to trade. And Lighthizer had a boss who made trade a priority. And the people we were doing trade with, other countries, took him very seriously. And that is why we were able to come together in a bipartisan way and actually accomplish something for the United States, for our workers, for our producers, and manufacturers.

I hate that you don't have that, because I think it is wasted talent. I hate it more for the country because we are getting whipped on the playing field. I can't stand to see America lose when the game is rigged, when people are cheating, but worst of all when we don't even show up to the game. And that is how I feel about where we are today.

China and just about every other competitor country is taking market share every day from the United States and from our great farmers, ranchers, manufacturers, et cetera. And it is because we do these—we do more talking than we do making deals and having real substantive agreements that will improve our economy and our situation.

Do this for me, it would be helpful, because I am the Budget chair now, and we are looking at the various ways to get our debt to GDP down because that is a threat to everything in our total economy, in our security, in our future.

Quantify for me—this is not a gotcha question—it is just a sort of broad-based question about the impact of trade to our economy and to our growth. Can you just speak briefly to that, how important is trade to growing our economy?

Ambassador TAI. I would be delighted to. And, Mr. Arrington, I would like to let you know, I wasn't in West Texas recently, but I did make a trip to Houston and got to go to the rodeo, and it was really quite something to see. And so in terms of the spirit of your people in Texas across the board, I got to see something there. And there are aspects of the hearing today that remind me a little bit of what I saw in the rodeo of just a—

Mr. ARRINGTON. Probably the calf scramble is what it reminds you of.

Ambassador TAI [continuing]. Different format.

Let me speak to your specific question. Let me put it this way: Trade has the potential to be a tremendous tool for growth and development if it is done the right way. And we have pursued trade policies that have expanded the pie, certainly, if you want to look at the GDP and from your budget perspective.

But what we have found over time—and we have a U.S. ITC report to back this up—the way we have pursued our trade policy is focused too much on the big picture. And the distributional effects of trade—we have seen that the benefits have clustered in certain places, and they have not flowed broadly enough.

Mr. ARRINGTON. Can I make—

Ambassador Tai. And so what you see in terms of our trade policies now are to try to bring corrective aspects to trade by con-

tinuing to do trade but by continuing to push ourselves to do it better.

Mr. ARRINGTON. Thank you. And I am out of time to comment, so I won't. Thank you.

Chairman SMITH. The gentlelady from Washington, Ms. DelBene.

Ms. DELBENE. Thank you, Mr. Chairman.

And thank you so much, Ambassador, for being here with us today. It is great to see you.

Mr. Chairman, I wanted to start and ask unanimous consent to enter into the record a letter from members of the Washington State delegation raising concern with Japan's digital gaming market and its compliance with existing digital trade commitments.

Chairman SMITH. Without objection, so ordered.

[The information follows:]

Congress of the United States

Washington, DC 20515

March 23, 2023

Ambassador Katherine Tai
U.S. Trade Representative
600 17th Street NW
Washington, DC 20508

Secretary Gina Raimondo
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Ambassador Tai and Secretary Raimondo:

We are writing to raise awareness of an issue that is crucial to American workers and companies, particularly in Washington State. Specifically, we are concerned about challenges surrounding the imbalance in the Japanese video game market and respectfully ask for your assistance in promoting fairness in this area, consistent with the U.S.-Japan Digital Trade Agreement.

As you know, Washington is a driving force in the U.S. technology industry. It is home to companies that are on the cutting edge of innovation, resulting in economic development and job creation throughout our state. In particular, the video game sector supports over 48,000 jobs and annual revenues of \$11.6 billion – making the video games industry a significant contributor to economic prosperity in the region.¹

Unfortunately, reports have indicated an imbalance in the Japanese video game market and the threat it can pose to the national video game industry, including to the Washington State industry. We are concerned that these practices appear to undermine the U.S.-Japan Digital Trade Agreement.

While Japan allows foreign gaming companies to sell to its market, U.S. companies have failed to gain traction. For example, Microsoft launched Xbox in Japan in 2002 and, despite 20 years of investment, still has only two percent of the high-end console market. Reports have indicated that Sony – which holds 98 percent of the Japanese market² – has paid third-party game publishers to preclude access to their content and negotiated exclusivity arrangements that prevent Microsoft Xbox from hosting popular video games in Japan on their system.

Such actions in the video game industry can result in barriers to certain U.S. exports, with serious impacts to Washington State in particular. Japan's actions allow a domestic company to protect its market share from foreign competitors. This can also pose an impact to the tens of thousands of jobs the video game industry creates in Washington State, and the 428,000 it supports in total across the country. The video game industry provides well-paying jobs, with workers earning more than double the national average wage. As Washington's Congressional Representatives, we are strongly supportive of ensuring that these job opportunities remain protected.

In the U.S.-Japan Digital Trade Agreement, Japan committed to provide non-discriminatory treatment to U.S. digital products, which includes computer programs and other digitally encoded products, such as console games. Considering concerns related to potential actions by Sony and the imbalance these actions may create for competing U.S. digital products, we urge the U.S. Trade Representative (USTR) to seek consultations with

¹ The Entertainment Software Association. "Video Game Impact Map: Washington." Accessed March 16, 2023. <https://www.thesea.com/video-game-impact-map/state/washington/>.

² Gaming Smart (GamingSmart.com). "PlayStation vs. Xbox – one clear winner." Published January 10, 2023. <https://gamingsmart.com/playstation-5-vs-xbox-series-x/>.

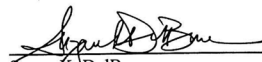
Japan to address this issue. In addition, we encourage USTR to identify additional barriers posed to American companies in accessing the Japanese gaming market in the 2023 National Trade Estimate.

Japan is, and will remain, a key ally and trading partner of the United States and is an essential member of the Indo-Pacific Economic Framework (IPEF). We stand ready to work with you and look forward to receiving a briefing on your progress in raising this issue with Japan. Thank you for your time and attention.

Sincerely,



Marilyn Strickland
Member of Congress



Suzan K. DelBene
Member of Congress



Adam Smith
Member of Congress



Marie Gluesenkamp Perez
Member of Congress



Kim Schrier, M.D.
Member of Congress



Derek Kilmer
Member of Congress

Ms. DELBENE. Thank you, Mr. Chairman.

Speaking of digital, Ambassador Tai, I know you have been working very much on the digital economy as part of the Indo-Pacific Economic Framework. And this is an area where we have been behind. The world is deeply impacted by technology, and so it is important that we have trade provisions that reflect that, including nondiscriminatory treatment of digital products, privacy protections, restrictions on data localization, source code protections, and bans on internet shutdowns. It is important that we have binding and enforceable rules. And I do think that this is also very closely connected to making sure that we are continuing to provide an engine for job growth right here in the U.S. and promoting American values like democracy and human rights around the world.

It is very clear that every industry is impacted by digital. From agriculture to manufacturing, all increasingly depend on digital tools and the transfer of data to stay competitive. And so I wondered if you could speak a little bit about how work on digital rules can help benefit small businesses, help workers, and strengthen human rights.

Ambassador TAI. Congresswoman DelBene, I know this is near and dear to your heart and to your areas of expertise. I think that our engagement on digital is one of the most important things that we are doing and one of the most important things in terms of pushing the trade conversation into new areas. Not only are we behind but, frankly, the international and the international trade practice and conversation around digital is behind. It is lagging behind the reality of the economy that we are living in right now where so much of it has already been affected by the digital transformation.

I also wanted to highlight and build on an aspect of your question, which is, how do we engage on the digital economy and digital trade in a way that is positive and affirmative, in a way that is looking forward and acknowledging the fact that our entire economy is touched by digitalization?

And I think that is a really important part of how we are approaching the digital economy, digital trade conversations, including in the Indo-Pacific Economic Framework, which is acknowledging that the way that we engage with our partners and lay the groundwork and draw out the blueprint for digital trade negotiations has to reflect more than just the interests of our biggest stakeholders in this area. It has got to reflect the interests of our small companies, the lifeblood, the backbone of our economies—not just ours, but others—but also reflect the interests that our workers, that our environment, that our content creators all have in this economic ecosystem.

I think this is also an area, as you and I have talked about before, where our ability as negotiators to take forward steps is going to be impacted by and really limited by how far you as legislators have been able to go in terms of establishing regulatory frameworks that are critical to the digital economy.

And one example is privacy legislation. We know that the rights to privacy of individual people and consumers in the digital economy is an important right to be weighed against in how we formulate our rules. But without that legislation here in the United

States, there is really a limit to how much we can do in these negotiations because we have got to leave room for all of you to make that decision first.

So this really is an area where congressional and executive partnership and communication is going to be critical. I am looking forward to working with you and as many of your colleagues on this committee and in the Congress as possible.

Ms. DELBENE. Obviously, I am a big proponent of Federal consumer data privacy legislation.

Just quickly, I also wanted to bring up Taiwan, which some others have brought up, but clearly a key ally to the United States and a major partner on defense, trade, technology in the Indo-Pacific region. Taiwan is the seventh largest export market for Washington farmers and a major export market for aircraft and digital products that are built in Washington State.

So our economic partnership with Taiwan is not as extensive as it could be. I think we have talked about ways we can continue to strengthen that. And so I encourage you to think boldly about how we can strengthen our economic ties with Taiwan as you proceed with the current initiative.

Thank you, Mr. Chairman. I yield back.

Chairman SMITH. Mr. Hern, you are recognized.

Mr. HERN. Thank you, Ambassador Tai, for being here today. The Biden administration's timid approach to trade initiative is concerning. Bold leadership is a necessity to ensure Americans succeed on the world stage. Any weaknesses from the United States will be exploited by our adversaries, mainly China.

Our trade agenda must provide certainty that future agreements will create new import and export opportunities to the benefit of American businesses and workers. I think you would agree with that. This administration has taken no steps towards reviving a bipartisan Trade Promotion Authority that has expired. Without TPA, we leave a vacuum in the international marketplace that China is already capitalizing on.

All free trade agreements have been approved and implemented through TPA. It would be a mistake for the administration to turn a blind eye to TPA while the international marketplace is being actively manipulated by our allies and competitors solely for their own priorities.

Other nations, even our allies, are not looking out for American interests. It is on us to go after market share and create access for our products around the world. If we fail to create an aggressive and robust trade agenda, Americans are at a disadvantage and China grows stronger.

TPA supports U.S. job growth with exports of Made in America products and better trade agreements that make the U.S. more competitive globally. That being said, with my limited time today, I would want to focus on the digital service taxes with you.

Ambassador, I am concerned with the Biden administration unilaterally disarming the 301 investigations while other countries are still charging digital service taxes today. Today, I am even more concerned about the administration's action because it is uncertain where we go from here now that our leverage has been stripped away.

Ambassador, 30 out of the 38 OECD nations already have in place or plan to have in place a digital service tax if Pillar One talks fail. France has already expressed it needs to press ahead with their digital service tax because of the implementation challenges facing Pillar One. I am afraid other countries are growing impatient as well.

My colleague, Mr. Estes, brought up a serious question and concerns with you, and the response was not sufficient enough, in my eyes, in the explanation. USTR is the tip of the spear when U.S. companies are facing the discriminatory treatment abroad.

What is USTR's plan B if Pillar One talks fail, if they haven't already failed so far? Would you reinstate Section 301 investigations on those 30 countries' DSTs?

Ambassador TAI. So, Congressman Hern, I have engaged on this as well. I disagree with so much of what you have laid out at the beginning, but let me be responsive to this particular question.

I don't think you have any unilateral disarming. I believe our DSTs under our Section 301 are suspended, right. So that means that they can be unsuspended. But I would also like to take the opportunity, because you laid so much groundwork, to correct for the record a couple of things that you stated.

One is that it is not true that all FTAs have gone through the Congress under TPA. The Jordan FTA was passed by the Congress without TPA in place. And the converse is also true, that TPA does not always guarantee that an FTA makes its way through. We need to look no further than the TPP, where a TPA was tailor-made for TPP, and TPP never made its way through.

So this is all to say that pursuing failed trade policies does not guarantee that we become stronger. What I am looking for is bipartisan partnership on advancing trade policies that make the United States more resilient, our economy more sustainable, and our results more inclusive. And if Congress and this committee can show me the money and can show me that there is bipartisan work that we can do together, then let's do that together. I would very much like to—

Mr. HERN. With all due respect, Ambassador, so what you are implying then, it is the Congress' fault that we don't have any trade agreements. It is not anything the administration is putting forward throwing their energy behind this space. I mean, you have been here a number of times and saying, you know, we would love to move forward and you can work with us on that. So help us with that.

Ambassador TAI. Meet me with the recognition around the kind of world we are living in right now, where we are as an economy, where we are strong, where we are vulnerable, and meet me on the terms that we need to do things differently. Not everything. You don't have to throw the baby out with the bathwater. But meet me on the terms that we can work together on adapting to the reality that we live in. And I think that that is the path to having the kind of bipartisan congressional-executive partnership that I think that we all are interested in having.

So I am not casting blame. I am just saying, trade policy, where USTR sits at the intersection of the executive and the congressional, requires all of us to at least share the vision in terms of

where we are going. And if we can do that, I think that that is where we all come together and get something done to be on team United States.

Mr. HERN. Madam Ambassador, with all due respect, you served in this committee a long time, and this committee has been well known for working together with an administration that wants to work on trade deals. So that would be a great message for the administration to hear as well.

Thank you. I yield back.

Chairman SMITH. Mrs. Miller is recognized.

Mrs. MILLER. Thank you, Chairman Smith.

You certainly are on the hot seat today. I really always enjoy working with you, and I want to continue working with you as we move forward.

You know that I made a trip very early—I was still wet behind the ears in Congress—to China and realized how important trade was to my State and my country. Immediately I wanted to be on the Ways and Means Committee and Trade, and as some things happen, I am very grateful to be there.

I have been disappointed with the Biden administration's lack of progress, of course, on restrengthening our position in the global trade economy. And I have heard from so many of our allies that your key trade program, IPEF, just isn't quite enough. And as we continue to elevate our competition with China in key regions of the world, especially in the Indo-Pacific, I think it is important for the U.S. to advance trade policies and agreements that feature real incentives such as market access and tariff cuts. These kind of incentives are critical if we truly want to link supply chains with our partners and allies and if we want to give our companies an incentive to move our supply chains out of China.

For example, I just traveled to Cambodia—well, this summer—and Singapore and heard directly from their Prime Minister. Singapore is a fantastic trading partner of the United States. But on the other hand, Cambodia is hungry for U.S. trade and investment. Unfortunately, we are doing too little, too late. We also view IPEF as being too little, too late.

China is outmaneuvering us by implementing the largest free trade agreement in history with the Regional Comprehensive Economic Partnership and trying to join CPTPP. We need to run faster than China in this region and ensure that American workers can compete globally.

Now, quickly, I am going to ask you a question. What are you doing to directly counteract the tariff advantage that Chinese products have over U.S. products in the Indo-Pacific as a result of RCEP, and is there other trade agreements out there?

Ambassador TAI. Congresswoman Miller, it is nice to see you. And I always enjoy working with you as well.

You said something early on in your question about market access and tariff cuts leading to better supply chains. And I think that that is an area where we are going to have to really disagree. And I lead an agency with a bunch of experts that get way in the weeds of and the guts of all the trade agreements that we negotiate. I think that there is work that we can do to come up here to this committee, but also more broadly explain how tariff cuts

and the rules for accessing those preferences have worked in different sectors.

In certain sectors—we have seen them in the textiles area, for instance, in the CAFTA–DR—that the combination of the tariffs and the tariff cuts and the rules of origin have created really strong supply chains. In agriculture as well we have tended to do better on rules of origin and tariff cuts to favor our producers.

But across the industrial areas, what we have seen is the combination of the tariff cuts and those rules of origin have led to a deindustrialization and an erosion of our capabilities. So this is just to say that—

Mrs. MILLER. I have to move on.

Ambassador Tai. This is just to say that—

Mrs. MILLER. A lot of words.

Ambassador TAI. It is a lot of words. It matters. It matters to people on this committee how a trade agreement actually works. It is not—what is inside of a trade agreement matters in terms of what the result is going to be for your economy. And we have seen very uneven results. So let me try to be really specific in response to—

Mrs. MILLER. Well, okay. But I want to—

Ambassador TAI [continuing]. Your question, which is those tariff advantages in the Asia-Pacific have driven already on top of the liberalization program supply chains to be deeply clustered inside of the Chinese economy. And so for our approach, it is not to just go in and further liberalize. Our approach needs to bring disciplines and strategic changes to the trade program to make those supply chains more resilient. And on that, I think we are agreed. Our supply chains need to be more resilient.

Mrs. MILLER. Okay. Because I want to move on to Ecuador, Guyana, and Mexico, because so many of the countries want to improve their commercial ties with us as well. And just as in the Indo-Pacific, China is all over the place, and they want to be our trading partners.

Do Latin-American countries often raise market access and GSP renewals as a priority in bilateral talks with you and other administrative officials? And do you believe GSP renewal would improve your ability to negotiate with these countries?

Ambassador TAI. Let me reaffirm, I am for the reauthorization of GSP in a way that brings it in line with our current trade practice.

In terms of my conversations with partners, especially those that you have just highlighted, they are really important partners to us. They are our neighbors. They are our allies.

Mrs. MILLER. Absolutely.

Ambassador TAI. Yes. And I think that—what I would like to do is just say that, when I talk to them, I want to hear from them what it is that they want from economic engagement with the United States. They want—they want to be more closely tied to us, integrated with us, and they want to be able to develop their economies in a way that we can rely on each other. How we get there—

Mrs. MILLER. Well, I think we can meet and go over these things.

Ambassador TAI. Yes. How we get there, then, is the next question.

Mrs. MILLER. Yes.

Ambassador TAI. And I think that—you know, does GSP get us there? It may get us part of the way there. But here, I would like to push all of you as well in terms of thinking outside of the box. Where can we improve our trade programs to really serve those interests that we are trying to accomplish as opposed to relying on traditional trade practices that have been really spotty in terms of their results?

Mrs. MILLER. We need to meet and really go through these things.

Thank you. I yield back.

Chairman SMITH. Ms. CHU is recognized.

Ms. CHU. Ambassador Tai, it is wonderful to see you today, and welcome back to the Ways and Means Committee.

I also want to bring up Taiwan. Last fall, at a hearing on this committee, I expressed support for a free trade agreement between the U.S. and Taiwan. Such an agreement should include high enforceable standards for labor, environment, intellectual property, and other priorities for Members of Congress and stakeholders in the U.S. and Taiwan.

I want to thank you for your focus on deepening our trade relationship with Taiwan through the Initiative on 21st Century Trade. This is an encouraging step towards deepening economic relations. But I believe this negotiation should be a first step towards a comprehensive FTA with direction and approval from Congress between the U.S. and Taiwan.

I understand that you had an agreement on five areas, which you call the early harvest. Could you please elaborate on the status of the remaining six trade areas on the negotiating mandate? Specifically, will the remaining areas be negotiated together or further divided? And will USTR continue to provide transparent updates to Congress and the public on these negotiations? And what is the timeline for completing the initiative?

Ambassador TAI. Thank you, Congresswoman. We are very excited about our trade initiative with Taiwan, and we are making very good progress. So you are right that we have started with five core areas scoped in light of our desire to deepen and expand our economic engagement with Taiwan, which already is quite significant. Taiwan is one of our top 10 trading partners.

We are making very good progress in terms of the first set. And you are right, we have scoped another five or six, I think, elements, which will follow. I don't have specifics for you in terms of a schedule or timeline, except to say that we continue to be encouraged by the progress that we are making and we are looking forward to working on those additional areas with Taiwan. And, yes, absolutely, we will keep you and others updated as we continue to make progress.

Ms. CHU. Thank you for that.

On another topic, I am the co-chair of the bipartisan Congressional Creative Rights Caucus, and I represent a Southern California district that is the hub of our country's creative economy and copyright industries. In 2021, the copyright industries employed 9.6

million workers, accounting for nearly 6 percent of all private employment and almost half of all the workers in the U.S. digital economy.

I also strongly agree with the principle that the AFL-CIO recently laid out in its policy agenda on the digital economy and trade, which states that trade policy must aggressively address the stolen or unlicensed use of copyrighted content on digital platforms.

I believe that a worker-centric trade policy must ensure that our trading partners protect intellectual property rights, and I am disappointed that, thus far, these protections have not been prioritized in the administration's initiatives, including the Indo-Pacific Economic Framework.

Given that is the case, can you tell me how USTR is ensuring that trading partners provide adequate protections for copyrights in the digital environment? Like, for instance, will IPEF countries be asked to join the World Intellectual Property Organization Internet Treaties, which ensures that creators can control and manage works online?

Ambassador TAI. Well, Congresswoman, our toolbox on intellectual property is quite expansive. Know that my Intellectual Property and Innovation Office is always in one part of the cycle on the Notorious Markets report, the Special 301 report. That ends up being a very important tool of ours in terms of tracking how intellectual property rights are being observed, respected in our partner countries, where the problems are, and also tracking progress when they make progress.

In the Indo-Pacific Economic Framework right now, we are deeply engaged on a digital conversation that also takes into account that there are content creators who have rights and interests in the digital economy. Let me leave that there.

In terms of things that are more specific to that, I will have to come back to you. I do not believe that we are pressing our partners on WIPO participation. But I am happy to continue that conversation with you.

Ms. CHU. Thank you. I hope you encourage them to do that.

And I yield back.

Chairman SMITH. Mr. Wenstrup is recognized.

Mr. WENSTRUP. Thank you, Chairman. And thank you, Ambassador, for being here.

We are talking about intellectual property quite a bit here, and I have concerns when we waive intellectual property rights. You know, we have inventors, creators, that develop and manufacture in the United States. And there are situations in, you know, talking about the vaccines as a concern of just giving that intellectual property away. That is a disincentive for people in the United States to want to produce and create if they are concerned that their own government in the United States is going to take their intellectual property rights away from them.

And I believe that there are ways to produce our products in another land, under our control, which is very, very important for a lot of reasons, especially when it comes to health. Because we know that, right now, we are in a huge deficit, dependent upon China for our medical prescriptions. Generic drugs. They control it, they con-

trol the world. It is a problem. It leaves us extremely vulnerable. It is a national health security issue and a national security issue.

If we turn over the intellectual property of a pharmaceutical or a vaccine to another country that doesn't produce it with the same quality, as we have seen from China—250 people died from Heparin in the United States about 15 years ago. We turn that over to another company to then make it, they tank that product. And then we have a problem.

And so I think that, you know, as we do look—and by the way, the FDA isn't over there trying to make sure everything is—they may have an office there, but they are not in there every day.

You know, we now have—in the United States, we are testing the drugs we get from other countries for being tainted or inefficient, not the right dose. All of these things are happening.

So all I just want to say is, if we in any way, shape, or form are giving away our intellectual property—you know, we are worried about others stealing our intellectual property, but if we are stealing our own intellectual property, it leaves us very vulnerable.

I see you raise your eyebrows. Maybe you are not engaged with the situation on the medical side, but that is a shame because maybe you need to get into and get a classified brief on what is going on.

Thank you. I yield back.

Ambassador TAI. Sorry I was making faces a little bit. I think it is because I was trying to track how you are describing giving away intellectual property. And that doesn't bear any resemblance to what we agreed to at the WTO last year. So I am happy to clarify some of that.

In terms of your presentation, especially around our reliance on others for API, let me affirm that I completely agree with you that that is a critical supply chain that we need to work to fix.

And the answer isn't just about IP. It does also connect to this tariff conversation as well. The way that a lot of our supply chains and the decisions that our producers have prioritized, which is to chase cost efficiency at the expense of resilience, at the expense of having more options in terms of supply, is part of the change that we need to bring to our trade policy.

So on all of the things that we agree on, I hope that we will be able to find a way to work together. I want to say I am engaged on the medical issues. They are really, really important. And I look forward to continuing the conversation and working with you on this.

Mr. CAREY [presiding]. Thank you.

The chair now recognizes the gentleman from North Carolina, Dr. Murphy.

Mr. MURPHY. Thank you, sir. Thank you, Mr. Chairman.

And thank you, Ambassador Tai. I think you can sense the frustration, at least over on this side of the dais, because it just does not appear we are moving the needle on trade. And I don't know you very well. You come very, very highly spoken of from members who have worked with you previously.

I personally think you are too nice a person to be in the job that you are in, because I think you are handicapped because of administrative folks that you have to report to, et cetera, that are handi-

capping you in your job. Negotiators are usually very, very tough and sometimes mean people. They aren't nice people like you are.

And if you look at what has happened with us, we are absolutely handcuffing the United States because we worry more about green things. It is all the other distractions. We are in the Paris climate accord. We handcuff ourself, and we give China the ability to buy—you know, build nine this past year, 27 more coal plants. And if you look at what we are doing to the United States, all we are doing is giving the open door for China. It is just a fact.

We don't negotiate—we were talking about critical rare earth metals. You know, we are fine to tear them up and get them from China where we are using slave labor, but we have them in our own country and we are not able to do that. It puts us absolutely at a disadvantage. And you are stuck—personally, I feel sorry for you. You are stuck in the middle of that.

And so let me get to just some of the other issues. It is just an absolute frustration, because you just see this country swirling down the drain because we are just so distracted on so many other different issues that China doesn't give a damn about. And because they don't give a damn about it, they are just swarming over the rest of the world with influence.

I am happy to hear that we are going to try to work on a Taiwan free trade agreement. That is absolutely necessary. I come from the second largest pork-producing district in the country. It is a big deal. Pigs are a big deal for us. Pork is a big deal for us. But unfortunately, with Taiwan, we have seen our exports decline 35 percent, one-third, since 2021, in a time when Taiwan's imports of pork went up 15 percent.

Can you help me understand that? Why has that happened? Why have we hurt our own pork producers in a time when Taiwan has been increasing their importation?

Ambassador TAI. So, Congressman, I can assure you that I know to be nice to members of the Ways and Means Committee. And I have never been faulted for being too nice.

Mr. MURPHY. You have too nice a smile.

Ambassador TAI. I also don't need you to feel sorry for me. So please don't. Please don't do that.

Mr. MURPHY. I feel like you have been put in a tough spot, personally, because there have just been—this administration above you has just shown no interest in trade.

Ambassador TAI. Okay. Well, let me just take off the nice a little bit. I don't need your pity. I stand up for the American people. When I speak, people listen, because I represent the interests of the United States.

Let me go to your specific question on what—your frustrations around our trade policy. Look, I am hearing it from this entire side of the dais. I have sat in the backseat before also. You guys are staying very well on message, and it is great work—

Mr. MURPHY. It is a good message. It is a true message.

Ambassador TAI. It is not. It is—I think that you have completely missed the point. And you are from a great State, which is also a textiles-producing State. I think that should inform a particular perspective in terms of where our trade policies have been strong for ag but also where our trade policies have really bled out

some of our critical industries. And I do consider textiles to be a critical industry.

On rare earths, let me tell you a couple things here. Why are rare earths important? Rare earths are important because, especially now, they have significant applications in clean energy and clean technology industries. So that is actually part of the greening agenda.

Mr. MURPHY. We are not getting it from our own country.

Ambassador TAI. I will tell you why we are not producing rare earths anymore. We used to. And I litigated a case at the WTO on this 10 years ago, which we won. But it hasn't put us in a better place. And that gets us into a WTO conversation. I am not going to go down that rabbit hole with you right now. But rare earths—

Mr. MURPHY. All right. Let me just ask this other question because I really didn't want to go on rare earths.

Ambassador TAI [continuing]. Because of predatory Chinese practices. Which you are right, we should be working together on that. But blaming each other for and not being able to come to an agreement on what is actually important for the U.S. economy, that is what is holding us back.

Mr. MURPHY. Absolutely. I don't disagree with that at all.

All right. Ambassador, let me just ask this one other question.

Ambassador TAI. Let's move on to the reality that we are facing in facts.

Mr. MURPHY. All right. Thank you. I agree. I don't disagree with you. I don't disagree with you. We are throttling ourselves on some of this.

I am an original cosponsor of the bipartisan resolution of disapproval which would roll back a regulation that suspends tariffs on Chinese solar products that have circumvented U.S. trade laws throughout four Southeast Asian countries. And I hope the Biden administration will reverse the policy so Congress isn't forced to act to protect American jobs and keep subsidized Chinese products out.

Can you explain—can you explain the rationale behind the decision?

Ambassador TAI. Do I have grace from the chairman to go a little bit beyond time? Yes? Sure. Sure.

Look, on the solar issue, I think we are in a real bind. And I think that this might be—let me see if you and I have common cause here as well. As with many other industries, about 20 years ago, we had a growing, innovative, strong solar industry here in the United States, which we lost.

Mr. MURPHY. Absolutely.

Ambassador TAI. When we lose industries like that—and it is not to say we are not producing. It is just that we are not producing at scale. We are not producing enough. When we are in a bind like this, we end up fighting ourselves. Our industries fight each other. Our regions fight each other. We end up, basically, fighting ourselves over the scraps of what we have got, and we are in a really hard place.

Where I would really like partnership with all of you is, one, to figure out the really hard work in terms of how we get to a better place in areas where we need to build back, but also, can we look

forward and anticipate the other industries where we are at risk of losing and eroding our capacity and work together to prevent that from happening.

Mr. MURPHY. Again, that really didn't answer my question. Why were we behind this position? Why were we allowing the Chinese to do workarounds?

Ambassador TAI. I am happy to continue this conversation.

Mr. MURPHY. Okay. All right. That is fine.

Ambassador TAI. This is one where our economy is quite split. Chairman SMITH [presiding]. Mr. Kildee is recognized.

Mr. KILDEE. Thank you, Mr. Chairman. And thank you, Ambassador Tai, for being here.

Let me just start off by saying, you know, we don't agree on everything across the aisle here, but I do want to associate myself with the last comments. Not all of the comments, but the last comments that Mr. Murphy made. I share his concern regarding Chinese solar and the circumvention of American tariffs. I disagree with the position the administration took on this. And I am leading the effort on the last issue that Mr. Murphy raised. I disagree with him that you are too nice. I think you are just nice enough.

So let me first of all say, where I come from, the term "free trade" is a bit of a loaded term. The people that I represent in Michigan, particularly in manufacturing and our farmers, have seen trade deals come and go and never met the promises that they were sold under. NAFTA being a good example, where we saw auto workers lose their jobs and have those jobs show up in Mexico, sometimes making \$13 a day, undercutting American workers. There were big promises under NAFTA that didn't materialize.

And it is for that reason that I am equally enthusiastic about USMCA. I didn't know that I would get to a place where I could support it, but at the end of the day, I was enthusiastic in supporting it because it rights the wrongs of some of the past trade deals and I think provides a really important framework.

I was proud of the work that the Democratic leadership, particularly Mr. Neal, did to improve that trade agreement in the late stages of the negotiation. I think that was the game changer for many of us, particularly including the labor rapid response mechanisms. That has been a lifeline for workers in Mexico in plants like the General Motors plant in Silao, which obviously you are quite familiar with. Our ability to stand up against protectionist unions, against multinational companies operating in Mexico taking advantage of workers, is really remarkable.

Last month, I was in Mexico. I met with many of the workers who are fighting for their new rights, including workers at the VU Manufacturing plant. Right now, these brave workers are in a battle at VU, fighting for better wages, for better working conditions, for safer working conditions, despite pretty significant threats, intimidation, bullying, from the company leadership.

So, I just want to ask if you can assure me and more so assure the workers at VU and workers all across Mexico that the USTR and the U.S. Government is going to do everything we can to help them exercise the new rights that are guaranteed to them under USMCA?

Ambassador TAI. One hundred percent, Mr. Kildee. USTR, the United States and, frankly, I think that this committee also stand behind the tools that we have in the USMCA, which critically are there to empower workers and to turn that narrative to say that trade agreements can work in the favor of workers.

Mr. KILDEE. Thank you. And I just want to say, likewise, I am pleased with the work that you are doing in Mexico. I know it has been raised before, so I won't go too deep into it at all. But sticking up for our corn growers as Mexico, I think, is trying to circumvent the agreement that they signed in order to protect their interest, we need to make sure that doesn't happen.

But I will say this. I do share the concern that some have expressed about the new frameworks that the administration is pursuing. APEC, I believe, is not the step in the right direction that we ought to be taking. What we saw under USMCA, I think, is a good example of how we ought to build the framework, a high-standards type agreement, that provides us the access to markets that we need but also elevates the standards of those workers in other places.

You know, right now, we are seeing violence against union organizers in Guatemala, in Honduras, in Colombia. And they don't have the recourse that would be protected under USMCA. So I am concerned about why we are pursuing this sort of APEC-type approach rather than fixing existing trade agreements.

And one in particular—and I know Congresswoman Sanchez raised is CAFTA–DR. I think we have an opportunity to elevate our relationship in that region, but we are going to need the kind of enforceability that we see in USMCA. And I would like to see us pursue renegotiation or improvements to agreements like CAFTA–DR in particular in order to achieve that. And I wonder if you might be willing to comment on that.

Ambassador TAI. Mr. Kildee, I note your interest in that. It makes sense. And I don't know that APEC and doing upgrading work like that need to be mutually exclusive. So let's continue to talk.

Mr. KILDEE. Thank you very much.

I yield back.

Chairman SMITH. Mr. Steube.

Mr. STEUBE. Thank you, Mr. Chairman.

Ambassador Tai, in your recent testimony before the Senate Finance Committee, you dodged questions related to whether the administration was taking a go-it-alone course in trade negotiations, leaving out Congress and not making deals public before signing them. Senator Crapo and Senator Wyden both pushed you for a commitment to seek congressional approval and make the terms of deals public, but you could not give such a commitment.

What we have seen time and again from the Biden administration is an unprecedented lack of transparency, even on issues where there might be room for bipartisan consensus. Much of your office's work should be bipartisan. A lot in Congress is one team versus the other, but when it comes to trade, that is not always the case. And that is why it is so surprising that we are running into this lack of transparency.

Whether it is critical mineral agreements, potatoes, or citrus from my State, Congress needs to be informed, my constituents need to be informed, and the American people need to be informed.

Along the lines of citrus, I have a question for you. Does the U.S. allow for the importation of Chinese citrus?

Ambassador TAI. So, Congressman, I have to say that I really have to object to——

Mr. STEUBE. Okay. Well, the answer to that question is, yes, they do. You do allow for the importation of Chinese citrus. And do you know roughly how much? Or do you want me to answer that question for you too?

Ambassador TAI. Well, this is a hearing. But since you have answered the first question, why don't you go ahead and answer.

Mr. STEUBE. Sure. Okay. 26.8 million tons of Chinese citrus is imported into the United States roughly every year. We shouldn't be importing Chinese citrus to the detriment of U.S. producers.

I actually had a bill last Congress that would ban the importation of Chinese citrus because of the challenges that that faces, not just from a production standpoint, but from a disease standpoint. And I intend to do that again this year.

What is your office specifically doing to promote American citrus?

Ambassador TAI. There is a lot that we are doing to promote American citrus. In fact, I believe that in Vietnam, we have just gotten approval for the first shipment of American grapefruits to Vietnam. So that is one example of something that we have been doing with USDA.

In another area, we have been working closely with seasonal produce and fruit growers in the southeast to address serious import concerns that they have by setting up a committee to allow them to provide us with advice and recommendations specifically with respect to their interests.

So I care a lot about our farmers and our producers, including the citrus growers. And if you have concerns with respect to the imports and the export opportunities, I am happy to talk to you about those.

Mr. STEUBE. Does the Chinese Communist Party allow for—do they adhere to the same regulations that our domestic producers have to adhere to here in the United States, related to labor, EPA, all of the things that our domestic producers are abiding by?

Ambassador TAI. I mean, I think that part of the bigger question you are getting at is, is our trade relationship with China reciprocal and does it feel fair?

Mr. STEUBE. No. I am specifically talking about citrus right now.

