United States Senate Committee on Finance April 10, 2025 Hearing to Consider the Nominations of William Kimmitt, of Virginia, to be Under Secretary of Commerce for International Trade, vice Maria Louise Lago, resigned, and Kenneth Kies, of Virginia, to be an Assistant Secretary of the Treasury, vice Lily Lawrence Batchelder.

Question for the Record submitted to William Kimmitt from Senator Grassley.

Question 1:

Canada and Mexico are the United States' largest markets for agricultural goods.

In the first Trump administration, you worked closely on developing the United States-Mexico-Canada Agreement. In your role as Under Secretary you will oversee offices that work on trade agreement compliance and negotiations.

1. Do you think that USMCA is still an effective agreement for our agriculture producers?

USMCA remains the greatest comprehensive free trade agreement that the United States has ever negotiated. But as with any agreement, there is always room for improvement— which is precisely why the Agreement includes a mandatory six-year review to ensure it continues to serve America's interests. A hallmark of the Agreement was delivering market access gains, better rules for fair trade, and modern enforcement tools for U.S. farmers. It included modernized and improved rules on regulatory cooperation on biotechnology, sanitary and phytosanitary measures, and customs and trade facilitation for perishable products. However, market access in Canada for U.S. dairy products and biotechnology corn restriction measures in Mexico have presented significant challenges for U.S. producers. If confirmed, I will use my authorities to collaborate with stakeholders from industry and the agricultural community and interagency colleagues to ensure that President Trump's trade policy advances the interests of American farmers and ranchers.

2. Are there areas in USMCA that you think the United States could have or should enforce better for US producers?

As noted in my previous answer, Mexico's compliance with biotechnology provisions and Canada's administration of its dairy tariff-rate quotas have presented challenges to U.S. producers. If confirmed, I would work in close coordination with the U.S. Trade Representative and the Department of Agriculture to ensure that USMCA's commitments are fully enforced and that our producers are not left at a disadvantage due to lack of follow-through or inconsistent compliance by our trading partners.

Question 2:

The President and USTR Greer have suggested we look at the Rules of Origin under USMCA for the 2026 review.

1. What changes do you think we should make to the USMCA rules of origin?

The rules of origin with respect to autos need to be strengthened to disincentivize or prohibit substantial amounts content originating from non-market economies in vehicles produced in North America. The percentage of vehicles entering the United States that do not claim preferential treatment for meeting the rules of origin has increased under USMCA as compared to NAFTA (undoubtedly due in large part to stronger rules of origin), and the rules could be improved to induce increased compliance with the rules of origin by manufacturers.

2. Are there other areas of USMCA that you would like to see adjusted?

USMCA must be effective in strengthening regional supply chains and preventing free riding from third countries, especially China. If confirmed, working closely with USTR on this during the USMCA Review process will be a priority for me.

Questions for the Record submitted to William Kimmitt from Ranking Member Wyden

Question 1: Article 1, Section 8 of the Constitution gives Congress authority to impose duties and taxes. Congress authorized Customs and Border Protection (CBP) to collect those duties, which are paid by American importers. However, it seems that Secretary Lutnick and others in the Administration are looking into possible creation of a so-called "External Revenue Service" at the Department of Commerce to collect duties from American importers, which is in conflict with Congress's grant of authority to CBP. Do you believe the Secretary of Commerce has any authority to create an "External Revenue Service" and collect duties, absent action by Congress? If so, please provide a citation to the relevant statute.

If confirmed, I would welcome the opportunity to work with Congress and the relevant agencies to establish an External Revenue Service to help ensure it is properly authorized and effectively implemented, should President Trump and Seretary Lutnick choose to pursue this.

Question 2: The so-called "Department of Government Efficiency" has cut jobs and funding at many executive branch agencies.

a. Do you support these cuts in jobs and resources?

I strongly support efforts to improve efficiency and accountability in the federal government. At the same time, I believe such efforts must be balanced with the need to maintain core missions and deliver results for the American people.

 b. If confirmed, would you support laying off workers at ITA? If confirmed, I would evaluate all decisions through the lens of how best to advance U.S. trade interests and serve the American people. ITA plays a vital role in trade enforcement, export promotion, and commercial diplomacy. If confirmed, I would seek to ensure that resources are aligned with mission effectiveness and strategic priorities.

c. If jobs were cut at ITA, would you guarantee that trade enforcement and export promotion work would not be negatively impacted?

