

**United States Senate Committee on Finance**  
**Hearing on “The President’s 2023 Trade Policy Agenda”**  
**March 23, 2023**

**Questions for the Record for Ambassador Katherine Tai**

**Chairman Ron Wyden**

**Question 1**

The U.S. potato industry estimates that Japan has the potential to be a \$150 million market annually for U.S. fresh potatoes, much of which is expected to come from Pacific Northwest farmers. However, the Japanese government has long denied market access for U.S. fresh potatoes due to concerns regarding pests. The United States has formally requested market access for table stock potatoes, and Japan has formally recognized the U.S. request. Yet, despite multiple attempts by USDA to supply Japanese officials with information, as well as site visits, the Japanese government has made little progress on a pest risk assessment (PRA) on U.S. table stock potatoes.

*What is the status of USTR’s efforts to obtain market access for U.S. table stock potatoes in Japan, including by pressing Japan to complete its PRA? Is USTR engaging on this market access request in the context of the Indo-Pacific Economic Framework (IPEF) negotiations?*

**Answer:** USTR continues to raise the market access request for U.S. table-stock potatoes under the U.S.-Japan Partnership on Trade to advance the request in a timely and science-based manner. In the context of the Indo-Pacific Economic Framework, USTR envisions that the agriculture negotiations will enhance market access for U.S. agricultural exporters by, for example, advancing the implementation of science-based policies and improving transparency in the development of import rules and regulations.

**Question 2**

Oregon’s dairy farmers produce top-of-the-line dairy and dairy products, exports of which achieve the twin goals of increasing economic competitiveness in Oregon and supplying the growing demand for U.S. dairy products abroad. However, our trading partners are increasingly misusing geographical indications to limit the use of common food names, leading to unfair results for Oregon’s dairy farmers.

*What is USTR doing to ensure common food names can be utilized on labels and advertisements in priority export markets, beginning with our existing FTA partners? Is USTR raising this issue in the context of the Indo-Pacific Economic Framework (IPEF) negotiations?*

**Answer:** USTR has been pressing trading partners on their geographical indication policies and pushing trading partners to keep their markets open for U.S. agricultural products that rely on the use of common food names. For example, in the context of IPEF, we are working bilaterally with certain partners, including Australia, the Philippines and Singapore, seeking to preserve

long-term market access for U.S. cheeses and meats that are important to dairy farmers in Oregon and across the United States. In addition, we are engaging other FTA partners such as Chile, to effectively address and mitigate concerns regarding geographical indication policies.

*With respect to the EU, what is USTR doing to address this trade irritant?*

**Answer:** USTR remains concerned regarding the European Union's (EU), and some other trading partners', efforts to seek automatic protection for certain cheese, meat, and other food terms as geographic indicators (GIs), which imposes barriers on market access for U.S.-made goods relying on the use of common names. USTR is pushing for transparency and procedural fairness concerning the protection of GIs and to ensure that any granting of GI protection does not deprive U.S. industries of their ability to use common names in the marketing of food products.

### **Question 3**

The United Kingdom is now free to move away from the many protectionist practices of the European Union that have created an imbalance in agricultural trade across the Atlantic. But the UK remains under pressure from the EU to continue to align its practices with the EU's non-scientific, overly burdensome approach to agricultural trade. That poses a significant problem, as those existing EU policies have led to a deep Transatlantic agricultural trade imbalance.

*How is USTR leveraging the joint U.S.-UK Dialogues on the Future of Atlantic Trade to encourage the UK to reduce trade barriers to U.S. wheat and other agricultural products and ensure any sanitary and phytosanitary regulations are science based?*

**Answer:** USTR is working with the UK to deepen our bilateral trade ties. In bilateral discussions, we have emphasized the need to reduce restrictive tariff and non-tariff barriers and to allow U.S. products to fulfill demand within the UK, especially given rising global food prices. We have stressed, in particular, the need for the UK to ensure that sanitary and phytosanitary measures are science-based.

*Additionally, both the EU and UK maintain prohibitive tariffs on U.S. wheat under 13.5 percent protein, which is the majority of Oregon wheat production. By contrast, the United States has long allowed EU and UK wheat to enter the U.S. duty free.*

*Recognizing that you are not pursuing traditional free trade agreement negotiations, are there opportunities for discussion on reducing tariff barriers to U.S. agricultural exports in potentially large markets such as the EU and the UK?*

**Answer:** We have emphasized to all our trading partners, both bilaterally and multilaterally, the need to reduce restrictive tariff and non-tariff barriers and to allow U.S. products to fulfill demand, especially given rising global food prices. We continue to make this point to both the UK and the EU. The United States continues to raise concerns with the EU at the WTO to ensure that the EU complies with its international obligations.

### **Question 4**

Oregon's wheat growers are highly dependent on international trade and market access, as approximately ninety percent of Oregon wheat production is exported into an increasingly competitive global market. India is an important market for Oregon wheat exports, though exports to India have been stymied by a number of trade barriers from the Indian government, including domestic subsidies. I appreciate the steps that the United States Government has taken to hold India accountable for its unfair trade practices that harm U.S. farmers, including filing an additional counter-notification with the World Trade Organization (WTO) in April 2023.

*What other actions is USTR taking to ensure India makes the necessary changes to comply with its WTO commitments? Is USTR considering pursuing a formal dispute settlement case against India?*

**Answer:** We appreciate that India is a notable competitor for U.S. farmers, including Oregon wheat farmers, and its agricultural policies impact our ability to export grains and other products to both India and world markets. The United States is actively coordinating with a growing number of WTO Members who are also deeply concerned about India's trade-distortive measures, including its domestic subsidies. The next step is for the counter notification, which is co-sponsored by four WTO Members in addition to the United States, to be on the agenda for the June 27-28 WTO Committee on Agriculture meeting where we expect a robust discussion of India's policies. We will continue to closely monitor India's policies and actions and continually assess our options for holding India accountable to its WTO commitments.

#### **Question 5**

Japan is a critical market for frozen blueberries from the Pacific Northwest. The U.S.-Japan Trade Agreement eliminated tariffs on frozen blackberries, raspberries, and strawberries, but not on frozen blueberries. As a result, Pacific Northwest blueberry growers currently face a 6 to 9.6 percent tariff on frozen blueberry exports to Japan, putting them at a disadvantage with respect to growers in Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) countries, who can trade freely with Japan on all blueberry products.

*Is USTR seeking to address this trade barrier for Pacific Northwest blueberry growers, either through a technical amendment to the U.S.-Japan Trade Agreement or through other venues for dialogue?*

**Answer:** While tariff negotiations are not being considered at this time under IPEF, USTR envisions that IPEF's Trade Pillar will enhance market access for U.S. agricultural exporters by, for example, advancing the implementation of science-based policies and improving transparency in the development of import rules and regulations. USTR is not currently considering reopening the U.S.-Japan Trade Agreement tariff negotiations, but may request that Japan consider unilaterally reducing its tariffs for frozen blueberries on a most-favored-nation basis.

#### **Question 6**

Pacific Northwest growers continue to face barriers to tree fruit export in the Indo-Pacific, including sanitary and phytosanitary (SPS) measures. These measures are ostensibly imposed to protect health and safety, but in reality are often a protectionist tool used to keep U.S. products

out of export markets. For instance:

- a. Since 2017, Pacific Northwest apple growers have sought non-fumigated access to the Japanese market. Currently, Japan requires fumigation, which damages fruit quality, rendering apple access to Japan not commercially viable. U.S. industry estimates that with non-fumigated access, Japan could develop into a \$20 million market for U.S. apple exports.
- b. For decades, Pacific Northwest growers have sought access to the Australian market for apples and pears, but phytosanitary issues continue to impede market access. U.S. industry estimates that Australia could become a \$16 million market for apples and a \$4.5 million market for pears.
- c. South Korea has long prohibited the importation of apples and pears from the United States due to phytosanitary concerns. U.S. industry estimates that resolving the phytosanitary barriers in South Korea for apples and pears would result in yearly sales of \$10 million to \$25 million.

*Will the Indo-Pacific Economic Framework (IPEF) include binding commitments requiring parties to implement science-based measures and eliminate non-tariff barriers that prevent American producers from accessing markets in the region? If yes, how does USTR plan to make these commitments enforceable?*

*With respect to the trade concerns described above, is USTR seeking to resolve them through the IPEF?*

**Answer:** Within the Trade Pillar of IPEF, the United States will encourage Partners, including Japan, Australia, South Korea and others, to implement measures that are consistent with U.S. regulatory practices and international standards to minimize and eliminate nontariff barriers, issues which prevent American producers from accessing markets in Indo-Pacific countries where demand for U.S. food and agricultural products is rapidly increasing. To address specific barriers of concern and produce tangible benefits for U.S. agricultural producers, USTR will seek to promote the use of science- and risk-based decision making to maintain and expand market access for U.S. agricultural exports.

- a. Under the U.S.-Japan Partnership on Trade, the United States has been requesting that Japan allow for import of U.S. apples using a systems approach, which would remove fumigation requirement through other mitigation methods. This is a priority issue for USTR and we will continue to engage with Japan on the matter.
- b. We continue to press Australia to uphold their FTA commitments and build fair, non-discriminatory and science-based regulatory frameworks. Apples are a top priority issue for USTR in these discussions and we will continue to engage with Australia on the issue.
- c. In addition to our regular bilateral engagements, the United States engages with Korea annually on SPS issues through the KORUS SPS Committee and the KORUS Committee on Agriculture, where we continue to press Korea to adopt predictable, transparent, and science-based standards.

### **Question 7**

Last year, USTR began its statutory four-year review of the Section 301 tariffs imposed in response to China's forced technology transfer and intellectual property theft. I continue to support these tariffs, as well as other efforts to address China's rampant unfair trade practices. That said, certain tariffs have had negative impacts on American businesses and workers, particularly those that need inputs to goods manufactured in the United States. I continue to support a comprehensive, fair, and transparent exclusion process to allow U.S. producers, manufacturers, and importers to request case-by-case relief from these tariffs.

