

**NOMINATIONS OF JOSETTE SHEERAN SHINER AND
JAMES JOSEPH JOCHUM**

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

JOSETTE SHEERAN SHINER, TO BE DEPUTY UNITED STATES TRADE
REPRESENTATIVE; AND JAMES JOSEPH JOCHUM, TO BE ASSISTANT
SECRETARY OF COMMERCE, IMPORT ADMINISTRATION

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JUNE 26, 2003
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NOMINATIONS OF JOSETTE SHEERAN SHINER, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, RESTON, VA; AND JAMES JOSEPH JOCHUM, TO BE ASSISTANT SECRETARY OF COMMERCE, IMPORT ADMINISTRATION, FAIRFAX, VA

THURSDAY, JUNE 26, 2003

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

The hearing was convened, pursuant to notice, at 10:09 a.m. in room SD-215, Dirksen Senate Office Building, Hon. Craig Thomas presiding.

Also present: Mr. William J. Moffitt, Owner/Operator, Moffitt Reporting Associates, Mitchellville, Maryland.

OPENING STATEMENT OF HON. CRAIG THOMAS, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator THOMAS. I apologize for being a little late. We had a couple of votes and they drug out a bit. And we will probably have some more, so, hopefully, we will be moving along here.

I think it might be appropriate before we begin to mention one of our friends who has been here for 24 years on the committee, Bill Moffitt, who is also celebrating his birthday today. So, congratulations, my friend, and thank you for all that you do. We appreciate it.

Mr. MOFFITT. Thank you very much, Senator Thomas. I appreciate your kindness.

Senator THOMAS. The committee this morning will be here to deal with two trade nominations. I would like to thank the nominees, Ms. Shiner and Mr. Jochum, for being here. We appreciate that very much. We need to move these nominees as quickly as possible, so we are pleased to be able to work on that effort. I look forward to your comments.

I think that it is important certainly that we fill these vacancies, particularly now where there is as much emphasis as there is on trade and moving forward on that. The deadline is not far away and so significant resources are needed to make it successful and complete in that negotiation.

We are also embarked on one of the most aggressive ambitious trade agendas in history. And whether it is multinational negotiations or bilateral discussions with Morocco, these are the things

that we are most interested in. We need a strong trading relationship, and that creates opportunities for us to reduce barriers and strengthen our economy.

So, welcome to both of you. Your entire written statements will be included in the record. And we are going to inform Members that the record will remain open for written questions through Friday, the 27th.

We will go ahead and proceed then. Ms. Shiner, welcome.

Ms. SHINER. Thank you.

Senator THOMAS. I hope things are going well for you this morning. Please proceed.

**STATEMENT OF MS. JOSETTE SHEERAN SHINER, A NOMINEE
TO BE DEPUTY U.S. TRADE REPRESENTATIVE, RESTON, VA**

Ms. SHINER. Chairman Thomas, I am honored to appear here before you today as President Bush's nominee for Deputy United States Trade Representative.

I would like to begin by offering my sincere thanks to the President for offering me the opportunity to serve the American people. And I thank Ambassador Zoelick for his excellent leadership and for the world-class team he has forged at USTR.

And I would like to thank the Congress, the Finance Committee and their staffs, for the vital partnership they have provided. I am honored by the trust and confidence placed in me, and, if confirmed, I will do my best to discharge the duties and obligations of this office with enthusiasm, dedication, and humility.

Three weeks ago, June 6, marked the fifty-ninth anniversary of D-Day, the day my father, a paratrooper in the 101st Airborne, jumped from the skies over Nazi-occupied France.

Private Sheeran was separated from his unit and captured by German troops. He escaped from the prison train, and fought behind enemy lines in occupied France before meeting up with the liberating American troops. But my father's commitment to his country and to public service did not end there. He refused an offer to return home, choosing instead to continue to fight in the Netherlands and Bastogne.

Back from the war, he served in the FBI, as a 2-term mayor of West Orange, New Jersey, and as a member of Governor Byrne's cabinet. He instilled in me a deep and abiding love for my country, and the knowledge that our freedoms have been hard earned by the bravery and blood of others. He has been my hero, a model of public service and sacrifice, and he would have loved to be here today.

As someone with a background in business, media and public policy, it is perhaps not surprising that I entered government expecting to encounter a slow-moving bureaucracy. My 2 years working as Associate USTR have helped prepare me to serve as Ambassador Zoelick's deputy, and have informed my thinking about how executive agencies can and should operate. My colleagues at USTR represent the best of public service: They are tough, hard-working negotiators, unfailingly good natured, creative, skilled at drawing out the capabilities and knowledge of others, and they approach work as problem solvers, people who make things happen for their country.

My colleagues have given me tremendous support. Over the past few months, I have met with many former USTRs and Deputy USTRs who have given me the benefit of their experience and advice. Ambassador Zoelick and his deputies—Peter Allgeier, Linnet Deily, and, of course, Jon Huntsman—have set a high standard of leadership excellence at USTR.

If confirmed, I pledge to continue this record of achievement and integrity. I am proud and honored to inherit a fine career USTR team from Ambassador Huntsman, including Assistant USTRs Wendy Cutler, Ralph Ives and Florie Liser.

Under the leadership of President Bush, Ambassador Zoelick, and the Congress, the United States agenda is moving forward at all levels: global, regional and bilateral. We seek to both ensure compliance with existing agreements and to open new opportunities for America.

The Doha Development Agenda in the WTO is at the heart of our efforts. We have advanced bold proposals to eliminate tariffs on manufactured goods, to open markets for our farmers and ranchers, and to implement deep cuts in farm tariffs and trade-distorting subsidies, and open the global market for services.

I believe this agenda represents a once-in-a-generation opportunity for the American businesses and farmers that drive the most innovative economy in the world.

Over the past two and a half years, we have signed free trade agreements with Jordan, Singapore and Chile; and are now negotiating new FTAs with Morocco, the Southern African Customs Union, the Central American Common Market, and Australia. We helped bring China and Taiwan—more than a billion consumers—into the World Trade Organization and are assisting other nations, such as Russia and Cambodia, with their accession to the WTO.

We are making progress on the Free Trade Area of the Americas, and have launched the Enterprise for ASEAN initiative, and extended a hand of hope and opportunity through expanded preferential trade programs with African and Andean nations.

Opening markets will not be our only challenge in the years ahead. We are committed to ensuring that nations live up to their trade commitments.

Most of all, I believe the United States must maintain a positive commitment to solve problems: a willingness on the part of all parties—negotiators, legislators, businesses, and NGOs—to work toward constructive solutions in the whole range of trade matters.

Before closing, Mr. Chairman, I would like to recognize my friends, family and colleagues who are with us today. My mother passed on last year, but her belief in me was a gift from God. My father and my stepmother, Lena Chang Sheeran, had hoped to be here today. But my sister is here today.

And my children, who are the light of my life, Nicole, Daniel and Gabrielle, are right here. They got to vote on this nomination and whether I should accept it, and they gave me their full support, knowing the sacrifices that would lie ahead.

Senator THOMAS. Unanimous.

Ms. SHINER. They did, yes. Although maybe we should re-take it.

My family, with its roots in Ireland, France, China and Africa, are a living example of the glorious diversity that is America and I am deeply indebted to them.

Mr. Chairman, as I have traveled throughout the world during the past 2 years, I have been proud to represent a nation that is generous, tolerant and fair. I thank you for this opportunity and look forward to any questions you may have.

Senator THOMAS. Thank you very much. We will have some questions, but, first, we will have testimony from Mr. Jochum. If you have family here, we would be happy to have you introduce them.

Mr. JOCHUM. I do, Mr. Chairman. My wife, Rita, is seated behind me. She has informed me that she is staffing a markup at another committee at this time, so she may have to run out. I do not think that is a reflection on what I will be saying, however.

Senator THOMAS. We welcome all of you. We are glad that you are here.

[The prepared statement of Ms. Shiner appears in the appendix.]

STATEMENT OF JAMES JOSEPH JOCHUM, A NOMINEE TO BE ASSISTANT SECRETARY OF COMMERCE, IMPORT ADMINISTRATION, FAIRFAX, VA

Mr. JOCHUM. Thank you, Mr. Chairman. It is also an honor for me to appear before you today as the President's nominee for Assistant Secretary of Commerce for Import Administration.

Just over 2 years ago, I had the privilege to come before the Senate as the nominee for my current position, Assistant Secretary of Commerce for Export Administration. And at that time Senator Grassley graciously introduced me to the Senate Banking Committee.

So, it is with great pleasure that I now appear before the committee that he now chairs. And even though he is not here, I would like to thank Chairman Grassley for his long-standing friendship and support of my family and me.

I also thank Secretary Evans for having the confidence in me to ask me to take another post in the Department of Commerce. Working for President Bush and Secretary Evans these past 2 years has been an especially gratifying experience and one that I will never forget.

Mr. Chairman, as this committee knows, the work of the agency that I have been nominated to lead, Import Administration, is critically important to the well being of our economy.

While the benefits of free trade are well documented, and indeed this administration strongly supports a free trade agenda, it is clear that some of our trading partners continue to employ unfair trade practices. Accordingly, Congress has provided the Department of Commerce with the statutory tools to address those practices that threaten American jobs.

If confirmed by the Senate, I will faithfully execute the authority granted by Congress to protect the interest of American workers. I believe that my experience in implementing U.S. export controls for the last 2 years has prepared me well to continue to lead a regulatory agency charged with administering the laws of the United States as Congress intended.

I also pledge to work closely with Congress, and particularly this committee, on the important issues that arise in implementing our trade remedy laws. As a former staff member in the Senate and as a current member of the administration, I know the importance of seeking your advice and counsel on decisions and policies that may affect your constituents.

In closing, I would like to thank again my wife, Rita, and also my baby daughter, Elena, who is not here today, for their support of my desire to continue serving in the administration. As we all know, the support and love of our families is the most important element of our success, and I would not undertake this new challenge without them by my side.

Mr. Chairman, thank you again and for the Finance Committee staff for organizing this hearing and holding the hearing today. And I would be happy to answer any questions the committee may have.

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

Senator THOMAS. Thank you. Thank you both very much.

Let me start out with three standard questions that are asked of every nominee.

And I ask that each of you respond to these separately if you will, please.

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

Ms. SHINER. No, there is not.

Mr. JOCHUM. No.

Senator THOMAS. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities to the office for which you have been nominated?

Ms. SHINER. No.

Mr. JOCHUM. No.

Senator THOMAS. Third, do you agree without reservation to respond with any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Ms. SHINER. Yes.

Mr. JOCHUM. Yes, I do.

Senator THOMAS. That is the tough one.

Well, great. We are so glad that you are here.

By the way, the chairman has submitted several questions for each of you, and we will see that you get those. And we would like to have you answer them as quickly as possible.

[Senator Grassley's questions appear in the appendix.]

In the meantime, Ms. Shiner, U.S. trade deficits for goods and services have grown at an increasing rate over the last decade. In 1992, it was \$38 billion, last year it was nearly \$420 billion.

Some believe that this abrupt increase is due to the strong U.S. dollar and a strong economy, however, some believe that this is due to unequal openness of trade regimes. So, is there a connection between trade liberalization and trade deficits?

Will our free trade agreements increase our trade deficit or bring it down?

Ms. SHINER. Mr. Chairman, I know there is tremendous concern about the deficit, and we have been having an extensive dialogue with the committee about. The large deficit is due to, in part, our stronger economy. We are buying more than our trading partners in Europe and Asia, and foreigners are investing here because of the strength of the American economy.

On the macro economic level, we need our trading partners, like Japan and Europe, to make the kind of economic decisions that will allow them to grow more so that they will also be buying more American goods and have a strong growing economy that will allow for that.