Ambassador TAI. No. And on citrus—I mean, yes, you are talking about citrus, but I think it is linked to this larger issue, which is——

Mr. STEUBE. Well, it is not when you are bringing in cichlids from China that then infect American citrus with canker and other diseases that then are a detriment from the health and safety and welfare of our groves. I don't understand why that is funny that you think it is okay to allow the importation of Chinese citrus to the detriment of Florida farmers and ranchers that grow citrus every single day. We have lost—I mean, all you have to do is look

at the numbers—the boxes of production because of greening and the diseases that have been brought in from China.

So I am specifically talking about citrus. And I am specifically concerned about the importation of Chinese citrus to the detriment of our production in America, specifically Florida, because the majority of citrus that goes into juice comes from the State of Florida.

Ambassador TAI. So let's talk about this. We work very closely with USDA and APHIS. And I think there is a conversation to be had, which I don't think needs to be oppositional.

Mr. STEUBE. Okay. Well, I am interested in your China strategy as it relates to supply chains. You have been in this role for over 2 years, and I would like to know how you plan to combat the CCP through trade.

Ambassador TAI. So there are a lot of things that we are doing with respect to the challenges from the PRC's economic policies and practices. We have in place still the Section 301 actions from 4 years ago. We are in the process of reviewing the effectiveness of that and taking in all of the comments that we have received.

At the same time, we are working with partners and allies consistently and on an everyday basis with respect to challenges that we all experience, whether it is in terms of large civil aircraft industry, steel and aluminum, economic coercion, and overall an unlevel playing field and a lack of reciprocity, which I was trying to link to your previous questions, which includes with respect to the citrus trade.

There is a lot for us to do, and we are going to have to bring our very best game. And I would be very interested to work with you on making sure that what we do is effective and puts our stakeholders in the very best position to compete.

Mr. STEUBE. My time has expired.

Chairman SMITH. Ms. Tenney is recognized.

Ms. TENNEY. Thank you, Mr. Chairman. And thank you, Ambassador, for being here.

I just want to jump—I got three questions for you, because it is very important. And my district, my new New York 24 District, is not only the number one ag district in the Northeast, it is the number one dairy-producing district in the Northeast. And our New York dairy producers rely on a consistent access to international markets for their bottom line.

Given my district's proximity to Canada—and we are basically mostly the Canadian border with New York—I have deep concerns that the dairy market access terms that were negotiated with our trading partner to the north have not been honored.

So, Ambassador Tai, can you provide an update on the dispute settlement panel process and when we can expect to see some tangible results for American dairy farmers? Understanding, I mean, we didn't get everything we wanted in USMCA, but we really need to—this is a huge issue that is plaguing our dairy farmers.

Ambassador TAI. I would be delighted to give you some updates here. As you know, this was actually the first dispute settlement panel that we established under the USMCA. It was on the dairy dispute, and it is precisely because dairy has been such a contentious issue between us. And Canada made promises in the USMCA

that our dairy farmers would have better access, which we have not seen translated into reality.

So we litigated through that first case, won it, and Canada made some changes to claim that it has brought itself into compliance. But that hasn't translated into that additional access that we know that our dairy farmers deserve, which is why we have now requested and moved into the panel phase the second time.

Ms. TENNEY. Okay.

Ambassador TAI. This time I had my lawyers work very, very closely with USDA and with our stakeholders to fashion a case that we have a lot of confidence in. That panel——

Ms. TENNEY. Let me jump to this because——

Ambassador TAI. That panel is pending right now.

Ms. TENNEY. If I can reclaim my time. I appreciate the second panel. But how far are we going to go to reinforce this? And would we consider retaliatory measures against Canada on this milk issue?

Ambassador TAI. We feel very confident in this dispute. And I am just trying to check through my notes to look at when we would expect that panel decision. But if justified by the panel decision, yes, no, absolutely. Everything that we are going to do is going to look to translate our rights into access.

Ms. TENNEY. Great. I appreciate that.

The second question I want to get to is, I would like to follow up on the letter we sent—Representative Sewell and I sent you a letter. This is about the European Union is on course to impose significant restrictions on steel scrap exports by changing its waste shipment regulations.

Steel scrap is critical to many of my constituents who rely on it to be among the lowest cost and most efficient steel producers in the world in Upstate New York, believe it or not. Also in Ms. Sewell's district. The proposed EU regulations will distort global scrap prices and reduce the domestic supply of scrap, increasing costs for American steel producers and putting them at significant disadvantage compared to their competitors around the world.

Do you agree, if adopted, the EU's proposed regulations on steel scrap exports would be detrimental to the American steel industry?

Ambassador TAI. I care deeply about how the American——

Ms. TENNEY. Well, let me ask you, can you just answer the question? Do you think it would be detrimental to the steel industry if the EU proposed regulation?

Ambassador TAI. I have to say that I am not fully briefed on this particular, but that we have so many channels of work with the EU on steel, and I am happy to raise it.

Ms. TENNEY. Okay. I just want to get quick, because I want to get you to the third question too. So let's work on that.

And is USTR engaging the European Commission and EU members on this matter? Because we want to make sure that, you know, we are not excluded from this and that you are on top of this.

Ambassador TAI. So I think I answered this one already, which is to say, if we are not already doing so, we will.

Ms. TENNEY. Yes. Thanks. I appreciate it. Now, question three.

My district is home to Wayne County, which ranks among the top apple-producing counties in the Nation. How will the Indo-Pacific Economic Framework work to address the significant market access with countries in the region, particularly issues surrounding the sanitary and phytosanitary measures?

And I am just looking at just some of these countries where there is no market access here, and this is significant. Obviously, it is one of the—Wayne County is literally the second top apple-producing county in the Nation.

What are we going to be doing on that? And can we count on your commitment to work with this and make sure that we get some access?

Right now, we have, between Australia, no market access, tariffs, no market access, Indonesia, Japan, Korea, Thailand, Vietnam. How can we—is that something we can count on you to make sure that we get access with this huge potentially economic growth area for upstate New York?

Ambassador TAI. Absolutely. And in the Indo-Pacific Economic Framework Trade Pillar, we have scoped in an agricultural negotiation that goes directly to the SPS issues, science- and risk-based regulatory processes, precisely to improve market access.

Some of the countries you just listed we have, actually, FTAs with. And we have seen that, even when we have pushed tariffs down to zero, oftentimes it doesn't translate into market access because of these SPS barriers. So that is scoped in the work that we are doing. We are doing that work and happy to keep you updated on our progress.

Ms. TENNEY. Thank you so much. I appreciate it. We are looking forward to working with your office to get this done.

Thank you so much.

Chairman SMITH. Mr. Beyer is recognized.

Mr. BEYER. Thank you, Mr. Chairman.

Ambassador Tai, thank you so much for being with us today, and thank you for remaining in close contact with the Government of Ethiopia as they pursue reinstatement to the African Growth and Opportunity Act trade preference program, and for being so responsive to me and my staff as we work with the diaspora.

As the Ethiopian Government implements the peace agreement signed last year with the TPLF, I would like to stress the importance of AGOA to Ethiopia's economic recovery from the recent years of devastating conflict and the COVID pandemic. Ethiopia's inclusion in AGOA in 2000 helped foster the growth of a burgeoning manufacturing industry, which provides stable employment for tens of thousands of Ethiopian workers. The textile industry in particular saw tremendous growth and helped provide thousands of jobs to Ethiopian women.

But since Ethiopia was delisted from AGOA, these jobs have been disappearing, and I am concerned that the longer they are denied access will push the nation deeper into poverty, further destabilizing the country, and severely weakening our bipartisan, bilateral relationship.

I know you have delivered to them a targeted list of benchmarks that they have to meet, including deescalating the conflict, removing barriers to humanitarian assistance, addressing human rights

violations. Can you provide an update on where we are, and is an out-of-cycle review under consideration?

Ambassador TAI. So, Congressman Beyer, an out-of-cycle review is always available as part of the AGOA program. And you know about the list of benchmarks that we have shared with Ethiopia. And I also had the opportunity to meet with Prime Minister Abbe on the margins of the Africa Leaders Summit here in Washington in December.

This is something that we work on very closely with the State Department. We have a special envoy for the Horn of Africa as well. And in terms of the very, very latest, I would be happy to have my team send over to yours where things are as of today.

Mr. BEYER. Great. Great. Thank you very much.

And I really also appreciate your commitment to the WTO and the belief that it can be a real force for good. And without the WTO, it is a state of nature. And the work you did in the last Ministerial Meeting, crucial wins on fisheries and COVID-19 vaccines, illustrates that, despite the challenges, the WTO actually can work under the right conditions.

To that end, I am a little concerned we are sending mixed messages on our support for the WTO and our commitment to abide by its decisions and rules even if we don't like the outcome of individual cases.

I know you have worked hard on reform. Could you update us on your progress in this area?

Ambassador TAI. I would be delighted to. In fact, we are doing so much work on reform. It is a little frustrating for me that not more people know about it, because the issues can get technical. And all of this is happening in Geneva, which is far away from Washington, D.C. But I know how much you care about it.

Whether it is on the committee processes, whether it is on the negotiation function or on dispute settlement, my team shows up to every meeting with new ideas. Our motto is to reform by doing and to put ourselves out there as a model for reform. To not just talk about it, but to behave in the way that we would like for members to behave, which is to be very, very engaged with the WTO and see it as being there to serve our interests and our needs, and not something that we go on autopilot about and forget about.

So on dispute settlement, we are on phase three of work in terms of driving an interest-based negotiation conversation, an inclusive process that brings in all of the WTO members, with the goal in mind that for real reform and change to happen at the WTO, we can't dictate that change. It has got to be negotiated and accepted by everyone.

That is just an example, but I would be delighted to facilitate a follow-up for you and any others on the committee to learn more about what we are doing.

Mr. BEYER. Great. Thank you.

And one last question. Given that USTR is not seeking, well, congressional approval, at least the traditional way, for initiatives like IPEF or APEC, for critical minerals agreements. And I know you are constrained to what you can formally offer in negotiations.

Are you concerned that we are not being ambitious enough on environment and labor standards in these negotiations?

Ambassador TAI. I think that you will always find that we will be ambitious because we speak on behalf of the United States. And we are always going to be pushing for what we think is right and our vision for, frankly, a better version of globalization.

But to your point about the congressional role, this is something that is very near and dear to my heart and an area where, I hope in all the various interactions I have had with members of this committee and the Senate Finance Committee yesterday, that I have been effective in conveying my interest in demonstrating that there are things that we can do, that we can do them on a bipartisan basis, and that there is a robust role for Congress. I am not afraid of those conversations. I would be happy to build those with you and others.

Mr. BEYER. Thank you very much.

I yield back.

Chairman SMITH. Mrs. Fischbach. Mrs. Fischbach is recognized.

Mrs. FISCHBACH. Thank you, Mr. Chair.

And first of all, Ambassador, I would just like to say, Congresswoman Tenney brought up the Canadian border. The entire northern part of my district borders Canada. And so that dairy producer—that issue is very, very important to me, and so I appreciate the update. I won't make you give it again since we just got it.

But, you know, I also did want to just thank you for pressing Mexico as it relates to the unscientific ban of the GMO corn imports.

And I do want to say for the record that, while consultations can be helpful, I fail to see an obvious reason for delaying a formal dispute resolution process that you have already used effectively for the Canadian dairy issue. I firmly believe it is time to utilize this important tool and urge you to do so as soon as possible, because I think it has been mentioned—that issue has been mentioned a couple of times.

While I appreciate the work on the enforcement side, Ambassador, I wanted to address something broader and more consequential. I was reading through your written testimony, and I saw a lot of words like “framework,” “arrangement,” and “initiative,” but I failed to see a single mention of USTR pursuing the word “agreement.”

And my district in western Minnesota is a top agricultural-producing region in the country, and the rural economies in my district depend on those products being exported to markets across the world. Between a quarter to half of everything we produce in western Minnesota is headed overseas.

This lack of ambition in pursuing new agreements, particularly for ag exports, is putting farmers in my district at a disadvantage. For the first time, the U.S. is set to be a net importer of agricultural goods. I urge you to be more aggressive in pursuing new export opportunities for farmers in my district and across the country.

Getting a little bit more specific, I hear often about nontariff trade barriers that our trading partners use to block producers in my district to export into their markets. For example, the EU's use of geographic indicators to monopolize generic cheese name or Taiwan's barriers to U.S. pork exports. Resolutions of these issues cer-

tainly won't promise the benefit of full trade agreements but will help correct the current trade imbalance we are seeing in agriculture.

What are you and your team doing to address these and other issues of nontariff barriers blocking access to U.S. agricultural goods?

Ambassador TAI. Well, thank you for this question. We are doing a lot. I have an A-plus agricultural trade team. And I just had my chief agricultural negotiator confirmed by the Senate on December 22. We swore him in first week of January. He has hit the ground running. He is exactly the amplifier that we needed on top of the head of my ag office and a very dedicated team.

So where nontariff trade barriers come up, especially in ag, we have also got good reach in the USDA. We pursue those with the specific country when they come up. I am delighted to let you know that there are a number of wins that we have over the course of the last 2 years—our pecan farmers, our beef producers, and also our growers.

You know, the SPS and the science-based, risk-based negotiations that we are doing right now in the Indo-Pacific context and also in others are exactly key to that aspect of nontariff barriers that a lot of our agricultural producers face.

And we are also working very, very robustly. For example, the East-African community has issued their first joint SPS notification, which we welcomed. We have wins with Ecuador when they declined to implement a ban on powdered milk imports. And at the WTO as well, my team, again, as part of our very robust Geneva work that often goes unsung is very, very robustly engaged on SPS issues and other nontariff barrier issues with a lot of focus on our agricultural sector.

Mrs. FISCHBACH. And, Ambassador, I really appreciate your response, but I do want to reiterate the need for a more aggressive stance when it comes pursuing new agreements and more market access for our agricultural goods. It is just so important to our economy, all across the country. And I look forward to working with you on it.

And with that, Mr. Chair, I yield back.

Chairman SMITH. The gentleman from Utah, Mr. Moore.

Mr. MOORE of Utah. Thank you, Chairman and Ranking member, Ambassador Tai, for being here. I think you have seen that almost every question has a district angle as well as an overarching U.S. angle. Those are special opportunities for us as Representatives to be able to truly focus on, and I am no different.

Utah is a very unique crossroads positioned in the western United States within the mountain region, but a very huge opportunity for us to lead on trade, you know, with individuals like the former Governor and former Ambassador to China, Governor Huntsman, Jr.

Like, there is a huge interest in this. GSP is a—there is a huge interest. And I know we already talked a little bit about it. And what you know—you have talked about that you do overall support it. But the refunding and reauthorization of GSP is—it is hugely important and for so many reasons. There is an enforcement mech-

anism that exists. There is a competitive nature to China that is essential, in my opinion. Costs—it helps reduce the cost of goods.

Could you share a little bit—one of my Utah constituents, they have leveraged this program. Great success. Since 2018, their share of imports from China fell from over 90 percent to less than 15 percent with much of that product now divided among several GSP countries. So this program works. We have seen good data come from it. And as it was expiring at the end of 2020, they and hundreds of businesses across the country have felt the pain. And U.S. importers have paid close to 2 billion in tariffs on GSP-eligible imports so.

All right. So it expired in 2020. I am new to this committee. It was not reauthorized last year. You have expressed support for it. I think there is broad bipartisan support. Could you highlight some positives that can come from this, maybe share some content on what this committee needs to be able to think through the potential reauthorization.

Ambassador TAI. Well, Congressman Moore, I think of Governor Huntsman's many titles.

Mr. MOORE of Utah. It may be hard—Secretary, Governor, it is really hard to keep up.

Ambassador TAI. Well, and more closer to where I sit, he was also a deputy U.S. trade representative and a good friend.

Mr. MOORE of Utah. Yeah.

Ambassador TAI. So you know, in terms of the case for GSP, I think you have laid out a very, very strong case for GSP. I would also say that, you know, it is one of our bedrocks, the trade and development programs, and something that our developing country trading partners have really come to rely on. So that might be one additional dynamic here that wasn't already listed in what I thought was a very robust and good list of reasons for having the GSP program in place. And, again, in terms of my commentary, I think if Congress can update it, it is a really helpful tool for all of us in many different ways.

Mr. MOORE of Utah. There are things that would be a barrier to the administration and the USTR being supportive of this so we can make sure to work these things out and on our congressional side.

Ambassador TAI. I think that if our teams are not already in conversation, I know that they have been, intermittently, over the last 2 years when there has been a talk around it. We will continue to stand ready to work with all of you.

Mr. MOORE of Utah. Okay. With regards to the WTO arbitration dispute, you know, there is serious national security implications here. I have taken a note of a series of these concerning developments from the WTO related to our national security and the challenge by China to the U.S. export controls on semiconductors and multiple other WTO rulings against the United States. WTO has no authority in matters of national security. And members on this committee stand firmly behind the USTR's rejection of their fraud conclusions.

Can you update the committee just on any context of how you are thinking about this and other disputes related to national security?

Ambassador TAI. Certainly, I think this gets to an area where I think Congressman Beyer mentioned a little bit feeling like I have sent mixed messages. Look, you know, you can be strong on this principal that national security decisions taken by a government by government in their sovereign authority shouldn't be subject to WTO panels picking them apart from a trade perspective, and at the same time, before the reform of the WTO, including its dispute settlement system.

So, again, you know, I want to credit my WTO ambassador, Ambassador Maria Pagan, for carrying the flag, being very strong on our position with respect to where the WTO and its jurisdiction should properly be while leaning into a reform program on how to make the WTO work better for us, certainly, and for all of its membership.

Mr. MOORE of Utah. And I will just, you know, conclude that export controls are critical to maintaining our competitive edge. We have to be firm and strong on this, particularly, with respect to China that this sensitive technology does not end up in the hands of our adversaries, and it is so clear of who those adversaries are. Thank you. I yield back.

Chairman SMITH. Mr. Evans is recognized.

Mr. EVANS. Ambassador Tai, good to see you. I commend you and the administration for making workers' rights an essential element of our trade agreement. So I applaud you for the leadership in the Biden administration.

I only have really one comment. Coming from Philadelphia, the ethnically diverse city with immigrants from many African nations, my focus is to expand the African connection. Especially in Philadelphia and Pennsylvania, I understand the importance of what it means. As a matter of fact, I have a very good friend here, her name is San Strowder who is very active in the African community in the Commonwealth of Pennsylvania.

So I share with you that we are willing to work any way we can on expansion. So I just wanted to add those comments, and thank you for all that you do. I yield back to the chairman.

Chairman SMITH. I recognize Mrs. Steel.

Mrs. STEEL. Thank you, Mr. Chairman. And thank you, Ambassador Tai. It is how many hours that you are here, so I really appreciate that.

And trade is highly important for my home state of California. California companies exported over \$185 billion worth of goods in 2022. One area of concern is for California's agricultural exports. We have been hearing this all day.

The USTR must continue to protect our farmers and the agriculture industry. And I know you have been answering this, that, you know, how hard you are working. So, please, continue to fight against dumping, especially olives from springs and other areas. So we are really fighting in California.

I have just one concern here is the Indo-Pacific region has two major free trade agreements that CCP-controlled China is already in regional cooperation, economic partnership, the world's largest free trade agreement, and has applied to join the CPTPP, Comprehensive Progressive Agreement for Trans-Pacific Partnership. And currently the United States is not part of neither agreement.

When the United States leaves, we get strong bipartisan free trade agreements that can outlast us all.

How does the United States counter the CCP's, China's Communist Party's growing trade and economic influences around the world and Indo-Pacific region if we are on the sidelines? And how can we counter the CCP's influence without trade deals that require congressional approval?

Ambassador TAI. So thank you for all of those comments, Congressman Steel. On the CCP's participation in trade agreements in the Asia-Pacific region, we know how deeply entangled the supply chains are in that region with China. And we know that our partners there want us engaged in the region, and not to force them to choose between two of their largest trading partners and most important trading partners, but so that we can come and provide them with a choice.

So we are engaged; that is the Indo-Pacific Economic Framework. And in terms of how do we compete, I would say this—I think a large part of how we compete with that—the second largest economy in the world is by putting forward a vision and following through on how the United States is a good partner. What we stand for, what our principles are, what our vision is for the kind of economic engagement that we have which is that we provide each other all with more choices, not to further restrict or to make vulnerable our partners' economies. And that is informing all of our work in this area.

The other part of your question around the congressional involvement, I would say that there has been a lot that has happened in the Congress, in the past 5 to 8 years on trade. Some of those things go to show how difficult it can be to get a bipartisan consensus around here. But there is as strong a narrative here around where we have succeeded in accomplishing that bipartisan consensus, most recently, on the USMCA.

So I appreciate this opportunity you have given me to reinforce that at USTR on behalf of the Biden administration, we are for trade. And it is about how we can do trade right and how we can improve the ways that we do trade for our agricultural producers, but also for our industrial producers, for our workers, and our companies so that make ourselves stronger. I think that the way we have done it before has more often split us from each other. We are absolutely seeing ourselves as a country that leads economically as well, and that the core of our leadership is around that affirmative vision.

Mrs. STEEL. So let me just ask a quick question regarding Indo-Pacific Economic Framework. That Taiwan is one of really big partner, trade partner for the United States, but Taiwan was not included. And at the same time, everybody—I think everybody asked here that, you know, what is the progress here? Because we have been hearing but it is not quite—I cannot really say it is transparent, but we want to say the progress because it seems it is just up in the air the way I have been reading and the way I have been studying. So can you just give us a quick answer for that?

Ambassador TAI. Absolutely. I would be delighted to. And my team will follow up with your staff as well. We just published the summaries of the proposals that we made to Taiwan in our first

round of negotiations, which was about 6 weeks ago. And I want to let you know we made very, very good progress. And so we are looking forward to coming back to you with an update very soon.

Mrs. STEEL. Thank you so much. I yield back.

Chairman SMITH. Ms. Van Duyne.

Ms. VAN DUYNE. Thank you very much, Chairman. And thank you, Ambassador. I really do appreciate you coming here today. I would like to start out by saying I do not envy your job. As you know very well, our trade agenda is important for the strength around the world, and yet this administration does not seem to have an agenda. And I appreciate your response to Congressman Murphy. But it is not just Congressman Murphy, by the way, who has shown sympathy for your position, we have been talking to trade partners around the globe, and they have all praised your skills. But they have all said that they feel bad because it seems like you have been sidelined by this administration; that you would want to be more aggressive in making these trade agreements, but you are prevented from doing that.

Last week, I joined the chairman and a number of my colleagues in Mexico—this was on the heels of incredibly concerning activities by the government encroaching on the rights of private, and more specifically, U.S. businesses.

I will give you an example. Vulcan Corporation had their deep-water port seized. I have got videos. You have probably seen the videos. But seized because a state-owned Mexican company did not like the terms of a contract negotiation. They had a court order, and yet it seems as if this government has done nothing—our government, our administration has done nothing to respond to that abuse.

As you know, the trade relationship between Texas and Mexico is so critical, but actions like this are detrimental. I appreciate you saying, you know, you can be a strong voice, and when you speak, people listen, and that you are standing up for the United States.

Where are you in Mexico? Are you standing up for the working families in Iowa, Nebraska, in South Dakota whose livelihood is being threatened because President Obrador is falsely attacking them and their quality and their safety standards of their produce, which is in direct violation of the USMCA?

Are you standing for the U.S. businesses who are encouraged to invest in Mexico with a belief that this investment would permit their much-needed help and much needed jobs and much needed security to the people of Mexico, but instead these companies have been abused and lied to by the Mexican Government with little or no response from this administration who is charged with enforcing our trade agreements.

I would love to know your response to Obrador's claims that while Mexico is clearly, clearly not abiding by the terms of the USMCA, it is actually the U.S.' fault because we are, quote, misinterpreting the conditions of the contract.

And I would love to also know, are you standing up for the U.S. while Mexico is partnering with China and Mexican drug cartels are being empowered and enriched to bring thousands of pounds of deadly drugs, fentanyl, specifically, into our country that is targeting our youth in murdering over a hundred thousand American

lives, all the while making hundreds of millions of dollars. Where is your voice in that?

Ambassador TAI. Well, thank you for the opportunity to weigh in. Yes, we know Vulcan as a company very well, and we have been in very close touch with them and with the Members of Congress whose districts and states are affected and are deeply invested in Vulcan success. So here I would say that we are in a very good touch with—

Ms. VAN DUYNE. I am glad to hear that.

Ambassador TAI [continuing]. All right. On corn, we have requested consultation—

Ms. VAN DUYNE. I do want to switch gears to China, because I know that China has—

Ambassador TAI [continuing]. And you are asking—

Ms. VAN DUYNE [continuing]. Okay. Thank you. I appreciate knowing that you are in touch with them. But trade is a tool to improve work—

Ambassador TAI. You asked me if we are standing up for them, and the answer is yes.

Ms. VAN DUYNE. Yeah, I appreciate it, but the first 30 seconds of your question is a lot of time spent—

Ambassador TAI. And on the drug issue, that is an enforcement—

Ms. VAN DUYNE. And I would really like to be able to get an answer because I have got one minute and 5 seconds left.

Trade is a tool to improve some of the workforce conditions, enforce ethical business practices, and partner with nations across our globe, extend our global influence and partnerships, as opposed to using—having to use military intervention. Specifically with China, are we effectively utilizing our trade relations with China to achieve these results? Does China use slave labor? It is a yes or no question.

Ambassador TAI. Do you want me to answer this one? I am not sure. I feel like you already know the answer.

Ms. VAN DUYNE. Does China use slave labor?

Ambassador TAI. I think you already know the answer, so I am happy for you to continue—

Ms. VAN DUYNE. So I am asking you. You are here at the hearing, our witness. Does China use slave labor?

Ambassador TAI. Well, all indications are yes.

Ms. VAN DUYNE. Okay. So are U.S. companies benefitting from forced slave labor.

Ambassador TAI. All indications are yes.

Ms. VAN DUYNE. Do you recognize the genocide of the Uyghur slaves as being committed in China.

Ambassador TAI. All indications, yes, that is happening.

Ms. VAN DUYNE. So how many coal plants is China building each week?

Ambassador TAI. I don't know the answer, and that is not a yes-or-no question. So I have a—

Ms. VAN DUYNE. I didn't say it was a yes or no question. I asked. That is the question.

Ambassador TAI. I defer to you in terms of the point that you would like to make.

Ms. VAN DUYNE. Okay. And then I would also love to know why China is not being subjected to the same constraints that the U.S. is in the Paris Climate Accord.

Ambassador TAI. Sorry, could you repeat that question?

Ms. VAN DUYNE. Why is China not subject to the same constraints that the U.S. is in the Paris Climate Accords?

Ambassador TAI. Which constraints are those? Just—

Ms. VAN DUYNE. I yield back my time. Thank you very much.

Chairman SMITH. Mr. Panetta is recognized.

Mr. PANETTA. Thank you, Mr. Chairman. Madam Ambassador, thank you for being here. And it is great to see you have grown into this role tremendously. So, I appreciate it, especially considering how busy you have been. Obviously, looking abroad with IPEF and APEC and USMCA enforcement, but also looking forward with our industrial policy at home and how it has been fueled by incentives for electric vehicles and clean energy and actually supercharged investment in the United States which will inevitably spill over into our regional trading partners, Canada and Mexico.

And I do believe that in regard to our trade policy, I think we got to take more of a serious look at our regional partnership in using trade to our strategic advantage, especially when we compete with China. Because look, I think we know U.S. has the biggest and most innovative companies. Mexico has a very wide and inexpensive labor pool. And Canada has many natural resources. And I read this lately, and I believe where North America goes, the world will follow. But I think in order to do that, we all got to pull in the same direction.

So, I was on that trip with Ms. Van Duyne to Mexico, and I have to tell you I was a little disturbed by some of the comments by the President of Mexico, but more so by his recent actions. The populist and national President has proven that he may be in our boat, but he may not be rowing in the same direction. Looking that he has taken steps to weaken Mexico's electoral agency. He has banned GMO corn for nonscientific and non-health purposes. He is occupying the private property of Vulcan materials in Mexico. And he has even talked taking steps to get involved in our congressional elections.

Obviously, as you know, I have many agricultural companies that have investments in Mexico. So, my question to you is what actions and assurances can you, the United States Trade Representative, provide to my companies in my district, that their near-shoring investment in Mexico is safe and secure?

Ambassador TAI. We will do everything that we can using the tools of the USMCA and tools that on are outside of the USMCA to secure a positive investment environment in Mexico. At the end of the day, though, I think we do have to recognize that Mexico is a sovereign nation, and their leaders have the right to make decisions that we may see are not in their best interest.

But you are absolutely correct about the nature of the relationship that we have with Mexico, we are neighbors. And thanks to geography, we will always be neighbors, which means that we are committed to using, whether they are powers of persuasion, or whether they are tools of enforcement to right the ship and to make sure that we are rowing in the same direction.

Mr. PANETTA. Great. Thank you, Madam Ambassador. Going to the other side of the world, let's talk Jackson-Vanik. Obviously, as you know, that amendment was originally proposed to promote free movement in response to Soviet restrictions on Jewish emigration. But since the fall of the Soviet Union, Kazakhstan has been subject to this requirement, which has been lifted for other Soviet states, including Russia. Freeing Kazakhstan of the Jackson-Vanik's outdated requirements will bring it closer to the Western world. I think that is clear and out of Russia and China's sphere of influence.

Ambassador TAI, the State Department, as you know, is supportive of repealing Jackson-Vanik for Kazakhstan, what is your position on that?

Ambassador TAI. My position is that PNTR is in the jurisdiction of the U.S. Congress. Mr. PANETTA, it means a lot to me to know that you are supportive, and I will be interested in working with you and others as you work on PNTR for Kazakhstan.

Mr. PANETTA. I look forward to working with you. Thank you for that commitment to work together on removing Jackson-Vanik from Kazakhstan. Would you support reinstating GSP for Ecuador?

Ambassador TAI. Do you mean as part of the reauthorization?

Mr. PANETTA. Yes. Thank you.

Ambassador TAI. Yes, I think that it would be—again, I am interested in working with all of you as you work towards GSP reauthorization.

Mr. PANETTA. I look forward to working with you. Thank you. I yield back.

Chairman SMITH. The gentleman from Ohio is recognized.

Mr. CAREY. Thank you, Mr. Chairman. And thank you, Ambassador Tai. It is a pleasure to speak with you. One thing about being the last person on the list, so many of the questions get asked. My dear friend to my left asked the one I was going to ask you about, about Ecuador.

But just a little bit, I grew up in the 1980s, and I grew up in a very rural town. Farming was very big. As I represent agriculture, so I do support—applaud you guys on the work that you are doing. As my colleague to the left mentioned, our meeting with the Mexican President was very interesting, to say the least.

So our corn growers in my district are very important. We got to open up those markets. But, you know, living in that small town, I also saw so many of the factories close down.

And I was almost going to quote the old Billy Joel song, Allentown. You know, to my dear friends from Pennsylvania that have all left us, but living in Allentown for the Pennsylvania we never found.

And I just want to make sure that as we look at our trade policies, I think one of your former colleagues used to say, we want to sing from the same hymnal. We just got to make sure we are singing from the same page.

So a couple of items I just wanted to touch on. You know, we look at rare earth materials. There is really nothing about rare earth. It is just rare that we can get a permit for a lot of these rare earth materials, and also get the financing to develop them. Secondly, as we do this rush to the new, the renewable energy, we have to go

cognizant of the fact—that is why Jimmy brought it up—but we have got to look at our regional partners when it comes to developing lithium.

If anybody has Googled or YouTubed a video cobalt mining, the environmental practices there are horrendous; the youth labor, child labor. And the fact that 14 out of the 16 companies that have the mines are all Chinese. And so as we moved to this economy, we have got to be very cognizant of that.

I am going to divert real quick, because I do have one question. I want you to be able to answer it and give you as much time as you can. Some foreign e-commerce companies have been reported to as avoiding U.S. tariffs by selling directly to American consumers under de minimis. Okay. It is estimated that U.S. imported about 120 billion in de minimis shipments last year. This treatment gives foreign e-commerce companies a leg up on many of our U.S. retailers. We are paying millions of dollars in tariffs for the exact same products. However, it is a balancing act of trying to level the playing field without raising costs, obviously, to American consumers, during the inflationary times.

Regarding the foreign trade zones like the one that I have in my district in central Ohio, it definitely impacts my district, do you think that the U.S. should level the playing field for domestic manufacturers by enduring de minimis as applied to shipments from U.S. foreign trade zones?

Ambassador TAI. Congressman, I think I agree with everything that you have laid out in your entire presentation. Let me come to your specific question on leveling the playing field for American producers, and I am sorry it would—I think it is at this point in the hearing. The specific proposal was by applying de minimis. That is right.

Mr. CAREY. Yeah.

Ambassador TAI. Let me just say this, I think that I understand why it happened in 2015 when I was up here when we expanded de minimis. And I think that the way it is operated has raised really legitimate questions around whether or not there are loopholes and exploitation and abuse other than how it was intended. And so I am absolutely always interested in levelling the playing field. And on this, in particular, I would be very interested in following up with you to look at the specific proposal you are suggesting.

Mr. CAREY. If you would, I would very much appreciate that. Also, again, following up on my colleague to the left, you know, we did have an opportunity—and I will tell you, and I don't know when you served exactly on this committee—but the chairman and the ranking member, I think, have really done a great job of trying to get out and talking to real people with our field hearings and, obviously, the trade trip that we just did. And we got to hear from many different countries. They are eager for American leadership around the world. And so it is important that this committee work continually in the bipartisan way that we have in the past to make sure that we all again are singing from the same page and the same hymnal. And I yield back, Mr. Chairman.

Chairman SMITH. Mr. Fitzpatrick is recognized.

Mr. FITZPATRICK. Thank you, Mr. Chairman. Thank you, Ambassador TAI, for being here. Ambassador TAI, your team had ad-

vised us that you and the administration had begun negotiations with the EU and Japan and possibly others designed to skirt the requirement in the IRA requiring that critical mineral inputs for batteries that come from the United States or other countries that the United States has free trade agreement with. Obviously, I think we are all clear here the agreements that are being sought are not free trade agreements. Only Congress can pass FTAs.

Last week, I asked Secretary Yellen if she was aware that both Japan and Germany withheld semiconductors from U.S. automakers in favor of their own automakers. She indicated that she was not aware of that. I also pointed out Japan's extensive use of nontariff barriers that make it almost for the U.S. to export autos to Japan. I informed her that cars exported to the EU incur a 10 percent tariff compared to a 2 percent tariff on European auto imports into our country. Perhaps, most importantly, we made her aware that China itself is the biggest supplier of battery, technology, and production to both Japan and the EU. Which means allowing these foreign battery products to take advantage of the IRA's risk benefits benefitting China.

Domestic investment in American jobs, obviously, in my estimation will be clearly impacted by the administration's attempt to circumvent the FTA requirements enacted by Congress. So I have a few questions.

First, I—and I know I am not alone in this—am concerned as to what, if anything, America is getting out of these negotiations. Do you believe that U.S. automakers receive—will U.S. automakers receive tariff relief and better market access, or are these negotiations really a feel-good exercise?

Ambassador TAI. Congressman, you raise really legitimate questions and concerns regarding the bigger picture of where we are and also where we are trying to get to, which is to be in a stronger position, especially in this industry. No on the specific types of benefits you are talking about. Those are not things that our automakers will see as a result of the types of thing we are negotiating right now.

But what I would like to say is what I do feel strongly about is the European Union, Japan, being important allies in building towards more secure supply chains in the larger picture and in the more medium term.

So I take your point on the specific question that you have asked, but also wanted to say that in terms of a vision towards near-shoring and friend-shoring, more secure supply chains, that these are some of our strongest partners if we are doing that work.

Mr. FITZPATRICK. Thank you. I mean, the concern is given how integrated Chinese materials are, specifically, in the battery components from these countries. What are we doing as a country, what is the administration's plan to ensure these Chinese entities, many of them controlled by the CCP, that supply European and Japanese battery makers don't benefit from this?