If confirmed, I would make it a top priority to support ITA's enforcement and export promotion functions. These are essential tools for supporting American workers and businesses. Any personnel decisions under my leadership would be made with the clear objective and focus on enforcing our trade laws and supporting American exports.

Question 3: In your statement, you said that "our trading relationship must serve the interests of the United States – not abstract principles and certainly not America's adversaries." Can you please clarify which "abstract principles" you're referring to and elaborate on their harm to the United States?

When I referred to "abstract principles," I was speaking about rigid adherence to academic or ideological doctrines—such as absolute free trade—that may sound appealing in theory but often fail to reflect the practical realities facing American workers and industries. In practice, these theories have too often led to policies that prioritize theoretical economic efficiency over national resilience, domestic production, and strategic security.

Question 4: The Trump Administration recently announced a plan to engage in national security Section 232 investigations for everything from semiconductors to pharmaceuticals. I understand that ITA participates in these Section 232 investigations by providing industry and analysis data. Do you agree that the Administration must observe statutorily required processes, including a proper notice and comment period to allow industry and business stakeholders and the general public to participate?

I agree that the Administration must observe all applicable statutory requirements in conducting Section 232 investigations. While Section 232 investigations are led by the Bureau of Industry and Security within the Department of Commerce, it is my understanding that ITA often supports these efforts by providing critical industry expertise and economic analysis when needed or if requested. If confirmed, I would work to ensure that ITA continues to provide rigorous, data-driven analysis and meaningful industry consultation during Section 232 investigations as needed or requested.

Question 5: Do you believe it is important to maintain a non-political, impartial, and quasijudicial antidumping and countervailing duties investigation and review process to ensure a level playing field for industries like solar and softwood lumber and their workers?

The integrity of AD/CVD cases is essential to ensuring that U.S. industries and workers whether in solar, softwood lumber, or any other sector—can compete on a level playing field when confronted with unfair trade practices. The Department of Commerce has a clear statutory mandate to administer AD/CVD laws based on the facts and legal standards in each case. If confirmed, I am committed to upholding that mandate and ensuring that all investigations and reviews are conducted with objectivity, transparency, and adherence to U.S. law and international obligations. Fair and predictable enforcement strengthens confidence in the system and helps support American jobs and manufacturing capacity.

Question 6: On April 14, 2025, the ITA's Enforcement and Compliance division announced "its intent to withdraw" from the Agreement Suspending the Antidumping Investigation on Fresh Tomatoes from Mexico. The Secretary of Commerce took this action, despite a Federal Register Notice from December 30, 2024 stating that the respondents "were in compliance with the terms of the 2019 Agreement" and the fact that Commerce said it did not find any "material or consequential violations of the 2019 Agreement." Please explain the rationale behind the decision to terminate the Suspension Agreement, including the stakeholders consulted and the factors examined.

I understand that the decision to withdraw from the 2019 Suspension Agreement on Fresh Tomatoes from Mexico (Agreement) followed a careful policy and enforcement review by the Enforcement and Compliance division, as well as close consultation with industry and Members of Congress. While I am not privy to all internal deliberations, I understand that the Department considered information from domestic producers, importers, and other affected stakeholders.

In considering whether to remain in or exit a suspension agreement, Commerce evaluates whether the agreement continues to serve the interest of effective enforcement of U.S. antidumping laws and whether it ensures fair competition for domestic producers. Commerce's notice of its intention to withdraw from the Agreement is consistent with Section XI.B of the Agreement, which states that "An individual Signatory, or Signatories, collectively, or Commerce may withdraw from this Agreement upon 90 days' written notice to Commerce or the Signatories, respectively."

If confirmed, I would ensure that any decision involving withdrawal from a suspension agreement is grounded in the law, reflects a thorough assessment of the facts, and supports the integrity of U.S. trade enforcement.

Questions for the Record submitted to William Kimmitt from Senator Elizabeth Warren.

Question 1: In your meeting with staff, you said you have already spoken with Commerce Under Secretary for Bureau of Industry and Security Jeffrey Kessler about assisting his office with Section 232 investigations. In what capacity will your office assist with Section 232 investigations?