*Please indicate whether you are considering opening an exclusion process, whether as part of the four-year review or otherwise.*

**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 additional exclusion processes, as warranted.

### **Question 8**

On November 30, 2022, you met virtually with Mary Ng, Canada's Minister of International Trade, Export Promotion, Small Business, and Economic Development. According to the [public readout of the meeting](#), you "expressed concern about Canada's proposed unilateral digital service tax and pending legislation in the Canadian Parliament that could impact digital streaming services and online news sharing and discriminate against U.S. businesses." Yet, when asked about the meeting during the Finance Committee's hearing on March 23, 2023, you testified that you only raised the Canadian policies to "understand what the motivations are of our trading partners" and that you "raised the question to say [you] would like to learn more about this."

As you are aware, Canada's pending Online Streaming Act and Online News Act both contain discriminatory aspects that disadvantage U.S.-based entities, both large and small. These appear to be inconsistent with trade commitments undertaken by Canada as part of the USMCA and WTO.

*During your meetings with Canadian officials, did you clarify that laws and regulations with a discriminatory impact on U.S. entities, regardless of sector, raise concern under Canada's trade obligations?*

**Answer:** As I stated at the Senate Finance Committee Trade Agenda hearing, during my meeting with my Canadian counterpart, I raised questions about the Online Streaming Act and the Online News Act in order to learn more about the legislation and the motivations behind them.

**Ranking Member Mike Crapo**

## **Question 1**

The President's Agenda states it will conclude its "paradigm-shifting" Global Arrangement on Sustainable Steel and Aluminum, this year. Congress has not been informed of key details regarding this initiative.

*What methodology does the Administration propose to determine the carbon intensity of a particular steel or aluminum product? Please include any information regarding any aspect of the methodology that may consider upstream or downstream impacts.*

*What legal authority does the Administration intend to rely on to enact the Global Arrangement? If the Administration plans to ask Congress for authority, when will Congress receive the Administration's legislative proposal?*

**Answer:** Under the Joint US-EU Statement on Trade in Steel and Aluminum, the United States and the EU recognized their shared commitment 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, the Global Arrangement would eventually cover all direct (scope 1) and certain indirect (scope 2 and scope 3) emissions. Due to current data availability limitations across economies, the initial types of emissions considered for assessing the emissions intensity of the imports may be limited to direct emissions for steel and direct and certain indirect (scope 2) emissions for aluminum. As data improves over time, this would expand to include more complete emissions data, including additional data on indirect emissions (scope 2 and 3).

As negotiations are ongoing, we are still considering the authority(ies) that may be necessary to conclude and implement the Global Arrangement—this will depend on the structure and content of the instrument we announce with the EU. We have been consulting closely with and will continue to consult with Congress as the negotiations advance.

## **Question 2**

USTR is not sharing foreign government proposals related to the Indo-Pacific Economic Framework with the Finance Committee. Instead, USTR proposed that it would eventually provide consolidated texts that would contain some of the proposed language. The Administration thus undercuts a practice established under USMCA by its failure to provide country attributions in these proposed consolidated texts. As a result, Congress is left in the dark about who supports which foreign proposal. Based on conversations held with foreign governments, none object to Congress knowing this information, particularly since they still want congressional support for a final product to make sure it is durable.

*Will you provide foreign government proposals and attributions?*

**Answer:** I have worked to ensure that Congress is engaged in the IPEF negotiation process and is both aware of partner country views and able to provide input on partner country feedback. USTR has provided the Finance and Ways & Means committees with consolidated text that shows edits to negotiating text requested by partner countries. USTR has provided the trade committees these consolidated texts in conjunction with negotiating rounds and staff from the Ways & Means and Finance committees have travelled to each IPEF negotiating round. During these rounds, USTR has met with committee staff to discuss consolidated texts and has provided country attributions for specific edits. In addition, these on-the-ground meetings during negotiating rounds allow congressional staff to hear partner country views directly from those negotiators. USTR provides its views on partner country feedback and USTR has facilitated meetings between congressional staff and partner countries at negotiating rounds so congressional staff can hear directly from partner countries and share their views directly with them. Moving forward, USTR will continue ensuring Congress is meaningfully engaged in the negotiating process.

### **Question 3**

One of the key elements of our digital economy is the creative content that we make available through streaming and other digital services. Unfortunately, international piracy remains a major problem for this industry.

*Do you agree that modern digital trade agreements need to incorporate baseline copyright protections, such as those reflected in the WIPO Internet 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 established norms for 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 adequate and effective legal remedies against certain acts affecting rights management information (RMI). We will continue to press trading partners to join these critical treaties.

### **Question 4**

The Administration proposes negotiating critical minerals agreements with countries aggrieved by the clean vehicle credit in the Inflation Reduction Act. There is strong interest in Congress to expand production of critical minerals to end U.S. supply chain reliance on China.

*What new binding commitments—not reaffirmations—can you point to in the Japan Critical Minerals Agreement to stimulate production and trade in critical minerals? Please provide any economic data or analysis that supports your position.*

*The Inflation Reduction Act includes the term “free trade agreement,” which should mean an agreement that actually frees trade. Indeed, the USTR webpage, which identifies free trade agreements, lists precisely these types of agreements. What, if any, restriction does the Administration see in its ability to deem any trade or environmental agreement a “free trade agreement?”*

**Answer:** The Japan Critical Minerals Agreement contains new binding commitments relating to trade in critical minerals with respect to export duties, measures to address non-market policies and practices of non-Parties, best practices regarding investment reviews, efforts to address supply chain disruptions, and activities to strengthen labor rights enforcement and protect the environment. Building on the 2019 United States-Japan Trade Agreement, the Japan Critical Minerals Agreement will strengthen and diversify critical minerals supply chains and promote the adoption of electric vehicle battery technologies.

The criteria governing Treasury’s recent proposal to treat Japan as a “country with which the United States has a free trade agreement in effect” are found in its recent Notice of Proposed Rulemaking, *see Section 30D New Clean Vehicle Credit*, 88 Fed. Reg. 23370, 23376 (Apr. 17, 2023). This proposal was based on the Japan Critical Minerals Agreement, in the context of other elements of the U.S.-Japan trade relationship, as explained in the Notice.

#### **Question 5**

The Administration has yet to respond to the Finance Committee’s December 1 letter to the President calling for congressional approval of IPEF. Meanwhile, our IPEF partners indicate capacity building assistance is required before they can commit to IPEF. The President’s current budget flags \$50 million to advance IPEF for just this year. Presumably, much more funding will be needed. USMCA needed \$843 million to enforce the labor and environmental provisions, and IPEF has a dozen more countries.

*When will Congress receive a cost estimate for IPEF technical capacity building?*

**Answer:** Throughout the course of the negotiations, USTR and partner countries have discussed potential technical assistance needs. Ultimately, technical assistance needs will be assessed by USTR and the Parties based on the outcomes of negotiations of the Trade Pillar (Pillar I). The Administration, including USTR, will keep Congress apprised of any potential funding needed for IPEF, including, technical assistance and capacity building, through our regular President’s Budget process.

#### **Question 6**

American leadership on digital trade is critical, particularly at a time when China works hard every day to establish its own standards and rules in the field.

*Do you agree that the United States must make it a top priority to renew the Moratorium on Customs Duties on Electronic Transmissions, well ahead of its expiration, next February?*

**Answer:** The United States continues to support the practice of not imposing customs duties on electronic transmissions. USTR remains committed to developing rules that govern the emerging and evolving digital economy that support workers, consumers, and businesses.

*Do you agree that the United States must consider all appropriate enforcement tools to protect its rights if the moratorium expires and countries decide to adopt tariffs on U.S. electronic*



*transmissions?*

**Answer:** While 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, we will consider all options to address barriers to digital trade that negatively impact our workers, consumers, and businesses.

*Do you agree that the United States must press for digital trade rules that combat forced disclosures of proprietary computer source codes and algorithms?*

**Answer:** The United States remains concerned with the harms to U.S. companies that can result from actions by foreign governments to force access to or the transfer of the source code of software. It is also clear that the use of artificial intelligence and algorithms in the United States and its impact on all aspects of society will continue to grow. We are continuing to evaluate the appropriate approach to these issues in IPEF at the same time as we follow the debates on this taking place in the Congress.

### **Senator Maria Cantwell**

#### **Question 1**

Thank you for the attention you have placed on working to relieve India's retaliatory tariffs on American products- and particularly Washington apples. You mentioned that you and your office are thinking through ways to get these issues resolved. I would like to stay coordinated with you to ensure we are effective.

*Can your staff follow up with my staff about the measures you are considering? And please mention any areas where we can be helpful to your efforts.*

**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 2**

Pacific Northwest seafood processors have remained at the same competitive disadvantage in accessing China's market for the past several years. Other seafood-producing nations can access China without retaliatory tariffs, and they are reaping the benefits of China's increasing demand while US producers are effectively sidelined. Chinese imports of non-U.S. seafood are up 122% while their import of U.S. products are down 26% from 2017- despite purchase commitments.

*Whether part of USTR's Sec. 301 tariff review or through another process, what are USTR and collaborating agencies doing to quantify and evaluate the impacts of China's retaliatory tariffs on Pacific Northwest seafood producers and exporters?*

*More generally, can you provide an update on USTR's Section 301 tariff review?*

**Answer:** The China Section 301 tariffs are currently undergoing a four-year statutory review. As part of this review, USTR requested public views on 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, other actions that could be taken: and the effects of the actions on the United States economy, including U.S. consumers. USTR also sought views on the impact of the actions on U.S. workers, U.S. small businesses, U.S. manufacturing, critical supply chains, U.S. technological leadership, and possible tariff inversions. USTR expects to complete the four-year review in the fall of this year.

More generally, USTR is committed to using all available trade tools to ensure that U.S. fishers and other workers in the fisheries sector can compete on a level playing field. For example, we know our fishers have to compete with significant subsidization by other countries, particularly China. Through extensive U.S. engagement and leadership, WTO Members were able to achieve the WTO Agreement on Fisheries Subsidies in 2022. The Agreement contains several important disciplines, including prohibitions on subsidies to vessels or operators engaged in illegal, unreported, and unregulated (IUU) fishing; for fishing regarding overfished stocks; and for fishing on the unregulated high seas. The United States was among the first WTO Members to accept the agreement, and USTR will continue to pursue additional, ambitious disciplines through the continuing negotiations to help improve the lives of our fishers and workers.