At the same time, in the micro economic aspects of trade, such as trade facilitation, opening the markets, providing opportunities, creating jobs here, at all those levels we think it becomes more important with the trade deficit that we pursue vigorously the kind of openings and enforcement that will enable us to continue to grow our trade and continue to grow the trade and export part of our economy.

So, we feel that this makes Doha all the more essential. We need the kind of broad liberalization that can happen, especially in the areas of agriculture, that would benefit our farmers, and we also need, frankly, countries like Japan, who are key trading partners, but need to show the kind of leadership in Doha that would help their economy grow and help the rest of the world pick up the pace that we need to see.

Senator THOMAS. Does it seem to you that as we make these agreements that people with whom we have agreements have more restrictions than we do and, therefore, contribute to our trade deficit situation?

Ms. SHINER. Mr. Chairman, obviously we are frustrated at the undue barriers that often stand in the way of American goods around the world. And certainly for me, this is a top priority, especially with countries like China, newly seated to the WTI, that have thousands of laws and regulations they need to change, and, frankly, making sure that our producers, our farmers, get a fair shot in these markets is absolutely essential.

As we tell our trading partners, we welcome their trade, but we expect our producers to get a fair shot. And as you know, product-by-product we have got to wrestle to make sure that they are playing fair. And so we will continue to do that. But we also think that Doha has a good opportunity to bring down some of the structural barriers that still exist in areas like agriculture, and others, and services, that will benefit us.

In addition, in areas like intellectual property, frankly, some of our very good trading partners have not had strong enough enforcement. And so we are working with them and with countries like China to really try to stem the flow of the illegal production of our goods and the stealing of our intellectual property.

Senator THOMAS. Some people here—and, of course, it is in our law and so on—feel that we have free trade agreements and they freeze up a little bit. It is free trade agreements, assuming that it is not quite the same on both sides, so it is a difficulty.

Mr. Jochum, recently the Commerce Department released a policy paper designed to move Canada toward a more market-based

system of selling timber. However, we hear the administration may be willing to accept an interim arrangement that includes quotas.

A quota is the most distortive market measure that could be introduced. How will you make sure the final negotiated settlement does not continue to negatively impact U.S. lumber consumers and new home purchases?

Mr. JOCHUM. Mr. Chairman, as you know, the lumber dispute is a long-standing dispute I guess over a couple of decades. And my future undersecretary, Grant Adonis, has taken a personal interest in trying to set a road map so that we can get out of this endless cycle of litigation over Canadian lumber and really guide the Canadians to a more free market system, as you noted. And, of course, one question in that context will be, what do we put in place between now and the point where we can actually certify that the Canadians have a free market system for buying their timber?

I know that offers have been exchanged between the parties, meaning the Canadian provinces and the U.S. lumber industry, with the Commerce Department acting as a conduit for that.

I take the point that a quote arrangement is trade distorting, and I do not think we would want to put in place something in an interim basis that is worst than the system we currently have.

But I think the way to make sure that we do not put such an agreement into place is to continue to consult closely with both of the parties and also with Congress on what arrangement we inevitably end up with.

Senator THOMAS. It is sort of interesting. I guess stumping drakes have something to do with it.

Mr. JOCHUM. Right.

Senator THOMAS. And I was surprised to know, frankly, that some of the domestic producers in this country are big operators in Canada.

Mr. JOCHUM. That is right. We have a lot of cross-border business, and so we have people on both sides of the border on both sides of the issue.

Senator THOMAS. Yes. It is interesting.

Ms. Shiner, you are responsible for a region in the world that contains nearly 75 percent of the world's population, four and a half billion people apparently. It appears they would be diverse, the number of people living in the area. What challenges or opportunities do you see, particularly in Asia?

Ms. SHINER. Mr. Chairman, we see Asia as a crucial market and a crucial partner in global trade liberalization. Actually, APEC and the Asian nations are often our strongest allies at the global level for liberalizing the broad trading regime.

And we also feel that in Asia we have been able to establish how developing nations can, through trade, become part of the global economy, and that they have set an example that we hope to extend to our neighbors through the FTAA and Latin America, and to Africa, to countries like the Southern African Customs Union that we are negotiating our first free trade agreement with.

In Asia, our priorities are, first, on the global level, really ensuring that we can open agricultural markets, and with key trading partners like Japan, ensure that they open some of their very closed markets also. And so we are disappointed that they have not

shown more leadership on this in Doha, but we are working with them to encourage them to work with us to achieve bold liberalization in Doha.

Second, on a regional level, we are working with Asean, which, as you know, has many different levels of development in their economies. It stems from Thailand and Singapore and Indonesia to Vietnam, which is just really getting its first step up on the global trading system in Cambodia.

And so we are working through a variety of means, including our TIFAs, Trade and Investment Framework Agreements, to resolve outstanding disputes, to begin the dialogue about the kind of regulations and systems we need in place in those governments in order to have fair trade and open trade with them. In addition, as we can, we are looking to graduate some of these economies into a fuller trade partnership with the United States.

And so, as you know, we just have signed the first free trade agreement with Asia and Singapore. This really is a model of broad and deep liberalization, and the kind of measures that we think will provide for a model for future free trade agreements in every area, including e-commerce and intellectual property. So, we are looking, you know, to whom?

And I look forward to talking with the committee about other partnerships we should try to form with free trade agreements in the region. A number of people are interested in Thailand. We have talked to them about the kind of reforms we need to see in intellectual property and other areas before we can do that. But that is an important market for our farmers and for our agricultural community.

We are negotiating with Australia, which is a leader in the region of free trade and a strong ally of the United States across the board. So, we look forward to trying to bring countries into the rule of law, the rules-based trading system, as we have with China and Democratic Taiwan in our recent efforts to help them accede to the WTO. And then hold them to their commitments.

And we need trade capacity building to help enforce those commitments and help them gain the expertise they need doing that and making sure that they can meet those commitments.

Senator THOMAS. Interesting. Singapore is interesting.

We talked a little about it when the deputy was here, where most of the trade comes into Singapore. It goes through there. It is not developed there. So, the pattern is made with Singapore. Does that fit Taiwan and Thailand and the others as well?

Ms. SHINER. Yes. I think a number of the stronger economies in the region are trying to figure out how to position as China comes into greater economic power and with the troubles in Japan.

So, I know that Singapore envisions itself as a hub of services and as a center of e-commerce and technology and innovation. We have certainly found that in our partnership with them, and it is why we are especially pleased that the standards set in the FTA will be ones that could be replicated there.

Thailand, they are very innovative in areas like life sciences and biotechnology. They are doing research. We found that we can really develop strong partnerships with them in a number of these areas. And we are working with Taiwan also on how we can work

closer together, how we can work on intellectual property enforcement and other things, and try to set an example for the region that would be strong and positive.

Senator THOMAS. I see.

Mr. Jochum, I know you have described this, but just succinctly, your office is going to be working out trade agreements in trying to do their work. What is your mission? What is your task?

Mr. JOCHUM. Well, the mission of Import Administration is to enforce the trade remedy laws. So in some ways we are sort of flip side of what Ms. Shiner will be asked to do. For example, I think she eloquently described the market opportunities that exist in China for U.S. exporters.

The flip side of that is we have U.S. producers in this country who are under a lot of pressure at times from imports coming from China, particularly those that are unfairly traded.

So, the job of Import Administration is to enforce the anti-dumping code and the countervailing duty statutes so that when our trading partners engage in unfair trade, either dumping, selling below cost, or their exports are unfairly subsidized, that we can take action and put on a duty to that extent and level the playing field for U.S. producers.

Senator THOMAS. I ASKED ABOUT THE TRADE DEFICIT. Does your role have anything to do with the trade deficit?

Mr. JOCHUM. I guess to the extent that their imports entering the country, so-called illegally, by unfair means, and our ability to prevent that from happening, probably would affect the trade deficit. But I do not think it is in the amount of quantities in volume that would probably have a significant effect on the trade deficit.

Senator THOMAS. So, do you think you have the capacity and the resources and so on to enforce?

Mr. JOCHUM. My sense of the organization, which obviously I am not a part of it yet, is that they do a pretty good job of handling the caseload. I think they have 300 plus employees, and I think they have a reputation of being professional and competent.

On the enforcement side, most of our enforcement authority is actually held by the Customs. They would enforce things like fraudulent circumvention of antidumping orders, misrepresentations responding to a petition, and those things. So, we work very closely with Customs to enforce our laws.

Senator THOMAS. Customs is a different agency.

Mr. JOCHUM. That is exactly right. In fact, I think Under Secretary Adonas just forged a new working group with the Bureau of Customs and Border Protection—which is their new name—to look at the enforcement problems unique to China, because we have a lot of things in China that happen that seem to be evidence of fraud and a willingness to circumvent existing orders. So, we work real closely with Customs, share information with them, and then they would follow up on the enforcement side.

Senator THOMAS. Do you feel comfortable that the agreements you make, and so on, are enforced and kept accurately in place?

Mr. JOCHUM. I think enforcement requires vigilance. And so we need the means and the mechanisms in place to ensure that we can enforce and that we have access to enforcing these agreements.

But it really requires vigilance. And so, product-by-product, situation-by-situation, we watch it closely.

I have to say we have a very close partnership with the Commerce Department, with Under Secretary Aldonas and his team, and we have been able to work very closely together, and we feel that the mechanisms we have in place are an important safety valve when needed. In addition, I will tell you that with China, President Bush brought up with President Hoo our concerns about agricultural products and other products.

Ambassador Zoelick has taken a number of trips there to really underscore our strong sense that it is not only in our interest, but it is in China's interest to make sure that as their products come into the United States our products freely flow there also. And so we want success stories in China for our businesses and our farmers as much as they have success stories here. I think that will be very much at the core of all of our tasks in the years ahead.

Senator THOMAS. It was interesting where their agricultural exports were moving up rather strongly before the Asian currency crises. And we have yet to recover from that, I think. Maybe the Canadian mad cow thing will help us a little. I am not sure.

Mr. Jochum, there are approximately 50 cases concerning pending China involvements of dumping products. In a House hearing recently, U.S. industries had a common concern that the patterns developed which favors Chinese over U.S. interests, a significant number of the cases of U.S. interests were zeroed out even in cases where the facts have not changed.

An example that I am familiar with is the U.S. producer of chemical critical to the circuit board manufacturing being zeroes out in the case involving a Chinese exporter. It has been going on for several years. The Chinese company duty was dropped from 42 to zero. Eventually, the penalty will be borne by U.S. companies. And I do not know that you are familiar with that case. It has something to do with China and soda ash. Are you familiar at all with that?

Mr. JOCHUM. Not with that specific case. But I am familiar with the hearing that was held on the House side. I guess a couple of weeks ago and Under Secretary Aldonas testified. And just by way of comment, I think China poses a really unique situation for us in two regards.

One, it is obviously still a non-market economy. So, we have difficulty in determining sales prices and cost of production in that market because of state interference in the market. So, it often leads us to construct prices and costs, using a surrogate country.

The other challenge we have in China is that under the Uruguay Round there is a requirement that we account for new shippers, which means we could have a duty against one exporter in China, for example, but if a new company pops up and they start exporting, we are required to take into account whether they would have a lower duty. And I am not sure that is what accounts for your constituents' issue.

But I know that Under Secretary Aldonas is very focused on China as a result of the hearing and even before the hearing, and that led to this interagency working group with Customs. And it is also leading to some regulatory changes that are being con-

templated. And we would be glad to come up and brief the committee and staff on those changes, specifically on the new shipper review, which I perceive as a loophole the way it was constructed previously.

We have limited the option for those exporters to post bonds, and then sort of export freely into our market. And so I think we have addressed at least part of the issue already, but I think we do have some work to go in China to make sure that what we are looking at is bonafide transactions and not just transactions designed to circumvent and order that has been in place. And I would be happy to follow up on the case you specifically mentioned.