While Section 232 investigations are led by the Bureau of Industry and Security—currently headed by Under Secretary Kessler—it is my understanding that ITA often supports these efforts by providing critical industry expertise and economic analysis when needed or if requested. If confirmed, I would work to ensure that ITA continues to provide rigorous, data-driven analysis and meaningful industry consultation during Section 232 investigations as needed or requested by Under Secretary Kessler.

Question 2: In your meeting with staff, you stated that you are currently employed as an adviser to the Secretary of Commerce, Howard Lutnick. Have you sat in any meetings, exchanged any emails or texts, or taken any phone calls related to your potential position as Under Secretary for International Trade?

I currently serve as a senior advisor to Secretary Lutnick and have participated in meetings and discussions in that capacity. As part of my responsibilities, I have attended a wide range of meetings and discussions with industry representatives and stakeholders on a broad array of topics, one of which being trade. I have continuously made clear that I am a senior advisor and not serving in the role as Under Secretary for International Trade. In fact, I have never set foot on the 3rd floor of the Commerce Department building where the International Trade Administration is located.

Question 3: Please produce a list of meetings you have attended as an adviser to the Secretary of Commerce and attendees of said meetings.

I currently serve as a senior advisor to Secretary Lutnick and have participated in meetings and discussions in that capacity. As part of my responsibilities, I have attended a wide range of meetings and discussions with industry representatives and stakeholders on a broad array of topics, one of which being trade. I have continuously made clear that I am a senior advisor and am not serving in the role as Under Secretary for International Trade.

Question 4: What are the goals of the tariffs that President Trump has imposed (and revoked) on China, Canada, and Mexico:

a. Raising revenue? If so, please confirm which tariffs will be permanent and how much revenue you expect them to raise?

The tariffs imposed by President Trump have served multiple strategic purposes, including countering unfair trade practices, strengthening our domestic industrial base, supporting negotiations for more balanced trade agreements, raising revenue, protecting U.S. national and economic security, addressing large and persistent global trade deficits that have harmed American workers and communities, and attracting unprecedented investment into the United States. These tariffs reflect a commitment to defending American workers and industries from the long-term effects of predatory pricing, overcapacity, forced technology transfer, and other forms of unfair competition that have undermined U.S. jobs, wages, and supply chain resilience. Tariffs have also encouraged investment in domestic production, promoted diversification away from adversarial supply sources, and created leverage to secure better trade outcomes. While implementation has at times required adjustment to reflect evolving conditions, the overall approach has been focused on advancing U.S. interests. If confirmed, I would work to ensure that tariff policy continues to be applied in a thoughtful and effective manner that provides businesses with a clear understanding of our trade priorities.

- b. Will these tariffs be used to pay extensions of the Trump tax cuts?
 - i. If you plan to use tariffs to pay for permanent tax cuts, does that mean you do not plan to onshore production of those products?

See response above.

c. Negotiating leverage for new trade agreements? If so, please state your specific negotiating objectives.

See response above.

d. What is the purpose of—within days of imposing tariffs—exempting entire industries and then rescinding entirely?

See response above.

e. Do you support the President's mercurial approach to tariffs thus far?

See response above.

f. Do you agree that we need to provide businesses with certainty regarding tariffs?

See response above.

g. If so, do you agree the Trump Administration's approach to tariffs has provided that certainty?

See response above.

h. Other objectives? If so, please describe.

See response above.

Question 5: Do you support establishing an exclusion process to exempt certain importers or imported products from the tariff that President Trump has announced?

a. If so, what are the criteria and processes for obtaining exclusions, and how will you prevent the rampant corruption that occurred in the exclusion process during the first Trump Administration?¹

In his first term, President Trump created opportunities for importers to seek exclusions from various tariff actions, particularly where exclusions could serve national security, economic, or supply chain interests. Accusations of rampant corruption in the exclusion process during President Trump's first term are unfounded. If confirmed, I would work with Secretary Lutnick, Under Secretary Kessler, and other Administration officials to consider any proposals for exclusions, and I would ensure that any exclusions would be administered in a manner that is consistent with the strategic goals of the tariffs as well as the legal authority under which they are imposed.

b. Will you commit to putting in place a transparent and objective process that protects America's small businesses and workers?