### **Question 3**

As you know, I am totally focused on reopening and making gains in huge markets like India. When our delegation met with Prime Minister Modi earlier this month, he expressed interest in a free trade agreement with the U.S. He's concluded FTAs with Australia and UAE.

I understand that there is no appetite to start such a process, and doing so would be a longer-term impacts. But the U.S. has taken steps in other markets to reduce Section 232 tariffs on steel and aluminum, such as the imposition of quotas under 232 as a way to reduce tariffs.

With the steel and aluminum tariffs on the table, in addition to GSP, you would have some options to resolving retaliatory tariffs on our agriculture.

*What does the U.S. need to do to get India to eliminate its retaliatory tariffs against U.S. products? Could you see the U.S. negotiating a reduction of 232 tariffs, or the use of quotas?*

*In the process of working through India's retaliatory tariffs and other barriers to U.S. trade, could the U.S. negotiate a tariff-rate quota or use a similar tool to make our point about steel and aluminum overcapacity, but work towards increasing trade- especially agricultural trade?*

**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.

As the U.S. Department of Commerce administers the Section 232 process, I would encourage you to engage Secretary Raimondo on this matter. USTR is working to address the market distorting measures that have led to non-market excess capacity in the global steel and aluminum markets, including through a new Global Arrangement on Sustainable Steel and Aluminum that we are currently discussing with the European Union. We continue to push India to help address the actions that have led to non-market excess capacity, including reengaging in the work of the Global Forum on Steel Excess Capacity.

### **Senator Robert Menendez**

#### **Question 1**

It is my understanding that the US International Trade Commission (USITC) will provide a report to USTR on its investigation entitled, “COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities” (Inv. No. 332-596) on October 17, 2023.

*Will you share a copy of the report with the Committee as soon as you receive it from the USITC?*

*At what point do you expect the report to be made public?*

*Will you consult with the Committee prior to making a decision on whether to expand the TRIPS waiver to diagnostics and therapeutics?*

**Answer:** We expect that, in accordance with its established practice, the USITC will transmit the report to USTR on October 17, 2023 and then post it online 30 days later. 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 the question presently at the WTO, 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 2**

I understand U.S. companies are facing an issue in Japan’s gaming market, where Sony appears to be blocking competition through exclusive deals and payments to game publishers not to distribute their games on other platforms. Japan’s equivalent of the Federal Trade Commission has failed to investigate this conduct, which appears to act as a non-tariff barrier to entry to

Japan's market. This is particularly troubling because Sony has not adopted policies committing to non-interference in workers' right to organize like those at Microsoft, which has enabled Microsoft employees to freely and fairly organize to form unions.

*Consistent with your focus on advancing fair trade conditions that benefit workers and create good jobs, will you bring this matter to Japan's attention?*

**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.

### **Senator Tom Carper**

#### **Question 1**

As the world leader in services, the U.S. services sector employs 80% of the American workforce, accounts for over 80% of U.S. GDP and U.S. exports of services directly supported 3.4 million jobs in 2021. However, U.S. services firms still face substantial barriers in foreign markets that hurt U.S. workers and the U.S. economy. Many services industries, including the financial services industry, face measures like limitations on the free flow of data across borders, bans on the use of cloud services, regulations that discriminate against U.S. firms and restrictions on a company's ownership in a given market.

*How is USTR working to address these issues to help American companies compete on a more level playing field?*

**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.

#### **Question 2**

China's influence in the Western Hemisphere – including in expanded diplomatic ties and critical areas like infrastructure investment and critical mineral mining – continues to be an issue of concern.

*How can we develop a more cohesive regional economic strategy, including a proactive plan to meaningfully counter China's activities and support sustainable investment in the region?*

**Answer:** In USTR's engagements in the Americas, we consistently share our concern about China's influence and the risk it poses for the United States and our allies and partners. In the Americas, we have a strong network of existing agreements, including TIFAs and free trade

agreements, to reinforce our economic ties and shared values. We are working with our regional partners to use these existing tools and develop new initiatives, including regional approaches like the Americas Partnership for Economic Prosperity, to build resilience and competitiveness in this Hemisphere.

### **Question 3**

Last year I joined Senator Portman and 39 of our colleagues on a bipartisan letter calling for the Administration to establish a more comprehensive exclusion process for imports from China subject to tariffs under Section 301 of the Trade Act of 1974. The letter was a follow up to an April 2021 letter in which Senator Portman and I joined 38 of our colleagues in requesting that the Administration restart the tariff exclusion process.

We continue to hear from American businesses, including many who are working to implement key priorities, such as the Bipartisan Infrastructure Law and the Inflation Reduction Act, with concerns that the lack of an exclusions process is driving up costs, especially for products manufactured domestically using imported materials and components, and seemingly not achieving their original intended purpose in countering China's unfair trade practices.

*In your opinion, would it be worthwhile to re-evaluate the use of these tariffs to support the robust goals of the Bipartisan Infrastructure Law and Inflation Reduction Act, including tariffs impacting sectors and products that are contributing to the revitalization of our nation's infrastructure and clean energy transformation?*

**Answer:** As part of the 4-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 in light of impacts on sectors of the U.S. economy as well the goal of increasing domestic manufacturing. USTR continues to consider additional exclusion processes, as warranted.

### **Question 4**

*As WTO member countries continue to weigh a TRIPS waiver for COVID therapeutics and diagnostics, how are you considering the impact of a possible waiver on American jobs and competitiveness?*

**Answer:** On December 16, 2022, I asked the U.S. International Trade Commission 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 the question presently at the WTO, 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.

**Senator Bob Casey**

### **Question 1**

Bolstering the U.S.' supply chain resilience is a key element of the 2023 Trade Policy Agenda. As noted within, "the concentration of our supply chains in China contributes to our vulnerability, especially for critical technologies." In your written testimony, under the topic of trade enforcement, you stated 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."

*Are there specific areas of trade enforcement that are of biggest concern to you, and where can Congress be of most help in your pursuit of enforcing trade agreements, combatting unfair, non-market practices, and leveling the playing field for American workers?*

*As USTR engages with foreign trading partners to advance the U.S.' resilience in critical supply chains, what is USTR doing to ensure pending trade agreements reflect U.S. national security interests, particularly regarding investments in critical capability sectors?*

**Answer:** We would welcome an opportunity to engage further with Congress around priority areas of trade enforcement. We are actively reviewing our existing trade tools in this space and identifying ways to strengthen them, with the recognition that historically, trade agreements and tools might not have addressed the challenges we now face. We look forward to continued exchanges on this topic and to working together to craft solutions to these pressing challenges.

The Biden Administration is committed to protecting our national security interests. More resilient supply chains can protect the United States from shortages of critical products and encourage investments to strengthen our national security, and resilience is a key part of our engagement with foreign trading partners. IPEF, for example, includes a pillar on supply chains, and the Japan Critical Minerals Agreement requires the parties to confer regarding best practices in investment reviews.

### **Question 2**

The Global Arrangement on Sustainable Steel and Aluminum is one of the most consequential initiatives between the US and the EU. It could be the umbrella under which the global steel and aluminum market operates for generations to come. Pennsylvanians know all too well the lengths to which nonmarket economies will go to manipulate and skirt U.S. trade enforcement. When nonmarket economies don't play by the rules, it costs American jobs and American industry—which produces some of the cleanest steel on this planet. Thousands of steel workers in the Commonwealth have lost their jobs as a result of China's unfair practices and hundreds of thousands of jobs nationwide are at risk if we cannot find a way to work with our allies to create a system that meaningfully and sustainably combats unfair trade. In some cases, nonmarket economies have found backdoors into our Free Trade Agreements, importing goods free of duties that have a high percentage of inputs from nonmarket economies.

*What kind of commitments will you be proposing in this agreement to ensure participants cannot overproduce steel and aluminum, leverage state subsidies, use forced labor, and artificially*

*depress global steel price? How will you ensure there is not a back door into this agreement by creating strong rules of origin?*

**Answer:** Under the Joint US-EU Statement on Trade in Steel and Aluminum, the United States and the EU recognized their shared commitment 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, membership in the Global Arrangement would depend, in part, on a country’s policies with regard to restricting market access for steel and aluminum imports from sources of non-market excess capacity (NMEC). We are also envisioning membership criteria that take 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 affords internationally recognized labor rights.

### **Question 3**

Pillar one of the Indo-Pacific Economic Framework for Prosperity is expansive, containing language that will create the rules of the road on trade for one of the most sensitive and fastest growing regions on the global stage. I am encouraged that you and your staff have repeatedly expressed that the US is seeking a high standards agreement, using the United States-Mexico-Canada Agreement as the basis upon which you will build. Meanwhile, the public, workers, and even some Congressional staff have been unable to confirm this. I am particularly concerned with provisions contained in the digital chapter of pillar one. I am particularly concerned that rules surrounding cross border data flows may not consider implications for the full gamut of data types, such as data collected on employees by employers.

*How is USTR planning to ensure rules around cross border data flows and data localization fully consider sensitive types of data? How have you engaged with the interagency and Congress on parallel efforts to address concerns regarding data collected on workers?*

**Answer:** USTR recognizes that both Congress and regulators seek to preserve policy space to address questions around data, including privacy. We have worked closely with labor unions, including through our Labor Advisory Committee, to ensure that any digital provisions are consistent with advancing a worker-centered trade agenda. We look forward to continuing to work with Members of Congress and the labor community on these issues at the same time as we follow the debates taking place in the Congress.

**Senator Maggie Hassan**

### **Question**

As part of its goal to revitalize domestic manufacturing and combat the climate crisis, the administration has been in discussions with the European Union to develop a partnership known as the Global Arrangement on Sustainable Steel and Aluminum. However, experts expect that

most of the growth in global steel capacity in the coming years will come from producers in countries such as China that fail to meet the same kinds of emissions standards, that overproduce steel and aluminum, and have state-owned companies involved in producing these goods.

*What steps does USTR plan to take to protect American manufacturers and curb global excess steel capacity originating from those countries?*

**Answer:** Under the Joint US-EU Statement on Trade in Steel and Aluminum, the United States and the EU recognized their shared commitment 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, membership in the Global Arrangement would depend, in part, on a country’s policies with regard to restricting market access for steel and aluminum imports from sources of non-market excess capacity (NMEC). We are also envisioning membership criteria that take 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 affords internationally recognized labor rights.