Senator THOMAS. I was Chairman of the Subcommittee on the Asian Pacific Rim in years previous, and so I worked quite closely with China and Asia.

Mr. JOCHUM. Yes.

Senator THOMAS. And China, I think, has made some real improvements and is moving in the right direction. And there is great potential there for both of our countries. But it is difficult sometimes to impart.

You also, Ms. Shiner, have responsibility for Africa. Not knowing much about that, it seems like that is kind of a different world in terms of trade.

Ms. SHINER. Mr. Chairman, it is a different world in terms of trade, and mostly it is because Africa has pretty much been excluded from the benefits of global trade. I think this is something that does not benefit the global economy and global stability, and I think it is something that the Congress has worked hard to address through things like the African Growth and Opportunity Act.

Through our preferential program with Africa, AGOA, I have to say that we have caused resolution in thinking in Africa and helped trigger the progress in thinking about how the world trade can play in their development. And I think the powerful new idea that we have been putting on the table with Africa is the powerful combination of trade and aid.

So, constructing our capacity-building programs to help them build in the kind of rules and regulations, that will allow them to build free enterprise in their countries and participate in global trade. So, we have very much focused our efforts there.

A number of countries like Lesotho and Botswana and Anibia, all of which we are now negotiating a free trade agreement with, have been tremendous beneficiaries of AGOA. They have started new industries there. They have been able to create thousands of new jobs.

And I think it has transformed the thinking there to a market-based kind of thinking about their economies. So, there are a number of countries setting the pace. We believe that this will lead to a much more stable continent, with economic leaders there that can create their own growth, and hopefully break a cycle of aid and dependency that the new generation of leaders in many of those countries want to see done.

We have a small but excellent Africa team at USTR. We spend a lot of time there in teaching and in capacity building on areas like intellectual property, and why it is in the interest of developing economies to be intellectual property protectors rather than

under miners. And a number of these countries have set up model laws for the continent.

So, we look forward to our first free trade negotiations there with the five members of the Southern Africa Customs Union. We recently had out 25 of their negotiators, most of who have never been at the trade-negotiating table. And so, they are now training a new generation of new negotiators. And I will tell you that in Doha they were essential new partners in launching this new global round.

When India and others resisted, the Africans came forward and said, you know what? We need more trade. This continent is committed to trade. And it was those two leaders in Africa that really turned the tide in Doha. So, we want to work with them. And we have made it clear that this is an opportunity. We are extending a hand of partnership. But they have to take the steps. And as President Bush has said, building an economy that can trade is a lot of hard work.

It is nothing that anyone can bestow on a country. It is not anything that anyone can give to a country. But a number of these countries have really come forward and are taking a leadership role in that.

Senator THOMAS. I mentioned the Singapore thing as the ultimate. Sometimes you wonder. For instance—and I am not suggesting that this would be the case, but I did read something about it somewhere—let us say we had an agreement with Australia and not with New Zealand—in fact, I think the trade representative talked about not doing them together recently—what then would keep a country that we did not have an agreement with for shipping their goods through one that we do?

Mr. JOCHUM. Well, if there is an issue of whether we have quotas in place, for example, with one county and a third country shipping around those quotas through a conduit, that would really be an enforcement issue for Customs. And obviously we do see that. I am sure Customs has many officers assigned to do that.

We see that more in the context of China, whom we have textile quotas in place against. There have always been allegations that they perhaps ship through Singapore, for example.

But really, that is sort of after the trade agreement is negotiated, a factual case that is really most suited for Customs agents than try to track that down. And it is often difficult.

We had an issue I think in China recently with garlic, for instance, and the Customs agents somehow figured out how to identify certain pieces of garlic so that they could determine when they saw the garlic what county it came from.

I think that maybe technology will help us out on this problem someday and that it is probably the preferred alternative. But I think that it is often difficult, but it is something that we have monitored closely.

Senator THOMAS. I think garlic could be one of the easier ones to track.

Well, one of the real challenges is going to be with the European Union with regard to accepting agricultural product from the United States. I think I read this morning that they did not have much luck yesterday doing some negotiations with regard to agri-

cultural products. So, Ms. Shiner, that is not in your jurisdiction apparently, is it?

Ms. SHINER. No, it is not. But I will say that we really do feel that as we get traction in other regions and countries, it can help unsettle the protection as impulses in some of these countries. And so, we are hoping to continue to put the pressure on the Europeans, both on biotechnology and in Doha.

Senator THOMAS. Good. Thank you.

Well, I am very impressed with both of you and your backgrounds and your willingness to do something.

We have some questions here for you, and you may get some others, and I hope you can respond to them as quickly as possible.

And we appreciate very much your willingness to serve and we appreciate your being here today, and look forward to completing this process for you. So, thank you all and good luck.

Ms. SHINER. Thank you.

Mr. JOCHUM. Thank you.

Senator THOMAS. The hearing is adjourned.

[Whereupon, at 10:47 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. MAX BAUCUS

Ms. Shiner and Mr. Jochum, I want to begin by welcoming you and your families and friends to the Finance Committee. You are to be congratulated for being selected by the President to serve in these important positions. We appreciate your service to the country. To your families, we recognize that you make the real sacrifices. Thank you for your service to our country as well. Both nominees before us today have interesting and successful backgrounds that they bring to their positions.

Ms. Shiner has been nominated to be Deputy United States Trade Representative. She has over twenty years of experience as a successful journalist and businesswoman, but she has worked these last two years at USTR in a high-ranking policy-making position.

Mr. Jochum has been nominated to be Assistant Secretary of Commerce for Import Administration. He currently serves as Assistant Secretary of Commerce for Export Administration, a position for which he was confirmed by the Banking Committee and the full Senate only two years ago. He will bring a wealth of experience both in international trade matters and in working with the Congress.

Mr. Chairman, thank you for moving forward with today's hearing and giving these nominees prompt consideration by the Finance Committee. I look forward to working with both of these nominees in the future.

PREPARED STATEMENT OF HON. JIM BUNNING

Thank you, Mr. Chairman.

I would like to welcome our guests to the committee today. We appreciate your willingness to serve the Administration in the capacities for which you have been nominated.

You are both being considered for positions from which you will have substantial influence over the trade policies of this country. I know that you recognize the importance of this issue to our economy and will take that responsibility seriously if you are confirmed. I hope that you will both keep the goal of providing a fair playing field for American businesses to compete upon, both domestically and abroad, utmost in your mind as you contemplate the responsibilities that these positions entail.

The fair enforcement, implementation, and administration of our trade laws affect all Americans. I expect, if confirmed, that you will dedicate yourself to the fulfillment of these purposes.

Thank you.

PREPARED STATEMENT OF HON. CHARLES E. GRASSLEY

It is my pleasure to welcome Josette Shiner and The Honorable Jim Jochum to the Finance Committee today. Ms. Shiner is the President's nominee for the position of Deputy United States Trade Representative. Should she be confirmed, Ms. Shiner will play a key role in formulating U.S. trade policy with Africa and Asia. Assistant Secretary Jim Jochum is the President's nominee to succeed Faryar Shirzad as the Assistant Secretary for Import Administration at the U.S. Department of Commerce. The Assistant Secretary for Import Administration is responsible for administering the U.S. trade remedy laws, and thus, also plays an extremely important

role in U.S. trade policy. Both of the nominees before us today are well-qualified. They both have the experience that they will need to handle the jobs for which the President has nominated them. And I am sure that both of them are eager to get started in their new roles.

But before I introduce these nominees, I would like to talk about the roles of the USTR and Import Administration in U.S. trade policy. Let me begin by stating how important I think the USTR is to farmers, firms, and workers across the United States. There is no doubt that trade is critical to the American economy. Throughout the past decade, as much as a quarter of all our economic growth has been attributable to exports. Trade has helped keep inflation low and has spurred competition and innovation in the American marketplace. Trade has also created good, high-paying jobs. Export related employment, supporting an estimated 12 million jobs, pays 13 to 18 percent above the prevailing wage. In my home state of Iowa, trade is very important. A significant share of farm produce from Iowa is now destined for overseas markets. For me, the expansion of free trade is critical to the growth of Iowa's economy and the growth of the U.S. economy. So, I am glad to see that the President has embarked on an ambitious trade agenda following the passage of Trade Promotion Authority, and I support USTR's work to open up foreign markets throughout the globe.

Import Administration, within the U.S. Department of Commerce, also serves an important role in U.S. trade policy by enforcing our trade laws to allow U.S. companies and workers to compete on a level playing field. I cannot stress how important it is that this agency conduct its investigations and reviews with integrity and a strict adherence to the laws that govern its procedures. That said, I would first like to welcome Josette Shiner. The President has nominated Ms. Shiner to be Deputy U.S. Trade Representative, with the rank of Ambassador, within the Executive Office of the President. Ms. Shiner is presently the Associate United States Trade Representative. In that capacity she serves as a chief policy strategist on trade and globalization issues and oversees numerous negotiating sectors as well as the agency's communications and outreach operations. Ms. Shiner has a wide-ranging and strong background in policy, journalism and the private sector. Her present and past work experience make her a very able candidate for the job in front of her.

I am also very pleased to welcome the nomination of Assistant Secretary James Jochum. The President has nominated Assistant Secretary Jochum to be the Assistant Secretary for Import Administration at the U.S. Department of Commerce. Assistant Secretary Jochum presently serves as the Assistant Secretary for the Bureau of Industry and Security at Commerce. In this position he is responsible for safeguarding U.S. national and economic security by administering U.S. export control laws and formulating export control policy. Before going to Commerce, Assistant Secretary Jochum worked in the private sector and for Congress. And I can personally attest to Jim's ability and integrity, as he is a native Iowan and served as my Legislative Director and International Trade Counsel for a number of years. That said, I would again like to welcome our nominees to the Committee. I look forward to your testimony. However, before turning to that, I would ask each nominee to acknowledge any family members or guests who have come here today and ask those individuals to stand so we may welcome them here today. With that, let me turn to my distinguished friend and colleague, the Ranking Member of the Finance Committee, Senator Baucus.

PREPARED STATEMENT OF JAMES J. JOCHUM

Mr. Chairman, Senator Baucus and Members of the Committee.

It is an honor to appear before you today as the President's nominee for Assistant Secretary of Commerce for Import Administration. Just over two years ago I had the privilege to come before the Senate as the nominee for my current position, Assistant Secretary of Commerce for Export Administration. At that time, Senator Grassley graciously introduced me to the Senate Banking Committee. So it is with pleasure that I now appear before the committee that he chairs. I want to thank Chairman Grassley for his longstanding friendship and support of me and my family.

I also thank Secretary Evans for having the confidence in me to ask me to take another post in the Department of Commerce. Working for President Bush and Secretary Evans these past two years has been an especially gratifying experience and one that I'll never forget.

Mr. Chairman, as this Committee knows the work of the agency that I have been nominated to lead, Import Administration, is critically important to the well being of our economy. While the benefits of free trade are well documented and, indeed,

this Administration strongly supports a free trade agenda, it is clear that some of our trading partners continue to employ unfair trade practices. Accordingly, Congress has provided the Department of Commerce with the statutory tools to address those practices that threaten American jobs.

If confirmed by the Senate, I will faithfully execute the authority granted by Congress to protect the interests of American workers. I believe that my experience in implementing U.S. export controls the last two years has prepared me well to continue to lead a regulatory agency charged with administering the laws of the United States as Congress intended.

I also pledge to work closely with Congress, and particularly this committee, on the important issues that arise in implementing our trade remedy laws. As a former staff member in the Senate, and as a current member of the Administration, I know the importance of seeking your advice and counsel on decisions and policies that may affect your constituents.