Ambassador TAI. I think part of the issue that we have is given where we are, which is not an ideal place, and given where we want to go to, there is no switch that we can flip to get from where we are to where we want to go to. And so in a number of areas

we confront this all the time in terms of how we are thinking about the U.S.-China trade relationship.

A lot of it is about how we envision a transition from where we are today to where we are trying to get to that can be effective and that will work given all of the needs of our industries and where we are.

So I think—that is my best way of responding to your question, which is what we need to do is figure out whether or not the things that we are doing right now make sense as step one in a longer transition that will take probably more medium-term timeframe to successfully complete.

Mr. FITZPATRICK. Mr. Chairman, I yield back.

Chairman SMITH. Thank you, Ambassador TAI. Thank you for your testimony and taking all the questions. We look forward to partnering with you and working in a bipartisan fashion to make sure we address our supply chains and, of course, the aggression of China. I appreciate you being here, and I look forward to working with you.

Ambassador TAI. Thank you very much.

Chairman SMITH. Please be advised that members have 2 weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record. With that, the committee stands adjourned.

[Whereupon, at 1:24 p.m., the committee was adjourned.]

MEMBER QUESTIONS FOR THE RECORD

**House Ways and Means Committee
Hearing on “The President’s 2023 Trade Policy Agenda”
March 24, 2023**

Questions for the Record for Ambassador Katherine Tai

Chairman Jason Smith

Question 1

A mere hour after the conclusion of your testimony to the Ways and Means Committee, USTR’s Office of Congressional Affairs shared with the Committee the final text of a U.S.-Japan critical minerals agreement. During the hearing, you fielded numerous questions about this agreement from both Republicans and Democrats, myself included, yet declined to make the Committee aware that you had already reached a final agreement. This agreement was then signed four days later without being made public for proper scrutiny. I, along with colleagues on both sides of the aisle, made my views on this agreement clear in my statement following its announcement so I will not restate them here. However, I do have questions about the substance of the agreement.

Article 5.8 of the agreement states that “Each Party confirms its intention to discourage, through initiatives it considers appropriate, the importation of goods produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.” This language is substantially weaker than the text of the United States-Mexico-Canada Agreement (USMCA Article 23.6), which states that “each Party shall prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.”

I know eliminating forced and compulsory labor from U.S. supply chains is a shared priority. That is why I was surprised to see language in the U.S.-Japan critical minerals agreement that does not strictly require Japan to ban imports of critical minerals produced with forced labor. Why does this agreement walk away from the high standard on prohibiting forced labor that is set in U.S. law and broadened to trading partners through USMCA?

Answer: I agree that we have a shared priority in eliminating forced and compulsory labor from U.S. supply chains. The Japan CMA includes new text on remediation of forced labor, which builds on the existing model of how we seek to address forced labor in a free trade agreement. It also includes binding, time-bound cooperative commitments related to forced labor in Art. 5.9. Further, the Japan CMA commitments should be read in tandem with our other engagements with Japan to combat forced labor in supply chains, which include the Indo-Pacific Economic Framework (IPEF) and the new Task Force on Promoting Human Rights and International Labor Standards in Supply Chains. In addition to these commitments related to forced labor, the Japan CMA builds on USMCA through including the right of individuals to be free from retaliation for raising concerns about labor law violations in the definition of labor rights, and through a new provision on social protection. Provisions like these help to ensure that our trading partners

uphold strong labor law infrastructure and social safety nets for workers, which also help to address the root causes of forced labor around the world. In sum, these engagements and commitments move our model forward and represent a holistic approach to working with Japan to address forced labor and promote other fundamental labor rights.

Question 2

Additionally, I, and many colleagues, have raised concerns with you about the Executive Branch overstepping its legal authority by attempting to enter into binding trade agreements without Congressional approval. As you know, Article I, Section 8 of the Constitution provides Congress with sole authority to regulate commerce with foreign nations. The President has broad Article II authorities to discuss and negotiate various matters with foreign governments, but such powers do not include the power to bind the United States in agreements related to international trade.

In the Biden Administration's view, has the Legislative branch delegated the Executive branch legal authority to bind the United States in international trade agreements? Could you share the specific statutory citation in which you believe this authority was delegated? In staff briefings, USTR's Office of General Counsel has pointed to the USTR authorizing statute (19 U.S.C. § 2171). Where in the authorizing statute is this authority delegated?

Answer: Congress is USTR's constitutional partner on trade, and I am committed to working with Congress on all trade initiatives, including critical minerals agreements. In this regard, USTR has embarked on an unprecedented level of transparency and consultation with Congress with regard to all of the Administration's trade initiatives, including critical minerals agreements.

Congress has granted the Trade Representative authority in 19 U.S.C. § 2171 to defend and promote U.S. interests through the negotiation of trade agreements. For at least the last 30 years, USTR has negotiated and entered into numerous agreements pursuant solely to this authority and USTR is currently utilizing the same authority to negotiate trade agreements. USTR will continue close consultation with Congress on all trade agreements.

Question 3

What legal authority is USTR citing for entering into the U.S.-Japan critical minerals agreement?

Answer: With regard to the Japan CMA, USTR has continued its practice that has spanned at least the last 30 years of negotiating and entering into trade agreements on behalf of the United States based on the authority granted by Congress in 19 U.S.C. 2171.

Question 4

I understand that USTR has also cited 19 U.S.C. § 2171 as the legal authority it intends to cite for final agreements reached in other ongoing negotiations, including Pillar I of the Indo-Pacific Economic Framework. However, the Biden Administration has not stated this publicly. If a Pillar I IPEF agreement is reached, what legal authority will the Biden Administration cite as the basis for entering into the agreement?

Answer: USTR's current negotiation of Pillar I, as well as the trade portions of Pillar IV, is consistent with the authority provided in 19 U.S.C § 2171. If the negotiations are successful,

USTR intends to enter into the agreement on behalf of the United States based on its authority provided in 19 U.S.C § 2171 consistent with its long-standing practice of at least the last 30 years.

Question 5

During a White House briefing announcing the Indo-Pacific Economic Framework, National Security Advisor Jake Sullivan said, about IPEF, “the fact that this is not a traditional free trade agreement is a feature of IPEF not a bug.” You have made similar statements. Members of Congress have mixed views on the IPEF, but one thing everyone agrees on is that the IPEF is not a free trade agreement.

With all these statements from the Biden Administration in mind, can you commit that, for the purposes of implementation of the Inflation Reduction Act, the Biden Administration will not attempt to characterize IPEF or other similar initiatives as “free trade agreements?”

Answer: The question of whether a negotiated agreement is one that qualifies as a “free trade agreement” for purposes of Section 30D of the Internal Revenue Code is a matter that falls within Treasury’s purview. On April 17, 2023, Treasury published in the Federal Register a notice of proposed rulemaking setting forth the criteria Treasury proposes to apply in making the determination provided for in Section 30D of the Internal Revenue Code as amended by the Inflation Reduction Act proposing to identify the countries with which the United States has free trade agreements in effect. Treasury’s notice can be found at: 88 FR 23370 (April 17, 2023), available at [2023-06822.pdf \(govinfo.gov\)](https://www.govinfo.gov/just/fr/2023-06822.pdf).

Question 6

As I previously mentioned, I was disappointed to see the Biden Administration sign the U.S.-Japan critical minerals agreement without first making the text available for rigorous review by the public. I know you prioritize transparency and appreciate the recent steps you have taken to make summaries of U.S. negotiating proposals in the IPEF available for public review. However, much more is required to ensure the public is adequately informed about these negotiations.

As you know, the 2015 Trade Promotion Authority (TPA) legislation required the Executive branch to notify Congress of its intention to sign a trade agreement 90 days before doing so and required the text of agreements to be made public 60 days before signing. Will you commit to this same timeline this same level of transparency with respect to the IPEF text? Given that the Biden Administration has been pushing trading partners to conclude Pillar I by November, a prompt and clear answer to this question is necessary.

Answer: Congress is USTR’s constitutional partner on trade, and I am committed to working with Congress on not only IPEF, but all current trade initiatives. In this regard, USTR has embarked on an unprecedented level of transparency and consultation with Congress despite the fact that TPA has expired. In particular, USTR has consistently engaged on a bipartisan basis with Congress throughout the development of all these initiatives with members, their staff, and the staff of our congressional committees of jurisdiction. USTR has further consulted with our congressional committees of jurisdiction on all draft U.S. negotiating text proposals prior to sharing them with stakeholders outside the U.S. Government and with foreign partners. USTR

has continued to consult with Congress during the course of negotiations so Congress is engaged as USTR negotiates with partners. USTR has also taken steps to make negotiating text—including the Japan, EU, and United Kingdom Critical Minerals Agreements—more accessible to staff for members of the Finance and Ways & Means committees.

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

USTR shares your commitment to transparency. We are working with our partners in the Executive Branch to ensure IPEF negotiations progress to a successful conclusion and as part of that process, we will continue working with them to ensure we have a transparent process that keeps Congress and the public meaningfully informed and engaged.

Question 7

During the 2023 Trade Agenda Hearing, I asked you to pursue a more proactive and aggressive strategy to combat China's predatory trade practices for the benefit of American workers. As you know, President Trump signed the Phase One Agreement in January of 2020 and has been in force for over 3 years. However, despite USTR's listing of antidotal evidence of compliance in different reports, to date, USTR has not given a comprehensive report on China's compliance with the Phase One Agreement.

Does the Biden Administration plan to release a comprehensive report on China's compliance under the Phase One Agreement?

Answer: While there is no current plan to release a separate report focused solely on China's compliance with its commitments under the Phase One Agreement, we have addressed China's Phase One Agreement compliance in our annual Report to Congress on China's WTO Compliance. The most recent report was issued in February of this year. As we explained there, we have raised Phase One Agreement implementation concerns in a number of areas, including the areas of intellectual property, technology transfer, agriculture and financial services. We also highlighted the fact that China has not yet implemented some of its more significant commitments, such as those in the area of agricultural biotechnology and the required risk assessment that China is to conduct relating to the use of ractopamine in cattle and swine. China also fell far short of implementing its commitments to purchase U.S. goods and services in 2020 and 2021. We will continue to consider the most effective strategy for securing China's full implementation of its Phase One Agreement commitments, while we also seek to address the many unfair trade policies and practices of China that are not disciplined by the Phase One Agreement. We will also continue to consult closely with Congress on these issues.

Question 8

In your remarks outlining the Biden-Harris Administration's "New Approach to the U.S.-China Trade Relationship" in October 2021, you confirmed your intent to enforce the Phase One

Agreement if China failed to live up to its commitments. However, 3 years after signing this agreement, USTR has taken no such action to enforce the Phase One Agreement and has left Congress and the American public guessing on what if any our trade strategy is with China. If USTR finds that China failed to live up to its promises under the Phase One Agreement, will the Biden Administration take steps to enforce the agreement? Can we expect such action this year?

Answer: We continue to monitor China's progress in implementing its commitments under the Phase One Agreement. As described in the 2022 USTR Report to Congress on China's WTO Compliance, while China followed through in implementing some provisions of the Phase One Agreement, they have not yet implemented some of the more significant commitments, such as those in the area of agricultural biotechnology and the required risk assessment that China is to conduct relating to the use of ractopamine in cattle and swine. China also fell far short of implementing its commitments to purchase U.S. goods and services in 2020 and 2021. We continue to engage in discussions with China to press them to implement commitments in the Phase One Agreement, including those relating to agriculture and intellectual property. We also have been raising our concerns relating to China's harmful, state-led non-market policies and practices that were left unaddressed by the Phase One Agreement and have hurt American workers and businesses as well as on those of our allies and partners. We will continue to press China to live up to its commitments, but we are also taking steps to shape the environment around China, including through intensified collaboration with allies and partners. We will use all appropriate trade tools to defend U.S. workers and businesses, and we are prepared to work with Congress to develop new trade tools if necessary.

Question 9

I am convinced that India's ongoing subsidies provided for their rice, wheat, and other sectors violate their WTO commitments and put U.S. farmers at a competitive disadvantage. I have heard similar concerns about India's practices from other developing country partners. USTR has committed to looking further into this and potentially taking action. However, thus far, U.S. farmers, including many in my district, are still looking for action to be taken. I am glad that USTR recently worked with several trading partners to submit a "counter-notification" at the WTO to provide some transparency with respect to India's undisclosed subsidies.

What update can USTR provide on its investigation and consideration of enforcement action related to India's ongoing subsidies and the harm they cause to American farmers?

Answer: I recognize the serious impact that India's agricultural policies have on farmers worldwide, including U.S. farmers. USTR continues to work closely with a sizeable and growing coalition of WTO Members who share our concerns regarding India's policies. As you noted, one of the actions that the United States recently took, along with several other WTO Members, was submission of a WTO counter notification highlighting several areas of concern with India's market price support for rice and wheat. This counter notification was on the agenda for the June 27-28, 2023 WTO Committee on Agriculture meeting where we participated in a robust discussion regarding how India implements and notifies its policies, which are very concerning to several WTO Members.

Question 10

I know the Trump Administration began Free Trade Agreement (FTA) negotiations with Kenya, in part to explore whether some African Growth and Opportunity Act (AGOA) countries would be prepared to move beyond unilateral preferences to a more reciprocal trade relationship with the United States prior to the expiration of AGOA's current authorization in 2025.

Why have you not resumed these FTA negotiations? Do you see other opportunities to work with willing AGOA countries toward more reciprocal trade relationships that would provide a more stable platform for trade and investment than unilateral preference programs do?

Answer: At the start of the Administration, we called for a reassessment of the approach to talks with Kenya as part of USTR's overall reorientation of U.S. trade policy. We wanted not only to ensure that any agreement with Kenya would increase investment in Kenya, but also that it would promote sustainable and inclusive economic growth; benefit workers, consumers, and businesses (including micro-, small-, and medium-sized enterprises); and support African regional economic integration.

This led to the July 2022 joint statement announcing the launch of the U.S.-Kenya Strategic Trade and Investment Partnership, or STIP, which the Ruto Administration confirmed it wished to continue. Since then, the two sides have made good progress in meetings between our negotiators. I am open to considering additional topics to address under this initiative at a later stage.

Question 11

It is essential that the United States protects our sovereignty in trade agreements, and I am confident that congressional colleagues on both sides of the aisle share this priority and focus on the protection of U.S. sovereignty when considering new trade agreements. Given the reciprocal nature of obligations in trade agreements, it is also important that the United States recognize the sovereignty of our trading partners.

Related to this topic, I have questions about the language used in the Environment chapters that have been included in most U.S. Free Trade Agreements (FTAs), including, for example, the U.S.-Mexico-Canada Agreement, the U.S.-Peru Trade Promotion Agreement (TPA), and the US-Korea FTA. All these agreements include statements recognizing the sovereignty of each Party with respect to the determination of environmental standards and priorities. For example, Article 18.1 of the U.S.-Peru TPA, "Levels of Protection," begins by "[r]ecognizing the sovereign right of each party to establish its own levels of domestic environmental protection and environmental development priorities."

Does the language used in these agreements reflect the United States' policy to refrain from interfering with the levels of domestic environmental protection and environmental development priorities of its trading partners, focusing instead on implementing the mutually agreed commitments to enforce and raise environmental standards?

Answer: As noted, the "levels of protection" text appears in most U.S. FTAs, reflecting a policy of recognizing the right of each Party to establish its own standards of environmental protection

and priorities, though this language is paired with an obligation to strive to ensure that domestic laws and policies are supportive of high levels of environmental protection, and continue to improve those levels.

Question 12

Do the “Environment” chapters of our trade agreements contemplate that U.S. law would govern, or a U.S. court would entertain, a claim by a foreign citizen for harms allegedly suffered in a foreign jurisdiction due to environmental conditions or emissions in that jurisdiction? Are you seeking to negotiate any such provisions in current trade negotiations?

Answer: Environment chapters contained in U.S. trade agreements do not allow for U.S. courts to entertain any claims, whether the one specified in the question or otherwise. U.S. FTAs are generally explicit on this point, and include a provision barring private rights of action under a Party’s laws on the ground that another party’s measure is inconsistent with the FTA. Other agreements, such as the ones USTR is currently negotiating, similarly cannot give right to a private right of action in U.S. court.

Rep. Adrian Smith

Question 1

I’m concerned the proposed Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) waiver for COVID-related diagnostics and therapeutics will hand valuable US IP and technologies to China and other foreign adversaries. China claimed it wouldn’t avail itself of the TRIPS waiver for COVID-19 vaccines and USTR mistakenly, and almost unbelievably in my view - trusted this claim. With the proposed waiver, China has made no such promise. Do you pledge that the Administration will reject any expansion of the TRIPS waiver that includes China or other major foreign competitors as a beneficiary?

Answer: I appreciate your concern and will continue to consult with Congress on this issue. Under the June 2022 Ministerial Decision on the TRIPS Agreement developed countries, a group that includes Russia, and countries with existing capacity to manufacture COVID-19 vaccines who have opted out from the Decision, including China, are not eligible to benefit from this Decision. In the discussions at the WTO, I will continue to be clear-eyed about potential risks while being mindful of the importance of facilitating access to medicines for countries that have not had significant access during the pandemic.

Question 2

Last year, the Biden-Harris Administration announced the Americas Partnership for Economic Prosperity (APEP) to foster regional competitiveness and resilience, with both USTR and the State Department having key roles in negotiating this Partnership. Can you help us understand how APEP will interact with our existing FTAs with Western Hemisphere trading partners and what role USTR is playing in this negotiation? Will you commit to a transparent process throughout these negotiations, including making proposed text available to the public before any agreement is signed?

Answer: The United States has more FTAs in the Americas than in any other region, and USTR remains committed to their full implementation and enforcement. The Americas Partnership will be developed to complement those agreements, which will continue to exist independent of new initiatives. In the Partnership, USTR will lead all trade-related negotiations and we will follow our transparent process, including consulting with Congress regularly and before USTR proposes any negotiating text to the partners. USTR shares your commitment to transparency and as the initiative is developed, we will work with our interagency partners and Congress to ensure we have a transparent process that provides meaningful engagement opportunities for Congress, stakeholders, and the public.

Question 3

As we navigate digital public infrastructure, questions are arising about the level of state involvement. Looking specifically at Brazil, the most recent National Trade Estimate (NTE) report (from USTR) said "The United States is closely monitoring developments with respect to the retail electronic payments market in Brazil to ensure that Brazil's Central Bank (BCB) facilitates a level playing field for all market participants. given BCB's dual role as a regulator and operator of PIX a real-time retail payment service." Can you provide an update on how USTR is advocating for U.S. companies that are increasingly navigating a world where the state plays a larger role in providing digital services and owning operating digital platforms?

Answer: USTR is engaged globally to ensure that services and digital trade continue to fuel the growth and dynamism of the U.S. economy, and that workers and companies of all sizes benefit from and share in this growth. We are advancing high-standard rules that promote administrative transparency and fairness for service suppliers in all of our bilateral and plurilateral negotiations. We continue to push for guardrails where foreign government entities act as both regulator and service provider and stress the importance of a level playing field to ensure that U.S. firms can compete with all market participants.

Rep. Suzan DelBene

Question 1a

The United Nations Intergovernmental Panel on Climate Change recently found that, without serious interventions, the world is likely to exceed dangerous temperature limits that will lead to climate disasters and irreversible harm. We must do more to advance clean energy deployment and combat climate change through our trade policy, including by reducing tariff and nontariff trade barriers on green goods and services and considering carbon border adjustments.

What progress has been made on negotiating the Global Arrangement on Sustainable Steel and Aluminum with the European Union?

Answer: The United States and the EU continue to negotiate the Global Arrangement on Sustainable Steel and Aluminum. Since the launch of negotiations, we convened several technical meetings and moved into text-based negotiations as of May 2023. Under the Joint US-EU Statement on Trade in Steel and Aluminum, the United States and the EU have committed to take "joint steps to defend workers, industries and communities from global overcapacity and

climate change, including through a new arrangement to discourage trade in high-carbon steel and aluminum that contributes to global excess capacity from other countries and ensure that domestic policies support lowering the carbon intensity of these industries.” As envisioned by the Administration, and agreed with the EU in 2021, this agreement would support both climate goals and U.S. workers and manufacturers. We are pursuing an agreement that would require members of the Global Arrangement to restrict market access for steel and aluminum imports from sources of non-market excess capacity (NMEC). We also envision membership criteria that takes into account issues such as whether countries are, or at risk of becoming, sources of NMEC; the extent to which state-owned or state-controlled enterprises operate in a prospective member’s economy; whether sources of NMEC are investing in a country; the extent to which countries are taking appropriate and effective measures to address the market distortive effects of NMEC; and the extent to which a potential member respects, promotes, and realizes labor rights.

Question 1b

Do you see this agreement serving as a foundation for a broader deal that includes more covered industries or more countries?

Answer: At this time, USTR is negotiating the Global Arrangement on Sustainable Steel and Aluminum with the EU. We are focused on the steel and aluminum sectors. The United States and the EU will invite like-minded economies to participate in the Global Arrangement and contribute to achieving the goals of restoring market-oriented conditions and supporting the reduction of carbon intensity of steel and aluminum across modes of production.

Question 1c

Does USTR have the domestic and foreign data it needs to negotiate climate and trade agreements with other countries, including measures of carbon intensity? If not, what can Congress do to help?

Answer: At this time, USTR is focused on negotiating the Global Arrangement for Sustainable Steel and Aluminum. Due to current data availability limitations across economies, the initial types of emissions considered may be limited to direct emissions for steel and direct and certain indirect (scope 2) emissions for aluminum. As data collection by industry and government improve over time, this criterion would expand to include more complete emissions data, including additional data on indirect emissions (scope 2 and 3).

Question 2a

In June 2021, The Biden administration reached agreements with the European Union and United Kingdom to settle the 17-year Boeing-Airbus case at the World Trade Organization. These agreements are intended to enable cooperation to address unfair trade practices that undermine our aviation sector and protect the more than 130,000 aerospace workers in Washington state who want to compete on a level playing field.

What progress has been made on this effort over the past year and a half?

Answer: The arrangements we made with the EU and the UK included the establishment of working groups to align ourselves when it comes to non-market policies practices (NMPP) in the

civil aircraft sector. Those working groups have engaged in extensive work to develop and exchange data, knowledge, and analysis of China's non-market policies and practices relating to the civil aircraft industry. We continue to engage in this work to explore with our partners a joint understanding of solutions to prevent negative impacts from non-market policies and practices on our workers and industries.

Question 2b

How engaged have the E.U. and U.K. been in this partnership?

Answer: We have had regular meetings and interactions with both counterparts through this working group, and the technical work has been extensive and is ongoing.

Question 3

For five years, apple growers in Washington state and the more than 68,000 workers they support have faced a retaliatory tariff of 20 percent when exporting to India. Prior to these tariffs, India was a \$120 million export market for Washington apples. Now, that market is all but closed. These export losses come as growers' operating costs continue to rise. Multigenerational family farmers are leaving the industry and orchards are being removed. What steps are you taking to secure removal of India's retaliatory tariff on apples?

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

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

Question 4

USTR has taken action to hold our trading partners accountable on key agricultural commitments that are important to Washington farmers, including by unlocking market access for potatoes to Mexico and launching a second dispute against Canada for its restrictive rules on dairy. However, non-tariff trade barriers persist in key export destinations where we do not have free trade agreements, such as Indonesia's restrictive dairy plant registration process or Japan's restrictions on fresh potatoes. How is USTR using the Indo-Pacific Economic Framework and the U.S.-Taiwan Initiative on 21st Century Trade to address non-tariff barriers to dairy, potatoes, and other agricultural exports in Asia that are key for Washington state farmers?

Answer: With regard to both negotiations, the United States intends to establish disciplines to help ensure that sanitary and phytosanitary (SPS) measures are science-based, and developed and implemented in a transparent, predictable, and non-discriminatory manner. We intend for these provisions to provide tools to tackle a wide range of barriers to safe, wholesome U.S. agricultural products, and thereby increase access to these markets for U.S. agriculture exports.

Question 5

While I strongly support tough and effective actions, ideally in partnership with our allies, to address China's unfair trade practices, we must ensure our existing tariffs are sufficiently targeted to put pressure on China without unnecessarily hurting American jobs. In January of last year, I sent a letter with 140 bipartisan Members of Congress urging USTR to establish a comprehensive exclusion process that would allow for a broader range of American producers, manufacturers, and importers to request relief from these tariffs.

- a. When do you expect USTR to finalize its tariff review?
- b. Does USTR plan on establishing a more comprehensive tariff exclusion process?
- c. Does USTR plan on modifying the existing 301 tariffs?

Answer: Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed, and USTR and interagency partners are reviewing these comments closely. Additionally, USTR continues to consider additional exclusion processes, as warranted. USTR expects to complete the four-year review in the fall of this year.

Question 6

Last June, USTR secured a key extension of the longstanding moratorium on tariffs on digital goods and services at the World Trade Organization (WTO). This moratorium will be up for renewal again at the 13th WTO Ministerial Conference next year. India and Indonesia have stated publicly that last year was the last time they would agree to this extension, and Indonesia is putting in place a customs regime for digital goods in preparation for the moratorium's expiration. Failing to renew the moratorium, as we have done for more than twenty years, would undermine the strength of the American economy, jobs, and innovation. Will USTR prioritize the renewal of the e-commerce moratorium at MC13?

Answer: The United States continues to support the practice of not imposing customs duties on electronic transmissions. We remain committed to working with other WTO Members to build further support for the extension of the Moratorium, as well as pursuing a robust discussion about the future of the moratorium and the impact of the digital economy on developing members of the WTO.

Question 7

In June 2022, President Biden took action to support our clean energy transition by ending uncertainty stemming from a tariff investigation on solar components for two years. Since then, resolutions of disapproval under the Congressional Review Act have been introduced to undo the Biden rule. I have heard that ending this rule prior to its expiration date could be damaging to U.S. solar energy deployment and eliminate jobs in clean energy and construction. I have also heard that importers could be forced to pay back over \$1 billion in retroactive duties.

- d. If the disapproval resolutions that have been introduced were signed into law, would tariffs be imposed retroactively on imports entering after April 1, 2022?
- e. What would be the broader impacts to U.S. solar energy deployment?

Answer: On May 16, 2023, President Biden vetoed the resolution, stating that the resolution would undermine our administration's efforts to create a strong domestic solar supply chain.

Question 8

The Progressive Policy Institute recently published a report which found that the average U.S. tariff rate on women's underwear is 15.5 percent, compared to 11.5 percent for men's underwear. The report also notes that other countries, including Australia and Canada, apply flat tariff rates on all underwear. What could be done to address this inequity in our tariff schedule?

Answer: The Most Favored Nation (MFN) duty rates applied to U.S. imports are set by the U.S. Congress. The Progressive Policy Institute (PPI) publication referenced reports the *trade weighted average tariff*, which is an average of actual duties paid on imports, and includes MFN duties, China 301 tariffs, and duty-free imports under Free Trade Agreements (FTAs) and preference programs. Additionally, the trade weighted average tariff is affected by the dominant fiber of the component materials, i.e., cotton or man-made fibers. The MFN rates of duty found in the Harmonized Tariff Schedule of the United States (HTSUS) for men's and women's underwear are as follows:

- Men's Cotton Underwear, knitted or crocheted (HTS 61071100): 7.4% MFN
- Women's' Cotton Underwear, knitted or crocheted (HTS 61082100): 7.6% MFN
- Men's Underwear of Man-Made Fibers, knitted or crocheted (HTS 61071200): 14.9% MFN
- Women's Underwear of Man-Made Fiber, knitted or crocheted (HTS 61082290): 15.6% MFN

Rep. Drew Ferguson**Question 1**

As you know, India's GSP eligibility was terminated several years ago following a market access eligibility criteria review. Lack of GSP for India has cost Georgia companies up to \$100 million in extra tariffs, including manufacturers in my district. Many of these products compete directly with imports from China, making it harder for Georgia companies to diversify supply chains and reduce reliance on China. On a positive note, India has resolved a number of market access irritants in recent months, including opening its market to U.S. pork and reducing tariffs on pecans - a critical issue for Georgia farmers. Are there specific market access issues with India for which GSP expiration makes resolution more difficult? How can Congress empower you to reach the best - and fastest - possible deal to address longstanding U.S. trade concerns with your counterparts in India?

Answer: India continues to express an interest in having its GSP benefits reinstated. Given that the U.S. continues to have outstanding market access concerns with India, GSP is an important tool to encourage India to work to address these concerns, including by lowering applied tariffs on imports and providing additional access to markets for U.S. industries. I am supportive of Congressional efforts to swiftly reauthorize and revitalize the GSP program.

Question 2

At the conclusion of the USMCA negotiations, USTR touted the new dispute settlement system as one of the major improvements over its predecessor agreement, NAFTA A. I agree that this was

an important update. With dispute resolution essentially broken at the WTO and with few other venues for available to resolve disputes, how important is it that the U.S. be a leader in maintaining the integrity of the USMCA dispute resolution mechanism? Do you expect our partners in Canada and Mexico to implement panel decisions against them if the United States doesn't follow the same rules?

Answer: The USMCA dispute settlement mechanism is an integral aspect of the Agreement to help ensure full implementation of its commitments. The aim of the dispute settlement mechanism is to assist the parties in finding a positive resolution to a dispute. The United States is committed to working with Mexico and Canada to seek resolution to disagreements that arise under the USMCA.

Question 3

The Section 301 Four Year Statutory Review has been ongoing since May 2022. A recent International Trade Commission report examining the tariffs verifies what I have always believed-American businesses and consumers shouldered most of the cost of these tariffs.

"The Commission's econometric model estimates that tariffs under sections 232 and 301 resulted in a nearly one-to-one increase in prices of U.S. imports following the tariffs. This implies that a 10 percent ad valorem tariff raised the price of U.S. imports from China by about 10 percent. This nearly complete pass-through (meaning that prices received by exporters were largely unaffected and prices paid by U.S. importers increased by the same amount as the tariffs) is unusual but has been similarly found by other recent studies, which conclude that U.S. importers have borne almost the full burden of section 301 tariffs." (Page 22)

I am especially concerned about inverted tariffs, where the tariff on the imported finished good is lower than the tariff on an imported component needed to manufacture the finished good domestically-which subject many U.S. manufacturers to a substantial competitive disadvantage when competing against Chinese imports. Putting U.S. manufacturers at a disadvantage like this only helps China and hurts American companies and the workers they employ and undermines, rather than advances, U.S. supply chain resiliency.

When will USTR complete the Section 301 statutory review? Will USTR use its authority under the statute to adjust inverted tariffs to address the collateral damage that they cause to U.S. manufacturers, their workers and U.S. supply chain resiliency?

Answer:

With respect to the USITC report:

- The USITC report estimates the impact on prices faced by importers and downstream buyers, which are often businesses rather than consumers. The USITC's model **does not** address whether those businesses raised consumer prices in response to the tariffs.
- The **price increases** that the report attributes to the tariff actions tend to be **relatively small** on average.

- The report found **certain benefits of the tariff actions**, including outcomes consistent with the objectives of the investigations. The Section 301 tariffs were estimated to have reduced the value of U.S. imports of covered products from China.
- The ITC identified ten industries directly and most affected by the Section 301 tariffs. For all ten industries, the report estimates that Section 301 suppressed the value of imports from China by as much as 72.3 percent (semiconductors) and increased the value of U.S. production by as much as 7.5 percent (household furniture and kitchen cabinets).

I share your interest in supporting domestic manufacturing and supply chain resiliency. As part of the four-year statutory review, USTR sought public comments on a number of issues affecting the economy, including impacts on U.S. manufacturers, their workers, U.S. supply chain resiliency, and possible tariff inversions. On tariff inversions, USTR sought information from the public on specific instances and tariff codes where the Section 301 tariffs have resulted in higher additional duties on inputs used for additional manufacturing in the United States than the additional duties on particular downstream product(s) or finished good(s) incorporating those inputs. All comments submitted as part of the public comment process will be reviewed and given full consideration. USTR expects to complete the four-year review in the fall of this year.

Question 4

You have undertaken a review of the Section 301 tariffs and state you will act based on the results of the review. Have you examined the gas grill category, and did USTR intend to bifurcate the grill market (classified 7321.11.60) to pick winners and losers in the domestic market? Will USTR consider transferring this category (7321.11.60) to List 4B so it is treated the same as other outdoor grills?

Answer: As part of the ongoing four-year statutory review, USTR requested public views on among others, the effects of the actions on the United States economy, including U.S. consumers. Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. To that end, through the public comment process, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions or removed. All comments submitted as part of the public comment process will be reviewed and given full consideration.

Rep. Brian Fitzpatrick

Question 1

Unlike past rounds of Section 301 tariff exclusions granted by USTR, which were based on Harmonized Tariff Schedule (HTS) product codes, the Department of Commerce administers a company-specific exclusion process under Section 232 of the Trade Expansion Act.

As Section 232 contains comparable language to Section 301, has USTR considered developing a similar exclusion process? USTR could ask companies seeking such company-specific exclusions to make specific representations, such as their commitment to moving U.S.-bound production out of China, thus minimizing the administrative burden. If USTR is not considering such an approach, why not?

Answer: Exclusions under Section 301 were intended to be temporary with the purpose of giving U.S. importers the incentive and an opportunity to move supply chains outside of China. One of the primary factors considered in granting exclusions was the general availability of the product outside of China. Unlike in the Section 232 process, all importers faced the same general availability of products outside of China. Thus, to avoid giving a tariff advantage to certain importers, granted exclusions were available to all products meeting the scope of the exclusion.

Question 2

Additionally, I want to bring your attention to another matter pertaining to China. Reducing reliance on China, particularly on critical supply chains, is an area with strong bipartisan interest and support. One area that I believe is overlooked is agricultural chemicals, which are important to companies in my district. Loss of GSP eligibility for India has led to over \$60 million in extra tariffs on critical agricultural chemicals such as pesticides and fungicides. China is often the biggest, or only, alternative supplier. For one key product, imports from China have more than tripled since 2019 when India lost its GSP benefits. I do not think anyone desires that outcome, and we should find creative ways to encourage increased sourcing from friendly countries like India.

My questions to you are the following: how high of a priority is striking a deal with India, if it can meet the criteria for eligibility, that could lead to restored GSP benefits? Are you prohibited from reaching or announcing such a deal while Congress works to reauthorize GSP? How can Congress empower you to reach a US-India deal that includes GSP restoration?

Answer: India continues to express an interest in having its GSP benefits reinstated and GSP is an important tool to encourage India to lower applied tariffs of interest on imports from the United States and enhance markets for U.S. industries and opportunities for U.S. workers. I am supportive of Congressional efforts to swiftly reauthorize and revitalize the GSP program. It would be premature to finalize a deal with India that includes GSP restoration while Congress is in the process of considering reauthorization and possible reforms to the program.

Rep. Brian Higgins

Question 1

The Inflation Reduction Act is a strategic and essential investment in American manufacturing and electric vehicles (EVs). In order to fulfill the law's maximum potential for U.S. workers and suppliers, Congress and the Administration must work together in its implementation. Any agreement negotiated relating to the IRA must be balanced and mutually beneficial to all parties, and prioritize domestic high-skilled manufacturing and union jobs, advance our manufacturing economies, fight climate change, and create resilient EV supply chains for the next generation.

In the cases of the European Union and Japan, United States automakers have significant barriers and disadvantages. The EU has long imposed barriers to U.S. auto workers and suppliers, including a 10 percent tariff on U.S. passenger cars, long-standing subsidies benefitting its auto

industry, and regulatory divergence that disadvantages U.S. auto exports to the EU and globally. While Japan has duty free trade in vehicles, there are significant non-tariff barriers that prevent U.S. auto companies from maximizing competitiveness in Japan, such as Japan's lack of acceptance of Federal Motor Vehicle Safety Standards and disparity between Foreign Entity of Concern standards with U.S. companies. I encourage USTR to consider opportunities to address these significant trade deficits in discussions regarding Critical Mineral Agreements and EV supply chains. Reducing the auto trade deficit and encouraging American manufacturing would increase benefits realized in communities like Western New York, who are positioned to play a critical role in the EV supply chain and are already making investments to do so.