### **Senator Catherine Cortez Masto**

#### **Question 1**

During the hearing, I asked you if it was still the Administration’s position to support maintaining a two year pause on solar tariffs as the Department of Commerce conducts a circumvention investigation in the Auxin petition case. You indicated you would consult with that department and report back.

*Can you please confirm that the Administration’s position remains the same?*

**Answer:** In May, President Biden vetoed legislation passed by Congress that would have repealed the suspension of duties on solar cells and modules pursuant to the President’s proclamation of June 6, 2022.

#### **Question 2**

As I am sure you hear a lot there are a number of concerns that businesses are having with the 301 tariff exclusion process. A fair and efficient exclusion process can be a valuable part of our strategy to counter China’s unfair trade practices.

*As part of USTR’s 301 review, do you have any additional thoughts on how the exclusion process can be improved?*

**Answer:** As part of the 4-Year Review, we are considering whether adjustments to tariff structure may be appropriate, and this could include consideration of an exclusion process. We



received a number of comments from the public on ways a future exclusion could be altered to be more effective, and USTR continues to consider additional exclusion processes, as warranted.

## **Senator Chuck Grassley**

### **Question 1**

The Mexican Government has sent no signal that they intend to return to a science-based biotech risk-assessment.

*What are you hoping to accomplish in the technical consultations?*

**Answer:** In these consultations and in all our engagement with Mexico, we continue to work to avoid any disruption to U.S. exports of corn or other agricultural products to Mexico and to urge Mexico to return to a science-based approach for all biotech products.

### **Question 2**

*If they do not commit to withdrawing their decree, will you file a formal dispute settlement?*

**Answer:** If these issues regarding agricultural biotechnology are not resolved, we will consider all options, including taking further steps to enforce U.S. rights under the USMCA. On June 2, I requested dispute settlement consultations with Mexico under the United States-Mexico-Canada Agreement (USMCA).

### **Question 3**

In your testimony, you say 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."

As you conduct the USTR's statutory four-year review of Section 301 actions taken to combat discriminatory Chinese trade practices, I encourage you to consider the important of the American Amino Acids industry.

*Do you believe China's non-market practices in the amino acids industry warrant maintaining Section 301 tariffs on existing amino acid imports from China, and expanding these tariffs to include lysine and threonine?*

### **Answer:**

As part of the 4-Year Review, we are reviewing the overall product coverage to understand, among other things, the impact of the tariffs on consumers, workers, and sectors of the U.S. economy and industries. Our review will consider suggestions made during the public comment period to include products not currently covered by the action.

### **Question 4**

By using its regulatory system to potentially discriminate against U.S. technology, China can limit U.S. farmers' access to new biotech products; products that can help our farmers address the challenges of a changing climate while enhancing global food security. This is not in the

spirit of what was agreed upon in the Phase One commitments. It will be important to ensure China lives up to its Phase 1 commitments. If not, China's behavior could have profound negative impacts on the speed of deploying much needed agricultural innovation to U.S. farmers, the stability of U.S. agricultural exports and the American jobs that support them, the health of commodity markets and the ability of U.S. farmers to maintain their competitive advantage in the global market.

*What is the Administration's strategy with respect to Phase One enforcement, and specifically the implementation on the Phase One agreement as it relates to agricultural biotechnology?*

**Answer:** The Chinese regulatory approval process for products of agricultural biotechnology creates significant uncertainty among U.S. farmers, developers, and traders, impeding farmers' access to innovative technologies and creating adverse trade impacts. China's commitments relating to agricultural biotechnology remain among the most significant commitments under the Phase One Agreement for which China has yet to demonstrate full implementation. In our bilateral engagement with China, we continue to use the consultation mechanism set forth in the Phase One Agreement as well as other bilateral engagement in an effort to secure China's full implementation of its commitments, including with regard to agricultural biotechnology.

#### **Question 5**

I have heard concerns that Section 301 tariffs have put American manufacturers at an unfair disadvantage to foreign manufacturers in some situations. For example, a household appliance produced in Vietnam or Thailand using Chinese parts is not subject to 301 tariffs, while a U.S. manufacturer - such as Whirlpool that has nearly 3000 employees in Amana, Iowa - must pay 301 tariffs if it imports those Chinese components and uses them in American manufactured products.

You acknowledged in your testimony that USTR's statutory review of the 301 tariffs on goods imported from China is ongoing. You've given no time estimate on when the review may be completed.

*Is USTR still reviewing all comments received prior to the January deadline from all stakeholders? Have you received comments from harmed U.S. manufacturers indicating these tariffs may be having the opposite effect as originally intended? How are those situations being considered as the review continues?*

**Answer:** The China Section 301 tariffs are currently undergoing a four-year statutory review. As part of this review, USTR requested public views on 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; other actions that could be taken; and the effects of the actions on the United States economy, including U.S. consumers. USTR also sought views on the impact of the actions on U.S. workers, U.S. small businesses, U.S. manufacturing, critical supply chains, U.S. technological leadership, and possible tariff inversions. All comments submitted through the four-year review are available on USTR's comment portal and will be given full consideration. USTR expects to complete the four-year review in the fall of this year.

## Senator John Cornyn

### Question 1

This month we learned from the International Trade Commission that U.S. importers bore nearly the full cost of the Section 301 tariffs because import prices increased at the same rate as the tariffs. Specifically, the International Trade Commission estimated that prices increased by about 1 percent for each 1 percent increase in the tariffs under sections 232 and 301. In fact, the more than \$173 billion in taxes collected by these tariffs effectively fell directly on American businesses, workers, and consumers.

I've previously joined my colleagues on a bipartisan basis on letters to your office urging you to restart and reform the Section 301 exclusions process. I understand the Administration is currently reviewing the use of these tariffs.

*What will it take to restart an exclusions process?*

**Answer:** 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 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, 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.

### Question 2

According to the 83rd Annual Foreign-Trade Zone Board report, Texas continues to rank at the top in terms of merchandise received and exported out of FTZs. This valuable tool plays a vital role in promoting economic development in communities, not just in Texas, but throughout the U.S.

- a. *How can we bolster trade programs such as the American FTZ program which is designed for trusted partners and securing the supply chain to create and retain American jobs in manufacturing and distribution?*
- b. *How can the American FTZ program's rigorous compliance process help companies diversify their supply chains and avoid offshoring American jobs?*

**Answer:** The Foreign Trade Zone program supports manufacturing production and jobs throughout the United States by giving users of the program the opportunity to reduce import duty liability under certain circumstances. The program is administered by the Foreign Trade Zone Board, and USTR is committed to working with the Board and its member agencies to assist in advancing its mission. USTR notes that a newly-issued report from the U.S. International Trade Commission confirms that FTZ-based duty savings can be substantial for firms producing in U.S. FTZs. For some such firms, cost savings from their FTZ usage drive decisions to increase production in the United States, thereby increasing investment, manufacturing output and employment.

### **Question 3**

Electrical steel is a fundamental input to the distribution transformers required to power America's homes. The current supply of distribution transformers is critically low and is stalling or, in some cases, completely halting development. I've heard reports from constituents that lead times on distribution transformers range between 10 and 24 months. I'm concerned this is a result of restrictive trade policies with respect to electrical steel.

Electrical steel is a critical component in distribution transformers. As you know, there is only one remaining U.S. manufacturer of the specialty steel, Grain-Oriented Electrical Steel (GOES), used in distribution transformers.

*Why have imports of GOES from our allies, particularly South Korea and Japan, fallen so precipitously in recent years?*

**Answer:** The Biden-Harris Administration is committed to working with U.S. trading partners to address the immediate supply chain challenges from this unprecedented economic recovery and building long-term supply chain resilience for the future. USTR is aware of the concerns you note regarding the availability of grain-oriented electrical steel for distribution transformers and will continue to work with the U.S. Department of Energy, the U.S. Department of Commerce and other U.S. government agencies, as appropriate, to ensure that U.S. stakeholders' views on this important issue are taken into consideration. The U.S. Department of Energy has been assessing the supply chain risks for grain-oriented electrical steel and other transformer inputs and is considering new rules to raise the minimum efficiency standards for certain types of distribution transformers.

### **Question 4**

In July 2020, the U.S. Assistant Attorney General for National Security indicted Chinese hackers attempting to steal trade secrets from technology and biotech companies, including firms working on [COVID-19-related treatment](#), testing, and vaccines. The U.S. described those

intrusions as examples of China's "brazen willingness to engage in theft" of IP to advance their competitive edge. You yourself have acknowledged China's well-established track record of using unfair practices to acquire U.S. technology, to the detriment of U.S. innovators and workers. I remain concerned that last June's TRIPS waiver for COVID-19 vaccines is a giveaway of U.S. government and private sector funded biomedical research to countries like China for free. I understand China is supposedly carved out, but I am not convinced. Now there are discussions to extend this misguided decision to COVID-19 therapeutics and diagnostics and I understand that China has said that it would not be carved out.

*Will you commit to not agreeing to any extension of the TRIPS waiver to COVID-19 therapeutics and diagnostics that could transfer U.S. technology to China or otherwise benefit China?*

**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.

### **Senator Tim Scott**

#### **Question 1**

A recent report from the International Trade Commission (ITC) concluded that the financial burden of Sections 232 and 301-related tariffs are borne predominantly by U.S. consumers. Treasury Secretary Yellen at the G7 Summit in June 2022 said some Section 301 tariffs harm American consumers and businesses and are not very strategic in the sense of addressing real issues we have with China; however, the Biden Administration has signaled no change in course in its tariff policy – in fact, its trade agenda as a whole appears to be put on ice with respect to economic matters of any real consequence.

*Do you agree with the ITC's and Secretary Yellen's comments?*

**Answer:** The China Section 301 tariffs are currently undergoing a four-year statutory review. As part of this review, USTR requested public views on 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; other actions that could be taken; and the effects of the actions on the United States economy, including U.S. consumers. USTR also sought views on the impact of the actions on U.S. workers, U.S. small businesses, U.S. manufacturing, critical supply chains, U.S. technological leadership, and possible tariff inversions.

- 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 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).