If confirmed, I commit to fulfilling all statutory transparency requirements and to regularly consulting with the Committee on trade-related actions, including those affecting small businesses and American workers.

c. Will you ensure that you avoid any conflicts of interest related to tariffs and tariff exemptions?

I will fully comply with all ethics laws and regulations and will take all necessary steps to avoid any conflicts of interest

d. On March 5th—just one day after Trump's tariffs on Canada and Mexico went into effect—President Trump announced a delay of tariffs on cars, at the request of the "Big 3" automakers. Just last week, the White House exempted smartphones from tariffs on Chinese goods, driving up Apple's stock by 2% in just one day. Explaining his decision to exempt smartphones, Donald Trump said that he "speak[s] to Tim Cook" and "helped Tim Cook recently."² Tim Cook was one of the many Big Tech CEOs who donated to

¹ U.S Department of Commerce, Office of Inspector General, "Management Alert: Certain Communications by Department Officials Suggest Improper Influence in the Section 232 Exclusion Request Review Process," memorandum, October 28, 2019, <u>https://www.oig.doc.gov/OIGPublications/OIG-20-003-M.pdf</u>.

² CNBC, "Apple regains \$3 trillion market cap after Trump exempts tariffs on iPhones," Kif Leswing, April 14, 2025, <u>https://www.cnbc.com/2025/04/14/apple-regains-3-trillion-market-cap-after-trump-exempts-iphone-tariff.html/</u>

President Trump's inauguration.³ Do you believe this is an appropriate way to grant tariff exemptions?

As a nominee, I am not in a position to comment on internal deliberations or statements made by the President. President Trump has made clear that his decisions on trade and tariff matters are guided by the national interest, including economic security, supply chain resilience, and the well-being of American workers and industries.

Question 6: Are you concerned that the haphazard way that President Trump has announced, imposed, and revoked tariffs is creating economic uncertainty and driving up prices for American families?

President Trump's trade actions have been necessary and deliberate responses to years of unfair trade practices that have harmed American workers, manufacturers, and critical supply chains. While decisive trade action can result in adjustments in the short term, it is a necessary step toward building a stronger, more resilient economy that is less dependent on unfair or unstable foreign supply chains. These efforts are aimed at securing long-term economic strength and national security.

a. How do you plan to prevent a trade war given the Administration's current trajectory?

President Trump's trade actions are essential to restoring long-term fairness, resilience, and strategic independence in key sectors of the U.S. economy. These measures are not about provoking a trade war—they are about defending American interests and securing better outcomes for our workers and industries. If confirmed, I will support a trade policy that is grounded in strength and a clear focus on achieving lasting structural improvements that benefit American families and the nation as a whole.

b. Do you have a plan to prevent corporations from passing the cost of tariffs onto consumers?

If confirmed, I will work to ensure that the International Trade Administration's work is strategic, responsive, and grounded in the national interest, with a focus on strengthening domestic production and supply chains. I will remain attentive to how such measures may affect pricing and market behavior.

³ Office of Senator Elizabeth Warren, "Warren, Bennet Question Big Tech CEOs on Million-Dollar Gifts to Trump's Inaugural Fund," press release, <u>https://www.warren.senate.gov/newsroom/press-releases/warren-bennet-question-big-tech-ceos-on-million-dollar-gifts-to-trumps-inaugural-fund</u>.

Question 7: What will you do as Under Secretary of Commerce for International Trade to prevent companies from using tariffs as an excuse to hike prices on consumers?⁴

If confirmed, I will work to ensure that trade measures are implemented in a manner that supports fair competition, transparency, and the national interest, and I will remain attentive to how such measures may affect pricing and market behavior.

Question 8: Will you commit to recuse from all particular matters involving your former clients or employers for at least four years?

I will follow all ethics rules and regulations required by law.

Question 9: Will you commit not to seek employment or board membership with, or another form of compensation from, a company that you regulate or otherwise interact with while in government, for at least four years after leaving office?

I will follow all ethics rules and regulations required by law.

Question 10: Will you commit not to lobby the Department of Commerce—including work as an informal "shadow lobbyist"—for at least four years after leaving office?

I will follow all ethics rules and regulations required by law.

Question 11: Will you commit to recuse from all particular matters involving your former clients and employers for at least four years?