Perhaps most significantly, the Administration must ensure that Chinese products transshipped through the EU and Japan, do not benefit from IRA incentives. For example, the risk of circumvention is significant in the EU, where the EV and critical mineral supply chains are highly integrated with Chinese suppliers. It is encouraging to see that the text of the U.S.-Japan Critical Minerals Agreement addresses issues of concern regarding China, but each party must be held accountable for supply chain transparency.

Ambassador Tai, what steps will USTR take to ensure that critical minerals from China do not infiltrate supply chains supported by the IRA? And, what steps will the Biden Administration take to address critical minerals from China found in clean vehicle supply chains supported by the IRA?

Answer: The Biden-Harris Administration is committed to fostering diversified, secure, transparent, sustainable, and equitable critical minerals supply chains. This includes facilitating trade among trusted allies, promoting fair competition and market-oriented conditions for trade in critical minerals, and advancing robust labor and environmental standards. The Critical Minerals Agreement reached with Japan in March and the negotiations currently underway with the European Union specifically seek to ensure we are working closely with allies to address the non-market policies and practices of China and jointly promote a secure, resilient, and sustainable supply chain for critical minerals used in clean vehicles. In addition, the Inflation Reduction Act excludes from the Consumer Clean Vehicle Credit any vehicles containing battery components manufactured or assembled by a "foreign entity of concern" for vehicles placed in service after December 31, 2023; or containing battery critical minerals extracted, processed, or recycled by a "foreign entity of concern" for vehicles placed in service after December 31, 2024. The foreign entity of concern restrictions will be addressed in the Department of the Treasury's guidance.

Rep. Dan Kildee

Question 1

In the China Phase I deal, the Chinese Communist Party (CCP) committed to purchasing additional solar-grade polysilicon from the U.S. So far, there has been no purchases of U.S. polysilicon. Does the USTR plan to take any enforcement actions regarding the China Phase I deal?

Answer: China fell far short of implementing many of its commitments under the Phase One Agreement to purchase U.S. goods and services in 2020 and 2021. To date, we have used the consultative mechanism under the Phase One Agreement in an effort to address these shortcomings as well as other implementation concerns, and we have engaged in technical level discussions with China to press them to implement commitments in the Phase One Agreement. We will continue to press China to live up to its commitments, while we also take steps to shape the global approach to China, including through intensified collaboration with allies and partners on strategies for addressing the range of China's harmful trade policies and practices. No trade tool, including further recourse under the Phase One Agreement, is off the table. We will use all appropriate trade tools to defend U.S. workers and businesses, and we are also prepared to work with Congress to develop new trade tools as necessary.

Question 2

In 2021, 140 countries reached a landmark agreement which prohibited new discriminatory tax measures. Regrettably, we are concerned that a number of signatories of that agreement, notably Canada, France and Colombia, continue to threaten introduction of discriminatory DSTs, while others, like Colombia, have introduced new taxes on the digital economy. What can USTR do to enforce the commitment of our partners not to introduce new taxes targeted at American companies?

Answer: In bilateral engagements, USTR challenges unilateral digital services taxes that negatively affect U.S. interests. The OECD/G20 Inclusive Framework negotiations offer the best path to address the challenges that digitalization of the economy poses to the international tax system. USTR continues to urge our foreign counterparts to support Pillar 1 negotiations to the finish line.

Question 3

The European Union has attempted to monopolize generic food names – like “parmesan”, “bologna”, and “chateau” – that will undermine U.S. agriculture.

As of late, the EU has made trade deals with third-party countries only if those other countries agree to impose barriers on U.S. exports of these common name foods. This is clear because geographic indicators are part of their market access agricultural negotiations.

What is USTR doing to address these barriers to market access for Michigan dairy producers?

Answer: USTR understands the importance to U.S. producers and the food value chain of maintaining the ability to use common names and traditional terms. USTR is working together with USDA, in close consultation with U.S. industry, to ensure that we continue to explore opportunities to safeguard, maintain, and improve U.S. producers' ability to use common food names in foreign markets.

Question 4

Understanding that the Indo Pacific Economic Framework (IPEF) will not include traditional market access, such as lowering tariffs. Can you share on how the trade pillar will address non-tariff barriers. American agriculture would benefit in IPEF if it included protecting the use of

common cheese names and cutting red tape by streamlining import requirements. Are you addressing these priorities in IPEF?

Answer: To better position U.S. agricultural producers in the Indo-Pacific region, USTR is seeking high-standard commitments from IPEF partners to advance the implementation of science-based policies, improve regulatory transparency, and to address specific barriers of concern in order to reduce longstanding trade impediments to safe, wholesome U.S. agricultural products, and thereby increase market access in the Indo-Pacific for U.S. farmers, ranchers, and food producers.

Question 5

Japan has refused access to U.S. fresh potatoes. Japan has already conducted a thorough review of U.S. fresh potatoes in 2006 when the market was opened for U.S. potatoes for processing. During this review, the U.S. potato industry addressed all Japanese technical concerns with comprehensive mitigations. There is no valid phytosanitary justification for the market to remain closed or their current refusal to negotiate. Will you work to gain market access for fresh potatoes into Japan that would support an additional \$150 million in exports?

Answer: The U.S. market access request for table-stock potatoes to Japan is a top priority for USTR. We have raised the issue at the past two meetings of the U.S.-Japan Partnership on Trade to advance the request in a timely and science-based manner, and will continue to raise the issue with Japan at every opportunity. This is also a top priority for USDA, which is leading the technical work with Japan to establish the regulatory requirements.

Question 6

The Inflation Reduction Act (IRA) demonstrates the administration's commitment to invest in domestic clean energy manufacturing, including solar panels, to meet our climate targets. While the IRA is an important first step — we must take a whole-of-government approach, including cohesive trade policy that supports domestic manufacturing. As you have previously stated, there is a clear need to establish “strategically devised supply chains” and that “trade policy is a legitimate tool in helping to solve the climate crisis.” Considering that China controls at least 95% of the production of solar wafers and more than 80% of solar ingots, domestic manufacturers are dependent on Chinese companies for solar machinery. Will you consider this in your upcoming review of the China 301 tariffs?

Answer: As part of the four-year review of the Section 301 tariffs, USTR is reviewing the effectiveness of the tariffs in achieving the objectives of the investigation, as well as the effect of the tariffs on consumers, workers, and the U.S. economy at large. As part of this review, we are considering the existing tariffs structure and how to make the tariffs more strategic, as well as the impact of the tariffs on sectors of the U.S. economy and domestic manufacturing.

Rep. David Kustoff**Question 1**

Eastern Tennessee is home to one of the last manufacturers of charcoal barbeque grills in the United States - the Meco Corporation. Twenty years ago, Meco employed roughly 900 Tennesseans in Greenville, but there are less than 200 employees in that same factory today due to IP theft from China. Unfortunately, the situation facing Meco is not unique, and has devastated numerous manufacturers around my great state and nation.

1. During the most recent 301 process, USTR placed a 25% tariff on gas and electric grills, but not charcoal grills. Why is there duty on gas and electric grills, but not charcoal grills?
2. What is the USTR doing to ensure small manufacturers like Meco are able to compete against China?
3. I understand that USTR's four-year review of the Section 301 tariffs is ongoing. I urge to you prioritize the interests of small manufacturers like Meco and their workers as you determine any policy changes to make at the end of the review. Will you commit to using Section 301 tariffs to protect small manufactures to ensure they have a level playing field?

Answer: China has a well-established track record of conducting unfair trade practices to acquire U.S. technologies and intellectual property. As part of the four-year review, USTR is undertaking an examination of the effectiveness of the actions in obtaining the elimination of China's acts, policies, and practices related to technology transfer, intellectual property and innovation. USTR is also considering other actions that could be taken to achieve the objectives of the investigation. Additionally, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. To that end, as part of the public comment process, USTR requested comments on whether certain tariff headings should remain covered by the actions, be removed, or added. To aid in the consideration of comments from small business, USTR requested that commenters report whether they meet the size standards for a U.S. small business as established by the Small Business Administration.

Question 2

The U.S.- Japan Digital Trade Agreement, which was established by the Trump Administration in October 2019, prohibits discrimination in digital products. It's my understanding that U.S. companies are often subject to anti-trust action and scrutiny from Japanese regulators, while Japanese companies are given a free pass. According to the USTR's 2022 National Trade Estimate report, "U.S. unions and companies have expressed concern with regard to the enforcement of Japan's existing competition laws in digital market and technology sectors in which Japanese companies are significant participants."

- a. How is the USTR monitoring this behavior for potential violations of the digital trade agreement?
- b. Will you commit to raising this issue with your Japanese counterparts?

Answer: We will continue to raise concerns with our trade partners on issues that may have a negative impact on our workers. As you noted, in our 2023 National Trade Estimate report on foreign barriers, we highlighted this issue: "U.S. unions and companies have expressed concern

with regard to the enforcement of Japan's existing competition laws in digital market and technology sectors in which Japanese companies are significant participants." We have encouraged companies to also raise these concerns directly with the Government of Japan, in particular the Japan Fair Trade Commission.

Question 3

Under what criteria will USTR make decisions in its Section 301 necessity review?

I have constituents who import components subject to 301 tariffs that are used as inputs to manufacture products in the United States. What is the USTR doing to ensure that tariffs on manufacturing inputs aren't hurting U.S. workers and companies?

Answer: I share your goal of supporting domestic manufacturing. As part of the public comment process for the four-year review, USTR sought comments on a number of factors affecting the economy, including impacts on U.S. manufacturers, their workers, U.S. supply chain resiliency, and possible tariff inversions. On tariff inversions, USTR sought information from the public on specific instances and tariff codes where the Section 301 tariffs have resulted in higher additional duties on inputs used for manufacturing in the United States than the additional duties on a particular downstream product or finished good incorporating those inputs. All comments submitted as part of the public comment process will be reviewed and given full consideration.

Rep. Darin LaHood

Question 1

The growing focus on resilience of global supply chains, including food security, illustrates the importance of providing producers with the innovative tools and technologies they need to sustainably bolster domestic food production. I am concerned that uncertainty caused by our federal regulatory system for critical crop protection tools makes us vulnerable to global competitors like China and puts our farmers at a competitive disadvantage. How will you work to ensure policies that encourage and facilitate the domestic security of these critical technologies, which are vital to American agriculture and our national security interests are reflected in our trade priorities?

Answer: USTR is working closely with multiple Executive Branch Agencies, including USDA, to ensure that agricultural technologies, sustainable food systems, and innovative tools like biotechnology are included in important discussions regarding the future of agricultural production and how sustainable agriculture can contribute to our climate goals. USTR continues to engage trade partners to ensure that regulatory requirements affecting U.S. agricultural exports are transparent, predictable, and based on science.

Question 2

We learned from the pandemic that dependence on any single source for elements of a key supply chain poses a significant national security risk. For example, during COVID, we faced challenges for personal protective equipment (PPE) as many types of PPE are not made in sufficient quantities in the United States to handle a demand surge. Additionally, we face similar

challenges with critical mineral supply chains. I believe that high-standard Free Trade Agreement (FTAs) can be an important part of the solution to these vulnerabilities by establishing more reliable supplies from trusted nations while opening up markets for American products and services. That is why I remain concerned about the Biden administration's lack of pursuit of FTAs, which also can help strengthen our strategic competitiveness with China. I also believe that a fair and targeted Section 301 tariff exclusion process can help focus these tariffs on products that will maximize leverage against China while providing relief for Americans purchasing certain products. Will USTR's ongoing four-year review of the Section 301 tariff action meaningfully address the lack of a forward-thinking strategy to enter into meaningful FTAs with our regional partners and allies as a way to counteract China and further secure our global supply chains? Do you expect to address arguments that some expired tariff exclusions, for healthcare or other products, should be extended in that context?

Answer: We intend to use the full range of tools we have and develop new tools as needed to defend American economic interests from harmful policies and practices. As part of the four-year review, USTR is examining the effectiveness of the actions in achieving the objectives of the investigation into China's acts, policies, and practices related to technology transfer, intellectual property and innovation. USTR is also considering other actions that could be taken to achieve the objectives of the investigation and to make the tariff action more strategic. This includes a review of the overall structure of the tariffs, including whether certain tariff headings should remain covered by the actions, or be removed.

Question 3

Trends in growing digital protectionism that target United States interests have been increasing throughout the world. This includes concerning elements of several legislative efforts by the European Union, including the EU Data Act and decisions of EU privacy authorities prohibiting data transfers to the United States. What will USTR do to address concerns of growing digital protectionism and support American workers and businesses?

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

Rep. Carol Miller

Question 1

I recently returned from a bipartisan delegation trip to Ecuador, Guyana, and Mexico. Many countries in the region clearly want to improve commercial ties with the United States but run into problems such as expiration of the Generalized System of Preferences (GSP) program. Just

as it does in the Indo-Pacific, China is ready and willing to invest in these countries in our own hemisphere, and is now the biggest trade partner for most of Latin America.

Do Latin American countries often raise market access and GSP renewal as a priority in bilateral talks with USTR, and do you believe GSP renewal would improve your ability to negotiate better access for U.S. exporters to these countries?

Answer: Latin American GSP beneficiaries have raised these interests with USTR, including the renewal of GSP benefits. The GSP program can be an important tool for GSP beneficiaries' sustainable economic development. It also provides the United States with an additional tool to engage on issues covered by GSP eligibility criteria, including market access for U.S. exporters.

Question 2a

While I support CAFTA-DR and consider it a success in many respects, I am disappointed with the lack of growth under the agreement. For example, apparel trade has been stagnant over the life of CAFTA-DR while apparel imports from China have doubled. Trade statistics show us that CAFTA-DR is not competitive with other regions in sectors such as apparel.

What is this Administration doing to ensure that apparel supply chains in the Western Hemisphere are competitive, resilient, not undermined by monopoly suppliers, and support women's empowerment?

Answer: The Administration remains committed to leveraging and safe-guarding the strong yarn-forward rules of origin for apparel under the CAFTA-DR. These rules of origin for apparel continue to shore up the Western Hemisphere apparel supply chain which links textile suppliers in the United States and U.S. buyers of apparel to their CAFTA-DR partners and producers. The apparel sector is a driver of both direct and indirect employment in the Central American region, and creates a great number of jobs, especially for women.

Collectively, the CAFTA-DR countries provide approximately 10 percent of U.S. imports of apparel. The CAFTA-DR share of the U.S. market has remained more or less steady since 2006 when the FTA was implemented, despite a number of changes and challenges to the U.S. apparel market. Among those challenges — the elimination of the Multi-Fiber Arrangement quota system in 2005, the end of additional safeguard quotas on U.S. imports of key apparel categories from China in 2009, and the supply chain disruptions/upheavals related to the COVID-19 pandemic.

While the U.S. market share for apparel imports under CAFTA-DR has remained constant, significant upstream investments in yarn, fabric and trims production in the region are strengthening the overall supply chain. The yarn-forward rules incentivized much of this expansion and investment. Many of these investments are long-term and capital-intensive, but the end result is improved competitiveness and a more resilient supply chain equipped to become more efficient and better able to respond to U.S. buyers.

I also note that the Section 301 tariffs are having a positive impact on strengthening domestic production and diversification of imports in this sector. The U.S. International Trade

Commission (ITC) recently published a report on the "Economic Impact of Section 232 and 301 Tariffs on U.S. Industries." The ITC identified ten industries directly and most affected by the 301 tariffs, which included apparel manufacturing. The ITC estimates that for all ten industries the Section 301 suppressed the value of imports from China. For the Cut and Sew Apparel Manufacturing, imports from China were reported to have declined by 39.1 percent. Additionally, prices of imports from China in the sector were reported to have increased by 14.5 percent, and the value of U.S. production is reported to have increased by 6.3 percent.

Question 2b

Will this Administration commit to working with me to help improve and expand the trading relationship between the United States and Central America and ensure the availability of inputs to expand the diversity of apparel manufacturing and create jobs in the United States and throughout the region?

Answer: Yes. The Administration shares your concern and commitment to the Central American region.

Question 3

On this trip, we also spoke at length with the President of Mexico regarding a wide range of topics, including bilateral trade under USMCA. One subject of particular concern is the surge of Mexican steel imports, especially rebar.

- a. What actions is the Administration taking to protect U.S. steel manufacturing and hold Mexico accountable to its Section 232 agreement? Will you consider pushing Mexico to reinstate an export monitoring regime to ensure compliance with the agreement?
- b. What is the Administration's timeline for establishing a dispute settlement panel to ensure that Mexico changes its policies and lives up to its commitments in the USMCA?

Answer: I have instructed my staff to work closely with the U.S. Department of Commerce to ensure that Mexico abides by the terms of the 2019 Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum. The USTR and Commerce teams engaged the Government of Mexico on this issue over the past several weeks. The U.S. and Mexican technical teams are in the process of exchanging relevant information and USTR and Commerce hope to make progress on this issue in the coming weeks.

Question 4

In a time when our allies, especially those in Europe who are suffering from sky high energy prices due to the War in Ukraine, why isn't the administration seeking trade deals that make it easier to export American energy products, such as coal and natural gas?

Answer: Natural gas plays an important role in U.S. energy security, and U.S. LNG exports now contribute to the energy security of our allies and trade partners. The Department of Energy is responsible for authorizing LNG exports, and as new LNG export capacity comes online U.S. exports of LNG are expected to continue to grow. President Biden is working to address the issue and last year, the President and European Commission President Ursula von der Leyen

announced a joint Task Force to reduce Europe's dependence on Russian fossil fuels and strengthen European energy security as President Putin wages his war of choice against Ukraine.

In 2022, U.S. LNG exports to Europe (EU and United Kingdom) increased 141 percent compared with 2021 to 6.8 billion cubic feet per day (Bcf/d) and accounted for 64 percent of total U.S. LNG exports.

Question 5

In the U.S.-Japan Digital Trade Agreement, Japan committed to provide non-discriminatory treatment to U.S. digital products, which includes computer programs and other digitally encoded products like console games. For example, Microsoft debuted its Xbox in Japan in 2002, and despite 20 years of investment, it still has a negligible two percent share of the high-end console market. My understanding is that the Japanese government tolerates a range of exclusionary conduct by their domestic companies that may violate Japan's antitrust laws, and that this inaction by the Japanese government harms the ability of U.S. companies to compete in the country.

What is the Administration's plan to hold Japan accountable for potential violations of the U.S.-Japan Digital Trade Agreement to ensure market access for all U.S. products in this important market?

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

Rep. Gwen Moore

Question 1

Something that I have heard from African trade officials is the need to leverage the African Growth and Opportunity Act (AGOA) program to increase manufacturing capacity in African nations – especially in industries other than textile. To spur economic development, it's not enough to ship raw vegetables like yams, for example, to the United States. Greater economic benefits come from being able to add value and produce another product in Africa that's then exported to the United States. Sticking with yams, a commodity that I know is important to Ghana and that Ghana ships to the United States, being able to process yams into yam chips that could sold on the United States market would have even greater economic benefits. But, local producers face challenges – for example, meeting our important food safety standards. Many African businesses may know those standards, but experience difficulties implementing them. With the goal of helping to boost local value chains, how can the United States support local manufacturers in AGOA countries so they can meet our food safety standards?

Answer: The U.S. government has for more than two decades provided extensive support to AGOA beneficiary countries to enable them to improve their utilization of the program. The U.S. Department of Agriculture (USDA), at the request of USTR and the U.S. Agency for International Development (USAID), has also implemented trade capacity building programs that assist in the development of science and risk-based approaches to food safety, animal health, and plant health measures, based on WTO-consistent international standards. These efforts help African exporters seeking access to the U.S. market and provide opportunities to U.S. agricultural exporters looking to do business with Africa. U.S. assistance also creates an enabling environment for safe agricultural trade and therefore supports the U.S. Government's Global Food Security Strategy food security objectives.

Question 2

I understand that many different agencies in the United States are available to provide technical assistance to support people and businesses wanting to take advantage of AGOA but that there isn't one umbrella federal entity to look to or to ensure coordination among the programs. That can be a barrier to knowing what assistance is available and leveraging programs to work together. Since technical assistance is really important to capacity building, do you think it would be beneficial to better coordinate available U.S. resources?

Answer: Prosper Africa, through USAID, is the White House initiative to increase two-way trade and investment between the United States and African nations and it offers a one-stop shop for the full suite of U.S. Government trade capacity building and assistance programs to help companies and investors export to the U.S. under AGOA. Through Prosper Africa, the U.S. Government is launching innovative lines of effort and capacity building assistance that offer support to unlock market opportunities for African exporters with AGOA preferential tariffs, including by launching a new AGOA Support Services Platform to drive AGOA utilization. Prosper Africa also provides Continental Service offerings for African businesses to access counsel from experts specializing in AGOA preferences.

Question 3

Our trade policies must create good-paying, quality jobs. I applaud the Biden Administration's commitment to worker-centered trade policy. We need to ensure that everyday people in the United States are realizing the benefits of our trade policy – not just big businesses. Supporting our workers and our nation's economic competitiveness means promoting strong labor standards – and strong environmental standards. And, it's not enough to have laws requiring high standards, we need to make sure those laws are enforced. I'm especially proud of the Rapid Response Mechanism Congress added to the United States-Mexico-Canada Agreement (USMCA) to raise labor standards across North America and hold out trading partners accountable. The rapid response mechanism is a ground-breaking enforcement tool that allows the United States to quickly take action and target specific facilities in Mexico where workers are being denied their rights to freedom of association and collective bargaining. The United States has successfully used the mechanism to secure concrete wins for workers at four different facilities. I'm hopeful that we'll continue to see this tool used even more. I'm aware of a number of attempted cases that did not result in a dispute being initiated by USTR and some confusion over why not. Could you identify the formal criteria and procedures that the US Labor Attachés

use when investigating whether a Denial of Rights has occurred in Mexico, and how are they developed?

Answer: The Interagency Labor Committee, co-chaired by USTR and the Department of Labor, conducts a thorough investigation in response to each petition received to determine whether there is sufficient credible evidence of a denial of rights. USTR has formally invoked the rapid response mechanism 11 times; nine times after receiving petitions and two on its own initiative. USTR and the Department of Labor work together to investigate petitions and develop evidence related to RRM matters through remote meetings and interviews with workers, petitioners, employers, as well as on-the-ground attaché visits, and documentary review. USTR and the Department of Labor also meet with the Government of Mexico. In some situations, issues were successfully resolved during the investigation, and therefore we did not formally invoke the mechanism. In some others, we found that the available evidence did not support formal invocation of the RRM.

Question 4

Under the U.S. Tariff Act, the importer may simply exercise its right to re-export goods detained at U.S. ports over suspected forced labor concerns to another country. These goods often end up in Canada or Mexico. In fact, recent reports suggest that Canada has become a dumping ground for products subject to the Uyghur Forced Labor Prevention Act (UFLPA). A CBC exposé from December 16, 2022 revealed that Canada detained only one shipment over forced labor concerns in the last fiscal year. The U.S. blocked more than 2,398 shipments the same year. According to data from the recently unveiled UFLPA enforcement dashboard, CBP has denied entry to hundreds of shipments subject to the UFLPA since it entered into force in June 2022. It is possible that many of these shipments were re-routed to Canada or Mexico.

1. How can you ensure that Canada and Mexico refuse entry to forced labor tainted goods turned away by U.S. Customs officials?
2. Are you pressing Canada and Mexico to stop goods subject to all active U.S. Withhold Release Orders (WROs)?
3. How can the United States, Mexico, and Canada work together to track the cross-border movement of goods made using forced labor as envisioned in the USMCA agreement?

Answer: Article 23.6 of the USMCA requires that “each Party shall prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.” With Mexico’s February 2023 action aimed at prohibiting the importation of merchandise produced with forced labor, all three USMCA Parties now have mechanisms to refuse entry to forced labor-tainted goods. The same USMCA article establishes cooperation between the parties “for the identification and movement of goods produced by forced labor,” and to that end, the United States is working closely with Canada and Mexico to share information on forced labor-tainted goods, including those subject to WROs, and to prevent transshipment.

Question 5

Are you pushing Canada and Mexico to enact region-wide import bans – like the Uyghur Forced Labor Prevention Act (UFLPA) – to tackle state-imposed forced labor?

Answer: As we understand it, the prohibitions in place in both Canada and Mexico apply to any goods produced, wholly or in part, with forced labor, regardless of origin. At this time, we are focused on working with Canada and Mexico on implementation of their bans.

Question 6

Are you advocating for a reciprocal prohibition on the importation of products made using forced labor in all trade agreements involving the United States?

Answer: Forced labor has no place in the global trading system, and USTR is committed to pursuing provisions in U.S. trade agreements to tackle forced labor in global supply chains, including working with our trade partners to prohibit the importation of goods produced, wholly or in part, by forced labor.

Question 7

How is the United States working with the European Union (through the U.S.-EU Trade and Technology Council or otherwise) to share information that facilitates implementation of their respective import bans? Given that the US and EU import bans, as currently formulated, have different evidentiary standards, and burden of proof, how can the United States and European Union move in the direction of mutual recognition of forced labor detentions and seizures?

Answer: The U.S. government has been working closely with the European Commission to address shared trade challenges, including combatting forced labor, under the U.S.-EU Trade and Technology Council (TTC). The TTC includes the Trade and Labor Dialogue (TALD), which brings together labor unions, businesses, and governments to discuss priority trade and labor issues. The first priority of the TALD has been to focus on identifying opportunities to collaborate on eliminating forced labor in our supply chains. Under the TTC, the U.S. and EU share information on best practices in combatting forced labor, including related to the U.S. implementation of Section 307 of the Tariff Act and the Uyghur Forced Labor Prevention Act and the EU's plans for its draft legislation on forced labor. USTR utilizes our trade policy engagement to facilitate coordination between our customs officials and their counterparts in trade partners working to implement import measures to combat forced labor, including Canada, Mexico, and the EU. Such coordination helps to facilitate coherent approaches across trading partners in addressing forced labor.

Question 8

I know you are committed to a worker-centered trade policy. On March 3rd, 2023 you released your 2023 Trade Policy Agenda and 2022 Annual Report, highlighting the need to promote workers' rights in the global economy. How are leveraging your role in the inter-agency Forced Labor Enforcement Task Force (FLETF) to ensure better outcomes for workers in global supply chains, especially through CBP's implementation of import bans under Section 307 of the U.S. Tariff Act? How are CBP and USTR working together to address forced labor in global supply chains?

Answer: USTR is a member of the FLETF, helping to coordinate interagency efforts on Section 307 of the Tariff Act and on the implementation of the Uyghur Forced Labor Prevention Act (UFLPA), including building out the UFLPA Entity List. USTR is also in the process of

developing its Trade Strategy to Combat Forced Labor, which will establish objectives, priorities, new tools, and key action items to advance the Administration's goals to combat forced labor, including on Section 307 import bans. USTR and CBP have also worked together to share information with trade partners on Section 307 implementation as a tool for addressing forced labor in global supply chains.

Question 9a

After the Withhold Release Order (WRO) against Central Romana's sugar imports from the Dominican Republic (DR) in November 2022, the sugar quota was reallocated among the three major sugar producers in the DR, leaving Central Romana with zero (down from 62%) and the other major producers with significant increases. Given that Central Romana is the largest sugar producer in the DR, there is concern that Central Romana sugar is entering the United States through the other companies.

Can you use your leverage to ensure that this reallocation of the tariff rate quota is not simply allowing forced labor-produced sugar into the United States through alternate channels?

Answer: The Department of Homeland Security chairs, and USTR is a member of, the interagency Forced Labor Enforcement Task Force, which is tasked with monitoring the enforcement of 19 U.S.C. § 1307, including the 2022 WRO against Central Romana in the Dominican Republic. Nevertheless, all determinations on compliance with customs laws and orders are ultimately the decision of Customs and Border Protection. We understand that CBP reviews mandatory entry filing information in order to verify the claimed producers/manufacturers of any product are legitimate and have not engaged in illegal transshipment or other evasion tactics to avoid detection of forced labor goods. CBP coordinates with civil society organizations, personnel in the Dominican Republic, and DHS and interagency partners to obtain information on potential forced labor conditions to support forced labor enforcement, and plans to take appropriate action as needed to ensure no forced labor-produced sugar enters the United States.

Question 9b

What tools does the United States have, if any, to verify that the two companies not subject to the WRO are not purchasing Central Romana sugar and exporting it to the United States?

Answer: We understand that CBP uses the tools at its disposal to validate allegations with evidence of trade fraud and potential transshipment that circumvents a WRO. These include analytic tools utilized by their teams of trade experts to review shipment information to identify instances of fraud and apply their trade enforcement authorities to any importers of suspected transshipments.

Question 10

How can the US-Taiwan trade initiative ensure protections for migrant workers in the fishing industry linked to global seafood supply chains, given the high rates of forced labor associated with this industry worldwide?

Answer: The U.S. government is concerned about forced labor in global supply chains, including seafood supply chains. We are working with our trade partners to address this issue to the greatest extent possible. Specifically with regard to the U.S.-Taiwan trade initiative, we envision it as a vehicle for helping to improve protections for migrant workers in the fishing industry.

Question 11

One positive, implementable solution to the problem of forced labor in the global fishing industry that has been proposed by a global labor rights coalition working in partnership with fishers, is to require access to WIFI communications for fishers on distant water fishing vessels. The right to communication at sea is crucial to ensuring the fundamental labor rights of fishers, for example, because such access enables workers to report labor violations and supports worker's mental health. How can you use your leverage in trade talks with Taiwan to support communication access for fishers on the high seas?

Answer: We are currently assessing possible ways to work with Taiwan through our trade initiative and other bilateral engagement to promote increased access for fishers on the high seas to be able to communicate with the outside world.

Question 12a

In January, the United States established a dispute settlement panel under the United States-Mexico-Canada Agreement (USMCA) regarding Canada's dairy tariff-rate quota (TRQ) allocation measures – the second USMCA dispute on Canada's dairy TRQ allocation – we won the first one.

The commitments Canada made in USMCA are crucial to the success of our dairy farmers. Canada made changes to their policies as a result of the first dispute, but is it your opinion that those policies remain inconsistent with Canada's USMCA obligations?

Answer: In our view, Canada made only technical changes following the first dispute, and those changes did not bring Canada into compliance with its USMCA obligations.

Question 12b

Can you talk about your efforts to address these concerns and resolve this issue When do you expect this issue to be resolved?

Answer: On January 31, USTR established a second USMCA dispute settlement panel to address Canada's continuing failure to abide by its USMCA commitments with its dairy TRQ allocation measures. USTR is challenging Canada's revised dairy TRQ allocation measures that use a market-share approach for determining TRQ allocations, and impose new conditions effectively prohibiting retailers, food service operators, and other types of importers from utilizing TRQ allocations. We worked with USDA, and consulted extensively with U.S. dairy industry stakeholders, to develop the strong claims that we are advancing in this second proceeding. We expect the panel to issue a report later this year. With a favorable outcome, we would consult with Canada on how to implement its USMCA commitments through a new system.

Question 13

One in three of every row of soybeans grown in the U.S. is destined for China. Furthermore, according to USTR's Wisconsin State Factsheet, soybeans are Wisconsin's second largest agricultural export after dairy products and according to the Wisconsin Soybean Marketing Board, in 2020, about 65% of soybeans grown in Wisconsin are exported to international markets. While U.S. Exports of soy to China hit record highs in 2022 and 2021, soy farmers in Wisconsin remain concerned that trade tensions between the United States and China will result in additional market barriers. Since the Phase One Agreement negotiated by the previous Administration expired, the retaliatory tariffs China implemented in response to our Sect. 301 tariffs that were exempted through the Phase One Agreement may be reinstated, subjecting US soy exports to a 25% tariff. Ambassador Tai, how do you and the Biden administration intend to press China to address the larger geopolitical issues while continuing to protect the ability of our farmers and others to have access to that market?

Answer: Beyond China's commitments under the Phase One Agreement to purchase certain U.S. goods and services in calendar years 2020 and 2021, the Phase One Agreement includes commitments that are still in place, obligating China to take numerous actions independent of its purchase commitments, including in the area of agriculture. As described in the 2022 USTR Report to Congress on China's WTO Compliance, while China has met some of its Phase One commitments, it has not yet met certain commitments, and we continue to press China to do so, using the consultative mechanism under the Phase One Agreement. We will continue to press China to live up to its commitments, while taking steps to intensify our collaboration with allies and partners on strategies for addressing the range of China's harmful trade policies and practices. We will use all appropriate trade tools to defend U.S. agriculture, workers and businesses.

Question 14

On April 19, 2021, many exports were put at risk when select U.S. products, including Harley-Davidson motorcycles, were targeted with retaliatory tariffs of 31% on all exports entering the European market, with a scheduled increase to 56% on June 1, 2021 if the United States and the European Union did not resolve the larger trade dispute. This would have been catastrophic for Harley-Davidson because European motorcycle brands can compete in the American market at less than 3%. I am thankful that President Biden was able to come to an agreement for a Tariff Relief Quota (TRQ), avoiding this disaster. Unfortunately, it was not a permanent solution. What specific engagement have you had with your counterparts to ensure these tariffs are not reinstated to give American manufacturers like Harley-Davidson more certainty?

Answer: On October 31, 2021, the United States and the European Union (EU) announced we had taken joint steps to re-establish historical transatlantic trade flows in steel and aluminum and to strengthen our partnership and address shared challenges in the steel and aluminum sectors. As a part of that partnership, the parties announced their intention to negotiate the Global Arrangement on Sustainable Steel and Aluminum (Global Arrangement) to address greenhouse gas (GHG) emissions intensity and global non-market excess capacity in these sectors. The United States and the EU are seeking to conclude the negotiations on the Global Arrangement by October 2023.

Question 15

The Section 301 tariffs on Chinese products, specifically on those Chinese parts and components used in U.S. manufacturing, have been in place for nearly five years. While I understand one objective of the tariffs was to incentive U.S. businesses to source from outside China, at this point, I think many U.S. manufacturers who are still importing parts from China are doing so because they have no choice. Often, there are still no alternatives. Tariffs on those imported parts can drive up the cost of manufactured goods made in Wisconsin and hurt Wisconsin manufacturers, other Wisconsin businesses that supply those manufacturers, and Wisconsin workers. It also makes it harder for goods made in Wisconsin to compete with foreign products from other regions, including Europe, Asia or Latin America that often use those same Chinese parts for which American manufacturers now have to pay a 25% tariff. This is why I encourage you to institute a meaningful tariff exclusion process. When do you expect to conclude your four-year review of the Section 301 China tariffs and decide on whether to establish a new 301 tariff exclusion process?

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

Rep. Bill Pascrell**Question 1**

In 2021, we suspended for two years the 232 tariffs on steel and aluminum imports from the European Union. I understand that you are negotiating with the European Union to create a new global arrangement for trade in the steel and aluminum sectors. Please provide an update on where those discussions stand and what progress has been made to reach a permanent solution to the dispute. Additionally, how would such global agreements support American climate goals and U.S. manufacturers and workers?

Answer: The United States and the EU continue to negotiate the Global Arrangement on Sustainable Steel and Aluminum. Since the launch of negotiations, we convened several technical meetings and moved into text-based negotiations as of May 2023. Under the Joint US-EU Statement on Trade in Steel and Aluminum, the United States and the EU have committed to take “joint steps to defend workers, industries and communities from global overcapacity and climate change, including through a new arrangement to discourage trade in high-carbon steel and aluminum that contributes to global excess capacity from other countries and ensure that domestic policies support lowering the carbon intensity of these industries.” As envisioned by the Administration, and agreed with the EU in 2021, this agreement would support both climate goals and U.S. workers and manufacturers. We are pursuing an agreement that would require members of the Global Arrangement to restrict market access for steel and aluminum imports from sources of non-market excess capacity (NMEC). We also envision membership criteria that

takes into account issues such as whether countries are, or at risk of becoming, sources of NMEC; the extent to which state-owned or state-controlled enterprises operate in a prospective member's economy; whether sources of NMEC are investing in a country; the extent to which countries are taking appropriate and effective measures to address the market distortive effects of NMEC; and the extent to which a potential member respects, promotes, and realizes labor rights.