## Question 2

*Will the Office of the United States Trade Representative's (USTR) work with the Department of Commerce and other agencies to ensure that the interests of key U.S. steel producers and motor vehicle and component manufacturers are well-represented in U.S. trade policy to ensure sufficient U.S. production of key products like electrical steel?*

**Answer:** The Biden-Harris Administration is committed to working with U.S. trading partners to address the immediate supply chain challenges from this unprecedented economic recovery and building long-term supply chain resilience for the future. USTR is aware of the concerns regarding the availability of grain-oriented electrical steel for distribution transformers and will continue to work with the U.S. Department of Energy, the U.S. Department of Commerce and other U.S. government agencies, as appropriate, to ensure that U.S. stakeholders' views on this important issue are taken into consideration. The U.S. Department of Energy has been assessing the supply chain risks for grain-oriented electrical steel and other transformer inputs and is considering new rules to raise the minimum efficiency standards for certain types of distribution transformers.

## Question 3

In 2020, the Department of Agriculture (USDA) and China's General Administration of Customs China (GACC) reached an agreement on a protocol for handling outbreaks of avian influenza, limiting China's highly pathogen avian influenza (HPAI) bans for impacted U.S. states to 90-days post-virus elimination, disinfection, and cleaning. This was a huge win for the U.S. chicken industry, with China becoming its second-largest export market. However, China has failed to honor the 2020 agreement since August 2022, preventing eligible states such as Arkansas, Kentucky, New Jersey, Oklahoma, Delaware, and North Carolina from resuming exports. I am not aware of any real substantive concerns raised by GACC. Additionally, other leading chicken producing states are on track to become eligible in the next couple of months, and there are serious concerns that they will receive the same unfair treatment from China. This issue is critical for the industry, with many of the products exported from these states flowing through South Carolina's export infrastructure. It is concerning that the Office of the United States Trade Representative (USTR) may not be willing to fight for proper enforcement of our trade agreements and support constituents in this critical industry.

*Can you tell me if you and other senior leaders have engaged China directly on this issue? If not, what is the plan moving forward with USTR and other agencies, including collaboration with USDA, to engage your Chinese counterparts?*

**Answer:** In our bilateral engagement of China, we have been using the consultation mechanism set forth in the Phase One Agreement as well as other bilateral engagement in an effort to secure China's adherence to its obligations relating to HPAI, including specifically the need for GACC to permit the resumption of imports of poultry from HPAI-free states, consistent with the terms of the Phase One Agreement. USTR and other relevant U.S. government agencies at various levels have participated in this engagement, which has focused on multiple Chinese government agencies, including GACC.

#### **Question 4**

European leaders have made clear in public statements their intention to use the European Union (EU) digital regulatory agenda to preference European companies at the expense of American companies. This includes new rules and penalties that affect only a handful of U.S. companies while excluding EU competitors, new requirements that will prohibit U.S. cloud service providers from participating in the EU government cloud services market – simply based on their headquarters location, and proposed rules to force U.S. companies to share sensitive and proprietary data with EU regulators and competitors. At a high level, the U.S. government should demand the EU regulate its own companies in the same manner as American companies, such as in the Digital Markets Act and Digital Services Act and eliminate discriminatory aspects of pending measures, such as the EU Cloud Services Scheme and DATA Act.

*What are you doing to secure commitments from the EU to ensure American companies can compete on a level playing field in Europe?*

**Answer:** The Office of the U.S. Trade Representative 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. My team and I will continue to engage with the European Union on these important matters.

#### **Question 5**

Americans for years have been shouldering the price burden of innovation for new prescription drugs while other countries around the world get a free ride.

*Does the Biden Administration see a role for the Office of the United States Trade Representative (USTR) in addressing imbalances on this front? What tools does USTR have to curb international free riding when it comes to prescription drug pricing, and how is USTR currently engaging other nations on this issue?*

**Answer:** Access to health care products can be hindered by domestic measures, particularly those that lack transparency, lack opportunities for meaningful stakeholder engagement, or appear to exempt domestically-developed and manufactured medicines. USTR encourages trading partners to provide appropriate mechanisms for transparency, procedural and due process

protections, and opportunities for public engagement in the context of their relevant health care systems.

### **Question 6**

According to the National Institute of Health's National Institute on Drug Abuse, the fentanyl trade into the U.S. resulted in 70,601 deaths in 2021. With the flow of fentanyl only increasing and the current public health emergency tied to opioids, I believe we need a whole-of-government approach to address this crisis.

*Does the Biden Administration see a role for the Office of the United States Trade Representative (USTR) in disrupting the international fentanyl trade? What tools does USTR have to bring to the international fight against fentanyl financing and flows, and how is USTR currently engaging other nations (including China) on this issue?*

**Answer:** USTR recognizes that the illicit fentanyl drug trade constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and is committed to contribute to the U.S. government's holistic strategy to halt the rising toll of this epidemic on the American people.

USTR is working with interagency partners, including the Office of National Drug Control Policy, to support the federal government's response to illicit fentanyl trade. USTR is committed to using existing tools to target key vulnerabilities in the illicit fentanyl supply chain and is engaged, along with partner government agencies, to halt the flow of illicit fentanyl in close cooperation with private industry and international partners.

### **Senator James Lankford**

### **Question 1**

As I read the text of the critical minerals agreement with Japan, I am concerned that much of the content of this agreement simply reaffirms existing commitments and will have little substantive impact on our supply chain vulnerabilities vis-à-vis China. In order to pivot from China and diversify our sourcing of rare earths, we need to invest in alternative markets alongside our allies – not just sign documents about our intentions to work together. I recently introduced the *Quad Critical Minerals Partnership Act* with Senators Warner, Cornyn, and King in order to make those investments alongside Japan, India, and Australia.

- a. *What coordination is USTR doing within the interagency, including with the Department of Commerce and the Development Finance Corporation, to complement this new trade agreement with substantive economic development policies that will incentivize and accelerate alternatives to China for critical minerals?*
- b. *In addition to this bilateral initiative with Japan, how does USTR plan to leverage the Quad to advance the President's trade agenda in the Indo-Pacific?*
- c. *What are the Administration's goals within the context of IPEF negotiations to bolster supply chain resiliency for critical minerals and rare earth elements?*



**Answer:** Building on the 2019 United States-Japan Trade Agreement, the Japan Critical Minerals Agreement will strengthen and diversify critical minerals supply chains and promote the adoption of electric vehicle battery technologies. USTR coordinated closely with other agencies during negotiation of the Japan Critical Minerals Agreement, and we look forward to coordinating with Congress regarding economic policies that would increase our supply of critical minerals.

We are also coordinating with Quad members to align on trade priorities, including in the context of IPEF negotiations.

The IPEF seeks to advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness for the 14 IPEF economies. We look forward to working with like-minded partners on developing secure, resilient supply chains that will withstand shocks such as pandemics, but also wars and shipping bottlenecks. The Department of Commerce is leading negotiations for the Supply Chains Pillar, while USTR is also working to bolster supply chain resiliency through the Trade Pillar. The smooth movement of goods and services across borders needed to create resilient supply chains among IPEF countries requires enhanced disciplines related to trade facilitation, transparency measures, and widely accepted good regulatory practices.

## **Question 2**

The COVID-19 pandemic exposed our dependence on China for critical medical goods, including medical devices and personal protective equipment (PPE). One area of continued risk exposure is manufacturing for prescription drugs – both finished pharmaceuticals and pharmaceutical components. In some cases, more than 90% of our manufactured. This gives China undue leverage over the health security of the United States – and it also limits our ability to respond to any acts of aggression by the PRC in the days ahead.

- a. *What are the Administration's goals within the context of IPEF negotiations to bolster supply chain resiliency for prescription drugs and active pharmaceutical ingredients?*
- b. *What is the Administration's strategy to leverage our existing Free Trade Agreements and Trade and Investment Framework Agreements to promote reduce our risk exposure to China for pharmaceuticals and API's?*

**Answer:** The IPEF seeks to advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness for the 14 IPEF economies. We look forward to working with like-minded partners on developing secure, resilient supply chains that will withstand shocks such as pandemics, but also wars and shipping bottlenecks. The Department of Commerce is leading negotiations for the Supply Chains Pillar, while USTR is also working to bolster supply chain resiliency through the Trade Pillar. Specifically, the smooth movement of goods and services across borders needed to create resilient supply chains among IPEF countries requires enhanced disciplines related to trade facilitation, transparency measures, and widely accepted good regulatory practices.

USTR is currently engaged in discussions pursuant to various trade and investment framework agreements (TIFAs) with different trading partners with a goal to increase supply chain resiliency in the pharmaceutical sector by enhancing regulatory alignment, decrease technical barriers to trade, and increase transparency with our trading partners. Additionally, USTR is reviewing its existing free trade agreements to identify ways to further create a trading environment that is more resilient and sustainable and with sources of goods that come from diversified locations.

### **Question 3**

This Administration has raised concerns about trade agreements because of jobs being shipped overseas to countries with low labor standards. While I understand those concerns, I do believe they are relevant to a potential FTA with the United Kingdom. The UK has high labor standards and more restrictive climate standards than we do, so there is not that same risk of losing industry to a low-wage, low-standard partner after brokering a market access arrangement. If anything, an FTA would provide an opportunity to negotiate market access for our agricultural goods that the UK is currently blocking.

- a. *How do you square this concern about low-wage, low-standard economies with the UK's solid track record in these areas?*
- b. *Why do you not view the UK as a natural fit for a trade agreement?*

**Answer:** The United States Trade Representative (USTR) has been actively engaging with the UK on ways the United States and UK can advance our mutual international trade priorities and deepen our trade relationship in a more inclusive, resilient and sustainable manner. Under the U.S.-UK Trade Dialogues we have been discussing a range of issues, including labor, as well as the environment, trade facilitation, supply chains, and addressing China's non-market policies and practices and economic coercion. I remain open to the best mechanism to formalize this bilateral trade engagement between the United States and the UK, whether through a trade agreement or other tools.

### **Question 4**

The Administration has made "rebuilding alliances" a major focus of its foreign policy, yet I don't see anything in this trade agenda focused on negotiating new trade agreements as part of those alliances. I view USTR's task as two-fold: negotiating new trade agreements, and enforcing the trade agreements we have on the books to make sure they're working. This Administration has been weak on the negotiating side, which I think is a missed opportunity – particularly in regions with high levels of engagement by China, which has been identified in the Administration's National Security Strategy and National Defense Strategy as our primary national security threat.