I will follow all ethics rules and regulations required by law.

Question 12: Will you commit to not seek employment or board membership with, or another form of compensation from, a company that you regulated or otherwise interacted with while in government, for at least four years after leaving office?

I will follow all ethics rules and regulations required by law.

Question 13: Will you commit to not lobby the Department of Commerce — including through work as an informal "shadow lobbyist" — for at least four years after leaving office?

I will follow all ethics rules and regulations required by law.

Question for the Record submitted to William Kimmitt from Senator Tina Smith.

Question 1: The International Trade Administration plays a central role in enforcing antidumping and countervailing duties laws. Do you agree that we should strengthen our trade remedy laws to better address repeat offenders?

⁴ Washington Post, "Companies ready price hikes to offset Trump's global tariff plans," David J. Lynch, October 30, 2024, <u>https://www.washingtonpost.com/business/2024/10/30/companies-tariffs-trump-prices/?pwapi_token=eyJ0eXAiOiJKV1QiLCJhbGciOiJIUzI1NiJ9</u>.

Defending U.S. businesses and workers against unfair trade practices is a core part of the International Trade Administration's mission. I agree that we should explore ways to strengthen our trade remedy laws to ensure they remain effective against repeat offenders who seek to undermine American industries. If confirmed, I will support efforts to enhance enforcement tools within the agency and ensure that our antidumping and countervailing duty laws are fully and aggressively enforced to protect American workers and producers.

Question 2: If confirmed, will you commit to working with Congress on passing the *Leveling the Playing Field Act 2.0*?

I support efforts to strengthen our trade remedy laws to ensure they remain effective in addressing unfair trade practices and protecting American workers and industries. If confirmed, I would welcome the opportunity to engage with Congress on legislative proposals to advance that goal, including the Leveling the Playing Field Act 2.0.

Question for the Record submitted to William Kimmitt from Senator Luján.

Question 1: How is the U.S. Commercial Service going to help New Mexican small businesses export their goods and services abroad, when countries around the world are imposing retaliatory and steep tariffs on American exports?

The U.S. Commercial Service plays an important role in helping small businesses—including those in New Mexico—navigate foreign markets, identify opportunities, and overcome trade barriers. If confirmed, I will assess the Commercial Service's ability to meet these goals and will look to continue and improve its efforts to support American exporters. Helping businesses diversify export destinations, understand market conditions, and access federal resources can strengthen the global competitiveness of small exporters and ensure that more communities benefit from expanded trade opportunities.

Question 2: A key role of the International Trade Agency is trade promotion and market access and for too long, different communities and industries have not had access to valuable federal resources and programs that could help them develop strong export markets. Tribal nations in particular have been left out of international trade agreements and denied foreign market access for their goods and services. What steps will you take to facilitate the growth of exports for Tribal nations?

All communities—including Tribal nations—should have the opportunity to benefit from U.S. trade and export promotion programs. If confirmed, I will work to assess how the International Trade Administration, including the U.S. Commercial Service, can better engage with and support businesses and workers in Tribal nations in developing export strategies, accessing federal resources, and identifying international market opportunities.

Question 3: A group of folks back home reached out to let my office know that the Department of Commerce is withholding funding from New Mexico's Manufacturing Extension Partnership. Do you support Commerce shutting off this funding, which is used to help small New Mexico manufacturers expand and compete on the global stage? Do you think it is wise to cut off this support to New Mexican businesses in the midst of the President's trade war? Would you support reinstating these funds?

The Manufacturing Extension Partnership is administered by the National Institute of Standards and Technology (NIST) within the Department of Commerce, not ITA. And I am not in a position to comment on specific funding decisions, but, if confirmed, I would welcome the opportunity to review the matter and engage with you and your office to better understand the impact on New Mexico's manufacturers and the role these programs play in supporting American competitiveness.

Questions for the Record submitted to William Kimmitt from Senator Warnock.

Question 1: President Trump's tariffs have undermined America's free trade agreements with many nations—including African countries participating in the African Growth and Opportunity Act, or AGOA, and Haiti through the Haitian trade preference programs. If confirmed, your job will be to promote American exports and ensure countries are following the terms of exiting trade agreements.