Question 2

I understand you're entering negotiations on a Critical Mineral Agreement with Japan and the European Union. You know well my position on the role of Congress and trade based in Article 1, Section 8. I understand these agreements would provide Inflation Reduction Act benefits to nations that do not have a congressional approved Free Trade Agreement. Seeing as we do not have a congressionally approved Free Trade Agreement with Japan or the European Union, could a future administration remove itself from these agreements if they lack the force of law?

Answer: Article 15 of the Japan Critical Minerals Agreement (CMA) provides that either Party may terminate the Agreement at any time by providing 90 days' written notice to the other Party. Negotiations with the EU for a CMA have not completed as of yet, but it is USTR's practice to include a termination provision, such as the one in the Japan CMA, in all trade agreements that USTR negotiates.

Question 3

Due to the Chinese Communist Party illegal trade practices, the U.S. solar industry has all but disappeared. China has the majority of global market share of each component used to make solar panels. Please explain how robust enforcement of our trade laws has contributed to a whole of government approach to rebuilding the solar supply chain in the United States. Please also include if strong enforcement will help our nation meet our goals for energy independence and national security. Finally, please include an explanation on the impact to American workers and domestic manufacturers.

Answer: China's trade practices have had a negative impact on the U.S. solar industry, as evidenced by the multiple findings by the U.S. International Trade Commission regarding antidumping, countervailing duty, and safeguard investigations involving solar products. In addition, both the U.S. Department of Commerce and U.S. Customs and Border Protection have taken vital steps to enhance their efforts to combat numerous circumvention and duty evasion schemes to circumvent these trade remedies, and USTR has been supportive of those agencies' efforts.

Application of trade remedies have enhanced the U.S. solar industry in the face of China's non-market excess capacity, though not to the extent needed for a robust domestic manufacturing capability. That is why, in addition to continuing to apply Section 301 duties on Chinese imports, the Administration and Congress, through the Inflation Reduction Act (IRA), have taken a critical step to invest in domestic solar and clean energy manufacturing.

Rebuilding our domestic manufacturing not only strengthens our supply chain resilience, enhances national security, and enables us to meet our clean energy goals – it supports good-paying jobs. Solar industry jobs consistently rank among the top fastest-growing in the nation,

and many require only a high school education or GED. The Economic Development Administration recently awarded funding to support solar employment training in tribal and coal-impacted communities. In addition, the Department of Energy has issued a Request for Information and hosted six workshops to determine common goals and needs from stakeholders, including industry, unions, and training organizations.

Question 4a

I appreciate your robust and deep engagement with all the stakeholders involved in determining next steps on the World Trade Organization (WTO) Ministerial Decision on the TRIPS Agreement (Ministerial Decision) to cover the production and supply of COVID-19 diagnostics and therapeutics. A thorough and complete report from the United States International Trade Commission (USITC) is important to understanding information on market dynamics to help inform the discussion around supply and demand, price points, the relationship between testing and treating, and production and access.

Can you please explain if you expect the USITC report to identify and provide recommendations on the barriers low- and middle-income countries faced to COVID-19 vaccines, diagnostics, and therapeutics?

Answer: I asked the U.S. International Trade Commission (USITC) to launch an investigation into COVID-19 diagnostics and therapeutics and to solicit information on issues such as key demand factors, information on availability and pricing for COVID-19 diagnostics and therapeutics, and information on and reasons for market segmentation (which may be delineated by low-income countries (LICs), lower middle-income countries (LMICs), upper middle-income countries (UMICs), and high-income countries (HICs)).

I am not asking the USITC to draw any policy conclusions, but rather I am seeking a robust record with respect to the topics that I identified in my December 16, 2022, letter. The report will be the result of the USITC's independent research and analysis after soliciting information through a public hearing, submission, and other means.

Question 4b

Do you expect the USITC report to analyze the current and projected availability and demand of COVID-19 diagnostics and therapeutics? If so, how will this factor into any Ministerial Decision by USTR?

Answer: I also asked the USITC that its investigation provide an overview of demand for relevant COVID-19 diagnostics and therapeutics, including key demand factors, an assessment of where unmet demand exists, supply accumulation and distribution, and the impact of the relationship between testing and demand for treatment, if any exists.

I expect that the USITC will transmit the report to USTR on October 17, 2023. USTR will take into account the USITC report, the information solicited by the USITC, and other information gathered through consultations with Congress, as well as a wide range of other stakeholders, to inform our position on whether or not to extend the Ministerial Decision on the TRIPS

Agreement that covered COVID-19 vaccines to also cover COVID-19 diagnostics and therapeutics.

Question 4c

Can you please explain the number of countries and how they have taken advantage of the TRIPS vaccine waiver since its agreement at the WTO?

Answer: USTR is not aware of any countries that have adopted any measure related to the implementation of the Ministerial Decision.

Question 4d

Can you please describe how the USITC report will analyze the impacts on intellectual property and jobs?

Answer: In my December 16, 2022, letter, I also asked the USITC to solicit information on issues such as the relationship between intellectual property protection and corporate research and development expenditures, as well as the location of jobs associated with the manufacturing of diagnostics and therapeutics.

Question 4e

Please explain if USTR has considered any alternatives to another TRIPS waiver to achieve the stated goals being asked by those at the WTO.

Answer: As part of the Biden Administration's comprehensive effort to combat the COVID-19 pandemic, the United States supported negotiations that resulted in the WTO Ministerial Decisions on the TRIPS Agreement. I understand the importance of a potential extension of the Ministerial Decision, and I am committed to closely and carefully weighing the many factors at play in this Decision. As part of our domestic consultations on whether to extend the Ministerial Decision to cover the production and supply of COVID-19 diagnostics and therapeutics, we are inquiring about other initiatives to increase equitable global access to safe and effective tests, treatments, and other critical products to respond to COVID-19. My staff and I are also analyzing a comprehensive range of public economic and public health data points. Throughout our engagement on this issue, USTR has regularly consulted with a broad range of stakeholders to gather a wide range of data on this issue, including labor organizations, public health experts both inside and outside of the government, and relevant members of the private sector, including pharmaceutical manufactures. These consultations are ongoing. We intend to consider all of the information provided during this process.

Question 5

Maintaining the integrity of U.S. trade agreements is important. This is especially true for the textile and apparel product-specific rules of origin included in the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). Can you please describe the importance of maintaining the yarn forward rule of origin our trade agreements, including the impacts to our domestic industry and regional allies? Please also include the impacts to bypassing the existing short supply petition and review system and how it could result in non-signatory nations gaining a backdoor entrance to our trade agreement benefits.

Answer: The Administration remains committed to the strong yarn-forward rules of origin for apparel under the CAFTA-DR which support a regionally integrated supply chain between U.S. suppliers of yarns and fabrics, the apparel producers in the region, and U.S. buyers of apparel. The certainty provided by the rules has created a favorable environment for additional long-term capital-intensive investments in the region which will ultimately improve competitiveness and further strengthen the overall supply chain. As these upstream investments in yarn and fabric production, and finishing operations, come online, the region's apparel manufacturers will be better equipped to agilely and efficiently pivot in response to the changing needs of their customers, and thereby strengthen the region's competitiveness vis-à-vis Asian apparel suppliers. The CAFTA-DR so-called "short supply" procedures provide an important stop gap for the lack of availability of certain material inputs required to be of CAFTA-DR origin in order to meet the rules of origin but not available from textile suppliers in the region. The interagency Committee for the Implementation of Textile Agreements (CITA) oversees the administration of a transparent petition and review process by which seekers of the inputs may request the addition of that material input to the short supply list. Materials on the short supply list may be of any origin when used in production of apparel in the CAFTA-DR countries and still receive duty-free benefits.

An integral procedural step of the short supply petition process involves the due diligence by the petitioner to demonstrate outreach to regional textile producers in order to find the desired material. This valuable step is intended to ensure petitioners connect to potentially unknown CAFTA-DR suppliers resulting in new business relationships within the regional supply chain. Short supply is an important flexibility to the yarn-forward rules without sacrificing the principle that the beneficiaries of the CAFTA-DR rules for apparel should be primarily suppliers and producers within the supply chains located in the CAFTA-DR partner countries.

Question 6

It is encouraging that trade officials have raised concerns with Canadian counterparts with pending proposals to extract payments from digital firms based in the United States. What additional steps are you planning to take to enforce United States companies' ability to trade fairly with Canada consistent with obligations in our trade agreements?

Answer: We will continue to closely monitor Canada's digital policies and we will continue to monitor Canada's compliance with our trade agreements.

Question 7

The WTO dispute settlement panel decisions continue to raise serious concerns. The WTO panel decision regarding Section 232 steel and aluminum tariffs is a prime example of how the WTO has continued to infringe on our sovereignty. Can you please further explain the strategy of the United States continuing to block the appointment of new WTO Appellate Body members until adequate reforms at the WTO are achieved. Please include any work USTR is doing to offset impacts of decisions by the WTO to ensure the Administration has the appropriate authority to determine national security. How else can the United States ensure that necessary reforms at the WTO are achieved?

Answer: The Biden-Harris Administration shares the longstanding, bipartisan concerns expressed by Congress about the WTO's Appellate Body, which include overreach in the Body's substantive interpretations, as well as its repeated failure to follow rules established by WTO Members. The Appellate Body's overreach has also shielded China's non-market practices and undermined our ability to protect U.S. workers and businesses, and reforming the WTO dispute settlement system to address these issues is a top priority. In addition, I have been clear that the United States will not cede decision-making over national security to WTO panels or the Appellate Body. As you know, the Biden-Harris Administration remains committed to preserving U.S. national security including by protecting human rights and democracy across the globe.

Ultimately, the WTO must undertake fundamental reform if the dispute settlement system is to be viable and credible. During my time as the U.S. Trade Representative, I have ensured that WTO Members are aware of the longstanding U.S. concerns regarding the dispute settlement system and the fact that those concerns remain unaddressed. Fundamental reform is needed to address our longstanding concerns; restoration of the previous dysfunctional system is not an option.

Question 8

Please describe what actions is USTR taking to address the near-term issue of global excess steel capacity and support American manufacturers. What is USTR doing to address the how Asian steel producers receive substantial non-viable capacity support from entities outside of Asia?

In May 2019, the United States lifted its Section 232 tariffs on Mexican steel imports as part of an agreement in which the duties may be reimposed if imports "surge meaningfully beyond historic volumes." Compared to the 2015-2017 period, American steel imports from Mexico in 2022 increased by more than 1.6 million metric tons or by approximately 72%. Increases have occurred across many major product lines. For example, Mexican rebar imports were more than 32 times greater by volume in 2022 than their 2015-2017 annual average. Given the increase in Mexican steel imports, especially rebar imports, please describe how is USTR going to hold Mexico accountable to its Section 232 agreement commitments. Please include an explanation if the Administration will ask Mexico to reinstate an export monitoring regime or if USTR will consider other actions to protect American manufacturers from surges of Mexican steel imports generally, and rebar specifically.

Answer: Global excess steel capacity is increasing and remains a serious concern. As the OECD recently reported, global excess capacity increased by 115 million metric tons between 2021 and 2022. An additional 166 million metric tons of global capacity are expected to come online by 2025, the vast majority of which will come from Asia and the Middle East. Coincidentally, many of these capacity additions will be made by the highest emitting steel producers in the world.

I have instructed my staff to work closely with the U.S. Department of Commerce to ensure that Mexico abides by the terms of the 2019 Joint Statement by the United States and Mexico on Section 232 Duties on Steel and Aluminum. The USTR and Commerce teams engaged the Government of Mexico on this issue over the past several weeks. Mexico has been receptive to this engagement and acknowledged the terms of the 2019 Joint Statement, particularly with

regards to export surges. The U.S. and Mexican technical teams are in the process of exchanging relevant information and USTR and Commerce hope to make progress on this issue in the coming weeks.

Rep. Linda Sanchez

Question 1

The United States Trade Representative's (USTR) 2023 National Trade Estimate (NTE) Report on Foreign Trade Barriers was published on March 1, 2023. In the NTE report, USTR acknowledged the challenges new market newcomers face in the Mexican telecommunications sector due to persistent and excessive market concentration by one dominant national supplier. USTR also raised significant concerns regarding Mexico's continued compliance with USMCA obligations regarding telecommunications services. U.S. telecommunications providers have invested billions since 2015 in Mexico without a return on investment due to these existing barriers to competition. Has USTR addressed these concerns? If not, does USTR intend to address them under USMCA?

Answer: The United States achieved major outcomes in the USMCA telecommunications chapter, with new rules to promote effective competition in the sector, provide reasonable access to the networks of other suppliers, and ensure that regulation of the sector is independent, impartial, and transparent. The chapter also includes a commitment by Mexico to ensure that its telecommunications regulator acts in a manner consistent with recent reforms in Mexico. Since entry into force, USTR has engaged extensively with Mexico's Secretariat of Economy, and also directly with Mexico's telecommunications regulator, to ensure that effective competition is established in Mexico's telecommunications market.

Question 2

iRobot is a leading U.S. consumer robotics company with a presence in California. Issues with the administration of section 301 tariffs continues to adversely affect companies like iRobot and their ability to compete globally. Exclusions granted by USTR based on the Harmonized Tariff Schedule (HTS) often inadvertently benefit foreign and Chinese competitors who take advantage of the meritorious applications of American companies working to diversify their supply chains. Currently, the Department of Commerce administers company-specific exclusions under Section 232. If USTR were to initiate an exclusion process for Chinese products subject to Section 301 tariffs, could USTR develop an exclusion process that identifies specific criteria for obtaining a company-specific exclusion, such as moving significant US-bound production out of China?

Answer: As part of the statutory four-year review, USTR is considering the overall structure of the tariffs and will continue to consider whether additional exclusion processes may be appropriate. Exclusions under Section 301 were intended to be temporary with the purpose of giving U.S. importers the opportunity and incentive to move supply chains outside of China. One of the primary factors considered in granting exclusions was the general availability of the product outside of China. Unlike the Section 232 exclusion process, all importers faced the same general availability of products outside of China. Thus, to avoid giving a tariff advantage to

certain importers, granted exclusions were available to all products meeting the scope of the exclusion.

Question 3

Why are optical products, specifically spectacle frames, lenses, prescription glasses, nonprescription sunglasses and reading glasses, all of which are medical devices regulated by the FDA, treated differently than other widely and commonly used medical devices, such as hearing aids, dentures & artificial teeth, crutches, walkers, and wheelchairs? The latter were never subject to Section 301 duties, while all eyewear products were included on List 4a.

Answer: Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products, should be subject to additional duties. As part of the public comment process, USTR sought comments on whether certain tariff headings should remain covered by the actions or removed. All comments submitted as part of the public comment process will be reviewed and given full consideration.

Question 4

There have been discussions by industry, including apparel groups to modify CAFTA-DR's specific rules of origin, specifically the short supply list. Several of these groups have joined the Biden Administration's "Central America Forward," an initiative working to address root causes of migration. Can you speak to the investment-based structure that governs the current short supply list process and its effect as an economic driver for American and regional suppliers and manufacturers?

Answer: The procedures which govern the CAFTA-DR "short supply" process, administered by the interagency Committee for the Implementation of Textile Agreements (CITA), provide a step-by-step transparent way by which interested parties may seek the limited use of non-CAFTA-DR materials in the production of apparel provided the material is not available from any regional suppliers. An important step in this process is the due diligence of outreach to prospective regional suppliers of the material input to either confirm it is not available, or to connect the seeker with a new but previously unknown supplier within the CAFTA-DR region. Additionally, the Administration remains committed to the yarn-forward rules of origin for apparel under CAFTA-DR, designed to ensure that the apparel supply chain from yarn to fabric to the making of apparel creates jobs and stimulates business for firms within the partner countries. The certainty provided by these unchanging rules, in turn, creates incentives for longer-term capital-intensive investments in the region which further strengthen the overall supply chain. The Administration's "Central America Forward" initiative highlights a selection of these new commitments.

Question 5

Over the past few months, advocacy groups and U.S. companies have raised concerns regarding digital trade terms in the Indo-Pacific Economic Framework (IPEF). These concerns hinge on a potential undermining of domestic policies on intellectual property, consumer privacy, data security, worker rights, civil rights, algorithm justice, and competition in the global digital economy.

The World Intellectual Property Organization (WIPO) Digital Treaties are foundational treaties that provide important protections required to enable digital trade of copyrighted materials, including protections for the encryption technologies that underpin business models that have allowed digital trade to flourish. As part of the IPEF digital trade chapter, are you requiring IPEF partners to join and fully implement the WIPO Digital Treaties?

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

Question 6

As a Representative from Southern California, I recognize that core copyright industries are major drivers of the U.S. economy. Core copyright industries today account for over half of all value-added and close to half of all employment in the American digital economy. The sector creates millions of good-paying union jobs. Why has the Administration decided to exclude key copyright policies related to the digital economy in our digital trade negotiations in IPEF?

Answer: We recognize that copyright industries are a key driver of employment and economic activity. We worked with IPEF partners to develop the scope for Trade Pillar negotiations, and focused on topics that would enhance our resilient, sustainable, and inclusive trade. We look forward to continuing discussions with you and your team on other ways that we can advance intellectual property protections, including through bilateral engagement with trading partners.

Question 7

The lack of national treatment abroad denies American sound recording performers and copyright owners close to \$300 million annually. How does USTR seek to rectify this imbalance and ensure that American creators are treated in a non-discriminatory way and given access to the same rights that local performers and sound recording copyright owners enjoy?

Answer: We share the concerns you raise regarding the treatment of U.S. performers and producers in a number of foreign markets. This is an issue that is highlighted in the 2023 Special 301 Report, where we state that the collection and distribution of royalties to U.S. and other right holders should be carried out on a national treatment basis. We will continue to press our trading partners to provide national treatment for copyright and related rights to ensure fairness for U.S. performers and producers in foreign markets.

Question 8

The Communication Workers of America recently briefed my office regarding their recent neutrality agreement with Microsoft that has allowed one current Microsoft gaming subsidiary to unionize and would allow Activision Blizzard employees to unionize if the proposed Microsoft-

Activision deal is finalized. This is important for workers because the video game industry is a major source of jobs and growth, particularly in California.

Unfortunately, U.S. gaming companies do not always find a level playing field when they expand to foreign markets. For example, the Communication Workers of America and Microsoft have raised with me that Japan has allowed Sony, which controls a monopoly of 98 percent of the high-end market in Japan, to engage in anticompetitive conduct through exclusive deals and payments to game publishers not to distribute their games on other platforms.

Ambassador Tai, I applaud you for being a champion for workers and reorganizing U.S. trade policy to be “worker centric.” You have ensured that labor has a seat at the table and its input is reflected in everything USTR does. Concerns regarding labor issues and opportunities to unionize in the global gaming market has been raised with my staff.

Will you investigate these concerns so that U.S. workers and U.S. companies can compete fairly?

Answer: A core element of a worker-centered trade policy is ensuring that workers enjoy the right to organize and bargain collectively. We will continue to raise concerns with our trade partners on issues that may have a negative impact on our workers. In our 2023 National Trade Estimate report on foreign barriers, we noted that “U.S. unions and companies have expressed concern with regard to the enforcement of Japan’s existing competition laws in digital market and technology sectors in which Japanese companies are significant participants.” We have encouraged companies to also raise these concerns directly with the Government of Japan, in particular the Japan Fair Trade Commission.

Rep. Brad Schneider

Question 1

Last year, the World Trade Organization adopted a five-year waiver of intellectual property protections for COVID-19 vaccine patents, previously secured under the Trade-Related Aspects of Intellectual Property Rights (TRIPS). On December 6, 2022, USTR announced that it would ask the International Trade Commission (ITC) to launch an investigation into the effects of expanding the TRIPS waiver to COVID-19 diagnostics and therapeutics. A comprehensive study must include not only an evaluation of the need for such a waiver, but also the impact of a waiver on U.S. industry. I, therefore, have the following questions for Ambassador Tai:

Have you asked or, if not, will you ask the ITC to consider the potential impact of a TRIPS waiver expansion on the American manufacturing industry and future R&D investment in vaccines, therapeutics, and diagnostics, including those unrelated to COVID-19?

Answer: I asked the U.S. International Trade Commission (USITC) to launch an investigation into COVID-19 diagnostics and therapeutics and to solicit information on issues such as the relationship between intellectual property protection and corporate research and development expenditures, as well as the location of jobs associated with the manufacturing of diagnostics and therapeutics. I also asked the USITC to identify and define the universe of existing COVID-19

diagnostics and therapeutics covered by patents as well as COVID-19 diagnostics and therapeutics in development.

The report will be the result of the USITC's independent research and analysis after soliciting information through a public hearing, submission, and other means.

Question 2

How, and to what extent, can you ensure the ITC considers whether potential adverse impacts on American industry is outweighed by the potential benefit of expanding the waiver to diagnostics and therapeutics?

Answer: I am not asking the USITC to draw any policy conclusions, but rather I am seeking a robust record with respect to the topics that I identified in my December 16, 2022, letter. USTR will take into account the USITC report, the information solicited by the USITC, and other information gathered through consultations with Congress, as well as a wide range of other stakeholders, to inform our position on whether or not to extend the Ministerial Decision on the TRIPS Agreement that covered COVID-19 vaccines to also cover COVID-19 diagnostics and therapeutics.

Question 3

The outgoing head of Gavi, The Vaccine Alliance, said that IP was not a real barrier to vaccine deployment, but rather that export bans and other restrictions have made it harder to get vaccines into high-need countries. How, and to what extent, can you ensure the ITC investigation will examine these various barriers? Do you think the ITC will, or even can, make recommendations to eliminate or reduce those barriers?

Answer: The USITC investigation I requested is about therapeutics and diagnostics, not vaccines. I asked the USITC to provide an overview of demand, including key demand factors, an assessment of where unmet demand exists, supply accumulation and distribution, and the impact of the relationship between testing and demand for treatment, if any exists for diagnostics and therapeutics. Certain market access barriers can impact demand, and those that gave public testimony and submitted written comments to the USITC as part of this investigation have already provided significant information and views for the USITC to take into account.

I am not asking the USITC to draw any policy conclusions, but rather I am seeking a robust record with respect to the topics that I identified in my December 16, 2022, letter. We expect that the USITC will transmit the report to USTR on October 17, 2023. USTR will continue to consult with Congress, as well as a wide range of stakeholders, as we continue to gather the necessary facts to inform our position on whether or not to extend the Ministerial Decision on the TRIPS Agreement that covered COVID-19 vaccines to also cover COVID-19 diagnostics and therapeutics.

Question 4

High-need countries have also faced distribution challenges obtaining COVID therapeutics brought on by workforce limitations, lack of public awareness, and limited health care

infrastructure. How, and to what extent, can you ensure the ITC report will address these factors in relation to a potential waiver expansion?

Answer: As noted above, certain factors can impact demand, and those that gave public testimony and submitted written comments to the USITC as part of this investigation have already provided significant information and views for the USITC to take into account.

I am not asking the USITC to draw any policy conclusions, but rather I am seeking a robust record with respect to the topics that I identified in my December 16, 2022, letter. We expect that the USITC will transmit the report to USTR on October 17, 2023. USTR will continue to consult with Congress, as well as a wide range of stakeholders, as we continue to gather the necessary facts to inform our position on whether or not to extend the Ministerial Decision on the TRIPS Agreement that covered COVID-19 vaccines to also cover COVID-19 diagnostics and therapeutics.

Rep. Michelle Steel

Question 1

For years, the EU has granted large agriculture subsidies to its favored farm sectors, including Spanish olives. Further, the EU has tried to block the US antidumping (AD) and countervailing (CVD) duties on ripe olives at the WTO while claiming their subsidies are not actionable under US trade remedy laws. Although USTR and the Department of Commerce have correctly shown how the US olive orders are required by US law and have been brought into full compliance with the WTO olive ruling, the European Commission continues to shield its protectionist subsidy schemes from further review. Will the Administration continue its strong enforcement in this case, which is needed to safeguard the US industry and American agriculture?

Answer: As you note, the AD and CVD orders on imports of ripe olives from Spain remain in place. Furthermore, the U.S. Department of Commerce's redetermination under section 129 of the Uruguay Round Agreements Act brought the challenged CVD measure into full compliance with the WTO panel's recommendations. We have made that position clear in statements before the WTO Dispute Settlement Body and bilaterally with the European Union, and will continue to do so as needed.

Question 2

There are several family-owned businesses in my district that have been harmed by the Generalized System of Preference program's competitive needs limitation (CNL) rules in recent years. Last Congress, I joined more than 50 bipartisan colleagues in support of updating the CNL thresholds and rules for restoring GSP benefits for individual products. It remains a priority for me as Congress considers GSP reauthorization, especially as we look at ways to better use GSP to help companies find suppliers outside of China. It seems obvious to me that more covered trade equals more leverage, but I would appreciate your opinion as the head of the agency that administers U.S. trade preference programs.

Can kicking high-value products out of GSP reduce countries' incentives to meet the GSP eligibility criteria? Would updated CNL rules – both to keep more products in the program and restore duty-free treatment for non-sensitive items that lost GSP in the past – strengthen your negotiating leverage with GSP beneficiary developing countries as part of the eligibility review process?

Answer: There are several factors that could impact countries' incentives to meet the GSP eligibility criteria and influence negotiating leverage with GSP beneficiary countries, including the overall value of GSP benefits and the role that GSP benefits play in maintaining beneficiaries' competitive advantage.

Question 3

As the United States engages in trade & economic negotiations including the Indo-Pacific Economic Framework (IPEF), I have serious national security concerns as it relates to Chinese soft power on the domestic trade community and within the Indo-Pacific. The Chinese Communist Party (CCP) aims to create an integrated platform for the transmission of logistics data called the National Transportation and Logistics Public Information Platform, branded as LOGINK. Widespread adoption of LOGINK could create economic and strategic risks for the United States and other countries by sharing sensitive data with the CCP. As you work on the trade pillar, are you aware of LOGINK and the adoption of LOGINK by ports around the world? How vulnerable are U.S. companies to LOGINK as it relates to trade with third countries?

Answer: We are aware of the CCP's ambitions to control the flow of logistics information. The risks to US companies and their sensitive and confidential commercial information are real. We are keeping these concerns and risks in mind as we undertake our negotiations in IPEF.

Rep. Greg Stuebe

Question 1

The beverage industry reports that it has paid over \$1.7 billion in Section 232 tariffs, with 93% of that total going to domestic smelters, Canadian smelters, and rolling mills for aluminum that is exempt from the tariff. It is a windfall for those smelters and rolling mills. Is this the Biden Administration's intent with Section 232 tariffs, and if not, what is the Biden Administration doing to address this issue?

Answer

The Section 232 actions were taken in response to the very real threat caused by a problem the United States and other market-oriented economies are facing—the global distortions caused by non-market excess capacity in countries such as China. The Biden-Harris Administration is committed to working with partners to address non-market excess capacity, ensure the long-term viability of our aluminum and steel industries, and strengthen our democratic alliances.

As a practical matter, many imports enter tariff free under exclusions and alternative arrangements reached with South Korea, Canada, Mexico, Australia, the European Union, Japan,

and the United Kingdom. Should you have any questions on the Section 232 exclusions process, I would encourage you to engage Secretary Raimondo on the matter.

Question 2

The International Trade Commission (ITC) recently reported on its in-depth investigation of Section 232 and 301 tariffs. While the report shows that imports decreased because of the tariffs, it is also clear that U.S. businesses paid a high price. There was testimony submitted that U.S. businesses are paying tariffs on metal that is not actually subject to a tariff. Also, the tariffs inhibit investment in U.S. businesses that use aluminum. Is this fair to U.S. businesses, and if so, why?

Answer: The Section 232 actions were taken in response to the very real threat caused by a problem the United States and other market-oriented economies are facing—the global distortions caused by non-market excess capacity in countries such as China. The Biden-Harris Administration is committed to working with partners to address non-market excess capacity, ensure the long-term viability of our aluminum and steel industries, and strengthen our democratic alliances.

As a practical matter, many imports enter tariff free under exclusions and alternative arrangements reached with South Korea, Canada, Mexico, Australia, the European Union, Japan, and the United Kingdom. Should you have any questions on the Section 232 exclusions process, I would encourage you to engage Secretary Raimondo on the matter.

As your question notes, the ITC report also found significant results on imports and domestic production in certain sectors:

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

Rep. Beth Van Duyne

Question 1

I joined the Chairman and a number of my colleagues in Mexico. This was on the heels of incredibly concerning activities by the government encroaching on the rights of private and more

specifically US Business. Vulcan Corp had its deep-water port seized because a Mexican company did not like the terms of a contract negotiation. Can you update us on your trade enforcement efforts responding to incidents when the Mexican government violates USMCA and NAFTA provisions?

Answer: We are aware of this alarming issue and my team has been in touch with company representatives. Ensuring that the USMCA is fully implemented and enforced is one of my top priorities as USTR, and I am committed to ensuring that Mexico - and Canada - provide all the benefits negotiated for our workers, farmers, service providers, and businesses under the Agreement. USTR engages directly with Mexico and Canada every day to enforce the Agreement.

Through diligent use of the USMCA Rapid Response Labor mechanism, we have secured wins for workers at several different facilities, resulting in independent unions winning elections and negotiating new collective bargaining agreements. In July 2022 I requested USMCA Chapter 31 consultations with Mexico regarding certain Mexican energy measures that undermine U.S. companies and U.S.-produced energy, and we are engaging with Mexico on specific and concrete steps it must take to address our concerns. In March USTR requested and held technical consultations with Mexico regarding certain Mexican measures concerning products of agricultural biotechnology. The technical consultations failed to resolve the matter, and accordingly, we initiated dispute settlement consultations with Mexico regarding these measures. With respect to the USMCA Chapter 24 consultations on protection of the vaquita, prevention of illegal fishing, and trafficking of totoaba fish, Senior Representatives met on May 22, and USTR and Mexico have agreed to remain in close communication as discussions on next steps continue.

Question 2

Mexico has enacted a broad range of policies that discriminate against American companies and energy workers in favor of its state-owned companies. I appreciate the work you have done to bring forward a comprehensive USMCA dispute on this matter. Could you update the Committee and the public on where this dispute stands? I have been urging U.S. companies to work closely with you on this matter so that our Government can put its best foot forward and effectively resolve this dispute in a principled way that enforces USMCA across the sector and does not only address the concerns of certain companies.

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

Question 3

China has been aggressively signing trade and economic agreements across the Indo-Pacific, Latin America, and Africa. The result is that countries in these regions are growing more

dependent on Chinese technology companies and supply chains, opening the door for China's authoritarian digital practices to take root, putting U.S. technology companies at a significant competitive disadvantage. This all serves China's broader strategic interests. What are you doing to help America's innovative companies compete against increasingly aggressive and unfair competition from Chinese companies globally?

Answer: The United States is deepening our own economic engagement in the Indo-Pacific, Latin America, and Africa, including through, for example, the Americas Partnership for Economic Prosperity, and the U.S.-Kenya Strategic Trade and Investment Partnership, and we place great value on these engagements and partners. In addition to the Biden Administration's historic investments in American competitiveness and innovation, we have been clear that we will use all appropriate trade tools to defend U.S. workers and businesses from China's harmful, unfair, non-market policies and practices, including through increased cooperation with other market-oriented economies that suffer the same harms. We are also prepared to work with Congress to develop new trade tools if necessary.

Question 4

IPEF represents an opportunity to promote a new vision for digital governance across the Indo-Pacific, a vision that could potentially counter the more discriminatory, protectionism, authoritarian approaches we see coming out of Europe, India, and China. However, I am concerned the digital economy chapter may deviate significantly from USMCA -an agreement that had nearly universal Congressional and stakeholder support. Can you commit to ensuring the digital economy chapter in IPEF, or other frameworks you are working on, continues to meet the high-level standards such as those included in USMCA?

Answer: USTR has worked closely with all stakeholders, including labor unions and civil society groups, to ensure that any digital provisions in IPEF are consistent with advancing a worker-centered trade agenda and will deliver benefits widely to the American public. We also recognize that digital trade is a new and emerging area where we should ensure that we allow Congress and regulators discretion and flexibility to address important public policy issues including competition and privacy. We look forward to continuing to work with Members of Congress and the labor community on these issues.

Question 5

The environment for American companies in India-particularly those in the digital space-continues to deteriorate, as the Indian government pursues policies that could prohibit cross-border data flows, limit participation in the e-commerce space, and discriminatory ex ante regulations for digital markets. India also continues to lead efforts in Geneva to force the expiration of the long-standing moratorium on applying customs duties on electronic transmissions. How can you change the trajectory of our bilateral economic discussions with India when it comes to digital trade issues?

Answer: We recognize that India maintains and is considering digital trade measures that would restrict data transfers between the United States and India and impose undue requirements on U.S. companies operating in India. We continue to raise these issues, such as India's Digital Personal Data Protection Bill, Telecommunications Bill, and Digital India, through the U.S. –

India Trade Policy Forum (TPF), including at the most recent Ministerial meeting in January 2023. We also continue to raise these issues in meetings of the TPF Working Group on Services and have provided specific input on a number of Indian measures. We will continue to closely monitor the development and implementation of India's policies and actions and continually assess our options for further engagement.

Question 6

The WTO moratorium on customs duties on electronic transmissions ("the Moratorium") will be up for renewal again at the 13th WTO Ministerial Conference (MC13) next year, and is expected to face unprecedented hurdles in renewal. India and Indonesia have stated publicly that last year was the last time they would agree to the Moratorium's extension, and Indonesia is putting in place a customs regime for intangible goods in preparation for the Moratorium's expiration. Small businesses that rely on electronic transmissions and digital downloads in order to run their businesses will shoulder the greatest administrative burdens and costs if the Moratorium is not extended. Can you commit to prioritizing the renewal of the Moratorium at MC13?

Answer: The United States continues to support the practice of not imposing customs duties on electronic transmissions. We remain committed to working with other WTO Members to build further support for the extension of the Moratorium, as well as pursuing a robust discussion about the future of the moratorium and the impact of the digital economy on developing members.

Question 7

Ambassador Tai, do you agree that the United States should continue to block the appointment of new WTO Appellate Body members until adequate reforms at the WTO are achieved? If not, how else can the United States ensure that necessary reforms are achieved?

Answer: Yes. The Biden-Harris Administration shares the longstanding, bipartisan concerns expressed by Congress about the WTO's Appellate Body, which include overreach in the Body's substantive interpretations, as well as its repeated failure to follow rules established by WTO Members. The Appellate Body's overreach has also shielded China's non-market practices and undermined our ability to protect U.S. workers and businesses, and reforming the WTO dispute settlement system to address these issues is a top priority. In addition, I have been clear that the United States will not cede decision-making over national security to WTO panels or the Appellate Body. As you know, the Biden-Harris Administration remains committed to preserving U.S. national security including by protecting human rights and democracy across the globe.

Ultimately, the WTO must undertake fundamental reform if the dispute settlement system is to be viable and credible. During my time as the U.S. Trade Representative, I have ensured that WTO Members are aware of the longstanding U.S. concerns regarding the dispute settlement system and the fact that those concerns remain unaddressed. Fundamental reform is needed to address our longstanding concerns; restoration of the previous dysfunctional system is not an option.

Question 8

What is USTR doing to offset the damage caused by erroneous WTO decisions restricting the Administration's enforcement discretion, such as on Section 232 national security determinations, public bodies, and trade remedy enforcement?

Answer: Erroneous interpretations by WTO panels and the Appellate Body have severely undermined the WTO and have shielded China's harmful non-market policies and practices. Most recently we have seen China use the WTO to interfere with WTO Members' responses to national security issues related to China's non-market policies and practices. We have also seen in the past how China sought to use WTO dispute settlement to undermine tools that were meant to address unfair trade. Ensuring our ability to protect U.S. workers and businesses and reforming the WTO dispute settlement system to address these issues is a top priority.