*How does the 2023 Trade Agenda advance the objectives of the National Security Strategy and the National Defense Strategy?*

**Answer:** The pandemic, followed by the unprovoked Russian invasion of Ukraine, exposed flaws in the traditional approach to trade. That approach prioritized trade liberalization,

particularly through tariff elimination, and led to concentrated supply chains that failed to take into account geopolitical risk. In the United States, manufacturing had been deprioritized. As a result, Americans confronted shortages of a range of goods, including personal protective equipment for frontline workers. In response to the exposure of these flaws, the United States is leading the way in working with partners and allies to advance an approach to trade that prioritizes sustainability, resilience, and inclusion. This approach supports our national security and national defense strategies by recognizing geopolitical risk, diversifying concentrated supply chains, and building better economic relations with like-minded countries. In addition, USTR's trade engagements—including the U.S.-E.U. Trade and Technology Council, the U.S-U.K. Dialogue on the Future of Transatlantic Trade, the Indo-Pacific Economic Framework, and the Global Sustainable Steel and Aluminum arrangement—are strengthening our relationships with our allies and are helping build new bridges in regions that are important to our economic and national security interests.

### **Question 5**

The Administration made the decision to not include Taiwan in IPEF negotiations, which was disappointing. However, USTR has pursued the “U.S.-Taiwan 21<sup>st</sup> Century Trade Initiative” which recently concluded its third round of negotiations.

*What outcomes can you share from the latest negotiating round with Taiwan?*

**Answer:** The United States and Taiwan, under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), have held one negotiating round for the U.S.-Taiwan Initiative on 21<sup>st</sup>-Century Trade in Taipei, Taiwan, from January 14-17, 2023. The negotiations were productive and on May 18, 2023, USTR announced that the United States and Taiwan, under the auspices of AIT and TECRO, had concluded negotiations on a number of chapters outlined in our negotiating mandate, and published the proposed agreement text. Those chapters are Customs and Trade Facilitation, Good Regulatory Practices, Services Domestic Regulation, Anticorruption, and Small- and Medium-Sized Enterprises. The proposed agreement was signed by AIT and TECRO on June 1, 2023.

Moving forward, U.S. and Taiwan officials, under the auspices of AIT and TECRO, will continue negotiations on other chapters under our negotiating mandate.

### **Question 6**

Last week, Honduras became the latest country to end diplomatic relations with Taiwan in favor of the PRC.

*What is your plan to include Taiwan in international trade forums alongside other nations to ensure our friends in Taiwan have a seat at the table?*

**Answer:** The Administration is committed to finding ways to deepen our economic and trade relationship with Taiwan and to negotiate trade agreements with Taiwan, just like the United States does with other trade partners. The Administration also continues to be highly supportive of Taiwan's participation in international trade forums, including at the WTO and in APEC.

### **Question 7**

Following Russia's invasion of Ukraine, the United States revoked Russia's "Most Favored Nation" trade status.

*If China were to invade Taiwan in the future, would the Administration support revoking China's preferential trade status as well?*

**Answer:** The Administration supports cross-Strait peace and stability and opposes any unilateral changes to the status quo. In the event of a unilateral change in the status quo, the Administration has a wide range of responsive actions to consider.

### **Question 8**

The International Trade Commission submitted a report to Congress earlier this month finding that nearly all of the costs of tariffs imposed during the Trump Administration – both the 232 tariffs on steel and aluminum and the 301 tariffs on Chinese imports – were passed along to US importers and had little to no effect on the exporter.

*Does the Administration agree with this finding? Why or why not?*

**Answer:** The Commission's modeling suggests that the tariffs were passed along to U.S. importers in the short term. The model also finds that as those prices rose, the quantity of affected imports from China declined, leading to a significant decrease in their import value.

The ITC identified ten industries directly and most affected by the 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).

### **Question 9**

The biggest challenge we've faced since the Administration took over is the migrant crisis at our Southern Border. CBP encountered more than 300,000 migrants last month.

What strikes me is that many of the migrants coming to our border are from countries with whom we have a Free Trade Agreement. For example, all three Northern Triangle Countries are parties to the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), which was negotiated by the Bush Administration. Clearly, the potential of this partnership has not been fully realized.

- a. *What mistakes have we made over the last 15 years that have inhibited CAFTA from having a bigger impact on the prosperity and stability of the Northern Triangle countries?*
- b. *How can we better utilize CAFTA as presently written to promote stable and resilient economic development in this region?*

- c. *During the Trump Administration, we renegotiated NAFTA to update the provisions and adapt to modern challenges. Is the Biden Administration open to renegotiating CAFTA and seeking to revise it as part of our strategy to get to the root causes of migration in the Northern Triangle?*
- d. *Does the Administration support preserving Nicaragua's preferential trade status under CAFTA in light of human rights abuses committed by the Ortega regime?*

**Answer:** While trade has increased under the CAFTA-DR, global economic downturns – most recently from the pandemic – frequent natural disasters, and security issues such as narcotrafficking and gang violence have had severe negative impacts on the economies and development of partners in the region. Several CAFTA-DR countries, particularly in northern Central America, suffer from protracted social crises, extreme violence, and inadequate investment in education and infrastructure.

Trade policy alone cannot deliver sustainable economic development, poverty alleviation, and social stability, but the CAFTA-DR is an integral part of the Administration's efforts to address the root causes of migration.

USTR is contributing to the Biden Administration's whole-of-government effort to address irregular migration at our southern border, to improve security, governance, human rights, and economic development in the region to meet longer-term challenges and create hope for a better future for Central Americans in their home countries.

USTR engagement with CAFTA-DR partner countries has focused on trade capacity building (primarily in the areas of textiles and apparel and agricultural trade and climate resiliency) to strengthen regional supply chains, build sustainable and inclusive trade and economic opportunities and formal sector employment in the region. Capacity building and promoting better CAFTA-DR implementation help address shortcomings in Central American trade infrastructure and policy implementation that have undermined the CAFTA-DR benefits for the region. Through "Central America Forward", USTR is also working with the Department of Labor and other agencies to advance protection of labor rights in the region to more comprehensively address the root causes of migration.

With respect to Nicaragua, we share concerns about the crisis of democracy under the Ortega regime and have taken a number of actions, including withholding support for Nicaragua's participation in trade capacity building and technical assistance initiatives, and will continue to exclude Nicaragua from these benefits of CAFTA-DR and other initiatives.

In addition, President Biden's October 2022 Executive Order provides new authority to sanction any person who operates or has operated in the gold sector of the Nicaraguan economy and any other sector as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State. The EO also provides a framework to implement future measures that prohibit new U.S. investment in certain sectors in Nicaragua, the importation of certain products of Nicaraguan origin into the United States, or the exportation of certain items to Nicaragua.

USTR has been and will continue to be an active participant in interagency deliberations on trade-related aspects of our approach to Nicaragua. We will continue to actively monitor the situation in Nicaragua, while also recognizing that the CAFTA-DR is critical to the well-being of the people of Central America.

### **Question 10**

When considering Trade Promotion Authority legislation in 2015, the Senate unanimously passed an amendment requiring USTR to raise religious liberty issues as part of trade negotiations conducted under TPA auspices. Although TPA has expired, I hope USTR is continuing to prioritize the promotion of religious freedom for all in its engagements with trading partners – including in multilateral fora such as IPEF. Of the countries involved in IPEF, at least one of these countries is on the Special Watch List for religious freedom concerns by the State Department.

- a. *How is your team raising religious freedom with countries that are part of IPEF?*
- b. *How is USTR advocating for religious freedom with countries holistically?*

**Answer:** The Ministerial Statement for IPEF Pillar I (Trade) establishes that the partners will pursue provisions and initiatives that benefit workers and ensure free and fair trade that contributes to promoting sustainable and inclusive growth for IPEF countries and the Indo-Pacific region. For the United States, inclusive trade discussions comprise advancing the benefits of the IPEF for underserved communities, including religious and ethnic minorities.

Consistent with the President’s Trade Agenda and USTR’s Strategic Plan, USTR strives to “Develop Equitable Trade Policy Through Inclusive Processes.” This entails identifying and striving to address barriers in order to achieve the consistent and systematic fair, just, and impartial treatment of all individuals, including those who belong to underserved communities. For the United States, “underserved communities” includes religious and ethnic minorities. In addition, USTR’s expanded engagement includes building relationships and listening to the concerns of faith-based, community-based organizations.

USTR also continues to monitor and fully enforce laws prohibiting the importation of goods made by forced labor and remains committed to fighting against the economic exploitation and human rights abuses committed against Uyghurs and other ethnic and religious minorities in the People’s Republic of China (PRC).

### **Senator Steve Daines**

#### **Question 1**

#### ***Protecting US IP***

In May of 2021, I joined my colleagues in expressing our concern to you over the TRIPS waiver for COVID-19 vaccines. This waiver – which you supported – gave China, Russia, Iran, and other countries access to highly-advanced US IP without the consent of US companies.

Your support of this waiver gives me serious concerns about your regard for the long-term health of our nation's innovations across industries, particularly in biopharmaceutical innovations, and your dedication to protecting sensitive US IP as you consider expanding the TRIPS waiver to include additional products.

- a. *What specific industries and products are you considering including in a proposed expansion?*
- b. *What data are you collecting to inform this decision?*
- c. *What specific analyses are you conducting to ensure that any expansion of this waiver would not threaten our country's economy, our biopharmaceutical innovation, and our national security?*
- d. *What steps are you taking to protect American IP, whether from pharmaceuticals and defense, to small innovators and universities, from being stolen and abused by foreign adversaries?*

**Answer:** 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. The Ministerial Decision also does not apply to Iran, as Iran is not a Member of the World Trade Organization (WTO).

The Ministerial Decision, included a commitment to decide by December 17, 2022, whether or not to extend the Decision to the production and supply of COVID-19 diagnostics and therapeutics. The WTO General Council later extended this deadline at its December 2022 meeting.

Over the course of the five months after the Ministerial Decision, USTR officials held robust and constructive conversations with Congress, government experts, a wide range of stakeholders, multilateral institutions, and WTO Members. USTR published a summary of the diverse views heard during the five-month consultation period on December 6, 2022. In addition, on December 16, 2022, I asked the U.S. International Trade Commission (USITC) to conduct an investigation and prepare a report of available data and information regarding access to COVID-19 diagnostics and therapeutics.