In closing, I would like to again thank my wife Rita—and also my baby daughter, Elena—for their support of my desire to continue serving in the Administration. As we all know, the support and love of our families is the most important element of our success and I would not undertake this new challenge without them by my side.

Mr. Chairman, thank you again for holding this hearing and I would be happy to answer any questions from the Committee.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. **Name: (Include any former names used.)**
James Joseph Jochum
2. **Position to which nominated:**
Assistant Secretary of Commerce (Import Administration)
3. **Date of nomination:**
April 9, 2003
4. **Address: (List current residence, office, and mailing addresses.)**
Residence:
9826 Five Oaks Road
Fairfax, VA 22031

Office:
Room 3886C
Bureau of Industry and Security
U.S. Department of Commerce
Washington, D.C. 20230
4. **Date and place of birth:**
June 16, 1965. Dubuque, Iowa
6. **Marital status: (Include maiden name of wife or husband's name.)**
Married to Rita Lari
7. **Names and ages of children:**
Elena Anna Jochum, age 3 months
8. **Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)**
University of Iowa College of Law, 1987-1990, J.D. granted, 1990.
University of Iowa, 1983-1987, B.A. granted, 1987.

- Wahlert High School, Dubuque, IA, 1979-1983, Diploma granted, 1983.
9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)
 Assistant Secretary of Commerce for Export Administration, U.S. Department of Commerce, Washington, D.C., 2001-present.
 Senior Manager, Government Relations, Accenture, Washington, D.C., 2000-01.
 Majority Counsel, U.S. Senate Banking Committee, Washington, D.C., 1999-00.
 Trade Counsel, Legislative Director, U.S. Senator Charles Grassley, Washington, D.C., 1994-1999.
 Assistant Vice-President, Brenton Banks, Inc., Cedar Rapids, IA. 1992-1994.
 Attorney, Foley and Lardner, Milwaukee, WI. 1990-1992.
10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)
 None other than those listed above.
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)
 None.
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)
 Cedar Rapids Estate Planners Council, 1993-1994.
 Cedar Rapids Lions Club, 1993-1994.
 Wisconsin Bar Association, 1990-1992.
 American Bar Association, 1990-1992.
 Iowa Student Bar Association (class representative), 1989-1990.
 Iowa Law Review, 1989-1990.
 Phi Delta Phi Legal Fraternity, 1987-1990.
13. Political affiliations and activities:
- a. List all public offices for which you have been a candidate.
 None.
 - b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.
 Member, Republican Party of Virginia, 2000.
 - b. Itemize all political contributions to any individual, campaign organization,

No personal contributions exceeding \$50.

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)
 Order of the Coif, 1990.
 Phi Beta Kappa, 1987.
 Laurence Fairall Scholarship for Political Science, 1987.
 Merchants National Bank Scholarship for Political Science, 1987.
 Various University of Iowa Tuition Scholarships, 1983-1987.
 University of Iowa Dean's List, four semesters, 1983-1987.
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
 "Reflections on the 1996 Farm Bill," *Drake Journal of Agricultural Law*, Volume 1, No. 1, Spring 1996, co-authored, with Senator Chuck Grassley.
16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)
 None.
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)
 See attached Statement of Qualifications.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.
 I will resign my position of Assistant Secretary of Commerce for Export Administration.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.
 No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.
 No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.
None.
2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.
None.
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.
From January 24, 2000 to April 6, 2001, I represented Accenture as a registered lobbyist on the following issues: the Securities Exchange Commission's proposed auditor independence rule, the L-visa (spousal visa) program, permanent normal trade relations with China, e-commerce issues (including the digital signature bill), and market access issues regarding trade-in-services.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)
Not applicable.
5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
To be provided separately by Department of Commerce Office of General Counsel.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed

(including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.
No.
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.
In the fall of 1986 I was arrested and pled guilty to two simple misdemeanor offenses arising from a single incident: violation of Iowa City Municipal Code sec. 24-114 (1978 Code), prohibition on public urination, and Iowa State Code sec. 123.46, prohibition on public intoxication. I recall paying fines of approximately \$25.00 and \$15.00, respectively, in the District Court of Johnson County, Iowa.
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.
No.
4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.
On October 13, 1989 I pled guilty to violating sec. 123.28 of the Iowa Code, restricting the transportation of an open container of alcohol in a motor vehicle, and paid a fine of \$17.50, plus court costs, in the District Court of Dubuque County, Iowa.

In approximately 1984 or 1985, I paid a fine of approximately \$15.00 to the District Court of Johnson County, Iowa for public urination.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.
None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?
Yes.
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?
Yes.

RESPONSE TO A QUESTION FROM SENATOR GRASSLEY

Question. As you may know, there is a possibility that at the end of this year, WTO parties may not agree to extend the "Peace Clause" covering agricultural products. If this happens, Import Administration may get a number of filings for agricultural cases. A big issue with these products will be seasonality. How is Commerce addressing the issue of seasonality at the Doha negotiations?

Answer. It is unclear whether the expiration of the Peace Clause will result in an unusually large influx of agricultural cases. This is because the Peace Clause has not been interpreted to prevent the filing of agricultural cases by the domestic industry. Indeed, farmers and ranchers have been filing antidumping and countervailing duty petitions during the period in which the Peace Clause has been in effect (e.g., the wheat countervailing duty case). If I am confirmed, the Department will continue to treat these cases with care, seriousness and expedition, taking into account the special circumstances in the production of these products.

Consistent with the Trade Act of 2002, one of the Administration's key negotiating objectives in the WTO is to develop a position on the treatment of seasonal and perishable agricultural products under the trade remedy laws. The United States has tabled a paper identifying this issue as an important topic that needs to be addressed in these negotiations.

If confirmed, I will work to develop an international consensus on the appropriate treatment under the trade laws of seasonal and perishable agricultural products, as called for in the Trade Act of 2002. I understand that the Department has been consulting closely with industry representatives in order to better understand the problem and seek input in developing an approach that will help to eliminate practices that adversely affect trade in certain agricultural products. This should help to level the playing field so that U.S. farmers and ranchers have the same access to import relief mechanisms as those available in other countries.

RESPONSES TO QUESTIONS FROM SENATOR BAUCUS

Question 1. I would like your views on challenges to U.S. trade laws in the WTO, both in dispute settlement and in the negotiations. For dispute settlement, I'm thinking in particular of rulings against the U.S. safeguard measures, the ruling against the Byrd Amendment, and the recent EU challenge to the practice of "zeroing." For the negotiations, I'm thinking about the push to adopt the lesser duty rule.

Answer. In the context of the dispute settlement process, it appears that WTO Panels and the Appellate Body have sometimes imposed their own preferred interpretation of ambiguous provisions of the Antidumping or Subsidies Agreements upon the United States. These exercises in "gap filling" have as a practical matter created a number of new obligations for the Department in administering these laws to which the United States never agreed.

As you know, the Administration disagreed with the decisions of the WTO Panel and Appellate Body on the Byrd Amendment and, accordingly, exhausted its appeal rights on this case. A final Panel decision has not been issued on the Section 201 safeguards case, but the Administration will seriously consider all available options once a decision has been rendered.

With regard to the "zeroing" decision, I understand that the Antidumping Agreement does not establish obligations with respect to the issue addressed by the Panel and Appellate Body, specifically, how individual dumping margins may be combined into a single, weighted-average margin. Consequently, the Panel and Appellate Body should not have addressed this issue. The Administration continues to believe that the calculation methodology, as administered by the United States, is wholly legitimate.

Regarding the Rules negotiations, I understand that the Department has always opposed application of a lesser duty rule, and plans to continue this opposition.

Question 2. It seems that recently the United States has more often been a defendant in WTO cases than a plaintiff. Do you think we should be more aggressive in bringing dispute settlement cases where we have a case to bring?

Answer. Although USTR is the agency within the U.S. government that determines when cases should be brought to the WTO, I am certainly willing to be supportive of the United States bringing more cases as a plaintiff where other WTO Members impose trade remedies that are not consistent with their WTO obligations. Of course, each potential action would have to be evaluated based on its individual merits.

RESPONSES TO QUESTIONS FROM SENATOR ROCKEFELLER

Question 1. Mr. Jochum, I am aware that the Commerce Department is deliberating over a decision on the application of the payment by foreign producers or their U.S. subsidiaries of 201 duties in antidumping cases. Further, I understand the Department originally announced its intentions to reverse its position on this issue in August 2002, and that as a result numerous parties expressed concern about this policy view.

If confirmed, will the payment by foreign producers or their U.S. subsidiaries of 201 duties be deducted from U.S. price in antidumping investigations and reviews

in accordance with U.S. law by the Department? Given your response, please elaborate as to your interpretation of the statutory language.

Answer. I am not aware of a policy pronouncement on this issue in August 2002. However, I understand that the issue of how to treat Section 201 duties in the Department's dumping margin calculations was raised in the final weeks of a recent antidumping investigation of steel wire rod from Trinidad and Tobago. In that case, the foreign respondent, the domestic producers and the United Steelworkers of America all commented on the issue, but the domestic interested parties requested that the Department allow additional time for more extensive comment on this farreaching policy determination. The Section 201 remedy at issue in that case was a tariff rate quota. After examining the facts, the Department found that very few sales were made above the established quota level and, thus, the amount of Section 201 duties paid was very small. Since any adjustment to reflect payment of Section 201 duties as a cost of sale in that case would have had an insignificant impact on the final result, the Department opted not to address the matter. However, insofar as this is also an issue in some other pending investigations, I believe that the Department will invite all interested parties in those cases to comment fully on the issue, as well as parties not involved in these specific proceedings, so that the question might be more extensively considered in light of the comments made and other relevant factors.

If confirmed, I will review and consider the arguments made by all sides as to whether it would be feasible and appropriate to treat Sections 201 duties as a cost of sale under U.S. law and our international obligations. I am aware that it is the Department's statutorily-mandated practice to deduct "normal" U.S. import duties as an adjustment to the U.S. price. I am also aware that both the Department and Congress have in the past refrained from providing for the deduction of antidumping countervailing, Section 301 or Section 201 duties, and that this practice has been affirmed in several cases by U.S. courts based on the rationale that any such deduction would effectively result in an over-collection of the duties. At the same time, I know that many are concerned about the potential for duty absorption practices that could have a deleterious effect on the relief expected from the imposition of unfair trade remedies. I will, therefore, look forward to assessing carefully the arguments made on this issue.

Question 2. The Department has the sole authority to administer and enforce the U.S. unfair trade statutes. These laws have been put into place to provide a legal playing field for manufacturers or farmers to use to challenge unfair trade practices. One of my concerns is that the Department continues to refrain from applying the countervailing duty laws to non-market economies and to China specifically. In the recent DRAMS from Korea countervailing duty case, the Department countervailed bad loans made by Korean government owned banks to Hynix. In China, government owned banks have made over \$500 billion in bad loans to support Chinese exporters.

If confirmed, will the Department change its policy on the application of CVD law to China? If not, is it fair to Korean producers or U.S. companies that we countervail these practices when they occur in Korea, but do nothing when the same practices occur in China? How can U.S. manufacturers or farmers compete with imports from China if the U.S. government refuses to countervail clear subsidy programs?

Answer. The Department is committed to addressing market distorting practices by any government, including the Chinese government. However, China, unlike the Republic of Korea, is a nonmarket economy and, as such there are no reliable commercial benchmarks in China against which to compare government actions. The Federal Circuit Court of Appeals ruled in the *Georgetown Steel* case many years ago that the CVD law does not apply to non-market economies, on the theory that it is not possible for a government to distort an economy, by means of subsidies, when that economy itself is not based on market principles in the first place. Therefore, despite some reforms in China, I do not believe that the Department intends to change its policy at the present time on the application of CVD law to China.