• Do you believe it is important for countries you would engage with in your role as Under Secretary to trust America's word with we enter into trade agreements with them?

President Trump has been clear in his commitment to a trade agenda that prioritizes American workers, strengthens our industrial base, and holds our trading partners accountable. If confirmed, I will work to advance the President's trade agenda in our engagements with trading partners around the world.

• Do you believe that a lack of trust in America as a trading partner will make it difficult to enforce new and enter into existing trade agreements?

President Trump has been clear in his commitment to a trade agenda that prioritizes American workers, strengthens our industrial base, and holds our trading partners accountable. If confirmed, I will work to advance the President's trade agenda in our engagements with trading partners around the world.

Question 2: Under Commerce-defined enforcement rules,⁵ importers must demonstrate that solar modules imported under the two-year tariff moratorium were used or installed by December 3, 2024. Full enforcement of these rules against Chinese importers found to be violating U.S. trade laws would lead to significant improvements towards level the trade playing field for domestic manufacturers.

⁵ Reminder on Utilization Requirements for Solar Cells and Modules Imported from Cambodia, Malaysia, Thailand, and Vietnam, Department of Commerce (Aug. 23, 2023), https://www.trade.gov/reminder-utilization-requirements-solar-cells-and-modules-imported-cambodia-malaysia-thailand-

and#:~:text=This%20determination%20provides%2C%20among%20other,date%2C%E2%80%9D%20180%20days %20after%20the.

• If confirmed, can you commit to enforcing the "Utilization Requirement" and briefing the Committee on these enforcement efforts, including any questionnaires sent to importers, documents requested from importers, on-site efforts to verify anti-stockpiling requirements were met, the number of enforcement actions taken, and duties collected by such enforcement efforts?

If confirmed, I am committed to the full and fair enforcement of U.S. trade laws, including any applicable requirements under Commerce's rules. I understand the importance of the "Utilization Requirement" in supporting domestic solar manufacturing, and I would welcome the opportunity engage with the Committee on enforcement efforts, consistent with my responsibilities and applicable law.

Question 3: In recent decades, international automakers like Hyundai have made significant investments in American manufacturing, often revitalizing facilities and communities that were struggling after domestic automakers downsized or departed.⁶ For example, many plants across the Southeast and Midwest that were closed by U.S. automakers have been transformed into thriving manufacturing centers by international companies, creating thousands of American jobs and strengthening local economies.

• Given this history, how would you approach trade policy implementation to ensure it recognizes and supports these substantial investments in American manufacturing?

Investment in American manufacturing plays an important role in strengthening our economy and industrial base. If confirmed, I will seek to implement trade policy in a way that supports investment in American workers and facilities, including from companies that have demonstrated a meaningful and sustained commitment to U.S. manufacturing.

• How would you balance the administration's stated goals with policies that acknowledge the critical role international automakers now play in maintaining U.S. automotive manufacturing capacity, especially in regions where domestic manufacturers have reduced their presence?

I recognize that international automakers have made significant contributions to U.S. manufacturing capacity, especially in regions affected by domestic industry contraction. If confirmed, I will work to implement the Administration's trade agenda in a way that advances our national goals while acknowledging and supporting investments that strengthen American jobs, production, and supply chains.

• What specific metrics and economic indicators would you use to evaluate whether proposed tariffs on automotive components or vehicles would strengthen or potentially harm the competitiveness of auto manufacturing in the United States?

If confirmed, I would evaluate proposed tariffs using a range of metrics, including domestic production levels, capacity utilization, employment trends, capital investment, supply chain resilience, and shifts in trade flows. It is important to assess both the short-

⁶ Jordan Valinsky, Alejandra Jaramillo, and Ramishah Maruf, *Hyundai announces a \$20 billion investment in the United States*, CNN (March 24, 2025), https://www.cnn.com/2025/03/24/cars/hyundai-investment/index.html.

and long-term impacts on U.S. competitiveness, with a focus on strengthening domestic manufacturing and reducing strategic dependencies.

• How would you work to ensure that tariff implementation accounts for the integrated nature of automotive supply chains where many international companies produce vehicles with substantial U.S. content and employment?

If confirmed, I will work to ensure that tariff implementation accounts for the substantial U.S. content, investment, and employment supported by international automotive manufacturers operating in the United States.