My request to the USITC specifically asks that they 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.

With respect to advancing the interests of America's innovators and creators, among other things, USTR issues a Special 301 Report each year. This Report provides an opportunity to put a spotlight on foreign countries and the laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers,

and service providers, which, in turn, harm American workers whose livelihoods are tied to America's innovation- and creativity-driven sectors.

## **Question 2**

### ***India***

*What is USTR doing through the U.S.-India Trade Policy Forum or otherwise to address long-standing agricultural market access issues with India, including pulse crops?*

**Answer:** Addressing barriers to agricultural trade continues to be a priority for U.S. engagement with India. Through the U.S.-India Trade Policy Forum's Working Group on Agricultural Goods we are seeking to address a broad range of trade barriers in order to expand access to the Indian market for U.S. agricultural products, including pulse crops. The United States also continues to raise pulse crop access issues alongside other trading partners at the WTO.

## **Senator Todd Young**

### **Question 1**

The Government of Mexico's action to ban genetically modified corn and other biotech products is concerning for a host of reasons. The U.S. exported 15 million metric tons of corn to Mexico last year, and nearly all of it was genetically modified. This has implications not only for row crop farmers, but for livestock producers who depend on a grain supply to feed their animals, and then rely on stable market access. Jeopardizing access to the Mexican market will have rippling and detrimental effects on agriculture in Indiana, particularly in the corn and hog sectors.

*With the announcement of formal technical consultations with Mexico to address this action, how will you ensure that American farmers can depend on access to the Mexican market?*

*How will you convey what is at stake with ignoring the science around biotechnology?*

*Have you considered how other countries will look at Mexico's lack of science-based decision-making and decide to follow suit?*

**Answer:** On June 2, I requested dispute settlement consultations with Mexico under the United States-Mexico-Canada Agreement (USMCA). We continue to press for a science-based approach for all biotech products and transparent and predictable market access in Mexico. Products of agricultural biotechnology, including corn, have been safely used for human consumption and animal feed around the world, including in Mexico, for decades. We urge all our trading partners to follow a science-based approach to biotech products, which help farmers respond to pressing climate and food security challenges.

### **Question 2**

Related to supporting agricultural biotechnology, I am concerned with South Korea's regulations. Korea is the U.S.'s fifth largest agricultural export market, last year importing over \$10.2 billion worth of American corn, rice, wheat, soybeans, beef, dairy, pork, and other food and feed products. Korea has a history of an inefficient risk assessment system for biotechnology, and is extremely unpredictable. Because of this, South Korea is positioning to be



the preeminent global threat to the introduction of new biotechnology traits and the adoption of new agricultural technologies.

*Under the US-Korea Free Trade Agreement, how are you compelling South Korea to reform its current biotech risk assessment process, and to put in place a rational regulatory framework for gene-edited products?*

**Answer:** USTR has been engaging with Korea on biotechnology for several years through various channels, including the KORUS Committee on Sanitary and Phytosanitary Measures. USTR has consistently raised concerns over Korea's burdensome biotechnology approval process and urged Korea to adopt a more science-based, risk-proportionate approach to genome editing. USTR will continue to engage with Korea to enhance transparency, predictability, reliability, and efficiency, and to ensure its regulatory approval process is science- and risk-based.

### **Question 3**

I continue to hear concerns from my constituents regarding China's incessant circumvention, and all the tactics they use to mask the true origin of inputs and products so they can continue transnational subsidies. Luckily, the United States has an AD-CVD process to crack down on circumvention and help domestic enterprises compete with unfairly subsidized products. Unfortunately, our current process has limits and circumvention still occurs. I am currently working with Senator Brown on legislation to provide more tools to the Commerce Department so that we can more efficiently stop bad actors before their products are released into U.S. commerce.

*Do you agree that our current AD-CVD process has limits? What tools would enable agencies to better assist with exposing and limiting circumvention?*

**Answer:** USTR acknowledges that both circumvention and duty evasion schemes deployed by producers and exporters subject to U.S. AD/CVD measures are challenging to address in the U.S. system. Both the U.S. Department of Commerce and U.S. Customs and Border Protection have taken vital steps to enhance their efforts to combat these schemes, and USTR has also been supportive of those agencies efforts and using its negotiating authority to ensure that they have the necessary resources to address these issues. For example, in USMCA, the United States was successful in negotiating first-in-kind provisions regarding duty evasion cooperation, which allow U.S. Customs and Border Protection to conduct duty evasion verification visits in Canada and Mexico. USTR is actively involved in expanding this capability with other trading partners and looks forward to announcing future endeavors once negotiations are completed.

### **Question 4**

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, and you have unfortunately trusted this claim. Regardless, China has made no such promise with respect to the proposed waiver for treatments and diagnostics.

*How will you ensure that the Administration will reject any expansion of the TRIPS waiver that includes China or other major foreign competitors as a beneficiary?*

*Further, how can you guarantee that waiving TRIPS protections for COVID-19 therapeutics and diagnostics would never result in any indirect transfer of U.S. intellectual property (IP) to Chinese- or Russian-owned entities in developing countries, thus opening a backdoor for China and Russia to access American IP?*

**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.

### **Question 5**

I welcome your work on the Indo-Pacific Economic Framework but remain concerned that the end product will have very limited benefits for the United States if market access is excluded. Our exporters will continue to fall further behind their competitors from the many countries still actively negotiating tariff reduction agreements in the region, and the ambition level of IPEF's non-tariff provisions may suffer if market access is excluded.

*Do you contemplate IPEF leading to market access negotiations? If so, why not have those negotiations now?*

**Answer:** At this time, the Administration is not seeking to address tariff liberalization. However, in the Trade Pillar, we are working to include a mix of high-standard commitments and principles to address many long-standing non-tariff barriers that can, in practice, affect market access for U.S. enterprises, including MSMEs, seeking to operate abroad. We intend for the Trade Pillar to include clear and strong regional rules and standards that reflect our common interests and values and that promote our competitiveness and inclusive prosperity.

### **Question 6**

The issue of critical mineral supply is becoming increasingly more important as countries around the globe are putting in place strategies and policies to maximize their production or procurement. While the United States has a well-developed framework focusing on the security of critical minerals and rare earth elements, more needs to be done to lower China's hold on the entire value chain.

*How are you working with other federal agencies, such as the Department of Energy, Department of Defense, and Department of the Interior, to develop a coordinated strategy to address critical mineral supply chain vulnerabilities?*

**Answer:** We coordinated with other agencies, including the agencies identified above, when negotiating the recently concluded Japan Critical Minerals Agreement, and have also sought their input in the negotiations with the EU announced by the White House on March 10, 2023.

We will continue to liaise with other agencies in any critical minerals-related efforts that may implicate U.S. trade policy or engagement with our trading partners.

### **Question 7**

While I welcome your recent work and coordination with Japan to sign a critical minerals agreement on March 28, I want to stress the importance of expanding our reach.

*How are you collaborating with allies and trading partners to establish a more secure and sustainable global supply chain for critical minerals? Are there other ongoing efforts to establish or participate in multilateral forums or initiatives aimed at addressing critical mineral supply chain challenges?*

**Answer:** We are mindful of the importance of diversifying our global critical minerals supply chains, given China's present dominance. The Japan Critical Minerals Agreement is an important step, and is meant to complement other bilateral and plurilateral efforts. For instance, both Japan and the United States are members of the Minerals Security Partnership, an initiative launched in 2022 that aims to strengthen critical minerals supply chains. Additionally, as the White House announced on March 10, 2023, we are now engaged in negotiations with the EU regarding a critical minerals agreement.

## **Senator John Barrasso**

### **Question 1**

The Administration is currently engaged in a number of trade initiatives:

- The Indo-Pacific Economic Framework
- The Americas Partnership for Economic Prosperity
- The US-Taiwan Initiative on 21st Century Trade
- The US-Kenya Strategic Trade and Investment Partnership
- Expansion of the World Trade Organization TRIPS Waiver
- Critical Minerals Agreements with Japan and the EU

Article I, Section 8 of the Constitution gives Congress clear authority over international trade. Despite Congress' clear constitutional authority over trade matters, the Administration does not intend to seek Congressional approval for any of these initiatives.

*Can you confirm that none of these initiatives will come before Congress for approval?*

*Why doesn't Congress' constitutional authority over international trade apply to any of these initiatives?*

*And do you believe partisan Executive Agreements are more durable and meaningful than bipartisan initiatives approved by Congress?*

**Answer:** USTR does not anticipate concluding our negotiation in any of these initiatives in a way that would require Congress to change U.S. law. As such, USTR plans on following its long-standing practice of relying on its authority granted by Congress in 19 U.S.C. 2171 to negotiate and enter into agreements with these foreign partners on behalf of the United States as USTR has done on numerous occasions across administrations for at least the last 30 years.

Congress is USTR's constitutional partner on trade, and I am committed to working with Congress on all of these initiatives. In this regard, USTR has embarked on an unprecedented level of transparency and consultation with Congress with regard to all of these initiatives. 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.

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 outreach to the public, encouraging, in particular, the participation of stakeholders who have not traditionally had a voice in trade and economic policy.

We seek such extensive input from Congress, stakeholders, and the general public not just because it is an important thing to do but because these agreements will be durable and meaningful only if they are the product of broad-based input.

## **Question 2**

The President's 2023 Trade Agenda is full of dialogues, frameworks and lofty aspirational goals. But there's no mention of seeking new free trade agreements (FTAs) with our allies despite their clear benefits to U.S. farmers, ranchers, manufacturers and consumers. Instead of exporting American beef, energy, agriculture products or technology.

The Administration continues to be hyper-focused on exporting labor, social and environmental policies via frameworks and dialogues. Just like last year, a very notable omission from the trade agenda is market access reform. Members on both sides of the aisle have raised concerns about market access reform, but those concerns have been routinely ignored.

*Why does the Administration refuse to seek market access reform?*

*And are members of Congress wrong in calling on the President to do so?*

**Answer:** USTR has produced agreements that increase market access for American manufacturers, farmers and ranchers and continues to work on new initiatives that will support American businesses access markets.