On the question of national security determinations, we believe WTO Members need to clarify and adopt a shared understanding of the essential security exception, and USTR has therefore announced its intention to seek an authoritative interpretation of Article XXI of the GATT 1994, pursuant to Article IX of the WTO Agreement. Addressing erroneous interpretations such as the recent Section 232 national security determinations, public body, benchmarks, and other longstanding concerns are essential to any legitimate reform of the WTO.

Question 9

As USTR has recently announced a critical minerals agreement with Japan, why does this Administration believe that it can consider such a limited agreement to meet the definition of a free trade agreement?

Answer: The question of whether a negotiated agreement is one that qualifies as a "free trade agreement" for purposes of Section 30D of the Internal Revenue Code is a matter that falls within Treasury's purview. On April 17, 2023, Treasury published in the Federal Register a notice of proposed rulemaking setting forth the criteria Treasury proposes to apply in making the determination provided for in section 30D of the Internal Revenue Code as amended by the Inflation Reduction Act that certain countries are countries with which the United States has free trade agreements in effect. We refer you to Treasury's notice, which can be found at: 88 FR 23370 (April 17, 2023), available at [2023-06822.pdf \(govinfo.gov\)](https://www.govinfo.gov/procurement/2023-06822.pdf).

Rep. Brad Wenstrup

Question 1

Amb. Tai, last year, I raised with you the importance of the Administration supporting the U.S. - Haiti trade and economic relationship by working with Congress on an extension of the HOPE/HELP trade preferences legislation. You said that you wanted to work with Congress to "improve" the HOPE/HELP program, but so far, the only proposals have come from me and other members of Congress - we have heard nothing from the Administration.

I want to know where the Biden Administration stands on the issue of HOPE/HELP. Do you support early renewal, before 2025, of this crucial program?

Answer: The Biden-Harris Administration strongly supports extension of the HOPE/HELP trade preferences program for Haiti. USTR has spoken with the Ways & Means Committee regarding reauthorizing the program and looks forward to continuing to work with Congress to extend the program. At this critical time, it is important that producers and investors in Haiti, those they do business with, and the workers upon whom they rely, have certainty about the uninterrupted continuation of the HOPE/HELP program.

Question 2

I believe that we need to confront our serious dependence on supply chains originating from China and work to disentangle these critical supply chains for products that we cannot live without.

Does the administration understand the dangers of our reliance on China for so many goods, especially as they relate to our national security, energy security, and health security?

If so, what concrete steps is the Administration taking to secure our supply chains for products key to our national security, energy security, and health security?

Answer: USTR is fully aware of the need to build more secure, resilient, and sustainable supply chains, especially in the critical sectors noted above. One example of our efforts in this space is the recently concluded Critical Minerals Agreement (CMA) with Japan, which will strengthen supply chains for critical minerals in electric vehicle batteries. Right now, China is dominant across many of those critical minerals supply chains, both in extraction and processing.

The Japan CMA encourages supply chain diversification in at least two ways. First, the Japan CMA creates mechanisms for cooperating with Japan on countering non-market policies and practices, sharing best practices regarding investment reviews, and promoting high labor standards and environmental protections across critical minerals supply chains. These mechanisms will help encourage industry to move toward sourcing from more reliable, sustainable partners. Second, based on the Japan CMA and other elements of the U.S.-Japan trade relationship, Treasury recently identified Japan as a “country with which the United States has a free trade agreement in effect” under the IRA, meaning that critical minerals processed or extracted in Japan can count toward battery sourcing eligibility requirements for purposes of the new clean vehicle tax credit. This creates a new incentive for automakers to use minerals that are processed or extracted in Japan, and, along with the IRA’s foreign entity of concern requirements that are soon to be implemented, thereby will reduce reliance on China over time.

Question 3

Unfortunately, we’ve actually gone backwards in our efforts to encourage companies to move out of China and expand production in countries who are more reliable trading partners. Allowing the Generalized System of Preferences (GSP) to expire for the past two years was a huge, missed opportunity- and that’s a black eye on us here in Congress. There are sectors, such as travel goods, where Section 301 tariffs led to an exodus of trade from China to GSP countries. Then

GSP expired, and imports from China started growing again, as the Wall Street Journal highlighted in their article, "Manufacturers Move Back to China as Renewal of U.S. Trade Deal Is Delayed."

How does the Administration view programs such as GSP in the broader trade goals of diversifying supply chains and moving supply chains out of China?

Are there specific sectors or products that you believe could replicate travel goods' success with support from Congress and the Administration?

Answer: GSP has played an important role, along with other policies and tools, in supporting the diversification of supply chains, including moving supply chains out of China. I am supportive of Congressional efforts to revitalize and reauthorize the GSP program in ways that could further the goals of supply chain diversification and resilience and that are also in line with modern US trade policy practice. I welcome further discussions on Congressional reauthorization.

Question 4

I am concerned that so far, the Administration has offered no clarity on the future of the Section 301 tariffs that were imposed in 2018 and 2019. Over 4 years later, U.S. imports from China are just as high as they were in 2018, and a recent study from the U.S. International Trade Commission indicated that Chinese producers bore little to none of the tariff cost and, instead, U.S. importers paid higher prices. Now that we have those data points, I'd like to offer you this opportunity to clarify the Administration's strategy on China trade.

1. When will USTR complete its statutory four-year review of the tariffs?
2. Once that review is complete, do you intend to remove any of the Section 301 tariffs?
3. What are your views on reopening the Section 301 exclusion process to allow U.S. businesses to make their case that certain imports from China do not pose a threat to national security, are nonstrategic, and inflict disproportionate harm on the U.S. rather than China?

Answer: Two recent studies have offered data points and analysis that are relevant to your question. The Peterson Institute for International Economics (PIIE) estimates that imports from China in 2022 were nearly at the levels reached in 2018. However, the data show that the Section 301 tariffs significantly reduced Chinese imports, and without them, imports from China would have been significantly higher. PIIE estimates that imports of goods under Lists 1, 2, and 3 (subject to 25% duties) have declined by nearly 25 percent since 2018 while imports of goods under List 4B (subject to 7.5% duties) have fallen by 8 percent since 2019. By contrast, imports of Chinese goods **not** subject to Section 301 tariffs increased by 42 percent.

With respect to the USITC report:

- The USITC report estimates at the impact on the prices faced by importers and downstream buyers, which are often businesses rather than consumers. The USITC's model **does not** address whether those businesses raised consumer prices in response to the tariffs.
- The price increases that the report attributes to the tariff actions tend to be **relatively small** on average.

- The report found certain benefits of the tariff actions, including outcomes consistent with the objectives of the investigations. The Section 301 tariffs were estimated to have **reduced the value of U.S. imports of covered products from China**.
- The ITC identified ten industries directly and most affected by the Section 301 tariffs. For all ten industries, the report estimates that Section 301 suppressed the value of imports from China, by as much as 72.3 percent (semiconductors), and **increased the value of U.S. production**, by as much as 7.5 percent (household furniture and kitchen cabinets).

Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties. As part of the public comment process, USTR sought comments on whether certain tariff headings should remain covered by the actions or removed. USTR continues to consider whether additional exclusion processes may be appropriate. USTR expects to complete the four-year review in the fall of this year.

Question 5

Amb. Tai, the recently released National Foreign Trade Estimates Report provides a concerning update on China's volume-based procurement (VBP) policies for high-value medical technology that appear to be expanding and becoming further entrenched in government procurement policy. These policies will discourage U.S. exports to China and hurt U.S. jobs in the vibrant medical technology industry.

Can you provide additional detail on the results of your direct, bilateral conversations with the Chinese government to address their concerning economic practices, specifically VBP and other industrial policies that harm the U.S. medical technology industry?

Answer: USTR is committed to using existing tools to address China's non-market policies and practices, including in the medical devices sector. On multiple occasions, we have raised our concerns with China's volume-based procurement approach to medical devices, including the negative spillover effects it has both on U.S. medical technology companies and competition in the sector globally. We have also been engaging with trading partners that share our concerns regarding China's non-market policies and practices in the medical devices sector.

Question 6a

I'm concerned that the proposed waiver of TRIPS protections for American-made COVID-19 treatments and diagnostics will hand valuable U.S. technologies and IP to China and other foreign adversaries. China claimed that it will not avail itself of the TRIPS waiver for COVID-19 vaccines but has made no such promise with respect to the proposed waiver for treatments and diagnostics.

Will you commit that the Administration will reject any expansion of the TRIPS waiver that includes China as a beneficiary?

Answer: I appreciate your concern and will continue to consult with Congress on this issue. The June 2022 Ministerial Decision on the TRIPS Agreement explicitly authorizes developing countries to avail themselves of the rights set forth in the Decision, countries with existing capacity to manufacture COVID-19 vaccines who have opted out from the Decision, including

China, are not eligible to benefit from this Decision. In the discussions at the WTO, I will continue to be clear-eyed about potential risks.

Question 6b

Does the administration understand how the waiver may be detrimental to future development and innovation?

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

Question 6c

Does the administration understand that there are ways to share needed products without handing over intellectual property?

Answer: As part of the Biden Administration's comprehensive effort to combat the COVID-19 pandemic, the United States supported negotiations that resulted in the WTO Ministerial Decisions on the TRIPS Agreement. I understand the importance of a potential extension of the Ministerial Decision, and I am committed to closely and carefully weighing the many factors at play in this decision. As part of our domestic consultations on whether to extend the Ministerial Decision to cover the production and supply of COVID-19 diagnostics and therapeutics, we are inquiring about other initiatives to increase equitable global access to safe and effective tests, treatments, and other critical products to respond to COVID-19. My staff and I are also analyzing a comprehensive range of public economic and public health data points. Throughout our engagement on this issue, USTR has regularly consulted with a broad range of stakeholders to gather a wide range of data on this issue, including labor organizations, public health experts both inside and outside of the government, and relevant members of the private sector, including pharmaceutical manufacturers. These consultations are ongoing. We intend to consider all of the information provided during this process.

USTR also encourages voluntary licensing and technology transfer agreements on mutually agreed terms to promote greater access to pandemic response products. For example, right holders have entered into voluntary licensing agreements with the Medicines Patent Pool (MPP) to enable sublicenses with generic manufacturers in order to help facilitate broad access to COVID-19 therapeutics in all low-income countries, all or nearly all lower-middle-income countries (depending on the license), and several upper-middle-income countries. In some cases, right holders have entered into voluntary licensing agreements directly with generic manufacturers for COVID-19 therapeutics, including agreements that do not require the generic manufacturers to pay a royalty to the right holder. Additionally, in May 2022, the United States,

through the National Institutes of Health, licensed critical U.S.-owned COVID-19 technologies to the MPP through the COVID-19 Technology Access Pool (C-TAP).

Question 7

In December, you directed the U.S. International Trade Commission to conduct a study regarding the proposed expansion of the TRIPS waiver to COVID-19 therapeutics and diagnostics. However, the request did not ask the Commission to perform any analysis of how an expanded TRIPS waiver would impact the U.S. economy and American jobs.

If American workers are the focus of your trade policy, then why didn't you ask the ITC whether expanding the TRIPS waiver will eliminate American jobs or otherwise harm our economy?

Answer: I asked the U.S. International Trade Commission (USITC) to launch an investigation into COVID-19 diagnostics and therapeutics and to solicit information on issues such as the relationship between intellectual property protection and corporate research and development expenditures, as well as the location of jobs associated with the manufacturing of diagnostics and therapeutics.

I am not asking the USITC to draw any policy conclusions, but rather I am seeking a robust record with respect to the topics that I identified in my December 16, 2022, letter. We expect that the USITC will transmit the report to USTR on October 17, 2023. USTR will continue to consult with Congress, as well as a wide range of stakeholders, as we continue to gather the necessary facts to inform our position on whether or not to extend the Ministerial Decision on the TRIPS Agreement that covered COVID-19 vaccines to also cover COVID-19 diagnostics and therapeutics.

PUBLIC SUBMISSIONS FOR THE RECORD



April 7, 2023

The Honorable Jason Smith
Chairman
House Committee on Ways & Means
Washington, District of Columbia 20515

The Honorable Richard Neal
Ranking Member
House Committee on Ways & Means
Washington, District of Columbia 20515

Dear Chairman Smith and Ranking Member Neal,

As you examine the Biden Administration's trade agenda for 2023, we urge you to ensure that the United States Trade Representative (USTR) prioritizes American sovereignty with respect to patent rights. As the leading trade group representing small mobile app and connected device companies across the globe, ACT | The App Association (the App Association) has a keen interest in ensuring our member companies and similarly situated firms benefit from a strong patent system here in the United States. Our members are part of a global app economy that supports 5.9 million jobs in the United States and is worth \$1.7 trillion globally. They innovate on top of foundational technical standards like WiFi and 5G to bring our smart devices to life. We urge the Committee on Ways and Means (Committee) to ensure that diplomatic relations strengthen our domestic interests in global standards by maintaining U.S. sovereignty to adjudicate disputes involving standard-essential patent (SEP).

With increasing frequency, certain patent licensors are asking foreign courts to assess liability and royalty terms for alleged use of U.S. patents, as well as manufacturing and sales in the United States, without the voluntary consent of the alleged infringer. This happens primarily in the context of SEPs, particularly in connection with wireless communication standards such as 4G/LTE, 5G, and Wi-Fi, which are crucial to the development of IoT devices and other innovative technologies. The result is that American businesses (and, ultimately, American consumers) must pay foreign-set patent royalty rates when they make, sell, or buy products **in the United States**.

The Committee should ensure that USTR takes a nuanced position on anti-suit injunctions (ASIs), particularly as it relates to the European Union's (EU's) recently filed request for dispute settlement at the World Trade Organization (WTO) against the People's Republic of China (China). While the global community has expressed a strong concern about Chinese courts' use of ASIs to obstruct transparent and fair judicial process,¹ we strongly encourage the Committee to distinguish this procedural posture as a country-specific possibility separate from the determination to issue ASIs *per se*. A blanket condemnation of ASIs would be detrimental to U.S. companies, U.S. consumers, and ultimately U.S. interests more broadly.

An ASI, when properly exercised, can be an essential instrument for preserving a court's jurisdiction by prohibiting a party in litigation from pursuing foreign parallel proceedings on the same dispute. The use of ASIs in litigation has been a long-standing practice of U.S. courts in many areas of the law, including in cases involving SEPs.² U.S. case law demonstrates that

¹ OFF. OF THE U.S. TRADE REPRESENTATIVE 2021 SPECIAL 301 REPORT 47 (2021) ("[r]ight holders have...expressed strong concerns about the emerging practice in Chinese courts of issuing [ASIs] in [SEP] disputes, reportedly without notice or opportunity to participate in the injunction proceedings for all parties.")

² Peter K. Yu, George L. Contreras, and Yu Yang, *Transplanting Anti-suit Injunctions*, 71 AM. U.L. REV. 1537, 21 n. 121 (2022), <https://aulexreview.org/blog/transplanting-anti-suit-injunctions/>.

ASIs can be appropriate on a case-by-case basis and under a carefully balanced legal test.³ For example, in *Microsoft v. Motorola*, a federal district court issued an ASI to prevent Motorola from pursuing injunctive relief against Microsoft in Germany after Microsoft filed a breach of contract claim case against Motorola in the United States and agreed to pay a fair, reasonable, and non-discriminatory (FRAND) royalty determined by the court for Motorola's portfolio.⁴ Therefore, the issuance of an ASI by the court of any one country is not evidence of the country's unwillingness to provide adequate and effective protection of intellectual property rights.

The recent issuance of ASIs by Chinese courts is largely a response to attempts by courts in the EU and the UK that attempt to assert jurisdiction over disputes involving Chinese patents. A prime example of this overreaching jurisprudence is *Unwired Planet International Ltd v. Huawei Technologies Co. Ltd* (SCUK 2020), where the U.K. Supreme Court approved the issuance of injunctions barring defendants from participating in the U.K. market unless they agreed to court-determined *global* portfolio SEP licenses, which included U.S. patents.⁵ German courts, too, have issued injunctions against defendants in disputes involving global portfolio SEP licenses;⁶ they have also issued "anti-anti-suit" injunctions prohibiting litigants from petitioning U.S. courts for ASIs.⁷ The recent ASIs in China were a direct response to these developments, and U.S. courts have granted ASIs to address similar interference with U.S. lawsuits.⁸

As described above, such foreign rate-setting is not simply an exercise in local courts awarding injunctive relief for infringement of patents issued in their jurisdiction. While it might potentially be appropriate for a foreign court to condition injunctive relief on the defendant's payment for a license to a portfolio of patents issued *within* that jurisdiction, as applied to manufacturing and sales in that jurisdiction, that is not what is happening in these foreign proceedings. Instead, at the express request of patent owners, foreign courts are giving the defendant a choice between (1) market exclusion within the relevant jurisdiction (potentially leading to hundreds of millions or billions of dollars in lost revenue), or (2) entering into a global license that would include U.S. patents, and cover U.S. manufacturing and sales, at rates approved and thereby effectively set by the foreign court. For reasonable business owners, that is no choice at all.

In sum, we urge the Committee to ensure that USTR has the tools and political backing to:

- take a nuanced position on ASIs that acknowledges they are often a means of defending against inappropriate injunctions involving U.S. patents issued by foreign courts;
- prevent businesses operating in the U.S. from being excluded from foreign markets as the result of foreign adjudication of matters related to the use of U.S. patents;

³ See *Microsoft v. Motorola*, 696 F.3d 872 (9th Cir. 2012).

⁴ *Id.*

⁵ *Unwired Planet International Ltd v. Huawei Technologies Co. Ltd* (SCUK 2020).

⁶ See *Huawei Technologies Co. v. ZTE Deutschland GmbH* (CJEU 2015); see *Sisvel International S.A. v. Haier Deutschland GmbH* (FCJ 2020).

⁷ See *Munich H. Regional Ct., Continental Automotive Systems, Inc. v. Avanci LLC*, Case Nos. 21 O 9333/19.

⁸ *Microsoft Corp v Motorola Inc*, 871 F. Supp. 2d 1089 (W.D. Washington 2012); *Huawei Technologies Co Ltd v Samsung Elecs Co Ltd*, Case No 3:16-cv-02787 (N.D. California 2018); *TCL Comm Tech Holdings Ltd v Telefonaktiebolaget LM Ericsson*, Case No 8:14-cv-00341 (C.D. California 2017).



The App Association

- maintain exclusive U.S. jurisdiction over U.S. patent law (at least absent the alleged infringer's voluntary consent to a foreign rate-setting for U.S. patents);
- preserve the role and significance of the U.S. Patent Office and the patents issued therefrom, rather than permitting PTO-issued patents to become subjugated to foreign counterpart patents; *and*
- uphold the role of the U.S. courts as the essential venue for resolution of disputes regarding alleged liability for infringement of U.S. patents, and the assessment of any related royalties.

Thank you for considering our views on this important matter. We look forward to working with you to improve and advance the United States' 2023 trade agenda.

Sincerely,

A handwritten signature in black ink that reads "Morgan Reed". The signature is fluid and cursive, written over a light grey rectangular background.

Morgan Reed
President
ACT | The App Association



March 27, 2023

The Honorable Jason Smith
Chair, Ways and Means Committee
United States House of Representatives
1139 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member, Ways and Means Committee
United States House of Representatives
1129 Longworth House Office Building
Washington, DC 20515

Re: Hearing on the Biden Administration's Trade Policy 2023 with United States Trade Representative, Ambassador Tai on March 24 from American Coatings Association, Inc. (Heidi K. McAuliffe, Vice President of Government Affairs)

Dear Chairman Smith and Ranking Member Neal:

As you evaluate U.S. Trade Representative, Ambassador Tai's testimony on the Administration's 2023 Trade Policy, the American Coatings Association (ACA) and the more than 315,000 employees in the paint and coatings industry, urge you to include the "Miscellaneous Tariff Bill" (MTB) package in the next legislative vehicle for passage. The MTB process has stalled too long and ACA urges Congress to take legislative action on the MTB package as soon as possible.

As you may know, ACA is the premier trade association dedicated to advancing the interests of the coatings industry and represents paint and coatings manufacturers, suppliers, distributors, and technical professionals. Many of today's paints and

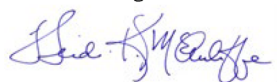
coatings may go unnoticed by the consumer, but they play immeasurably valuable roles in delivering high-quality foodstuffs, durable goods, housing, furniture and thousands of other products to market.

As you know, the MTB will temporarily eliminate and reduce border taxes on a set of products that have been found through a transparent and rigorous process at the United States International Trade Commission (USITC) not to be produced at all or in sufficient capacity in the United States. Many raw materials used in paint and coatings formulas are produced solely outside of the United States. Without passage of the MTB, American consumers will pay directly and/or indirectly hundreds of millions of dollars each year in government-imposed import taxes on products not made or available in the United States, including those needed by the paint industry.

Based on analyses by the National Association of Manufacturers, the MTB would eliminate import tariffs of more than \$1.5 billion over three years (with full retroactivity to January 2021), bolstering manufacturers and other businesses in the United States, especially small and medium-sized manufacturers. This tariff relief translates into U.S. economic growth: According to the U.S. International Trade Commission, tariff relief under the previous MTB boosted U.S. GDP annually by as much as \$3.3 billion and output annually by as much as \$6.3 billion.

Thank you in advance for your consideration of this request. Should you or your staff have any questions or require additional information, do not hesitate to contact me at hmcauliffe@paint.org.

With Kind Regards,

A handwritten signature in blue ink, reading "Heidi K. McAuliffe", enclosed in a thin blue rectangular border.

Heidi K. McAuliffe
Vice President, Government Affairs



**Statement of the
American Farm Bureau Federation**

TO THE HOUSE COMMITTEE ON WAYS AND MEANS

**Hearing on the Biden Administration's 2023 Trade Policy Agenda
March 24, 2023**

**Presented By:
American Farm Bureau Federation
600 Maryland Avenue, SW
Suite 1000 W
Washington, DC 20024**

The American Farm Bureau Federation, the nation's largest general farm organization, submits this statement for the House Committee on Ways and Means hearing on the Biden Administration's 2023 trade policy agenda. Trade is critically important to the current welfare and future prosperity of U.S. farmers and ranchers. America's farmers and ranchers depend on growing and stable export markets for the success of their businesses.

President's Trade Agenda for 2023

The Administration's approach on trade includes pursuing the Indo-Pacific Economic Framework; reducing trade barriers with Taiwan and Kenya; supporting agriculture; reducing trade barriers; promoting sustainable environmental practices; focusing on supply chain improvements; and promoting stability.

The Indo-Pacific Economic Framework (IPEF) was introduced as a part of the overall Indo-Pacific Strategy. It is a strong start to improve relationships and reach agreements with the region's countries. It should also be used to reach science-based standards that will assist exports. The inclusion of sanitary and phytosanitary (SPS) standards will reduce barriers and expand opportunities for our agricultural exports.

The IPEF can be significantly improved. It should include a strategy of expanding market access for agriculture by working to reduce tariff barriers. The Administration is also not proposing a reauthorization of Trade Promotion Authority nor a commitment to pursuing trade negotiations with binding and enforceable commitments. Farm Bureau supports trade agreements in the region as the most durable and effective means to improve market opportunities for farmers and ranchers.

The U.S.-Taiwan Initiative on 21st Century Trade was launched in 2022. For agriculture, this effort needs to resolve standards barriers by Taiwan that restrict U.S. exports. In 2022, \$4.2 billion in agricultural products were exported to Taiwan.

Indo-Pacific Region Agricultural Trade

Current agreements in the region show the importance of moving forward with additional efforts to improve opportunities for U.S. agricultural exports.

U.S.-China

The U.S.-China Phase 1 Agreement resulted in improved agricultural trade and progress in the removal of barriers that impact the competitiveness of U.S. products in this market. In the Phase 1 Agreement, China committed to increase purchases of U.S. agricultural products.

While the purchase commitment has ended, the outlook for Chinese purchases of soybeans, corn, wheat, sorghum, beef, pork, and other products remains strong. China bought \$36 billion of U.S. agricultural products in 2022.

China has also been addressing the commitments they made to improve and reform many standards in the Agreement. Long-standing barriers to the export of U.S. beef, pork, poultry, and other products have been or are being resolved, pursuant to the Agreement. As these barriers go down, the opportunity for increased U.S. commodity sales improves.

An ongoing trade relationship with China is critical for U.S. farmers and ranchers.

U.S.-South Korea

The U.S.-South Korea Free Trade Agreement (KORUS) entered in force on March 25, 2012. The agreement eliminated or reduced tariff and non-tariff barriers on agricultural and other products. U.S. agricultural exports to South Korea reached an all-time high in 2022 at \$9.5 billion.

U.S.-Japan

The U.S.-Japan Trade Agreement went into effect on Jan. 1, 2020. The tariffs applied to U.S. products are now the same as those applied to the products of the other countries with a trade agreement with Japan. Tariffs are being reduced or eliminated on a variety of U.S. agricultural exports to Japan. The U.S. and Japan should continue talks on the remaining issues, such as SPS rules, which would help lead to a comprehensive FTA between the U.S. and Japan. The agreement on the operation of Japan's beef safeguard mechanism will help increase sales of U.S. beef products.

U.S. agricultural exports to Japan were over \$15 billion in 2022.

USMCA

The U.S.-Mexico -Canada Agreement is important for the continuation and improvement of trade among the nations of North America. Canada (\$28.3 billion) and Mexico (\$28 billion) are the second and third largest export markets for U.S. agriculture. The implementation and enforcement of this Agreement will yield future growth for our exports.

Issues between the U.S. and Canada on dairy imports, and between the U.S. and Mexico on biotech corn, are currently in the dispute settlement system.

U.S.-United Kingdom

The U.S. and the United Kingdom (UK) reached an agreement to resolve the steel tariffs dispute between the two countries. This agreement removed the retaliatory tariffs on U.S. agricultural products placed by the UK after the U.S. placed tariffs on UK steel and aluminum.

We support a resumption of trade negotiations between the U.S. and the UK to deal with non-science-based barriers to our agricultural exports.

Trade Promotion Authority

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Trade Promotion Authority) ended on July 1, 2021. Farm Bureau recognizes the crucial importance of Trade Promotion Authority and supports its reauthorization. The negotiating objectives set by Congress, the consultation requirements of the Administration with Congress and the voting procedures established under TPA are important to the successful negotiation and conclusion of trade discussions.

World Trade Organization

The Biden Administration will need to deal with various WTO reform issues such as the operation of the Appellate Body. For agriculture, we support working toward increased transparency through an improved notifications process. We do not support discussion of subsidy levels without a full discussion of market access initiatives.

Sustainability

U.S. farmers and ranchers look to be partners in addressing the challenges of our changing climate. Not only are agriculture's emissions low, American farmers and

ranchers are taking active steps to make their footprint even smaller. This is best accomplished through policies that provide voluntary, incentive-based tools for farmers, ranchers, and forest owners to maximize the sequestration of carbon. This approach will also help achieve a reduction in greenhouse gas emissions; increase the resilience of the land; advance science-based outcomes and help rural economies adapt.

Conclusion

U.S. farmers and ranchers rely on export markets for over twenty percent of agricultural production. As Congress considers future discussions with the nations that are our most important export destinations, and those that have the potential to grow in importance, we need to consider how the proposed Indo-Pacific Economic Framework, and other initiatives, can most effectively expand agricultural exports to the benefit of the nation's farmers and ranchers.



April 6, 2023

The Honorable Ron Wyden
Chairman
Senate Finance Committee
Washington, DC 20510

The Honorable Mike Crapo
Ranking Member
Senate Finance Committee
Washington, DC 20510

The Honorable Jason Smith
Chairman
House Ways & Means Committee
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
House Ways & Means Committee
Washington, DC 20515

RE: Statement for the Hearing Record: The President's 2023 Trade Policy Agenda

Dear Chairman Wyden, Ranking Member Crapo, Chairman Smith, and Ranking Member Neal,

The Americans for Free Trade coalition, a broad alliance of American businesses, trade organizations, and workers united against tariffs, respectfully submits this written statement to include in the public record of the Senate Finance Committee and House Ways & Means Committee's ("the Committees") 2023 Trade Policy Agenda hearings, which took place on March 23 and 24, respectively. We appreciate the Committees holding hearings on this important matter.

By way of background, [Americans for Free Trade](#) represents every part of the U.S. economy including manufacturers, farmers and agribusinesses, powersports, retailers, technology companies, service suppliers, natural gas and oil companies, importers, exporters, and other supply chain stakeholders. Collectively, we employ tens of millions of Americans through our vast supply chains.

For more than four years, AFT has called for an end to the China 301 tariffs which have had a disproportionate economic impact on American companies, consumers, and workers and that have failed to change China's unfair trade practices relating to intellectual property rights, forced technology transfers, and innovation. We have also repeatedly called for the administration to find a new path forward to address the ongoing China trade issues. We believe it is time for a strategic realignment of the tariffs to focus on the original intent of the 301 investigation and seek alternate measures, including working with our allies, to achieve the necessary changes in China's behavior.

Until that time, we also believe that USTR should relaunch a fair and transparent exclusion process that is available to all HTS lines impacted by the 301 tariffs. Members of Congress have repeatedly urged USTR to institute a robust process, including through letters sent by [House](#) and [Senate](#) members to Ambassador Tai last year as well as through appropriations language. Yet, USTR has refused to re-establish such an exclusions process and, in fact, stated in its fiscal year



2024 budget request that it anticipates work relating to product exclusion requests to decrease. This suggests that USTR has no intention of administering a robust exclusions process in the next fiscal year. We therefore believe it is important for Congress to insist that USTR make a products exclusions process available immediately and for as long as section 301 tariffs remain in place.

I. American Businesses Pay the 301 Tariffs, Not China

Since April 2018, U.S. Customs and Border Protection has assessed more than **\$173 billion**¹ in section 301 tariffs on American companies who import products from China. These taxes continue to create tremendous uncertainty, increase the cost of doing business in the United States, and place a financial burden on American businesses – negatively impacting their ability to invest in their companies, hire more American workers, innovate new technologies, and remain competitive globally. The tariffs also have an impact on consumers. While many companies have tried to absorb the costs of the tariffs, many have had to share the costs with final consumers.

AFT has argued for years that American companies, not Chinese companies, bear the economic brunt of the tariffs. Those who argue otherwise are simply ignoring reality. This was confirmed by the non-partisan, independent U.S. International Trade Commission (USITC) in its recent report entitled “Certain Effects of Section 232 and 301 Tariffs Reduced Imports and Increased Prices and Production in Many U.S. Industries²”. The report states: “U.S. importers bore nearly the full cost of these tariffs because import prices increased at the same rate as the tariffs. The USITC estimated that prices increased by about 1 percent for each 1 percent increase in the tariffs under sections 232 and 301.”

While we would have liked to have seen a more fulsome discussion in the USITC report regarding the 301 tariffs’ impact on downstream industries and consumers, we welcomed the report and were pleased that it confirmed the economic impact of the 301 tariffs that we have been discussing for years. As part of the study, AFT shared materials, including a list of Studies on Economic Impact of Tariffs – 2018-2022 and a list of Articles on the Impact of Tariffs, which we have also included as part of this statement for the record.

During her testimony at the trade agenda hearings, Ambassador Tai noted that USTR is currently undertaking its statutory four-year review of the China 301 tariffs. We continue to believe this review needs to be fair and transparent. We are disappointed that the review has not included a public hearing – something USTR offered when promulgating Lists 1-4 tariffs and that the USITC offered in crafting its recent economic impact report. While written comments are extremely important, they alone do not provide the same opportunity for companies to tell their story about the ongoing impact of the tariffs and answer questions from the Section 301 Committee as a public hearing would provide. That said, we encourage Members of Congress to

¹ CBP Trade Statistics - <https://www.cbp.gov/newsroom/stats/trade>

² Economic Impact of Section 232 and 301 Tariffs on U.S. Industries – <https://www.usitc.gov/publications/332/pub5405.pdf>, March 15, 2023



insist that USTR use the four-year review process to conduct a holistic assessment of whether the tariffs have achieved their stated objectives, as identified in the underlying section 301 report, and provide a full picture of the impact the tariffs have had to the U.S. economy, as well as American businesses, workers, and consumers. USTR should seriously consider whether the 301 tariffs truly provide leverage to elicit a change in behavior by China or whether they represent the best path forward given the current state of the U.S. economy.

II. 301 Tariffs' Impacts on American Businesses and Consumers

As part of the 301 four-year review, AFT provided USTR with feedback from a number of coalition partners regarding the negative impacts that the tariffs have had on their businesses, workers and consumers. We have provided some of those stories below.

a. Tariffs Make U.S. Manufacturers Less Competitive

Proponents of the section 301 tariffs claim that lifting them – and even offering a targeted product exclusions process – would harm domestic manufacturing. We strongly disagree with that sentiment. While protecting domestic manufacturing was never the stated purpose of the section 301 tariffs, they have been harmful to manufacturers by taxing inputs they need to produce more products domestically.

Consider the case of one manufacturer who has been producing speakers in the United States since 1949. This manufacturer produces speakers for nearly every audio application - mass transit, aerospace, medical equipment, professional audio, motorcycles, home audio, etc.

Because it is one of the last companies that still builds speakers in the United States, the company has been unable to find domestic suppliers who can produce the specialty parts required for the speakers. To be globally competitive, the company must buy its components primarily from China where their global competitors purchase their parts. Unfortunately, these parts are on List 3 and are subject to an additional 25% tariff. The company described this as “a direct addition of 25% to our cost of goods sold.” The company further stated that its competitors who import completed speakers made in China only pay a 7.5% tariff. The company said this makes it “less competitive than [its] USA competitors who import complete products made in China with no USA labor content” and that it is essentially “penalized for building speakers in America.”

Because of the significant impact to its ability to compete, the company said it is now “moving more manufacturing out of the USA.” In other words, the tariffs have *disincentivized* manufacturing in the United States.

An information technology company told us something similar. This American business pays tariffs on parts and components listed on Lists 3 and 4a and initially paid over \$350 million per year in section 301 tariffs. The company moved some of its supply chain from China to Mexico to reduce this duty burden by a little more than half, but these increased costs were eventually



passed along to customers through price increases. The company previously sought product exclusions on key parts and components under the Trump Administration – a process which no longer exists – but was denied. Because the company cannot source the parts and components from anywhere other than China, it is now considering whether to move its manufacturing to Mexico and then import the products into the United States duty-free – putting 1,300 American jobs in jeopardy.

The tariffs have also prevented small American businesses from growing. We spoke with a company that produces home theater accessories, and it described the impact of the tariffs on its products – which are on List 3 – as follows:

The tariff impacted us in three major ways. 1. The best manufacturers are all located in China for our products. Finding new manufacturers, even here in the US, was difficult to secure due to the premium level of our technology and design. Also with COVID happening immediately after List 3 was released, traveling abroad to find other manufacturers was impossible. 2. If we did find a manufacturer that was at our standard, the additional cost of building new tools, that had already been made and paid for in China, was a very hard burden on our small company. Also, we have to certify a good portion of our goods and any new product created from a new tool has to go through recertification at a cost that was also unbearable to our small business. 3. Being a brand new business, we secured funding to build and grow our brand, and immediately 20% of the funding went to a cost via the tariff that I had slated for new technology and product development, employees, and programs with our retail partners. It stunted our growth. Though there are more, these three actions have cost us in multiple ways the ability to grow and compete with businesses that have been around much longer.

Another small business we spoke with imports industrial magnets from China that are incorporated into devices that work in vehicle engines to conserve fuel. The business owner produces these devices in the United States. The business owner told us that the section 301 tariffs have added a million dollars to his costs in the past several years. He described the impact as follows: “With this money I could have added at least one more engineer and support staff in the US. I also have European competitors who don’t have the extra 25% cost. It’s throwing money down a hole and makes no sense.”