Instead, the non-market features of the Chinese economy that justify, under the rule enunciated by the Court of Appeals, not applying the countervailing duty law to China, warrants the continued application of an alternative, non-market economy (factors-of-production) methodology in our antidumping cases involving imports from China. This non-market-economy antidumping methodology accounts for the unique circumstances in non-market economies and, to some degree, offsets these circumstances. Specifically, because we cannot rely on prices and costs in China, the methodology relies on prices and costs from market economies to construct a marketbased price. Thus, by not using Chinese prices and costs, the Department addresses the marketdistorting practices by the Chinese government.

Should the Department make a determination sometime in the future that graduation of China to market-economy status is warranted, based on an analysis of China's economy under section 771(18)(B) of the Tariff Act of 1930, as amended, the countervailing duty law would begin to apply to China on the date such graduation became effective.

Question 3. You stated in your response of July 8, 2003, that you were "aware that both the Department and Congress have in the past refrained from providing for the deduction of antidumping, countervailing, Section 301 or Section 201 duties, and that this practice has been armed in several cases by U.S. courts based on the rationale that any such deduction would effectively result in an over-collection of the duties." My staff checked with the professional staff of the Finance Committee and was informed that your answer is probably incorrect in several respects.

In particular, I understand there are no decisions applicable to either Section 301 or Section 201. In fact, the closest past decision in this regard appears to have been the Commerce Department's decision in *Fuel Ethanol from Brazil*, (51 Fed. Reg. 5,572 February 14, 1986), in which the Department of Commerce did deduct duties temporarily increased on ethanol and published in Chapter 99 (as has been the temporary duty increase on steel products), from U.S. price in an antidumping investigation when the additional Customs duties were paid for by the Brazilian producers or their U.S. subsidiaries.

Accordingly, I ask that you identify, as to each of the four statutes referred to in your response (antidumping, countervailing duty, Section 301, and Section 201) the: (1) Commerce Department decisions, (2) actions taken by the Congress, and (3) court decisions, which support your statement.

Answer. The information that you requested regarding actions applicable to the deduction of antidumping and countervailing duties in calculating dumping margins is presented below. Your question correctly states that there have been no corresponding Commerce Department (Commerce) or court decisions applicable to either Section 301 or Section 201 duties. In this respect, my answer dated July 8, 2003 is in error. I apologize for any confusion my original answer has caused and appreciate the opportunity to clarify my statements and the relevant precedents that relate to this issue.

With respect to Commerce's decisions, I have been informed that Commerce has not deducted antidumping and countervailing duties from U.S. price in calculating dumping margins since it began administering the antidumping and countervailing duty laws in 1980, absent clear evidence that the importer was reimbursed for those duties. One example of a decision declining to deduct antidumping and countervailing duties from U.S. price is *Certain Corrosion-Resistant Carbon Steel Flat Products from Korea*, 61 Fed. Reg. 18, 547 (1996).

Further, it is my understanding that Commerce has not deducted either Section 201 or Section 301 duties from U.S. price in calculating dumping margins, but has never specifically addressed this issue in a final administrative decision. As noted in my original response, I will conduct a comprehensive review of whether Section 201 duties should be deducted from U.S. price in an upcoming antidumping proceeding in which the issue is raised, after inviting all interested parties to submit full comments on the record. I understand that Commerce's determination in the case you cited, *Fuel Ethanol from Brazil*, involved similar issues to those presented by the deduction of Section 201 duties from U.S. price, and will take that determination into account in addressing the issue.

With respect to actions taken by Congress, my reference to Congress refraining from providing for the deduction of duties from U.S. price should have been limited to antidumping duties. The reference was to a proposal by Representative Regula for inclusion in the Uruguay Round Agreements Act that would have required the deduction of antidumping duties from the U.S. price in calculating dumping margins. This proposal was not included in the Uruguay Round Agreements Act. Moreover, in the Statement of Administrative Action, Congress stated (p. 885) that the provision for duty absorption inquiries in sunset reviews of antidumping orders was "not intended to provide for the treatment of antidumping duties as a cost." At the time that the deduction of antidumping duties was considered by Congress, it is my understanding that there was no similar proposal calling for the deduction of countervailing duties or Section 301 or Section 201 duties. However, I know that there is legislation pending in both the House and Senate that would treat countervailing duties as costs for the purpose of calculating antidumping margins.

With respect to court decisions, the principal relevant Court of International Trade (CIT) decisions are as follows. In *AK Steel Corp v. United States*, 988 F. Supp. 594 (CIT 1997), the CIT upheld Commerce's decision not to deduct antidumping duties and countervailing duties from U.S. price in calculating the dumping margin. In *Hoogovens Staal v. United States*, 4 F. Supp. 2d 1213 (CIT 1998), the CIT upheld

Commerce's decision not to deduct antidumping duties from U.S. price in calculating the dumping margin. Similarly, in *PQ Corp. v. United States* 652 F. Supp. 724 (CIT 1987), *Federal Mogul Corp. v. United States*, 813 F. Supp. 856 (CIT 1993), and *Outokumpu Copper v. United States*, 829 F. Supp. 1371 (CIT 1993), the CIT upheld Commerce's decision not to deduct estimated antidumping duty deposits from U.S. price. To my knowledge, the U.S. courts have not addressed the treatment of Section 301 and Section 201 duties under the antidumping law, and the implication in my original answer to the contrary was inadvertent.

Again, I appreciate this opportunity to clarify the erroneous statement contained in my response of July 8, 2003. I hope this response fully answers any questions or concerns you have on this issue.

RESPONSES TO QUESTIONS FROM SENATOR BUNNING

Question 1. Over the past two years I have worked with steel producers in my state to ensure that a strong 201 remedy was put into place to provide relief to the industry. In the 201 proclamation, the President provided room for our government to readdress instances where import surges may occur from countries not covered by the 201 remedy. This was put into place to ensure that the 201 program would not be undermined by a surge in imports from uncovered countries.

I understand that there has been some concern over whether import surges from these excluded countries—including India and Turkey—are cutting into the real teeth of the 201 remedy.

What are your plans to address this import surge problem? What are you and your counterparts at the Dept. of Commerce prepared to do to ensure that this trend does not continue and what is your time frame?

Answer. The Department is aware of the industry's concerns over increases in certain steel imports from India and Turkey. I understand that USTR has held consultations with both countries to voice the concerns of both the industry and the Administration over these import increases. The Department continues to monitor these imports closely and will work with USTR to take whatever steps are appropriate, including the possible application of 201 duties to these products.

The Department currently monitors all steel imports covered by the section 201 remedies through the steel import licensing and surge monitoring program. Under this program, all imports of Section 201 steel products, including those from excluded developing countries such as the ones you mentioned, must obtain a steel import license. Aggregate information from the steel licenses is reported by section 201 remedy category and country of origin on the surge monitoring website for use by the Administration, domestic steel industry and interested members of the public. The system focuses on early identification of import surges, particularly those from excluded developing countries, that could undermine the relief provided to the industry by the President.

The surge monitor is updated weekly with information obtained from the previous week's steel licenses. The Department works closely with USTR to examine and identify potential surges and evaluate them within the context of market conditions and other factors to determine whether such import increases are undermining the section 201 relief.

Question 2. As you know, the way in which a respondent allocates production costs between subject and nonsubject merchandise in a dumping case can have a major impact on the accuracy of Commerce's normal value calculation. A respondent's treatment of nonsubject merchandise as either a co product or byproduct in the production process can have a similar impact. Each of these allocations, if not correctly done, can result in understated normal values and margin determinations that fail to reflect the actual extent of dumping in any given case. These problems are even more acute in dumping cases involving Chinese imports, where Commerce must resort to an NME methodology for determining normal value and where respondents have considerable leeway in reporting factors of production.

I would like to bring to your attention one current Chinese dumping case where Commerce should be particularly vigilant in analyzing these matters to ensure an accurate normal value calculation. I am talking about polyvinyl alcohol from China. I would appreciate it, Mr. Jochum, if you could look into this case and let us know how Commerce has made sure that production costs are not being shifted away from the subject merchandise and that all byproducts are properly recognized in this case.

I agree that allocation of production costs between subject and non-subject merchandise, as well as the treatment of non-subject merchandise as either a co-product or byproduct in the production process, may have an important impact on the normal value calculation. The final determination in the polyvinyl alcohol case to which

you refer is currently scheduled for August 2003. Because this is an ongoing proceeding in which no final decisions have been made, and because I do not have access to official IA records in my current position, I cannot comment on how Import Administration will treat production costs and byproducts in this specific case. However, I understand that the issues you have raised have been argued strenuously in this case, both in briefs and in the hearing. If confirmed before the final determination, I can assure you that I will carefully examine this issue in particular to ensure that no production costs are improperly shifted away and that all byproducts/co-products are properly recognized.

PREPARED STATEMENT OF JOSETTE S. SHINER

Chairman Grassley, Senator Baucus, and Members of the Committee, I am honored to appear before you today as President Bush's nominee for Deputy United States Trade Representative.

I would like to begin by offering my sincere thanks to President Bush for affording me the opportunity to serve the American people. I thank Ambassador Robert B. Zoellick for his excellent leadership and for the world class team he has forged at USTR. And I would like to thank the Congress, the Finance Committee and their staffs, for the vital partnership they have provided. I am honored by the trust and confidence placed in me, and, if confirmed, I will do my best to discharge the duties and obligations of this office with enthusiasm, dedication, and humility.

Three weeks ago, June 6, marked the 59th anniversary of D-Day—the day my father, a paratrooper in the 101st Airborne, jumped from the skies over Nazi-occupied France to help free Europe from the Axis powers. In that morning of darkness and danger for Allied soldiers, Private James Sheeran was separated from his unit and captured by German troops. He escaped from the prison train, and fought behind enemy lines in occupied France before meeting up with the liberating American troops.

But my father's commitment to his country—and to public service—did not end there. He refused an offer to return home, choosing instead to continue to fight in the Netherlands and Bastogne. Back from the war, he served in the FBI, as 2-term mayor of West Orange, New Jersey and as a member of Governor Byrne's cabinet. He instilled in me a deep and abiding love for my country—and the knowledge that our freedoms have been hard earned by the bravery and blood of others. He has been my hero, a model of public service and sacrifice, and I am proud to have him here with me today.

As someone with a background in business, media and public policy, it is perhaps not surprising that I entered government expecting to encounter a slow-moving bureaucracy. My two years working as Associate USTR have helped prepare me to serve as Ambassador Zoellick's deputy, and have informed my thinking about how executive agencies can and should operate. My colleagues at USTR represent the best of public service: They are tough, hard-working negotiators, unfailingly good natured, creative, skilled at drawing out the capabilities and knowledge of others—and they approach work not just as participants, but as problem-solvers, people who make things happen for their country.

The dedicated professionals at USTR demonstrate more than just skill at the negotiating table; because they are passionate about their work, they often go beyond their core duties to ensure nations can meet their commitments to the United States and participate in global trade. For example, when I joined USTR, Rosa Whitaker, the founding director of USTR's Africa office, was giving sanitary/phytosanitary workshops in the bush lands of Tanzania. And Katrin Khulman, from USTR's Europe office, who led an adventurous all-female delegation of intellectual property experts to Uzbekistan and Armenia to host workshops that ultimately prompted improvements in those countries' IP laws.

My colleagues have given me tremendous support. Over the past weeks, I have met with many former USTRs and Deputy USTRs who have given me the benefit of their experience and advice. Ambassador Zoellick and his deputies—Peter Allgeier, Linnet Deily, and, of course, Jon Huntsman—have set a high standard of leadership excellence at USTR. If confirmed, I pledge to continue his record of achievement and integrity. And I am proud and honored to inherit a fine career USTR team from Ambassador Huntsman—including Assistant USTRs Wendy Cutler, Ralph Ives and Florie Liser.