For agricultural producers, USTR has secured real wins over the past few years and US agricultural exports reached a record \$202 billion in 2022. Recent tangible market access outcomes for agriculture include bringing into force an agreement with Japan to export more US beef, signing a tariff-rate quota agreement with the EU to open markets for rice, wheat, corn shellfish, and beef and opening access for pork and pecan exports to India.

In addition, USTR reached agreement in 2021 with the European Union (EU) related to the Section 232 steel and aluminum tariffs which resulted in the EU suspending tariffs on U.S. products. USTR also reached agreement with the EU and the United Kingdom on the 17-year-old large civil aircraft dispute, which protected American jobs and addressed distortive practices non-market practices that undermine the aviation sector.

USTR has launched the Indo-Pacific Economic Framework, the U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade, and the U.S.-Kenya Strategic Trade and Investment Partnership, among other initiatives. Tariff liberalization is not currently being considered as part of these initiatives but these new engagements present opportunities to enhance trade and investment. In addition, USTR is negotiating to include provisions in these agreements to combat non-tariff and regulatory barriers that limit access to markets. To address specific barriers of concern and produce tangible benefits for U.S. agricultural producers, USTR will seek to promote the use of science- and risk-based decision making to maintain and expand market access for U.S. agricultural exports.

Moving forward, USTR will continue expanding market access for American manufacturers, farmers, and ranchers.

### **Question 3**

Russia's illegal, unprovoked invasion of Ukraine showed the world how energy can be wielded as a geopolitical weapon. Countries around the globe continue to scramble to find new energy supplies to replace Russian oil, coal, natural gas, and nuclear fuel. President Biden's 2023 Trade Agenda once again fails to outline a strategy to help our allies be more energy secure.

America is a global energy superpower. We should act like it, especially through trade. Wyoming has an abundance of coal, oil, natural gas, and uranium. The U.S. can provide our allies around the world with reliable, affordable, and secure energy resources. I see no plan or urgency to do this in the President's Trade Agenda. This is a mistake.

*How can we leverage American energy in international trade to counter our adversaries like Russia who use their own energy exports as a weapon?*

**Answer:** USTR shares your concern about the effects of Russia's illegal, unprovoked invasion of Ukraine on our energy security and the energy security of our allies. We actively support the growth of the U.S. energy industry and the export of U.S. energy products, technologies, and services all over the world to help our trading partners meet their energy security, energy access, and climate goals. Coordinated policy actions, strategies and response mechanisms can effectively help in ensuring and promoting diversified, risk-free, resilient, and secure supply of

energy sources and critical raw materials. Universal energy access, accelerating adoption of innovative and zero emission energy technologies, promoting domestic and overseas investments, and enhancing transnational grid connectivity and mitigating market volatility are key to reducing market volatility, improving energy security, and leveraging American energy to counter our adversaries.

#### **Question 4**

Thank you for initiating consultations with Mexico on energy issues affecting American companies. As you know, Mexico started discriminating against American private energy investment in Mexico almost as soon as the US-Mexico Canada Agreement (USMCA) was enacted. Mexico's actions deliberately disadvantage American energy investments and jobs. To me, these are clear, flagrant violations of USMCA. It is my understanding that the U.S. was able to request a dispute resolution panel in October but that has not happened. At this point, it seems clear to me that Mexico has no intention of changing their behavior and I believe the time to request a formal dispute resolution panel is overdue.

*Why haven't you requested a dispute resolution panel with respect to Mexico's actions against American energy?*

*And is this a step you intend to take in the near future?*

**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 can make use of enforcement options under the USMCA.

#### **Question 5**

I have long been skeptical of the effectiveness of the Section 301 tariffs on over \$300 billion in Chinese goods. American families and businesses are all struggling with inflation and the high cost of goods and services. While I understand the need to crack down on unfair Chinese trade practices, I believe these tariffs are simply making a bad situation worse for all Americans. I don't see where these tariffs have significantly altered Chinese behavior.

*When will USTR's statutory review of the Section 301 tariffs be complete?*

**Answer:** As part of the four-year review, USTR requested public views on 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; other actions that could be taken; and the effects of the actions on the United States economy, including U.S. consumers. USTR expects to complete the four-year review in the fall of this year.

*Why hasn't USTR reopened an exclusion process for these 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. USTR continues to consider additional exclusion processes, as warranted.

### **Question 6**

The U.S. imports more beef from Brazil than any other country according to the U.S. Department of Agriculture. In January 2023, U.S. beef imports from Brazil are already up 4.83% from 2022. On February 22, 2023, there was a confirmed case of atypical bovine spongiform encephalopathy (BSE) in the northern state of Para, Brazil. BSE in the U.S. is still heavily regulated to assure consumers and our international trade partners that U.S. beef is safe. The test samples were submitted to the World Organization for Animal Health (WOAH) but the World Organization for Animal Health report indicates that the event started on January 18, 2023. That is a difference of 35 days where BSE was not confirmed in Brazil. Brazil has a history of delayed reporting of atypical BSE cases, with two other instances in 2021. This delay in reporting of BSE cases raises serious concerns over the credibility of Brazil's food safety and animal health systems. Especially with an increase of Brazilian beef imports into the U.S. in the last year. The impacts that these concerns can have on U.S. cattle herds and public health are severe.

*Has the United States addressed this issue with the government of Brazil?*

*How is the administration holding Brazil accountable for its failure to comply with World Organization for Animal Health standards?*

*How is Brazil's government working with the U.S. on beef products imported into the U.S. since their case of atypical BSE on February 22, 2023?*

**Answer:** It is critical that beef imported from Brazil meets U.S. requirements. We will continue working with the U.S. Department of Agriculture (USDA) Animal Plant Health Inspection Service (APHIS) and the Food Safety Inspection Service (FSIS) to ensure that Brazil follows relevant international standards and guidelines and that the beef it exports to the United States complies with U.S. animal health and food safety requirements.

### **Question 7**

With the rising costs of healthcare and the continued need to secure our medical supply chain, US policies should not contribute to making these two ideals harder to achieve. Under your leadership, USTR has extended 301 exclusions for certain medical devices and components related to the Covid-19 pandemic.

*Is USTR doing anything to ensure medical devices and medical device components unrelated to covid-19 are granted exclusions from these tariffs?*

**Answer:** The China Section 301 tariffs are currently undergoing a four-year statutory review. As part of this review, USTR requested public views on 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; other actions that could be taken; and 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. Additionally, USTR continues to consider additional exclusion processes, as warranted.

## **Senator Marsha Blackburn**

### **Question 1**

In May 2022, the USTR began its statutory four-year review of the Section 301 actions taken against China. As part of this review, the USTR solicited responses from the domestic industry as to whether the tariffs should be continued. A portal was also opened to allow other interested parties to submit comments regarding the effectiveness of the tariffs, the effect on the economy and consumers, and other potential actions that could be taken.

*Will you provide a detailed timeline on when you expect this review to be completed?*

**Answer:** USTR expects to complete the four-year review in the fall of this year.

### **Question 2**

Companies granted another exclusion in March 2022 could only receive tariffs reimbursements back to October 12, 2021, even though the tariffs had been reimposed on January 1, 2021.

*Do you, or this administration, have any thoughts on including retroactivity provisions in future rounds of exclusions?*

**Answer:** As part of the 4-Year Review, we are considering the effectiveness of the tariffs and their current structure. We are also looking at the impacts of the tariffs on consumers, U.S. workers, and the economy, among others. If appropriate, we will consider whether an additional exclusions process may be warranted, and what that process might look like based on the findings during the review on impacts to consumers, workers, and U.S. industries.

### **Question 3**

*Does Customs and Border Protection have the administrative authority to suspend liquidations and provide full retroactively for 301 tariffs?*

**Answer:** For this question, I would have to refer to CBP and to the Department of Justice. The question is subject to litigation regarding the Section 301 tariffs.

### **Question 4**



*Can you provide a timeline on when USTR plans to implement the USMCA Dispute Settlement Panel's unanimous decision on Automotive ROO/RVC Calculations?*

**Answer:** We are actively engaging with Mexico and Canada regarding the Panel's decision in the USMCA Autos ROOs dispute. Among other issues, we are discussing ways to gain insight into the impact that implementation of the Panel's decision would have on investment and jobs in North America. Our discussions with Mexico and Canada on these issues will progress.

#### **Question 5**

In 2018, Meco, a charcoal grill manufacturer located in Greenville, Tennessee, submitted a comment to the USTR to levy a 25% duty on charcoal grills in response to the announcement of the 301 tariffs. In response, duties were levied on two components Meco purchased to produce the Americana Walk-A-Bout grill. However, duties were not levied on finished charcoal grills being imported from China. A 25% duty was put on gas grills and electric grills. In 2022, during the USTR's 4-year statutory review of the Section 301 tariffs, Meco again submitted a comment asking for a 25% duty to be levied on imported charcoal grills. Furthermore, Meco has been subject to Intellectual Property theft since 1999 and have filed multiple suits against intellectual property right thefts. To make matters worse, they have provided evidence of their grills being shown in showrooms in China and online retailers such as Alibaba.

*How are you addressing this situation as you continue your 4- year review?*

**Answer:** China has a well-established track record of conducting unfair trade practices to acquire U.S. technologies and intellectual properties. The Four-Year Review will include an examination of 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 will also consider 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, submitters were requested to submit comments on whether certain tariff headings should remain covered by the actions, removed, or added.

#### **Question 6**

*How are you dealing with intellectual property theft from Chinese companies, and what are your plans to curb this ongoing abuse?*

**Answer:** We continue to press China to address a range of intellectual property (IP) enforcement concerns, including forced or pressured technology transfer and trade secret theft. China remains on the Special 301 Priority Watch List in 2023 and is subject to continuing monitoring pursuant to Section 306 of the Trade Act of 1974, as amended (19 U.S.C. § 2416). Under Section 301 of the Trade Act of 1974, as amended (19 U.S.C. § 2411), we have been taking action to address a range of unfair and harmful Chinese acts, policies, and practices related to technology transfer, IP, and innovation. 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.

**Question 7**

*Do you commit to reviewing Meco's comments thoroughly and providing them with complete and detailed answers to their questions?*

**Answer:** All comments submitted as part of the public comment process will be reviewed and given full consideration.