We spoke with another American manufacturer that produces a plastic material used in the development of U.S.-made parts for autos, farm equipment, transportation equipment and more. The value of the material comes largely from two key properties – hardness and rigidity. But to achieve these two key properties, the material must first be mixed with a specific chemistry that cures, or hardens, the final product. That essential hardening chemistry is not produced in the United States; it must be imported. Approximately 40 to 80 percent of the import is produced in China, with the balance produced in Japan and Taiwan. But there is not enough capacity in Japan and Taiwan to supplant the supply from China. Therefore, applying the section 301 tariff to this import does not hurt China – it hurts U.S. businesses which have no choice but to pay the tariff anyway to continue to enhance the competitiveness of their American made products.



These examples illustrate how the tariffs have both impacted small businesses and will continue to impact American businesses for as long as they remain in place. Consider the example of a small flower seed business that has paid “nearly \$1.5 million in tariffs for seed produced in China.” The company said that this money could have been used “for further investment in our technology, improving customer service or increasing seed quality.” Because the seeds they cultivate “need that environment for cultivation purposes” (China), the business cannot readily shift production of additional seed to other locations to accommodate the tariffs. This small business also has European and Asian competitors who do not pay the tariffs, so it has been forced to absorb most of the costs to remain competitive. Most concerning, the business is considering moving jobs to China, which would also require transferring proprietary technology, to cope with the increased costs:

We have been exploring options to make better use of the farm and are looking at shipping seed that is produced in China to other markets to avoid the tariffs. This is rather cumbersome because we need to manage separate inventories, we need to much more carefully plan what we can place in China and it has caused us to move some jobs from the US to China to deal with this. If we ramp the activity up we will need to transfer some proprietary technology from the US to China or other countries which we prefer not to do.

The section 301 tariffs have harmed, and continue to harm, U.S. manufacturers and make them less competitive vis-à-vis their competitors and China. They should be lifted immediately.

b. Tariffs Increase Costs for American Consumers and Contribute to Inflation

Proponents of the tariffs also ignore the very real contribution tariffs have had on inflation. While there are various contributing factors to inflation, lifting tariffs is one of the few tools that the Administration could utilize to bring down inflation.³ At a time when inflation is at a four-decade high, the Administration should be leveraging every tool at its disposal to combat this crisis, which is squeezing hard-working American families and businesses. Time and again, we have heard from businesses of all kinds that they were forced to pass along the increased costs associated with the section 301 tariffs directly to their customers. Consider the statements we received from coalition members below:

There's a 25% supplemental tariff on our new product, [a type of lamp], we have to pass on the cost to customers (total tariff of 28%). We would lower the price right away if the Trump tariff were removed.

- Consumer Electronics Company

We were impacted by Lists 3 and 4a, initially paying over \$350M per year in tariffs. Supply chain moves - mostly from China to Mexico - cut that to where we are paying just over \$150M per year today (2022). We immediately passed on the costs to our customers through price increases, which of course, is inflationary.



- Information Technology Company

The 25% tariff (tax) has been nothing but that, a tax or penalty on us as a small US based business. The Chinese do not pay the tariff or any portion of it! We do not have the gross profit margins to absorb this tariff so as a result we need to incorporate this into what we charge our customer - more US based small businesses harmed by these tariffs/taxes.

- Lighting Manufacturer and Distributor

The tariffs on our China origin goods has [sic] directly impacted or [sic] business strategy regarding the place of production for certain vegetable seed crops such as Cucumber, Melon, Tomato and Watermelon seeds. Producing hybrid vegetable seeds takes years of experience and knowledge. Weather, climate, and drought conditions are major factors especially as we are facing the global climate crisis. There are very few options for qualified and trusted growers. Our Chinese suppliers have an excellent reputation and service levels sealed with production contracts that are reviewed by legal and signed each year. Who pays the price for these high tariff rates on China origin seeds? It is the American people who pay in the form of higher prices for healthy food in the US market place.

- Vegetable Seed Business

c. Tariffs Disproportionately Harm Low-Income American Families

Tariffs harm American families by raising prices on consumer products, and this is felt most acutely by low-income families. A [report](#) by the Progressive Policy Institute found that tariffs on consumer goods are discriminatory and regressive because low-income Americans are disproportionately impacted by these tariffs, especially single-parent families and people of color.

We spoke with a small American business that produces baby products, including a portable crib that it developed to promote a safe sleeping environment for infants and that is also subject to the section 301 tariffs. The company has distributed thousands of these cribs to low-income families for over 20 years through a non-profit organization, directly contributing to the reduction in infant deaths from Sudden Infant Death Syndrome (SIDS) and Accidental Suffocation and Strangulation in Bed (ASSB). The company stated that all proceeds from the sales of these cribs go back into the non-profit so that it can continue to provide its “partners with the tools to educate their communities about the importance of infant safe sleep.” When asked about the impact of the tariffs on its mission, the company said this:

Until the tariffs were imposed, we prided ourselves on providing a safety approved crib ... to our partners for under \$50. Because of the 25% tariff and the increase in shipping from China, that was imposed on the [crib], we had to raise the price of our unit from \$49.99 to \$69.99, resulting in a decrease in the number of [cribs] that our partners were able to purchase since 2019 by well over 25%. What that means is 25% fewer infants have been able to sleep in a safe sleeping environment and babies lives have been put at



risk. We know you can not effect immediate change in the high cost of shipping, however, by relieving us of the \$25% tariff on our [crib] we will be able to reduce its price and assure that more babies lives will be saved from SIDS or ASSB.

This baby products company ended its testimonial with a plea that the Administration consider the request that the tariffs be lifted to help “low-income parents throughout the country, and of course, the babies!”

This example could not be starker. The tariffs are harming U.S. businesses and Americans in ways large and small, including impacting the ability of small businesses and non-profits to get life-saving baby products into the hands of low-income families.

III. China Strategy Moving Forward

We urge Members of Congress to call upon the Biden-Harris Administration to provide a clear and transparent China trade strategy. We know that this strategy goes well beyond the China 301 tariffs, but we believe addressing the tariff issues and China’s unfair trade practices associated with them are important for the reasons we discussed above.

As a near-term path forward, with regards to the tariffs specifically, AFT suggests the following:

- 1) **Realign the Section 301 Tariffs** – Through the strategic four-year review process, USTR and the administration should strategically realign the tariffs away from consumer goods and manufacturing inputs and equipment that are currently unavailable in sufficient quantities from sources other than China. These tariffs harm American companies and consumers and are not related to China’s Made in 2025 program or critical sectors. The realignment should provide the opportunity for the administration to refocus the tariffs and create better leverage to achieve changes in China’s unfair trade practices regarding forced technology transfer and intellectual property theft. As part of this realignment, USTR should also include a new, fair, predictable, and transparent exclusion process available to all products subject to the 301 tariffs to ensure that American companies are not unduly harmed.
- 2) **Use Targeted Tools to Hold Bad Actors Accountable** – There has been ongoing discussion about what tools other than tariffs can be used to achieve success regarding China’s trade practices. USTR has discussed other “tools in the toolbox” and potentially the development of “new tools” but has stopped short of articulating what those might be. We believe these discussions are incredibly important and need to continue, with stakeholder input. We need to find the right set of tools that address China’s unfair trade practices in a targeted way without causing disproportionate economic harm to American businesses, workers and consumers.
- 3) **Support U.S. Supply Chain Resiliency and Competitiveness by Partnering with Allies** – AFT continues to call upon the administration to work with allies to address



China's unfair trade practices. This includes work at the G-20, G-7, World Trade Organization, and other multilateral and regional institutions. The U.S. can be much more effective in addressing China's unfair trade practices by working in concert with allies.

- 4) **Support Efforts on Supply Chain Diversification** – Congress and the Biden-Harris Administration should support the U.S. business community's efforts to further diversify supply chains. This includes developing an offensive trade agenda that supports supply chain diversification and ensures the U.S. does not cede global economic influence and international rulemaking to China. This should also include seeking new free trade agreements with our allies. Congress should also quickly act to retroactively renew expired trade preference programs including the Generalized System of Preferences (GSP), which provide sourcing alternatives to China, as well as the Miscellaneous Tariff Program (MTB), which provides temporary duty benefits for U.S. manufacturers and businesses.

IV. Conclusion

We appreciate the Committees' continued engagement and focus on ensuring that U.S. trade policy advances American values and boosts U.S. competitiveness. We urge the Committees to continue weighing in with the Biden-Harris Administration to ensure that destructive tariffs are lifted, and that a new and more effective approach to addressing China's unfair trading practices is adopted. We thank the Committees for holding this year's trade agenda hearings and look forward to continuing to work with you.

Sincerely,

Accessories Council	American Lighting Association
ACT The App Association	American Petroleum Institute
Agriculture Transportation Coalition (AgTC)	American Pyrotechnics Association
ALMA, International (Association of	American Rental Association
Loudspeaker Manufacturing and Acoustics)	American Seed Trade Association
American Apparel & Footwear Association	American Specialty Toy Retailing Association
(AAFA)	American Trucking Association
American Association of Exporters and	Arizona Technology Council
Importers (AAEI)	Arkansas Grocers and Retail Merchants Association
American Association of Port Authorities	Association For Creative Industries
American Bakers Association	Association for PRINT Technologies
American Bridal & Prom Industry Association	Association of American Publishers
(ABPIA)	Association of Equipment Manufacturers (AEM)
American Chemistry Council	Association of Home Appliance Manufacturers
American Clean Power Association	Auto Care Association
American Down and Feather Council	Beer Institute
American Fly Fishing Trade Association	BSA The Software Alliance
American Home Furnishings Alliance	

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Building Service Contractors Association International (BSCAI)	Global Business Alliance
Business Alliance for Customs Modernization	Global Chamber®
California Retailers Association	Global Cold Chain Alliance
Can Manufacturers Institute	Greeting Card Association
Chemical Industry Council of Delaware (CICD)	Halloween & Costume Association (HCA)
Coalition of New England Companies for Trade (CONNECT)	Home Fashion Products Association
Coalition of Services Industries (CSI)	Home Furnishings Association
Colorado Retail Council	Household and Commercial Products Association
Columbia River Customs Brokers and Forwarders Assn.	Housing Affordability Coalition
Computer & Communications Industry Association (CCIA)	Idaho Retailers Association
Computing Technology Industry Association (CompTIA)	Illinois Retail Merchants Association
Consumer Brands Association	Independent Office Products & Furniture Dealers Association (IOPFDA)
Consumer Technology Association	Indiana Retail Council
Council of Fashion Designers of America (CFDA)	Information Technology Industry Council (ITI)
CropLife America	International Association of Amusement Parks and Attractions (IAAPA)
Customs Brokers & Freight Forwarders Assn. of Washington State	International Bottled Water Association (IBWA)
Customs Brokers & Freight Forwarders of Northern California	International Foodservice Distributors Association
Electronic Transactions Association	International Housewares Association
Energy Workforce & Technology Council	International Warehouse Logistics Association
Experiential Designers and Producers Association	International Wood Products Association
Exhibitions & Conferences Alliance	ISSA - The Worldwide Cleaning Industry Association
Fashion Accessories Shippers Association (FASA)	Jeweler's Vigilance Committee
Fashion Jewelry & Accessories Trade Association	Juice Products Association (JPA)
Flexible Packaging Association	Juvenile Products Manufacturers Association
Florida Ports Council	Leather and Hide Council of America
Florida Retail Federation	Licensing Industry Merchandisers' Association
Footwear Distributors and Retailers of America (FDRA)	Los Angeles Customs Brokers and Freight Forwarders Assn.
Fragrance Creators Association	Louisiana Retailers Association
Game Manufacturers Association	Maine Grocers & Food Producers Association
Gemini Shippers Association	Maine Lobster Dealers' Association
Georgia Retailers	Maritime Exchange for the Delaware River and Bay
	Maryland Retailers Association
	MEMA, The Vehicle Suppliers Association
	Michigan Chemistry Council
	Michigan Retailers Association
	Minnesota Retailers Association
	Missouri Retailers Association
	Motorcycle Industry Council
	NAPIM (National Association of Printing Ink Manufacturers)

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National Association of Chain Drug Stores (NACDS)	Pet Advocacy Network
National Association of Chemical Distributors (NACD)	Plumbing Manufacturers International
National Association of Foreign-Trade Zones (NAFTZ)	Power Tool Institute (PTI)
National Association of Home Builders	PRINTING United Alliance
National Association of Music Merchants	Promotional Products Association International
National Association of Trailer Manufacturers (NATM)	Recreational Off-Highway Vehicle Association
National Confectioners Association	Retail Association of Maine
National Council of Chain Restaurants	Retail Council of New York State
National Electrical Manufacturers Association (NEMA)	Retail Industry Leaders Association
National Fisheries Institute	Retailers Association of Massachusetts
National Foreign Trade Council	RISE (Responsible Industry for a Sound Environment)
National Grocers Association	RV Industry Association
National Industrial Transportation League (NITL)	San Diego Customs Brokers and Forwarders Assn.
National Lumber and Building Material Dealers Association	Semiconductor Industry Association (SIA)
National Marine Manufacturers Association	Snowsports Industries America
National Restaurant Association	Software & Information Industry Association (SIIA)
National Retail Federation	South Dakota Retailers Association
National Ski & Snowboard Retailers Association	Specialty Equipment Market Association
National Sporting Goods Association	Specialty Vehicle Institute of America
Natural Products Association	Sports & Fitness Industry Association
New Jersey Retail Merchants Association	TechNet
North American Association of Food Equipment Manufacturers (NAFEM)	Telecommunications Industry Association (TIA)
North American Association of Uniform Manufacturers and Distributors (NAUMD)	Texas Retailers Association
North Carolina Retail Merchants Association	Texas Water Infrastructure Network
Ohio Council of Retail Merchants	The Airforwarders Association
Outdoor Industry Association	The Fertilizer Institute
Pacific Coast Council of Customs Brokers and Freight Forwarders Assns. Inc.	The Hardwood Federation
Pennsylvania Retailers' Association	The Vinyl Institute
PeopleforBikes	Toy Association
Personal Care Products Council	Travel Goods Association
Pet Food Institute	Truck & Engine Manufacturers Association (EMA)
	United States Council for International Business
	United States Fashion Industry Association
	US Global Value Chain Coalition
	US-China Business Council
	Virginia Association of Chain Drug Stores
	Virginia Retail Federation
	Virginia-DC District Export Council (VA-DC DEC)
	Washington Retail Association
	Water Quality Association
	Window and Door Manufacturers Association
	World Pet Association, Inc. (WPA)



Attachment 1 – Studies on Economic Impact of Tariffs – 2018-2022

1. May 2022, American Action Forum: [The Total Cost of U.S. Tariffs](#); Tom Lee & Jacqueline Varas.
2. April 2022, Tax Foundation: [Tracking the Economic Impact of U.S. Tariffs and Retaliatory Actions](#); Erica York.
3. March 2022, Peterson Institute of International Economics: [For Inflation Relief, the United States Should Look to Trade Liberalization](#); Gary Clyde Hufbauer, Megan Hogan, and Yilin Wang.
4. January 2022, USDA Economic Research Service: [The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture](#); Stephen Morgan, Shawn Arita, Jayson Beckman, Saquib Ahsan, Dylan Russell, Philip Jarrell, and Bart Kenner.
5. December 2021, Tax Foundation: [Who Really Pays the Tariffs? U.S. Firms and Consumers, Through Higher Prices](#); Alex Durante & Alex Muresianu.
6. October 2021, National Bureau of Economic Research: [ILLUMINATING THE EFFECTS OF THE US-CHINA TARIFF WAR ON CHINA'S ECONOMY](#); Davin Chor and Bingjing Li.
7. May 2021, Moody's Investor Service Report, as reported in [U.S. companies are bearing the brunt of Trump's China tariffs, says Moody's](#), CNBC, Yen Nee Lee.
8. January 2021, IHS Markit: [Did the US section 301 tariffs work?](#); Yacine Rouimi.
9. May 2020, National Bureau of Economic Research: [The Effect of the U.S.-China Trade War on U.S. Investment](#); Mary Amiti, Sang Hoon Kong and David Weinstein.
10. January 2020, National Bureau of Economic Research: [Who's Paying for the US Tariffs? A Longer-Term Perspective](#); Mary Amiti, Stephen J. Redding, David E. Weinstein.
11. January 2020, National Bureau of Economic Research: [Rising Import Tariffs, Falling Export Growth: When Modern Supply Chains Meet Old-Style Protectionism](#); Kyle Handley, Fariha Kamal, Ryan Monarch.
12. January 2020, Congressional Budget Office: [The Budget and Economic Outlook 2020 to 2030](#).
13. December 2019, Federal Reserve Board: [Disentangling the Effects of the 2018-2019 Tariffs on a Globally Connected U.S. Manufacturing Sector](#); Aaron Flaaen and Justin Pierce.



14. November 2019, United Nations Conference on Trade and Development, [Trade and Trade Diversion Effects of United States Tariffs on China](#); Alessandro Nicita.
15. October 2019, Revised December 2019, National Bureau of Economic Research: [The Consumption Response to Trade Shocks: Evidence from the US-China Trade War](#); Michael E. Waugh.
16. October 2019, National Bureau of Economic Research: [Tariff Passthrough at the Border and at the Store: Evidence from US Trade Policy](#); Alberto Cavallo, Gita Gopinath, Brent Neiman, Jenny Tang.
17. September 2019, Board of Governors of the Federal Reserve System, [The Economic Effects of Trade Policy Uncertainty](#); Dario Caldara, Matteo Iacoviello, Patrick Molligo, Andrea Prestipino, Andrea Raffo.
18. September 2019, Moody's Analytics: [Trade War Chicken: The Tariffs and the Damage Done](#); Mark Zandi, Jesse Rogers & Maria Cosma.
19. March 2019, Revised October 2019, National Bureau of Economic Research: [The Return to Protectionism](#); Pablo D. Fajgelbaum, Pinelopi K. Goldberg, Patrick J. Kennedy, Amit K. Khandelwal.
20. March 2019, National Bureau of Economic Research: [The Impact of the 2018 Trade War on U.S. Prices and Welfare](#); Mary Amiti, Stephen J. Redding, David E. Weinstein.
21. February 2019, Trade Partnership Worldwide, LLC: [Estimated Impacts of Tariffs on the U.S. Economy and Workers](#); Laura Baughman and Joseph Francois.
22. December 2018, National Bureau of Economic Research: [Macroeconomic Consequences of Tariffs](#); Davide Furceri, Swarnali A. Hannan, Jonathan D. Ostry, Andrew K. Rose.

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Attachment #2 – Articles on the Impact of Tariffs

Date	Headline	Outlet
6/7/2022	Biden Must Roll Back the Tariffs Weighing So Heavily On the Economy	RealClearMarkets
5/17/2022	As Businesses Struggle, Tariffs Create Avoidable Challenges	The Well News
4/15/2022	End China trade war	Times-Tribune
3/26/2022	Supply Chain Issues Continue to Hurt Businesses. Lifting Tariffs Can Help.	RealClearPolitics, The Center Square, Livingston Parish News
3/24/2022	To Help Revive the U.S. Economy, the Biden Administration Must Lift the Tariffs	RealClearMarkets
3/20/2022	Tariffs Hurt Virginia Businesses	The Gazette-Virginian
2/25/2022	To Fulfill His Economic Vision, President Biden Must End Trump's Tariffs	The Well News
2/14/2022	Want to Stem Inflation? End the Trade War	RedState
2/14/2022	Trade War Continues to Batter New Hampshire Businesses	NH Journal
2/11/2022	2 Years Since Trade Deal with China, Tariffs Aren't Working for American Businesses	Entrepreneur.com, MSN
2/8/2022	Cutting Chinese tariffs would help Del. businesses	Delaware Business Times
1/25/2022	Keep Wisconsin moving forward	WisPolitics
12/13/2021	Amid Pressing Economic Crises, Biden Administration Must Lift Tariffs	Townhall
12/9/2021	Biden must end failed trade policy that has hurt Pennsylvanians	Tribune-Review
11/10/2021	It's Time to End the Trade War With China	Newsweek
11/3/2021	Post-Covid, the Federal Government Must Remain Committed to Helping Businesses	Entrepreneur/com
10/12/2021	U.S. tariffs on Chinese goods hurts Arizona's economic growth	Arizona Daily Star
9/29/2021	For Washington's Economy to Fully Recover, Biden Administration Must End Tariffs	Kirkland Pathc
9/14/2021	Duane Garfoot: Continued tariffs still loom large following Biden's Wisconsin visit	WisPolitics
9/7/2021	Trade Wars Worsen Shipping Crisis	Townhall
7/22/2021	The time has come for Biden to repeal Trump's tariffs	News Journal
7/12/2021	Biden can help American workers and protect U.S. jobs by ending trade wars	Washington Times

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Date	Headline	Outlet
6/23/2021	Ongoing trade war limits recovery for U.S. businesses	Tribune-Review
5/19/2021	As COVID-19 recovery begins, Granite State needs tariff relief	Manchester Ink Link
5/7/2021	Oregon businesses bear the brunt of the U.S. tariffs on China	The Oregonian
4/5/2021	Repealing Trump-era trade tariffs would throw a lifeline to struggling businesses	Crain's New York Business
3/25/2021	Repeal Tariffs to Boost the Economy, Help Small Businesses	RealClearMarkets
3/3/2021	Tariff relief must play a central role in Biden trade agenda	Des Moines Register
2/24/2021	Removing tariffs is key to economic relief	Washington Examiner
2/12/2021	Repealing tariffs should be one of Biden's first acts	Wisconsin State Journal, Herald Times Reporter
2/7/2021	Biden can save Americans billions of dollars by ending Trump's trade war with China now	Business Insider
12/21/2020	Trump Must Repeal Tariffs to Provide Americans Relief	Inside Sources
12/12/2020	If Biden Wants to Help Middle America, He'll Lift Tariffs	RealClearPolitics
11/21/2020	Prospect of Tariffs on Vietnamese Imports Jeopardizes American Recovery	RedState
10/31/2020	A Pledge To Repeal Tariffs Is Crucial For Both Candidates	Townhall
10/29/2020	Tariffs Continue to Hurt Wisconsin	The Baraboo News Republic
10/29/2020	Tariffs Must Take Center Stage in Leadup to Election Day	NH Journal
10/28/2020	WTO ruling and domestic lawsuits may boost Biden's chances of winning	WisPolitics
9/24/2020	Floridians Are Frustrated With The Trade War	The Floridian
9/22/2020	Trump's trade war has punished Americans more than China	Laconia Daily Sun
9/17/2020	Mike Duerst: Tariffs Prove to be a Key Issue for Wisconsin Voters	WisPolitics
9/16/2020	Path to White House Includes Repealing Tariffs	RedState
6/1/2020	President Trump's Tariffs Put Economic Recovery at Risk	RedState
5/26/2020	One Big Way To Help US Businesses Come Back After Coronavirus	Townhall

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Date	Headline	Outlet
5/26/2020	More tariffs would bring Missouri to its breaking point	Missouri Times
5/7/2020	Stimulus is helpful, but tariffs are still threatening our livelihoods	MinnPost
4/4/2020	Trade War Damage Worsened by Global Health Pandemic	RealClearPolitics
3/6/2020	Trump's trade war threatens S.C.'s economy and workers — Democratic presidential candidates should vow to end it	Charleston City Paper
3/3/2020	Trade War Could Unravel President Trump's Economic Accomplishments	RedState
2/10/2020	The trade war with China has hurt my small business in Massachusetts	Boston Globe
2/10/2020	The Trade War Hurts President Trump's Re-Election Chances in New Hampshire	NH Journal
2/1/2020	The Trade War is Undoing President Trump's Economic Achievements Cucciniello	Save Jersey
1/29/2020	Democratic candidates should talk more about Trump's trade war	Sioux City Journal
1/19/2020	I supported Trump's trade war. But now it's driving my industry out of business.	Star Ledger
1/18/2020	Trump can win Wisconsin if he ends tariffs	Wisconsin State Journal
12/31/2019	The trade war has cost us over \$500,000 dollars	PennLive
12/19/2019	In the Next Debate, Democrats Must Highlight Damage Trump's Tariffs Have Caused	LA Focus
12/4/2019	Trade war undermines strong Texas economy and Trump's reelection chances	Houston Chronicle
12/3/2019	Trump has been great for Black Americans, but the trade war could hinder the progress	The State
11/25/2019	Tariffs are slowly driving me out of business	Concord Monitor
11/7/2019	Tariffs Could Hurt the Holidays – and President Trump's Re-Election in 2020	Iowa Standard
10/15/2019	Enough Is Enough: Tariffs Are Damaging Ohio's Economy	RealClearPolitics
10/4/2019	How Tariffs Are Hurting Trump's Base – and His Chances of Re-election	Save Jersey
9/20/2019	Tariffs Could Hurt President Trump's Chances in North Carolina	Townhall
8/25/2019	How Tariffs Are Hurting My Business—And Your Wallet	NY Observer

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Date	Headline	Outlet
8/14/2019	Tariffs Are Taxes Paid by New Hampshire Businesses and Consumers	NH Journal
8/4/2019	Trump's economy is booming — repealing tariffs will boost it even more	The Hill
8/2/2019	Tariffs Looming over 2020 Election	RedState
7/10/2019	Rohn Bishop: Wisconsin needs four more years of Trump's economic policies – minus tariffs	WisPolitics
7/9/2019	LTE: Tariffs should be removed	Gettysburg Times
6/19/2019	Tariffs hurting same Floridians Trump is trying to help	Sun Sentinel
6/19/2019	Trump's tariffs endanger Wisconsin's booming economy	The Cap Times
6/13/2019	A Quick End to the Trade War Is the Key to Victory for President Trump in 2020	Townhall



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**CTA Statement for the Record for the Senate Finance and House Ways and Means
Committees Respective Hearings on the 2023 U.S. Trade Policy Agenda**

April 5, 2023

In response to the March 23 and March 24 congressional hearings on the 2023 U.S. Trade Policy Agenda, the Consumer Technology Association (CTA)® respectfully submits this statement for the record on increasing the positive impact and ambition of U.S. trade policy.

CTA represents the \$505 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. Our industry appreciates the Office of the U.S. Trade Representative's (USTR's) efforts to strengthen U.S. trade relationships with allies and key trading partners, deploy U.S. trade policy as a tool for supporting Ukraine against Russia, establish a worker-centric trade policy, and address important U.S. objectives like eliminating forced labor from supply chains around the world.

The Biden-Harris Administration has created a solid foundation. However, it must adopt a more proactive and market-opening U.S. trade policy that strengthens U.S. ties with its allies. Ahead of Ambassador Tai's testimony and responses to questions, CTA urges USTR to work with the Congress and U.S. stakeholders on prioritizing the negotiation of free trade agreements and opening new markets to U.S. technology goods and services through tariff elimination.

CTA's statement offers recommendations to the Congress and the Administration to support American businesses and workers and create durable, beneficial, and resilient economic and trade ties with its allies. They also call for an honest reckoning of current policy that has caused more harm than good (e.g., the Section 301 tariffs on imports from China).

1. CTA Recommendations on a better trade policy to support U.S. technology, trade, and economic leadership in the face of competition with China

Our relationship with China is complex: China is our third-largest trading partner, our second-largest debt holder, and a key source of inputs for CTA members. More, China is also a world power with whom we must maintain peaceful relations and cooperate on global challenges like climate change.

At the same time, China is our main economic rival and has vowed to overtake us as the world technology leader. They routinely ignore and exploit international trade norms. They engage in



sophisticated efforts to steal US intellectual property and national security secrets. They are a potential military threat to the United States and neighboring economies like Taiwan, and they aggressively repress their own people and ethnic minorities.

U.S. policies toward China should recognize this nuanced “coopetition” dynamic with China, and disincentive Chinese bad behavior without unduly harming our businesses, consumers, or US innovation. Our policies should:

- Strengthen the international rule of law and the multilateral trading system, including through modernization of the World Trade Organization (WTO);
- Avoid tariffs on imported goods from China or other markets. As the U.S. International Trade Commission demonstrated in its March 2023 authoritative report¹, tariffs are taxes paid by Americans that drive inflation and harm US businesses, not China;
- Promote trade agreements and economic cooperation between the US and our allies and democratic societies. We should contain trade misbehavior by the Chinese Communist Party (CCP) and state-owned or controlled enterprises by leading and participating in regional trade agreements networks like the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP);
- Ensure that any export and investment restrictions are narrowly tailored to address national security issues, and do not unduly impact commercial export opportunities for U.S. businesses;
- Avoid sweeping product and company bans unless they are the final resort to address legitimate national security threats to U.S. businesses or consumers;
- Ensure any import restrictions based on forced labor practices in China or other markets are clear, transparent, and enable compliance by law-abiding American businesses;
- Support and adhere to the rulings of the WTO and other bodies that maintain international trade rules and norms; and
- Prioritize robust and sustained consultations with stakeholders on all trade and investment initiatives, negotiations, and proposed measures, consistent with U.S. agency obligations under the Administrative Procedure Act as appropriate.

2. CTA Recommendations on a better trade policy to support U.S. friends and allies

Our planet’s history tells us that friendship among nations is to be cherished and nurtured. Too often countries have not served as good friends to others, particularly in the area of international trade, when we prioritize competition over friendship. In our view, we should view trade friendships as a means of protecting the future of our children and successive generations, who will inherit our planet and the promise of humanity.

We must act to ensure not only their economic health but their freedom and liberty. If free market liberty-loving countries increasingly isolate themselves from each other via trade

¹ https://www.usitc.gov/publications/332/pub5405.pdf?source=govdelivery&utm_medium=email&utm_source=govdelivery

barriers, we are hurting our ability to compete both economically and in innovation. Free trade among friends and allies is important as it greatly benefits each nation and gives us the best chance at staying ahead of authoritarian governments.

With these perspectives in mind, CTA launched a new white paper at CES 2023: “Top Ten Ways for Turning Trade Friends into Trade Best Friends Forever (Trade BFFs).” (FOOTNOTE: <https://cdn.cta.tech/cta/media/media/advocacy/pdfs/tradebff.pdf>)

We hope these ideas, which we excerpt from the white paper below, spark a necessary conversation among democratic and liberty-loving nations on leaving the self-serving measures of the 20th century behind and forging a stronger and like-minded free trade future for our children and successive generations. And we welcome ideas from the Administration, the Congress, and our friends and allies on what it takes to be a “Trade BFF” in our era of fierce global competition.

Trade BFFs should:

1. **Honor their commitments to each other.** Friendships are built on trust, which means Trade BFFs should bind and enforce their commitments to each other (trade pinky promises) through comprehensive, binding, and enforceable free trade agreements (trade friendship bracelets).
2. **Have each other’s backs.** You look out for someone by helping them - not putting up barriers to their success. True friendships embody selflessness - not selfishness. For example, they should promise to spare their Trade BFFs from disruptive and harmful unilateral enforcement actions, including tariffs and import prohibitions.
3. **Work together.** Friends make each other better and push each other to live up to or surpass expectations. One way to do that is to collaborate on strengthening the World Trade Organization and on multilateral and regional trade and investment efforts.
4. **Share common values – and stick to them.** We value freedom, democracy, and the power of the free market. We can maintain and promote market economies by avoiding policies that intentionally displace or injure foreign competitors and making any incentives available to their domestic industries also available to industries in their Trade BFFs.
5. **Compete hard—but fairly.** Trade BFFs develop and implement regulations that allow companies located in their fellow Trade BFFs to compete fairly on a level playing field while encouraging a race to the top through high performance.
6. **Be empathetic and open to mutual, voluntary support.** Trade BFFs take measures to encourage but not coerce industries located in their fellow Trade BFFs to trade with or invest in their economies.

7. **Invest in and support each other's successes.** If one friend is an expert or good at something, they use that skill or expertise to help their friends. Trade BFFs invest in and support each other's successes, avoiding irritating and disruptive investment reviews or other restrictions on investment.
8. **Share openly with each other.** Trade BFFs take steps to allow data to flow freely across borders. They prioritize transparency and participation by interested persons in policymaking, including in their fellow Trade BFFs.
9. **Join forces to fight for their shared futures.** All countries sharing the values of democracy and liberty should work together and rip out trade barriers among like-minded friends. They can work together to confront trade bullies and provide more market access to each other in the face of bullying. They avoid policies that bully their fellow Trade BFFs.
10. **Communicate with each other clearly and often.** One key to any friendship is an open and honest level of communication. For example, Trade BFFs talk to each other regularly about issues like IP protection and enforcement and new trade rules that benefit our people and planet. They avoid unilateral measures, which can have unintended consequences on their friendships, companies, workers, and people.

3. CTA Recommendations on the Section 301 Tariffs on Imports from China

On January 17, 2023, CTA submitted comprehensive comments to USTR² in response to its request for stakeholder input under the statutorily mandated "necessity review" at the four year anniversary of the imposition of the Section 301 tariffs on imports from China. CTA's comments offered significant input on the negative economic impact of the tariffs, their ineffectiveness in meeting their stated and unstated objectives, and the possible alternatives to the tariffs that together or individually may be more effective in meeting those objectives.

In summary, CTA respectfully requested that USTR fully remove the HTS codes for consumer technology products and inputs in Annexes 1, 2, and 4 to this submission from Lists 1, 2, 3, and 4A. We urge USTR to avoid imposing tariffs on the HTS codes in Annexes 3 and 4 that are included on List 4B and on any consumer technology product or input not yet included on a Section 301 tariff list. Finally, CTA encouraged USTR complete the necessity review as quickly as possible and advocates for the initiation of comprehensive, transparent, and fair exclusions process with due process until the tariffs are removed.

Additionally, CTA made the following key points in its comment:

- The tariff actions are not now, and will never be, an effective tool for achieving the objectives of Section 301 to eliminate China's problematic acts, policies and practices.

² <https://cdn.cta.tech/cta/media/media/pdfs/final-cta-comments-to-ustr-for-four-year-review-of-china-section-301-tariffs-20230117.pdf>

- The tariff actions adversely affect the U.S. economy, including consumers.
- The tariff actions make the U.S. technology sector, and particularly the thousands of startups and small businesses in the sector, less competitive at home and abroad.
- It is counterproductive and inconsistent with other policies to maintain increased duty rates on consumer technology products and inputs.
- It is paramount that USTR permanently remove consumer technology products and inputs from the Section 301 actions and not target them or use them as pawns in future actions.
- Other actions would be more effective in addressing China's problematic acts, policies, and practices.
- USTR must be consistent in its policymaking and abide by its statutory procedural and transparency obligations during this review and any future use of its Section 301 authority.

Conclusion

CTA greatly appreciates the opportunity to submit these comments for the record. We look forward to continuing to work with the House Ways and Means and Senate Finance Committees and with the Administration to fight inflation, strengthen U.S. trade and economic ties with allies by opening new markets and negotiating high standard, binding and enforceable trade rules, and bolstering U.S. technology leadership and the innovation economy.

STATEMENT FOR THE RECORD ON BEHALF OF THE TARIFF REFORM COALITION

United States Senate House Ways and Means Committee

President Biden's 2023 Trade Policy Agenda

Friday, March 24, 2023

Submitted By:

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STATEMENT FOR THE RECORD ON BEHALF OF THE TARIFF REFORM COALITION

**United States House Ways and Means Committee
President Biden's 2023 Trade Policy Agenda
Friday, March 24, 2023**

INTRODUCTION

The National Foreign Trade Council ("NFTC") is pleased to provide the statement below on behalf of the Tariff Reform Coalition as part of the House Ways and Means Committee hearing record for its hearing on President Biden's 2023 Trade Agenda.

About the Tariff Reform Coalition

The Tariff Reform Coalition ("the Coalition") is a broad-based coalition of more than 100 companies and associations, (whose member companies number at 1000+) led by NFTC, which is dedicated to working with the Administration and Congress to ensure greater oversight and review of the Executive Branch's use of tariff authority. The Coalition brings together a broad array, large and small, of U.S. manufacturers, retailers, agricultural and food producers, and other supply chain stakeholders who have been adversely affected by the increasing use of tariffs in pursuit of various policy objectives. We welcome the opportunity to provide input on the impacts caused by the tariffs imposed under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) ("Section 232 tariffs") and section 301 of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) ("Section 301 tariffs").