Because of its small size—about 200 positions with a small number of ever-essential detailees—the people at USTR are, of necessity, constantly drawing on others from government and the private sector. My colleagues and I especially appreciate the advice and direction we receive from the Congress. This guidance is a critical

part of pursuing a trade agenda that reflects the interests of the American people. And I have personally come to rely on the professionalism and knowledge of Hill staffers who work on trade—it has been a pleasure interacting with them.

Under the leadership of President Bush, Ambassador Zoellick, and the Congress, the U.S. trade agenda is moving forward at all levels: global, regional, and bilateral. We seek to both ensure compliance with existing commitments and to open new opportunities for America.

The Doha Development Agenda in the WTO is at the heart of our efforts. We have advanced bold proposals to eliminate tariffs on manufactured goods, to open markets for our farmers and ranchers and implement deep cuts in farm tariffs and trade-distorting subsidies, and open the global market for services. I believe the Doha agenda represents a once-in-a-generation opportunity for the American businesses and farmers that drive the most innovative economy in the world: a chance to open new markets for their goods and services and, at the same time, a chance to help spur economic and political progress across the developing world. Our challenge is to help usher in a new generation of successes—to write anew the uplifting story of the Asian tigers in places like Morocco, El Salvador, and Botswana.

Over the past two and a half years, we have signed free trade agreements with Jordan, Singapore, and Chile; and are now negotiating new FTAs with Morocco, the Southern African Customs Union, the Central American Common Market, and Australia. We helped bring China and Taiwan—more than a billion consumers—into the World Trade Organization and are assisting other nations, such as Russia and Cambodia, with their accession to the WTO. We are making progress on establishing a Free Trade Area of the Americas, have launched the Enterprise for ASEAN initiative and have extended a hand of hope and opportunity through expanded preferential trade programs with African and Andean nations.

Opening markets will not be our only challenge in the years ahead. We are committed to ensuring that nations live up to their trade obligations. Increasingly, the United States will need to devote resources to monitoring, enforcing, and ensuring that others implement their trade commitments. And for the world's poorest nations just entering the trading system, we extend a hand of partnership to help them meet their commitments. We do this through the powerful pairing of trade and aid-capacity building aimed at building open, sustainable economies that generate prosperity for their peoples and commercial opportunities for U.S. businesses.

Most of all, I believe the United States must maintain a positive commitment to solve problems: a willingness on the part of all parties—negotiators, legislators, businesses, and NGOs—to work toward constructive solutions in all trade matters, as we have sought to do in our recent agreements with Chile and Singapore. If confirmed, I will strive to help promote a trading system that encourages all countries to reach together for higher standards and a better quality of life for all.

Before closing, I would like to recognize the friends, family and colleagues with us today who have loved, supported and nurtured me throughout my life and career. My mother passed on last year, but her unfailing belief in me was a gift from God. My father, Jim Sheeran, and my stepmother, Lena Chang Sheeran, my brother and sisters and their spouses are my anchors and all traveled far to support me today. The lights of my life—my three children Nicole, Daniel and Gabrielle—got to vote on my accepting this nomination, and gave me full support knowing the sacrifices ahead. My family—with its roots in Ireland, France, China and Africa—are a living example of the glorious diversity that is America and I am deeply indebted to them.

Mr. Chairman, Senator Baucus, Members of the Committee: as I have traveled throughout the world during the past two years, I have been proud to represent a nation that is generous, tolerant and fair. I thank you again for this opportunity to appear before you and I will be pleased to answer any questions that you may have.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: Josette Sheeran Shiner
2. Position to which nominated: Deputy United States Trade Representative
3. Date of nomination: June 2, 2003
4. Address: (residence) 2259 Compass Point Lane, Reston, VA 20191
Address: (business) Office of the United States Trade Representative
600 17th Street, N.W., Washington, DC 20508
5. Date and place of birth: 6/12/1954, Orange, NJ
6. Marital status: divorced
7. Names and ages of children: Nicole Shiner, 16
Daniel Shiner, 14
Gabrielle Shiner, 12
8. Education: West Orange High School, 9/1968 - 6/1972; High School diploma awarded
6/1972
University of Colorado at Boulder, 9/1972 - 6/1976; BA degree granted
6/1976
9. Employment record:
 - 2001-present: Associate US Trade Representative, Washington, DC
 - 2000-2001: Managing Director, Starpoint Solutions, New York, NY
 - 1997-2000: President and CEO, Empower America, Washington, DC
 - 1982-1997: Range of editorial positions including Capital Life editor, Deputy
Managing Editor, and Managing Editor, The Washington Times Newspaper,
Washington, DC.
 - 1976-1982: Range of editorial positions including White House reporter,
Congressional and State Department reporter for News World
Communications, Washington, DC

10. Government experience: Two years as Associate United States Trade Representative with responsibility for a range of policy and communications issues.
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

American Society of Newspaper Designers; 1980s-1990s Board member
 Empower America, 1997-2000; President and CEO, Board member
 Leadership Washington; member and board member 1980s and 1990s
 Nostalgia Television; 1994-1997 Board Member
 Washington Urban League; Board Member; 1996 - 2001
 Sheeran Family Limited Partnership, Limited Partner, 2000-present

12. Memberships:
 (Dates of membership are approximate)

Accuracy in Media; 1993-1995
 American News Women's Club; 1989-1996
 American Pen Women; 1980s
 American Political Science Association; 1993-1997 Congressional Fellowship Advisory Board
 American Press Institute; 1980s-1990s Member of the Executive Development Program
 American Society of Newspaper Editors; 1980s-1990s Chair of Publications Committee,
 Program and International Committees
 American Society of Newspaper Designers; 1980s-1990s Board member
 The Asia Society; 1989-1994
 CEO America Advisory Board; 1999-2000
 Congressional Quarterly; 1996 Advisory Board
 Council on Foreign Relations; 1992-present
 Council on Foreign Relations Washington Program Advisory Committee; 1997-2001
 Empower America; 1997- 2000 President and CEO, Board Member
 Hill School Communications Committee Member; 1998-1999
 International Platform Association; 1987-1996
 International Women's Media Foundation; 1994-1996 Advisory Committee
 Kennedy Center Stars; 1980s-1990s
 Leadership Washington; member and board member 1980s-1990s
 National Association of Black Journalists; 1980s-1990s
 National Press Club of Washington; 1978-1990s
 Nostalgia Television; 1994-1997 Board Member
 Pulitzer Prize Juror; 1996-1997
 Regent University Law School; 1995-2000 Board of Visitors
 The Renaissance Foundation; 1980s-1990s Advisory Board
 The Roscommon Society of Washington, DC; 1980s-1990s
 Smithsonian Associates; 1980s-1990s

Society of Professional Journalists; 1989 -1998
 Trinity Episcopal Church of Upperville, Virginia; 1995 - present
 The Unification Church; 1975-1995
 The United Negro College Fund; Advisory Board; 1980s
 Washington Board of Trade - Special Task Force on Poverty; 1980s
 Washington Urban League; 1996- present
 Washington Urban League; Board Member; 1996-2001
 White House Correspondent's Association; 1970s-1990s
 Women's Federation of World Peace; 1995
 Women's Forum of Washington; 1996-present
 The Women's Foreign Policy Group; 1994
 Women of Washington, Inc; 1980s-1990s
 The World Editors Forum; 1996
 The World Foundation of Successful Women; 1992

13. Political affiliations and activities:

a. All public offices for which I have been a candidate.

None

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

None

c. All political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50.00 or more for the past 10 years.

None

14. Honors and awards: Pulitzer Prize Juror; President's Task Force on Puerto Rico's Status (President George W. Bush); Press Award for Journalistic Achievement-National Order of Women Legislators; International Consortium of Black Women in Business Award (for hiring and developing African-American leaders in the journalism field); selected for Leadership Washington's second class; Atrium Award (University of Georgia); National Press Club- Meritorious Service Award and the National Press Club- Vivian Award.
15. Published writings: In my role as a professional journalist for twenty years I authored many articles for The Washington Times and Scripps Howard. More recently, while employed by USTR, I had the article entitled, "Globalization and Trade, Benefits for the Environment" published December 18, 2002, by Our Planet magazine.
16. November 20, 2002, a speech to International Environment Forum and May 19, 2003

Speech attached.

17. Qualifications:

Experience as Associate USTR for Policy and Communications since May 2001.
Responsibilities have included:

- Strategic policy planning on the range of trade and globalization issues.
- Oversight of USTR departments including Industry, Labor, Environment, Intergovernmental, Outreach and Communications.
- Formulation of USTR's communications strategy for global, regional and bilateral negotiations.

High-level participation at USTR in hundreds of official trade meetings

- Participated in global and regional meetings such as WTO, APEC and FTAA
- Participated in bilateral sessions with China that led to China's WTO accession and meetings with trade ministers from a range of nations

Formulation and drafting of policies and positions for USTR on a range of issues

- Hosting and participation in interagency meetings
- Editing and preparing position papers
- Drafting strategic communications plans and documents

Twenty years experience in managing business operations and staff

- Managing Director of Wall Street high-tech consulting firm
 - Lead strategist with Fortune 500 companies
 - Directed multi-disciplinary team

- President and CEO of Empower America
 - Coordinated policy on economic issues
 - Managed budget and operations

- Managing Editor of The Washington Times
 - Managed staff of 275 people
 - Managed \$10 million+ budget
 - Managed deadlines and other operations

- Successful leader in policy, industry and community associations
 - Council on Foreign Relations-member and advisory committee member
 - Lead role in American Society of Newspaper Editors
 - Pulitzer Prize juror two years
 - Lead role in Washington Urban League and United Negro College Fund

Selected for Leadership Washington
Awarded for promoting African-American talent in journalism
Awarded by National Association of Women Legislators for leadership in
Journalism

Global experience in policy, business and communications
Led global strategic business planning for top companies
Travel to more than 40 countries
Interviewed heads of state and leaders in dozens of nations
Member and leader in numerous foreign policy forums, including Council
on Foreign Relations and Asia Society

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate?

Presently employed by U.S. government

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government?

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service?

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

As stated in my May 19, 2003 ethics undertaking letter, my children and I have an interest in the Sheeran Family Limited Partnership which I have agreed to divest within 90 days of Senate confirmation.

2. Describe any business relationship, dealing or financial transaction which you have had

during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

As stated in my May 19, 2003 ethics undertaking letter, my children and I have an interest in the Sheeran Family Limited Partnership which I have agreed to divest within 90 days of Senate confirmation.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

While I have not been involved in influencing legislation, either directly or indirectly, while at Empower America the organization took positions on a variety of public policy issues.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

Per attached letter, I intend to divest my and my children's interest in the Sheeran Family Limited Partnership.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Copies have been provided under separate cover.

6. Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter?

No.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group?

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense?

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation?

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

RESPONSES TO QUESTIONS FROM SENATOR GRASSLEY

Question 1. U.S. agricultural groups frequently criticize Australia's SPS measures and standards as being overly trade restrictive and not science-based. For example, it is my understanding that Australia's sanitary rules result in a de facto ban on the importation of U.S. pork into Australia. Further, Australian beef-aging rules severely restrict U.S. beef exports. Moreover, U.S. cattle producers contend that the strict sanitary requirements make it nearly impossible to ship breeding bulls to Australia.

Is the administration actively working with Australia to resolve these SPS issues, and others, prior to the conclusion of the proposed U.S.-Australia Free Trade Agreement?

Answer. The Administration is actively working with Australia to resolve these issues and is pushing for prompt resolution. Since U.S. agricultural organizations highlighted concerns with Australia's sanitary and phytosanitary regime in August 2001, USTR and USDA have held extensive and detailed discussions with Australian officials to move these issues towards resolution. We have made progress on many of the specific trade issues raised by industry and have developed an ongoing and constructive dialogue with the Australian government to address these matters.

The issues raised by U.S. industry range from phytosanitary and animal health barriers to concerns about a non-transparent and confusing Australian regulatory process. In response, the Administration has formed a team from USTR and the U.S. Department of Agriculture's Foreign Agricultural Service and Animal and Plant Health Inspection Service (APHIS) to focus on these issues. The work of this team has resulted in several accomplishments and has established a process for resolving key access issues with Australia.

The following is an update and progress report on the status of the specific trade issues raised by U.S. industry:

Table Grapes: Following breakthrough negotiations in October 2001, BA issued a final IRA for California table grapes in February 2002. U.S. grapes were shipped to Australia for the first time in July 2002. In March 2003, working with USDA, BA relaxed the restrictions for the 2003 shipping season.

Florida Citrus: BA published an Issues Paper on September 30, 2002, and is expected to publish a preliminary import risk assessment soon.

Sweet Corn Seed: BA released a final IRA in June 2002 allowing entry of U.S. sweet corn seed under certain conditions.

Feed Corn: BA issued an import policy on October 4, 2002, allowing imports of U.S. feed corn with heat treatment.

Pork: BA has made issuance of a draft IRA for pork a top priority. A preliminary import risk assessment is expected to be published soon for public comment.

Poultry: BA is expected to issue soon a draft IRA for poultry for public comment.

Beef: BA has proposed elimination of a 30-day aging rule and is expected to finalize the rule soon. This would eliminate all sanitary restrictions for shipping U.S. beef to Australia.

Apples: USDA has renewed its efforts to obtain access for U.S. apples and submitted a formal request for an import risk assessment in early 2003.

California and Northwest Stone Fruit: USDA has requested that BA handle this access request on a priority basis.

You reference concern about strict sanitary requirements on imports of U.S. breeding bulls. This issue has not been brought to our attention by U.S. industry. We will investigate Australia's requirements for U.S. breeding bulls.

Many U.S. agricultural groups have also expressed concern about the lack of clarity in the Australian regulatory process. In January 2002, Biosecurity Australia (BA), the Australian agency responsible for risk analysis and decisions on SPS issues, released a report identifying specific and transparent SPS regulatory procedures for handling import requests. Following an import request and BA's decision to initiate an import risk assessment (IRA), all information related to that request, including public comments, is available on BA's website. BA now publishes an Issues Paper at an early stage in the IRA process inviting comments from all interested parties on the scientific issues to be examined. The Issues Paper is followed by a draft IRA for public comment and then a final IRA, at which time the decision is announced on whether to allow imports and under which conditions. Foreign stakeholders and governments are invited to participate throughout the process. We believe this process provides important transparency and clear procedures for regulatory decisions based on a risk assessment.

In addition to the steps taken so far, we have also agreed to hold regular teleconferences with BA to stay abreast of all actions related to our priority requests to ensure that progress continues. USDA is also now holding regular bilateral meetings with BA on plant and animal health issues.

As with our or any other country's regulatory decision-making process, we cannot promise that BA's decisions will always be favorable to the United States. However, we are committed to keeping a high profile on these important issues, ensure that progress continues to be made, and to ensure that BA's decisions are based on science and in accordance with the WTO Agreement on Sanitary and Phytosanitary Measures.

RESPONSES TO QUESTIONS FROM SENATOR HATCH

Question 1. In the past, America has demanded its trading partners to comply with the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement or TRIPS). As Chairman of the Judiciary Committee, I believe that the TRIPS agreement should be viewed as a floor and not a ceiling when negotiating bilateral and multilateral trade agreements.

Ms. Shiner, to that end, what steps have already been taken and what future steps will be taken at USTR to ensure that Intellectual Property Rights are protected in trade agreements in a manner that ensures that TRIPS will be the floor and not the ceiling?

Answer. The Chile and Singapore FTAs as well as the proposals we have put forward in our ongoing FTA negotiations provide TRIPS—plus protections for a broad range of intellectual property, including copyrights, patents, trade secrets, trademarks, and geographical indications and seek to ensure that there are adequate enforcement procedures in place to protect those rights.

The Chile and Singapore FTAs set out an international standard for rules on intellectual property rights (IPR) that clarify and build on those in the WTO TRIPS

agreement with special emphasis on providing strong protection for new and emerging technologies. The agreements ensure that Chile and Singapore will afford a high level of IPR protection similar to that provided under U.S. law. Key provisions of the agreement, such as those on preventing circumvention of anti-piracy devices and establishing the scope of liability for copying works on the Internet are modeled on U.S. statutes. We are proposing IP chapters in our ongoing FTA and FTAA negotiations that are as strong as those we negotiated with Chile and Singapore.

General Provisions. The chapter will require Chile and Singapore to ratify or accede to several agreements on intellectual property rights, including the International Convention for the Protection of New Varieties of Plants, the Trademark Law Treaty, the Brussels Convention Relating to the Distribution of Programme-Carrying Satellite Signals, and the Patent Cooperation Treaty. The chapter also includes full national treatment commitments, with no exceptions for digital products. It also requires each Party to publish its laws, regulations, procedures, and decisions concerning the protection or enforcement of intellectual property rights.

Trademarks and Geographical Indications. The chapter imposes rules with respect to the registration of collective, certification, and sound marks, as well as geographical indications and scent marks. The chapter also imposes rules for domain name management that require a dispute resolution procedure to prevent trademark cyber-piracy. Each Party must provide full protection for trademarks with respect to later geographical indications by providing a “first-in-time, first-in-right” rule for trademarks.

Copyrights and Related Rights. The chapter articulates rights that are unique to the digital age, affirming and building on rights set out in several international agreements, including the WIPO Internet Treaties. For instance, the chapter clarifies that the right to reproduce literary and artistic works, recordings, and performances encompasses temporary copies—an important principle in the digital realm. It also calls for each Party to provide a right of communication to the public, which will ensure that authors have the exclusive right to make their works available online. To curb copyright piracy, the chapter requires the two governments to use only legitimate computer software, setting an example for the private sector. The chapter also includes provisions on anti-circumvention under which the Parties commit to prohibit tampering with technology used by authors to protect copyrighted works. In addition, the chapter sets out obligations with respect to the liability of Internet service providers in connection with copyright infringements that take place over their networks. Each Party must also provide copyright protection for the life of the author plus 70 years (for works measured by a person’s life), or 70 years (for corporate works).

Recognizing the importance of satellite broadcasts, the chapter ensures that each Party will protect encrypted program-carrying satellite signals. It obligates the Parties to extend protection to the signals themselves, rather than solely to the content contained in the signals.

Patents and Trade Secrets. The chapter requires patent term extensions to compensate for unreasonable administrative or regulatory delays (including for marketing approval) that occur while granting the patent. To guard against arbitrary revocation of patents, each Party must limit the grounds for revoking a patent to the grounds that would have justified a refusal to grant the patent. In addition, the chapter offers protection against unfair commercial use of test data that a company submits in seeking marketing approval for certain regulated products. It precludes other firms from relying on the data for specific periods—five years for pharmaceuticals and ten years for agricultural chemicals. The chapter also limits the exceptions to patent protection.

Enforcement Provisions. The chapter imposes obligations with respect to the enforcement of intellectual property rights. Among these, it requires the Parties, in determining damages, to take into account the value of the legitimate goods as well as the infringer’s profits. The chapter also provides for damages fixed in advance (i.e., “statutory damages”), at the option of the right holder. Such preestablished damages help to deter piracy by ensuring an appropriate remedy in cases where, for instance, records of actual damages are inadequate.

The chapter provides that the Parties’ law enforcement agencies must have authority to seize suspected pirated and counterfeit goods, the equipment used to make or transmit them, and documentary evidence. Each Party must give its courts authority to order the forfeiture and/or destruction of such items. The chapter also requires each Party to empower its law enforcement agencies to take enforcement action at the border against pirated or counterfeit goods—including those in transit—without waiting for a formal complaint. In addition, the chapter provides that each Party must make counterfeiting and piracy subject to criminal penalties.

Question 2. I am concerned over some indications that I have received that suggest the Free Trade Area of the Americas (FTAA) negotiations are moving slowly with respect to Intellectual Property Rights (IPR). Some have suggested that there might even be some consideration at USTR to water-down the IPR chapter in this agreement. Ms. Shiner, can you assure me that IPR will be addressed adequately in the FTAA Agreement (e.g.: along the lines of the Chile and Singapore Agreements)?

Answer. As noted above, we have proposed language in the FTAA that would be consistent with the Chile and Singapore FTAs, and the high standards for protection of intellectual property rights that we achieved in those agreements. That has been our position since we tabled our proposal in 2000. It is important to recognize, however, that there is a different negotiating dynamic in the FTAA, which covers 35 countries, than in a bilateral context. The complexity of these negotiations means that they move at a different pace from bilateral negotiations. It also makes it more difficult to assess the alignment of interests of the various countries involved and to develop appropriate trade offs to complete the negotiation. Despite these difficulties, it is our intention to negotiate an agreement that strengthens IPR standards and enforcement in the hemisphere. We will consult with Congress and interested stakeholders as the process moves forward.

Question 3. As an advocate for free trade, I am encouraged by the choice of Australia as a potential FTA partner. As you are aware, the country of Australia has a national cultural content mandate for their motion pictures industry where a certain percentage of television programs and movies made in Australia must have native content. I understand that this is an important issue in Australia and that there are certain parties in the Australian motion picture industry pushing for the cultural content issue not to be addressed in the FTA negotiations. I think that removing controversial issues from FTAs would be a mistake and could create a terrible precedent for future FTAs. I strongly believe that FTA negotiations must be comprehensive and not leave out items that might be seen as controversial like cultural content issues. Ms. Shiner, will you give us your assurance that the U.S.-Australia FTA will provide a balanced result for audio visual and motion picture industries?

Answer. The Administration believes that free trade agreements should be comprehensive and that it is not advisable to leave controversial issues out *a priori*. In our negotiations with Australia, we are interested in securing balanced provisions on film, television, and home video entertainment services, that accommodate local cultural concerns while ensuring that U.S. exporters benefit from trade rules. We are working closely with U.S. industries affected by this particular, and sensitive, aspect of these negotiations. Industry has conveyed that it is not, for example, seeking elimination of Australia's local content quota on broadcast television that you have mentioned, nor the elimination of existing Australian subsidies in this area. On the other hand, for example, seeking commitments from Australia that areas of its market that are currently open, such as the distribution and exhibition of theatrical motion pictures, will continue to remain open are of interest to industry. We will continue to consult with Congress and interested stakeholders as this process moves forward.

Question 4. The Trade Promotion Authority Act (section 2108 (b)(8)) specifically lists price controls and reference pricing as regulatory practices to be considered negotiating objectives for Free Trade Agreements. Australia has a non-transparent system of reference pricing and similar practices in the pharmaceuticals sector, that not only fail to recognize the value of innovative products, but often works to limit or delay access to new medicines to Australian patients. How will you and USTR plan to address these issues in the U.S.-Australia FTA?

Answer. USTR staff has met with Australian government officials to discuss this issue and the concerns raised by U.S. industry about the Australian government pharmaceutical reimbursement system. We have sought additional information from Australia about this system, particularly on how pharmaceutical prices are developed. The Australian government recently sent a senior official from its Department of Health and Ageing to the United States to discuss in depth its Pharmaceutical Benefits Scheme and exchange views on transparency, pricing, and other issues related to its national health care policy. As we proceed with the FTA negotiations, USTR staff is consulting closely with U.S. industry, whose detailed input we are seeking as we develop our proposal for the U.S.-Australia FTA negotiations. USTR staff also is working closely with officials at other U.S. agencies, particularly the Department of Health and Human Services and the Food and Drug Administration, to ensure the development of a U.S. proposal that considers the range of U.S. interests and concerns on this very important and sensitive issue.