About NFTC

NFTC is a broad-based business association for leadership, expertise, and influence on international tax and trade policy issues. We believe trade and tax policies should foster fair access to the opportunities of the global economy and advance global commerce for good.

SECTION 232 AND 301 TARIFFS HARM U.S. CONSUMERS AND PRODUCERS, ARE INEFFECTIVE AND SHOULD BE ELIMINATED**A. Section 232 and 301 Tariffs Raise Prices**

Since March 23, 2018, additional tariffs of 25% and 10% have been imposed on certain imports of steel and aluminum, respectively under Section 232, which allows the President to take actions to adjust imports of goods if the Department of Commerce ("Commerce") finds that imports threaten U.S. national security.

Beginning in July of 2018, the prior Administration imposed tariffs in tranches on a series of Chinese-origin goods under Section 301, ranging from 7.5% (List 4a) up to 25% (Lists 1, 2, and 3). Section 301 authorizes the President to impose tariffs or take other trade actions when the

United States Trade Representative (“USTR”) finds that a trade partner is engaging in unfair trade practices. In this case, USTR found that China had been engaging in industrial policy which has resulted in the transfer and theft of intellectual property and technology to the detriment of the U.S. economy.¹

Between March 23, 2018, and March 8, 2023, U.S. Customs and Border Protection (“CBP”) collected over \$188 billion in duties assessed under Sections 232 and 301.²

Category	Amount
Aluminum 232	\$3.62 billion
Steel 232	\$12.05 billion
China 301	\$173.07 billion
Total	\$188.74 billion

By way of comparison, the combined tariff cost imposed under Sections 232 and 301 exceeds:

- The annual cost of care for the 15 most prevalent types of cancer in the U.S. (\$156.2 billion);³
- Total U.S. Federal spending on transportation in 2021 (\$154.8 billion);⁴
- The annual gross domestic product of Morocco (\$133 billion);⁵ and
- The net worth of Bill Gates (\$115.1 billion).⁶

According to one estimate, the combined cost of the 232 and 301 tariffs amounts to an estimated \$50 billion additional tax on U.S. consumers each year.⁷ A recent study of the economic impacts of the 232 and 301 tariffs by the U.S. International Trade Commission (USITC) found that U.S. importers bore nearly the full cost of these tariffs because import prices increased at the same rate as the tariffs. The USITC estimated that prices increased by about 1 percent for each 1 percent increase in the tariffs under Sections 232 and 301.⁸

¹ Press Release, [Statement By U.S. Trade Representative Robert Lighthizer on Section 301 Action](#), July 10, 2018.

² U.S. Customs and Border Protection, [Trade Statistics](#), Trade Remedy Enforcement.

³ Swayne, Matthew, “[Cancer costs U.S. more than \\$156 billion, with drugs a leading expense](#) [Cancer Care Cost](#)” (October 6, 2021).

⁴ <https://datalab.usaspending.gov/americas-finance-guide/spending/categories/>

⁵ [https://en.wikipedia.org/wiki/List_of_countries_by_GDP_\(nominal\)](https://en.wikipedia.org/wiki/List_of_countries_by_GDP_(nominal))

⁶ Forbes, [The Real-Time Billionaires List](#).

⁷ Tom Lee and Jacqueline Varas, “[The Total Cost of US Tariffs](#),” American Action Forum (May 10, 2022) (“AAF”).

⁸ U.S. International Trade Commission, “CERTAIN EFFECTS OF SECTION 232 AND 301 TARIFFS REDUCED IMPORTS AND INCREASED PRICES AND PRODUCTION IN MANY U.S. INDUSTRIES,” Inv. 332-591, [Press Release](#), (March 15, 2023). (ITC 232-301 Investigation)

The Section 232 and Section 301 tariffs have also impacted key U.S. industry sectors:

- the American beverage industry has paid nearly \$1.9 billion in Section 232 aluminum tariffs since 2018;
- U.S. consumer technology companies paid approximately \$43 billion in Section 301 tariffs between June 2018 and November 2022;
- Ford and General Motors disclosed that the 232 tariffs in just the first year they were in effect cost each company an estimated \$1 billion (or \$700 for each vehicle produced in North America);⁹
- U.S. chemical manufacturers paid \$8.5 billion in Section 301 tariffs between June 2018 and December 2021; and
- U.S. apparel and related goods manufacturers paid \$5 billion in Section 301 tariffs between 2019 and April 2022.

The Section 232 and Section 301 tariffs have distorted the market for products subject to the tariffs and increased the price of goods for consumers in the U.S. The price effect arises in part from the cost of duties themselves, which, as the data above shows, is significant. But prices of goods produced in the U.S. and third markets have risen as well.

Coalition members report record-high steel prices that have more than doubled since 2018 when the Section 232 tariffs were imposed.¹⁰ Indeed, the 232 tariffs have even generated price effects for domestic steel as the protection afforded by the 25% tariff has allowed U.S. steel producers to increase prices well above those found in other markets. Manufacturers in some industries report that prices are increasing at such substantial rates they must purchase steel based on the price at delivery, not the price available at purchase.

In addition, the 232 tariffs have artificially increased the price of all aluminum sold in the U.S. market because of the unique way in which aluminum prices are set. Aluminum contracts are priced based on a benchmark known as the "Midwest Premium" price. Since the 232 duties on aluminum were put in place, the Midwest Premium price has been set as a "duty paid" price. That means all aluminum contracts in the U.S. are priced assuming the 232 duty applies – even if the imported material was covered by an exclusion or tariff rate quota ("TRQ"). The duty paid Midwest Premium price also applies even when a substantial portion of the aluminum product was sourced from scrap or recycled material.

It is also worth noting there have been price effects (e.g., pass-through of higher material costs to intermediate users (e.g., auto, beverage, and appliance manufacturers, etc.) and higher costs

⁹ Michael Shultz, *et al.* "[U.S. Consumer and Economic Impacts of US Automotive trade Policies](#)." Center for Automotive Research, February 2019.

¹⁰ Lance Lambert, "[Steel prices are up 200%. When will the bubble pop?](#)," *Fortune* (July 8, 2021).

for consumers) from the 232 duties even for imports from countries no longer subject to the tariffs.

Price increases have also affected goods subject to Section 301 tariffs. While harder to quantify, companies have reported cost increases even when they have relocated production outside of China. Shifting production to new suppliers is often affected by reduced economies of scale, higher qualification and conformity assessment costs, duplicate tooling costs, production capacity limitations, and additional logistics costs, all of which increase prices to consumers.

In sum, prices have risen across the board in response to the 232 and 301 duties and those price increases are causing significant, negative effects felt by many Coalition members and U.S. consumers.

B. Price Increases Harm U.S. Manufacturing Competitiveness

The price increases associated with the 232 and 301 tariffs are making U.S.-produced goods less competitive than products from other markets. Manufacturers outside the U.S. can source primary steel and aluminum products at prices set on the global market, which (as explained above) are much more favorable than those available in the U.S. Compounding this competitive disadvantage is the fact that 232 tariffs do not apply to imported downstream products. That leaves U.S. manufacturers of a wide range of metal products doubly exposed to competitive disadvantage: their raw material prices are higher and foreign-made end products can be sold in the U.S. without any impact from the 232 tariffs. Indeed, the ITC 232-301 Investigation confirmed that the Section 232 duties “reduced production in downstream industries in the United States that use steel and aluminum products as inputs because of increased prices.”¹¹

Several Coalition members noted lost sales to producers in third markets because of higher materials costs in the U.S. and that once customers have qualified suppliers outside the U.S. they rarely come back. Another member stated that the Section 301 tariffs are encouraging U.S. manufacturers in their sector to move production to third countries where they can purchase Chinese inputs at a lower cost and sell the final, assembled products and more value-added inputs back into the United States.

By imposing additional costs on U.S. manufacturers, the 232 and 301 tariffs are distorting the market and picking winners and losers. While primary metals producers may be enjoying higher prices under the 232 tariffs, it is coming at the expense of downstream industries. According to one study, for each new steel producer job, steel firms earned \$270,000 of additional pre-tax profits but steel users paid an extra \$650,000 for each job created.¹²

C. Other Economic Impacts of the 232 and 301 Tariffs

In addition to price increases and competitiveness challenges, the 232 and 301 tariffs have had a range of other impacts that adversely affect Coalition members.

¹¹ ITC 232-301 Investigation, Press Release.

¹² “[Steel Profits Gain, But Steel Users Pay, Under Trump's Protectionism](#),” Peterson Institute for International Economics, December 2018. (“PIIE Report”)

Availability: Among the most frequent concerns raised is the impact 232 tariffs have had on the availability of products subject to the tariffs. For purposes of obtaining an exclusion from the 232 duties, the Commerce Department defines a steel or aluminum product as “reasonably available” if a domestic producer can deliver the product within 8 weeks. However, current delivery time quotes for many steel materials are 16-20 weeks with some products not promised for delivery until 2023. Moreover, steel is not a monolithic market and for every type of steel in the market, there is a different profile of global production and a different level of capacity globally and within the U.S. As a result, the availability of products varies widely across different product lines.

For certain types of products, such as food-grade stainless steel, the lack of availability has been particularly acute. As demand for steel and aluminum grows, at least one Coalition member is predicting that it will become much more difficult to obtain specialty steel products as U.S. mills and service centers focus on supplying significant quantities of non-specialty steel to larger industry sectors like the automotive and aerospace industries.

Finding available supply is particularly difficult for small, family-owned businesses, which report that domestic steel suppliers often are unwilling to quote or fulfill orders because they do not meet minimum order requirements. Small companies – particularly those in underserved areas – are less able to hold significant quantities of material in inventory and do not have the resources to invest extensive time and money required to find suppliers who will fulfill their orders. In many instances, domestic producers have told Commerce they are capable of producing a particular product when opposing an exclusion request only to refuse to sell the material in a small quantity when it is subsequently requested.

Alternative Sourcing: Changing suppliers when materials are not available is not as easy as it may seem. The process for changing raw material suppliers varies depending on the type of product and end use. In the Section 232 context, some aluminum extruders use as many as 250 unique profiles (extrusion shapes) in their manufacturing process. To move the dies that are used to extrude those aluminum profiles would cost at least \$7500 per die alone. For products that are highly regulated for safety reasons, the raw material supplier is routinely specified in the contract based on testing performed to the customer’s requirements. During the term of a contract, raw material suppliers typically cannot be changed without agreement from the customer and any potential new supplier must undergo a qualification testing and approval process that can take 12-18 months.

For Section 301 tariffs, some Chinese-origin inputs may be available from other markets but Coalition members have invested in complex supply chains that have taken years to develop and maintain. Requiring U.S. manufacturers to rebuild these supply chains drains vital resources and will take many years to source around these tariffs. Moreover, realigning supply chains is not without its own costs. Where alternative sources of supply can be found, often the total cost (price, quantity, quality) is higher than the price available in China, even when the 301 tariff is added to the Chinese good. Furthermore, goods subject to safety approvals like UL standards would be subject to retesting and relisting when the country of origin changed, which is an extraordinary expense that most companies, especially small businesses, cannot afford.

As a result, many U.S. companies decided to pay the 301 tariffs, especially during the pandemic, rather than face the higher costs and uncertainty of realigning their supply chains.

More, with the expiry of the Generalized System of Preferences (GSP) program, U.S. companies now must pay higher tariffs to import from developing country markets that could be good alternatives to China. In fact, some companies found that even with the Section 301 tariffs in place, it was still less expensive to import from China. The Coalition for GSP has detailed instances where sourcing moved back to China AFTER GSP expiry.

Exclusions: The Commerce Department's Section 232 Tariff Exclusion Process cannot mitigate the economic harm to U.S. steel- and aluminum-using manufacturers caused by the 232 tariffs. The exclusion process is supposed to allow companies to obtain exclusions to the tariffs if the product they need is not available in the U.S. in the quantities, quality, or form needed. However, the process has been broken from the start. It is lengthy and cumbersome and regardless of the numerous comments provided to the Commerce Department on ways to improve the process, it continues to favor domestic producers over consumers. Many Coalition members report an overall lack of transparency, predictability, and responsiveness to requests for information about why an exclusion request was not granted (in some instances despite having been previously granted and renewed). Commerce also counts imports covered by a duty exclusion against any available absolute quota volume or TRQ quantity until the allowed quantity is exhausted. In effect, importers are unable to use an exclusion unless the absolute quota or TRQ has already been filled. This requirement greatly limits the utility of the duty exclusion and should be terminated.

301 exclusions, when they were available, also generated significant internal and external costs for companies requesting an exclusion. These costs included administrative costs of filing the request, reviewing the requests that were granted to ensure they could be applied to the relevant goods, and broker costs for filing for duty refunds. Unfortunately, the 301 exclusions on the vast majority of products have expired and are no longer available to provide any relief from the duties, even though USTR had previously agreed the products were not available in the United States.

Uncertainty: The uncertainty that has surrounded the Section 232 and 301 since their inception adds to the expense of the tariffs and their ultimate costs to consumers. Businesses prioritize certainty because it allows them to adequately assess and account for risk. A growing body of economic literature has found there are real economic costs associated with trade policy uncertainty equivalent to a level of tariffs between 1.7 and 8.7 percentage points.¹³ When considered in the context of the \$500 million in trade subject to the 301 duties the "uncertainty cost" would amount to between \$9.35 and \$47.85 million annually. The uncertainty cost reflects money companies are not investing in innovation, research, wages, skill-building and many other critical areas.

¹³ Alberto Osnago, Roberta Piermartini and Nadia Rocha, "[Trade Policy Uncertainty as a Barrier to Trade](#)," WTO Working Paper ERSD-2015-05 (26 May 2015).

Retaliation: In addition to raising costs for U.S. consumers, the Section 301 and 232 tariffs resulted in significant retaliation against U.S. exports by other governments. Canada, China, the European Union, India, Mexico, and Turkey imposed retaliatory tariffs ranging from four to 70 percent on many U.S. exports.¹⁴ The retaliatory tariffs increased the price of U.S. exports in these markets relative to alternatives that were either domestically produced or imported from other international sources. In the agriculture sector alone, the retaliatory tariffs led to a reduction in U.S. agricultural exports to retaliating partners of more than \$27 billion from the time the tariffs were imposed in 2018 through the end of 2019.¹⁵ China accounted for approximately 95 percent of these losses (\$25.7 billion).¹⁶

D. Economic Effects That Have Not Materialized

It is also important to note the anticipated direct economic effects that have not materialized as a result of the 232 and 301 tariffs. Under Section 232 an action taken by the President “must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.”¹⁷ Similarly, Section 301 provides that USTR is authorized to take action, including imposing tariffs, “to obtain the elimination of” the “act, policy, or practice” that was the subject of the investigation.¹⁸ There is no evidence that either the 232 or 301 tariffs are actually solving the problems they were adopted to address.

Steel producers have not significantly increased domestic production to ensure a reliable supply in a national security emergency. The ITC 232-301 Investigation reported an increase in domestic steel production of only 1.9 percent. Indeed, for certain categories of steel, domestic steel producers are shutting down, rather than expanding production. For example, the number of tin mill production lines in the U.S. continues to fall as U.S. Steel has idled its Gary Works mill and plans to close its Pittsburgh, CA facility at the end of the year. Similarly, the domestic steel and aluminum industries are not seeing significant new job creation – by one estimate only 8,700 jobs have been created or saved as a result of the tariffs.¹⁹ Further, the Federal Reserve’s comprehensive estimate of U.S. steel and aluminum jobs remains lower than the pre-tariff baseline.²⁰ Moreover, imposing additional tariffs on U.S. imports does nothing to address the problem of global overcapacity.

A similar fact pattern emerges with respect to the Section 301 tariffs. The additional duties imposed on imports from China have had no identifiable effect on persuading China to abandon

¹⁴ AAF, Table 5.

¹⁵ Stephen Morgan, *et al.*, January 2022. “[The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture](#),” ERR-304, U.S. Department of Agriculture, Economic Research Service (January 2022).

¹⁶ *Id.*

¹⁷ 19 U.S. Code § 1862(c).

¹⁸ 19 U.S. Code § 2411(a).

¹⁹ PIIE report.

²⁰ St. Louis Federal Reserve Bank, “[Employment for Manufacturing: Iron and Steel Mills and Ferroalloy Production \(NAICS 3311\) in the United States](#),” FRED, (accessed August 23, 2022).

the kinds of intellectual property rights (“IPR”) theft and forced technology transfer practices that were identified in USTR’s Section 301 report. Moreover, there is no indication that the cost of the tariffs is affecting the Chinese government or Chinese companies. Rather, the burden of these tariffs is falling on US businesses and their customers who are effectively being punished for China’s bad behavior.

If Chinese government IPR and technology theft is the crux of the problem targeted by the Section 301 investigation, then the remedy should focus on limiting export opportunities for those Chinese-origin products that have benefited from the government’s actions (e.g., through Section 337 actions to prohibit imports of those products). Instead, the Section 301 tariffs apply to nearly all products sourced from China.

By virtually any measure the 232 and 301 tariffs have failed to achieve their stated purpose.

CONCLUSION

Coalition members believe that neither the 232 nor 301 tariffs have been effective at achieving their intended objective and the President should eliminate them. At least some officials in the Biden Administration agree, calling the tariffs “poorly designed” and confirming they have increased costs for American families and small businesses.²¹ One study showing that trade liberalization could deliver a one-time reduction in consumer price index (CPI) inflation of around 1.3 percentage points amounting to \$797 per US household.²²

Congress has provided for the automatic termination of Section 301 actions at the end of four years absent a determination that continuing them is still necessary. USTR has initiated the statutory review of the 301 tariffs, but the process and timetable for reaching a decision have dragged on for nearly a year. The Administration should accelerate this review and take bold action to end the 301 tariffs as soon as possible.

Unlike Section 301, there is no statutory process for ending or even reviewing the 232 tariffs. Absent efforts by both the government and U.S. steel and aluminum producers to increase the domestic supply of products needed for national security purposes, the continuation of the 232 duties simply amounts to a subsidy to domestic producers provided by consumers and U.S. manufacturers of downstream products.

Sincerely,

Tiffany Smith

Chair, Tariff Reform Coalition &
Vice President of Global Trade Policy, NFTC

²¹ Sebastian Smith, “[Biden Undecided On China Tariffs Ahead Of Xi Call: W.House](#),” Barron’s (July 26, 2022).

²² Gary Hufbauer, Megan Hogan, and Yilin Wang. “[For Inflation Relief, the United States Should Look to Trade Liberalization](#),” Peterson Institute for International Economics, (May 2022).



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Statement for the Record
Alison Keane, Esq., IOM, CAE, President and CEO
Flexible Packaging Association
House Ways and Means Committee
Hearing on The Biden Administration's 2023 Trade Policy Agenda
Friday, March 24, 2023

My name is Alison Keane, and I am the President and CEO of the Flexible Packaging Association (FPA). FPA, which is the voice of U.S. manufacturers of flexible packaging and their suppliers, continues to be troubled by the President's Trade Policy, specifically with regard to aluminum foil tariffs.

At a time when sterile packaging for food, health and hygiene, and medical equipment is more important than ever, and as U.S. manufacturers are continuing to suffer from the worst economy in decades, the Administration should be looking at ways to alleviate supply chain burdens, not increase them. The flexible packaging industry is once again unfairly targeted with unwarranted trade actions on aluminum foil that not only threatens food, pharmaceutical, and medical security in the U.S.; but will also negatively impact domestic jobs and increase prices during a time of unprecedented inflation. A "self-initiated" case by the Department of Commerce (DOC) against suppliers of aluminum foil from South Korea and Thailand threatens manufacturers of flexible packaging with unwarranted duties on necessary aluminum foil for food, pharmaceuticals, and medical device packaging. On March 16, 2023, The U.S. Department of Commerce issued a preliminary determination that imports of aluminum foil from South Korea and Thailand, using inputs manufactured in China, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum foil from China.

Flexible packaging represents \$39 billion in annual sales in the U.S. and is the second largest and one of the fastest growing segments of the packaging industry. The industry employs approximately 85,000 workers in the United States and is deemed an Essential Critical Infrastructure Workforce by the Department of Homeland Security. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. Concerning the tariff impacts, aluminum foil is used for packaging as it provides the barrier protection needed from oxygen, light, moisture, and bacteria that food, health and hygiene, and medical supplies need to ensure stable shelf life, freshness, and sterility.

Additional duties are not appropriate as the thin gauge foil used in these applications cannot be supplied by U.S. manufacturers. In 2017, the U.S. government-imposed duties on aluminum products coming from China, including aluminum foil. In 2018, yet another administrative action was taken under Section 232 of the Trade Expansion Act and additional worldwide tariffs were imposed on aluminum products, including foil. Now, the DOC's preliminary determination of additional fees on imports of aluminum foil from S. Korea and Thailand is even more destructive, as the foil targeted by these duties and tariffs is not manufactured in the U.S.



in the quantities needed, and flexible packaging manufacturers have no choice but to import it. In fact, the DOC already stipulated this truth by granting hundreds of exemptions to these manufacturers from the Section 232 tariffs.

The Section 232 investigation on aluminum, which resulted in the 10% tariff on aluminum, including foils produced from that aluminum, was initiated under the Trade Expansion Act of 1962, and was to determine what, if any, effects imports of aluminum have on national security. FPA is not aware of any impacts aluminum foil imports for use in the packaging industry has on U.S. national security and the Department of Commerce Report entitled “Effects of Aluminum Imports on the National Security,” (report) did not specify any. Nevertheless, the tariffs were imposed and these import restrictions have had a significant negative impact on the flexible packaging industry and its employment in the U.S.

While FPA supported the adoption of exclusions from the tariffs where aluminum articles are not produced in the U.S. “in a sufficient and reasonably available amount or of satisfactory quality,” the process for exclusions is arduous and slow, and in some cases, results in conflicting approvals and denials. Additionally, manufacturers must apply for the exclusion annually, regardless of whether or not there has been a change in circumstances. In the case of fine gauge aluminum foil used by flexible packaging manufacturers, the domestic supply of the product has only gotten scarcer. Despite the Section 232 tariffs, as well as the significant Anti-dumping and Countervailing (AD/CVD) duties placed on Chinese aluminum foil imports, one of the only companies in the U.S. supplying light gauge foil chose to close its doors.

As FPA stated in numerous letters and in its testimony to the Department, there was never sufficient supply in the U.S. of aluminum foil for flexible packaging to begin with, which is why imports were necessary. Instead of production moving back to the U.S., it simply moved out of China to other parts of the world. Flexible packaging manufacturers have in some cases moved away from foil, substituting non-foil barrier structures, which also does nothing to assist the aluminum industry in the United States. Given that there is not enough supply or quality of the foil to meet flexible packaging manufacturers need in the U.S. As a result, the exclusionary process is the only avenue with which to secure aluminum foil for the packaging that requires its use, especially at this time of national emergency when the public’s health and safety are more important than ever.

Aluminum foil is critical to the flexible packaging industry, as it creates the ideal barrier to bacteria, odor, sunlight, and contamination and is essential to protect the domestic food, health, and medical product supply. Many of these products are ones that consumers use or purchase every day, whether in grocery stores, pet stores, retail stores, or restaurants, but also found in doctors’ offices, hospitals, pharmacies, and universities.

Additional duties on aluminum foil will negatively impact consumers and the economy by:

- **Threatening Food and Medical Product Security:** When it comes to packaging for medical devices, food, and healthcare, sterility is critical – literally a matter of life and death. There is no ideal substitution for the barrier protection aluminum foil provides. Additional costs on these goods will increase supply chain disruptions and could result in a scarcity of these products.
- **Negatively Impacting the U.S. Domestic Jobs:** Many U.S. converting jobs have already gone offshore with the imposition of the Chinese and Section 232 duties and tariffs. If

additional fees are imposed on foil from S. Korea and Thailand, more jobs and manufacturing will move out of the U.S. as foreign suppliers of finished goods do not have to pay the tariffs.

- **Increasing Prices During a Time of Unprecedented Inflation:** The loss of jobs to the American economy will not be the only negative consequence; the costs of goods and the increase in prices for consumers for products used daily, during this time of unprecedented inflation will be damaging. Products include food and beverage applications such as yogurt, ingredients, juices, pet food, and candy; health applications, such as over the counter drugs and nutraceuticals and COVID-19 testing kits; and medical device packaging, such as absorbable sutures and surgery kits.

The Flexible Packaging Association (FPA) and its members support efforts to protect domestic manufacturing and ensure national security. As such, the Administration should not continue to unfairly target domestic flexible packaging manufacturers. Imposing new duties on imports of aluminum foil is simply not the answer. Everybody loses in unfair trade cases, especially the American consumer. Just as in the initial Chinese foil case, new duties and costs to domestic flexible packaging manufacturers are not going to result in any benefit to domestic aluminum foil producers. However, the consequences will be huge for food and medical product insecurity, loss of jobs, and ever-increasing prices on the goods consumers use every day.



Engine Advocacy
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April 6, 2023

House Committee on Ways and Means
Longworth House Office Bldg. Rm. 1139
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VIA EMAIL

Statement of Engine Advocacy re: Hearing on the Biden Administration's 2023 Trade Policy
Agenda Held March 24, 2023

Dear Chairman Smith, Ranking Member Neal, and Honorable Members of the Committee on Ways
and Means:

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Lowering barriers to trade unlocks markets for U.S. startups to expand, compete, and find success and is a vital part of promoting domestic technology entrepreneurship. Accordingly, we appreciate the Committee holding a hearing to examine the President's Trade Agenda.

The Internet and digitization of world economies has enabled startups to reach markets beyond their borders. Through digital trade, startups are able to further the outsized contributions they make to domestic economic growth and job creation. And startups help others reach markets abroad too, whether they be artists, farmers, manufacturers, or others. As digital trade has grown,¹ barriers to digital trade have grown along with it. Startups encounter these barriers as they grow and scale beyond U.S. borders to serve users and clients abroad, and such barriers dictate where startups can feasibly reach users.² Startups accordingly need policymakers to pursue smart digital trade policies to lower barriers to entry, facilitate cross-border transfers of data, and promote uniform regulatory environments across jurisdictions.

¹ See, e.g., Table 3.1. *U.S. Trade in ICT and Potentially ICT-Enabled Services, by Type of Service*, Bureau of Economic Analysis (July 7, 2022).

<https://apps.bea.gov/iTable/iTable.cfm?reqid=62&step=9&isuri=1&6210=4#reqid=62&step=9&isuri=1&6210=4>.

² See e.g., Comments of Engine Advocacy Regarding Foreign Trade Barriers to U.S. Exports for 2023 Reporting, Engine (Oct. 28, 2022), <https://engine.is/s/2022-Transatlantic-Business-Statement-on-EU-US-Data-Privacy-Framework.pdf>.

Policymakers on the Committee and at the Office of the U.S. Trade Representative must recognize and harness the benefits of smart digital trade policies that enable startups to succeed by ensuring these provisions are included in current negotiations. Unfortunately, digital trade policies that lower trade barriers for U.S. businesses appear to be facing increasing skepticism from U.S. policymakers and others that claim forward-thinking digital trade policies only serve large incumbent companies.³ Reducing barriers to digital trade helps all U.S. businesses, including “big tech,” but it arguably stands to help startups the most.

Take, for instance, the invalidation of Privacy Shield in 2020, which created barriers to cross-border data transfers between the U.S. and Europe. This impacted all transatlantic businesses, but large companies were able to turn to other methods for transferring data, like Standard Contractual Clauses, while startups faced more existential business disruptions, increased costs, and lost clients.⁴ Indeed, small businesses and startups comprised the overwhelming majority of companies that relied on free flows of data through Privacy Shield.⁵

Similarly, the EU’s Digital Services Act will impact all content-hosting companies operating or looking to operate in Europe. Large U.S. technology companies will face significant new obligations under the law, but none of them are likely to exit the EU market or significantly revise plans to operate there. U.S. startups on the other hand will encounter elevated barriers to entering the EU market, significant new obligations, and compliance costs.⁶

In each of these examples, U.S. policymakers have intervened to try to reach solutions with their EU counterparts.⁷ This work advances the interests of U.S. startups and should not be foregone merely

³ See e.g., *Hearing on The President’s 2023 Trade Policy Agenda: Hearing Before the Sen. Comm. on Fin.*, 118th Congress (2023) (Remarks of Sen. Warren); *Hearing on Opportunities and Challenges for Trade Policy in the Digital Economy: Hearing Before the Sen. Subcomm. on Int’l Trade, Customs, and Glob. Competitiveness*, 117th Congress (2022) (remarks of Sen. Warren); Cristiano Lima, *Advocates urge U.S. not to offer ‘Big-Tech-favored terms’ in trade talks*, Washington Post (Mar. 15, 2023), <https://www.washingtonpost.com/politics/2023/03/15/advocates-urge-us-not-to-offer-big-tech-favored-terms-trade-talks/>; *Webinar: Big Tech’s Ploy to Undermine AI Accountability, Privacy and Anti-Monopoly Policies with Sen. Warren, Rep. Schakowsky, and Rep. Takano*, Rethink Trade (Mar. 16, 2023), <https://rethinktrade.org/videos/webinar-big-techs-ploy-to-undermine-ai-accountability-privacy-and-anti-monopoly-policies-with-sen-warren-rep-schakowsky-and-rep-takano/>.

⁴ See e.g., Sean Davis, *New Transatlantic Data Deal Can Reopen EU Opportunities for Startups*, Engine (Apr. 20, 2022), <https://engineadvocacyfoundation.medium.com/new-transatlantic-data-deal-can-reopen-eu-opportunities-for-startups-4a25c454572f>; #StartupsEverywhere profile: Mikel Carmenes Cavia, Co-Founder & VP of Engineering, Onfleet, Engine (May 7, 2021), <https://www.engine.is/news/startupseverywhere-sanfrancisco-ca-onfleet>.

⁵ See generally Privacy Shield Participants, <https://www.privacyshield.gov/list>.

⁶ Lauren Koop, *The EU’s Digital Services Act is one step closer to becoming law. How will it impact U.S. startups?*, Engine (July 28, 2022), <https://engineadvocacyfoundation.medium.com/the-eus-digital-services-act-is-one-step-closer-to-becoming-law-how-will-it-impact-u-s-startups-7be702180582>; Daphne Keller, *The EU’s new Digital Services Act and the Rest of the World*, Verfassungsblog (Nov. 7, 2022), <https://verfassungsblog.de/dsa-rest-of-world/> (Explaining the comparative impacts of the DSA on small entities: “The other predictable global harm will be to competition. The DSA burdens even very small platforms with obligations that today’s incumbents never shouldered, or else took on only much later in their development. Facebook, for example, first released a transparency report in 2013, when it was worth \$139 billion. It first allowed users to appeal removals of photos, videos, and posts (but not comments) in 2018, when the company was worth \$374 billion and had some 35,000 employees. Newer market entrants will take on similar obligations at a much earlier stage: once they reach just €10 million and fifty employees.”).

⁷ See, e.g., *FACT SHEET: President Biden Signs Executive Order to Implement the European Union-U.S. Data Privacy Framework*, White House (Oct. 7, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/07/fact-sheet>.

because it also helps or is supported by “big tech.” Likewise, trade frameworks that are currently being pursued and negotiated must advance the interests of U.S. startups, including through strong digital trade provisions.

Smart digital trade policy that promotes a free, open, and global Internet is needed to lower and keep low barriers to trade for startups. The recent U.S.-Mexico-Canada and U.S.-Japan Agreements enshrined commonsense digital frameworks and provide a template for smart digital trade policy that should be built upon in future trade negotiations, including the Indo-Pacific Economic Framework, for example. Inspired by these agreements, digital trade policy should embrace the following principles, which can support the success of U.S. startups looking to expand into foreign markets and engage customers abroad:

Facilitate cross-border data flows.

The Internet is inherently borderless and allows startups to reach foreign markets with little additional investment. Conversely, policies that restrict how and when data can be transferred across borders erect barriers to trade and increase costs that startups with limited resources have difficulty overcoming compared to their larger rivals.

Provide proportionate, tailored, and certain intermediary liability frameworks.

Balanced intermediary liability frameworks, like those found in the U.S. law (i.e., 47 U.S.C. §230 and 17 U.S.C. §512), provide the legal certainty needed for startups with business models that rely on user content—whether it's comments, photos, reviews, etc.—to grow and thrive. Around the world, however, common methods for governing intermediaries are taking root that undermine a startup-friendly environment and create new uncertainties and costs for U.S. companies. Laws that subject startups to the same standards as their much larger competitors, require the appointment of local representatives, impose tight content takedown timelines, require automated filtering, require the removal of content that is not otherwise illegal, and threaten heavy fines create barriers to entry for startups and reduce the number of foreign markets reasonably available to them.

Foster innovation and regulatory consistency.

Extraterritorial regulations adopted in other jurisdictions, including around data privacy and emerging technologies, can limit innovation opportunities and market access for American startups. Because they often apply any time a business encounters a user in or from that jurisdiction, startups with relatively few users there are likely to

[president-biden-signs-executive-order-to-implement-the-european-union-u-s-data-privacy-framework/](#) (on resolving transatlantic data transfer issues); Chamber of Progress (@ProgressChamber), Twitter (Dec. 8, 2021), (Remarks of Sec. Raimondo on the DSA: “We have serious concerns that these proposals will disproportionately impact U.S.-based tech firms and their ability to adequately serve EU customers and uphold security and privacy standards.”).

forgo serving that jurisdiction because of the regulatory structure. U.S. policymakers should work through the appropriate fora to ensure American startups encounter a consistent and level playing field.

Avoid technology sector-specific levies.

While startups are rarely subject to digital services taxes (DSTs) themselves, they rely on the services of larger companies who are, to build their products and reach customers.⁸ DSTs increase the price of these services, putting startups at a disadvantage in jurisdictions with them. Working through multinational fora to reach a global solution promises the best step toward a uniform tax environment, and Congress must do its part to advance the solutions arising from these negotiations.⁹

Prohibit duties on digital transactions.

The WTO moratorium on e-commerce is critical to fostering digital trade, and it is especially important for startups. Since 1998, member countries have agreed to not impose customs duties on electronic transmissions, but some countries have recently expressed interest in limiting or ending the moratorium.

As U.S. startups have previously told Congress,¹⁰ smart digital trade policies are “critical to bolster the global competitiveness of U.S. startups,” are necessary “to ‘unlock’ America’s renowned startup ecosystem,” and will further “the deployment of software and services around the world.” U.S. trade policymakers must heed the advice of startups and pursue strong digital trade provisions in current and future negotiations and defend the ability of U.S. startups to provide their services to end users around the globe.

Engine appreciates the opportunity to submit this statement for the hearing record and the Committee’s attention to digital trade issues important to startups. We look forward to being a resource for the committee on these and other issues in the future.

Sincerely,

Engine

⁸ See, e.g., *Tools to Compete Lower Costs, More Resources, and the Symbiosis of the Tech Ecosystem*, Engine and CCIA Research Center (Jan. 2023), https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/63d2b8d5bec96f502264fd1f/1674754266044/FINAL_CCIA-Engine_Tools-To-Compete.pdf.

⁹ See, e.g., Jennifer Weinhart, *Global tax deal continues to face hurdles*, Engine (May 24, 2022), <https://engineadvocacyfoundation.medium.com/global-tax-deal-continues-to-face-hurdles-cbe2ddf71cd1>.

¹⁰ See, e.g., *Statement for the Record of PILOT Inc. regarding hearing on Opportunities and Challenges for Trade Policy in the Digital Economy held November 30, 2022*, PILOT, Inc. (Dec. 14, 2022), <https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/639b267a1041a9585ced9704/1671112314829/Statement+for+the+Record+-+Ben+Brooks%2C+PILOT.pdf>.

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