RESPONSES TO QUESTIONS FROM SENATOR BAUCUS

Question 1. As Deputy USTR, I understand you will be responsible for overseeing USTR's offices that handle labor and environmental issues. As you know, I am committed to high labor and environmental standards in trade agreements. I would like to know (1) how you plan to secure these standards in future free trade agreements USTR negotiates, and (2) how we can improve the assistance we give to countries—so-called “capacity building and technical assistance”—so they can raise their standards.

Answer. Following the guidance in the Trade Act of 2002, we will seek robust environmental and labor packages in future FTAs similar to what we achieved in the Chile and Singapore FTAs. We will seek to include strong core environmental and labor obligations, including commitments to maintain high levels of environmental and labor protection and not to weaken environmental and labor laws to attract trade or investment, and an obligation concerning effective enforcement of environmental and labor laws that is subject to the trade agreement's dispute settlement mechanism. At the same time, we recognize that many of our trading partners may need assistance to build their capacity to comply with these obligations.

We believe that the political will evidenced by a decision to negotiate a free trade agreement is a powerful stimulus for enhancing our environmental and labor relationships, and that these FTAs are an excellent opportunity to demonstrate that an improved commercial relationship can help promote strong environmental and labor standards in our trading partners. For many countries, considering the connections between trade and labor and the environment is a new concept. By including core environmental and labor obligations for the first time as principal negotiating objectives in the body of trade agreements, our FTAs are giving these issues a new visibility, which we believe will help these countries better understand the linkages between trade and their labor and environmental policies. For example, the Chile and Singapore FTAs include strong core environmental and labor obligations, including commitments to maintain high levels of environmental and labor protection and not to weaken environmental and labor laws to attract trade or investment, and an obligation to effectively enforce environmental and labor laws that is enforceable through the trade agreement's dispute settlement mechanism.

Trade capacity building stands at the nexus of trade policy and development policy; when successful, such capacity building can contribute to more beneficial trade agreements for all partners and the acceleration of poverty elimination and economic growth in developing countries. We recognize that many of our trading partners may need assistance to build their capacity to comply with the labor and environmental obligations, and a capacity building component is an integral part of our discussions in those cases. For example, we have established a specific Trade Capacity Building working group in both the Southern African Customs Union and Central American Free Trade Area negotiations. Over 10 U.S. government agencies, including the Department of Labor, Department of State and the U.S. Environmental Protection Agency, comprise the U.S. team at these meetings. Among our efforts, we are designing capacity building programs to strengthen ministries of labor and environment and improve compliance with labor and environment standards.

In addition, as in the Chile and Singapore FTAs, we will also be seeking appropriate environmental and labor cooperative mechanisms in association with the trade agreements to help target our capacity-building efforts in these areas over the long term. The Department of State, in consultation with USTR and interested agencies, is in charge of establishing and overseeing the environmental cooperative mechanisms; the Department of Labor has the lead in establishing and overseeing the labor cooperative mechanisms.

We have already begun concrete steps in implementing these undertakings in connection with the Chile FTA. The Department of Labor has begun an active cooperation program with Chile. The program has two initial components: increasing the investigative capacity of the Labor Ministry to improve compliance with labor laws (wage hour, child labor, occupational safety and health, equal employment opportunity); and helping to reform Chile's system for the administration of labor justice. During the course of our work with Chile, we learned that the Government of Chile is relatively well-organized and staffed, but that they could maximize their investigative impact with strategic planning. Over-all compliance efforts could also benefit from more flexible mechanisms to decrease backlogs in their labor courts, so the Department of Labor designed a cooperation program to share our experience with investigations and administrative tribunals that would expedite legal decisions.

The Department of Labor has submitted a request for proposals and is in the process of awarding the contract for this work. The estimated duration of the project

is three years, and the budget is not to exceed \$1.2 million. One U.S.-based contractor will be selected to work with a local Chilean institution.

We have also begun cooperating on environmental matters with Chile. The FTA includes eight initial cooperative projects, such as training on safe handling of agricultural chemicals, capacity building to improve wildlife protection, remediation of hazardous waste sites in Chile, and helping to implement Chile's pollutant release and transfer registry. Chile and the United States, under the leadership of the Department of State, have also signed an Environmental Cooperation Agreement that will guide future cooperative efforts.

Question 2. I am concerned that the United States may not be paying sufficient attention to Asia. There are some serious issues to think about, including implementation issues for China and market access issues for Japan. I would like your views on these issues, and also on whether the Administration is considering any free trade agreements with any of the large economies in Asia.

Answer. The opening of markets in Asia and enforcing existing commitments is a top priority for the administration. We have a broad and active agenda to ensure opportunity and fair treatment for American farmers and businesses.

As a crucial ally in Asia, an economically strong Japan is vitally important to the United States, the region, and the world. We have encouraged them to play a constructive and active leadership role in global trade negotiations, including in crucial areas of market openings for agricultural and manufactured goods. Under the Economic Partnership for Growth (EPG), established by the President and Prime Minister Koizumi in 2001, our primary objective remains working with Japan to help it return to sustainable growth while opening markets. To this end, we have recently made significant headway on the regulatory reform front with the conclusion of a strong report in May under the U.S.-Japan Regulatory Reform Initiative, a key component of the EPG. Japan, for example, is: implementing measures to promote the use of e-commerce; introducing competition to an increasingly important segment of the telecommunications sector (fixed-line to mobile phone calling); further liberalizing its energy sector; and improving the speed and efficiency of approval processes for medical devices and pharmaceuticals. We are also supporting Prime Minister Koizumi's new initiative to promote reform through creation of local "deregulation zones," which has already led to customs processing improvements for U.S. express delivery companies in several of Japan's major air and sea ports.

In addition, we are working to ensure that our agriculture sector gets a fair shake with Japan. While Japan is the largest overseas export market for U.S. farmers and ranchers, it continues to maintain significant barriers to its agricultural market. Japan, for instance, has said it intends later this year to invoke a safeguard measure that would raise tariffs on imported beef. We continue to urge Japan not to take this step, which would be a highly inappropriate misuse of the measure.

Furthermore, at every available opportunity, we urge Japan to refrain from inappropriately using standards and other administrative requirements to limit farm imports. When discussion fails to achieve progress, we do not hesitate to initiate WTO dispute settlement procedures. In fact, a WTO panel has just agreed with us that Japan's import restrictions on apples has been in breach of its WTO obligations.

Our economic and trade relationship with China is also a primary focus of the Administration's economic team and for Ambassador Zoellick in particular. As your question suggests, we are concentrating efforts on ensuring China's implementation of and compliance with its commitments upon acceding to the WTO. In the Administration's first annual report to Congress on China's WTO Implementation, transmitted on December 11, 2002, we noted that while China has made progress toward fulfilling many of these commitments, much is left to do.

In order to address these implementation shortcomings, the Administration frequently engages senior Chinese counterparts in Beijing, Geneva, Washington and elsewhere. This has led to progress in several key areas. President Bush has met with President Hu and his predecessor on numerous occasions, and at each meeting has addressed specific concerns on China's WTO implementation progress. Ambassador Zoellick has also met frequently with his counterparts at the Ministry of Commerce (formerly the Ministry of Foreign Trade and Economic Cooperation) and other appropriate Chinese leaders, and has had a number of lengthy telephone conversations with Minister Lu Fuyuan.

In early 2003, USTR established an ongoing US-China Trade Dialogue designed to allow discussion and resolution of bilateral trade issues, discuss areas of cooperation in the Doha Development Agenda, and act as an early warning system for trade problems before they become sources of broader bilateral friction. USTR will continue the Trade Dialogue with a new set of discussions this fall. In addition to engagement with China, USTR chairs a subcommittee of the Trade Policy Staff Committee (TPSC) dedicated to enforcement of China's WTO commitments. The TPSC

Subcommittee meets at least monthly, and is a useful means to coordinate and reinforce policy among the various USG agencies involved in this important exercise.

On the multilateral front, the Administration has been active in promoting compliance by China with its WTO commitments through the WTO committee process, frequently raising concerns regarding China's WTO implementation. In addition, USTR is highly engaged in the Transitional Review Mechanism (TRM) established by China's WTO accession protocol, an annual process that reviews China's WTO implementation efforts. During the first year of the TRM, the Administration was active in all 16 Councils and subsidiary bodies of the WTO that were involved in the TRM, calling on China to be more transparent and assiduous in fulfilling the terms of its accession protocol. In addition to these efforts, and as noted earlier, USTR also conducts an annual review of China's WTO implementation the results of which are reported to Congress on the anniversary of China's WTO accession. The next report to Congress will be issued on December 11, 2003.

To date, China has made progress in resolving our concerns in a variety of areas, including in some key agricultural and services sectors. We look forward to maintaining a cooperative approach to bilateral trade concerns. However, the Administration is prepared to use the WTO dispute settlement process when China does not resolve our concerns cooperatively. Similarly, to the extent China's imports are entering the United States in an unfair or illegal matter, the Administration is fully committed to utilizing U.S. trade laws to benefit the U.S. economy and its businesses, workers and agricultural producers.

As for FTAs, we are open to the possibility of trade discussions with any economy that would be in the interest of the United States and our economy, provided that such discussions are likely to lead to concrete gains for the United States. As you know, Congress is now considering the Singapore FTA, our first with Asia. We have launched FTA negotiations with Australia. We are pursuing global liberalization through APEC and have launched the Enterprise for Asean Initiative to expand trade and enhance implementation of existing obligations in that region. There are enormous challenges in considering such agreements with some of the large economies in Asia. For Japan, the primary challenge would be agriculture, a highly protected sector in Japan. In addition, remaining trade and investment barriers in important sectors of the Japanese economy are informal, opaque, and not easily addressed in an FTA. With respect to China, our primary focus is on ensuring China's compliance with existing commitments, and those that will be phased in over the next several years.

Question 3. The Congress has consistently stressed the need for provisions in our trade agreements that ensure the protection and enforcement of intellectual property rights. I've heard troubling reports that USTR might agree to intellectual property rights protections in the FTAA negotiations that are significantly weaker than the protections contained in the Chile and Singapore agreements that do not adequately cover internet-related intellectual property issues. I would like your views on this, including whether you might consider such an outcome in the FTAA negotiations.

Answer. In 2000, we tabled a comprehensive text on intellectual property in the FTAA negotiations that set out an international standard for rules on intellectual property rights (IPR) that clarify and build on those in the WTO TRIPS agreement with special emphasis on providing strong protection for new and emerging technologies. Our FTAA proposal is consistent with the high standards for protection of intellectual property rights that we achieved in the Chile and Singapore FTAs, as well as the proposals we have tabled in our other ongoing FTA negotiations. It is important to recognize, however, that there is a different negotiating dynamic in the FTAA, which covers 35 countries, than in the bilateral context. The complexity of these negotiations means that they move at a different pace than bilateral negotiations. It also makes it more difficult to assess the alignment of interests of the various countries involved and to develop appropriate trade offs to complete the negotiation. Despite these difficulties, it is our intention to negotiate an agreement that strengthens IPR standards and enforcement in the hemisphere. We will consult with Congress and interested stakeholders as the process moves forward.

Protection of copyrighted goods in the digital realm, especially through such tools as the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (the WIPO Internet Treaties), is a key goal of our FTAA proposal. By seeking that the standards reflected in those treaties, as well as those reflected in US law, are included in the FTAA, we are aiming to ensure that the countries of this hemisphere provide strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property.

