

**United States Senate Committee on Finance**  
**Hearing on “The President’s 2024 Trade Policy Agenda”**  
**April 17, 2024**

**Responses to Questions for the Record for Ambassador Tai**

**Chairman Ron Wyden**

**Question 1**

China uses large-scale industrial subsidies to support production—and overproduction—of everything from solar panels to semiconductors in an attempt to drive American competitors out of business with a flood of cheap imports. China’s massive subsidies, along with its rampant technology theft and market restrictions, hurt U.S. manufacturing and help Chinese industries corner the market on critical inputs and products of the future. These practices also hurt our allies, and a Section 301 report would allow the United States to build a definitive record of this behavior.

*Will you use Section 301 to proactively investigate, establish a record, and take action against China’s unfair subsidies in innovative, high-tech industries like semiconductors, electric vehicles, batteries, or solar?*

Answer: Section 301 is one of the most important enforcement tools that USTR brings to bear to address unfair trade practices. China utilizes a wide range of unfair, non-market policies and practices to undermine fair competition and dominate markets, both in China and globally. Those anti-competitive policies and practices, which include non-market excess capacity, pervasive subsidization, forced labor and other labor violations, and many others, create strategic dependencies and vulnerabilities, which undermine our supply chain resilience and economic security. I agree with you that we must consider all available tools and options to more effectively address this threat, including use of Section 301.

**Question 2**

Your written testimony stated that USTR opened India’s market for U.S. agriculture exports as part of an agreement to resolve several outstanding World Trade Organization (WTO) disputes. This includes disputes initiated and litigated under prior administrations, such as *India – Agricultural Products* (DS430), in which the United States successfully challenged India’s restrictions on U.S. agricultural exports. Notably, when the United States prevailed in that particular dispute before a WTO panel and the Appellate Body, Secretary of Agriculture Tom Vilsack hailed the result as “a major win for U.S. agriculture and, in particular, the U.S. poultry industry.”

However, under the Biden Administration, USTR has not initiated any new WTO disputes. During the hearing, you explained that USTR had not sought to use this potential enforcement tool because WTO dispute settlement had been “ineffective.”

*Please clarify why you consider WTO dispute settlement to be ineffective, while also claiming market access “wins” for U.S. farmers based on resolving WTO disputes. To the extent that your statement was limited to WTO disputes involving China, please explain why USTR has not initiated a single WTO dispute – or even requested consultations – to address trade barriers with respect to any other WTO Member.*

Answer: The wins achieved for U.S. farmers through resolution of our seven WTO disputes with India came after two years of intensified bilateral engagement between the two countries to deepen our economic and trade ties. The underlying WTO disputes, by contrast, had been ongoing for years – some for more than a decade – and had remained outstanding despite WTO reports. The specific language you quote is from 2015,<sup>1</sup> and we finally were able to resolve that India poultry dispute, through intensive, cooperative efforts, only in 2024 – more than a decade after it was launched. This shows that the dispute settlement process was ineffective in this particular case.

As you well know, WTO rules and disputes provide no solutions for the threats from China’s non-market economy. In fact, China uses the WTO to attack our ability to defend our workers and businesses from China’s non-market policies and practices. It also uses the WTO dispute settlement system to attack U.S. actions to defend our national security interests, such as our Section 232 tariffs to preserve our critical steel and aluminum industries, our Hong Kong national security (ROO) actions in defense of democracy and human rights, and our semiconductor export controls. And China has recently filed a dispute attacking the Inflation Reduction Act, our groundbreaking tool for the United States to seriously address the global climate crisis and invest in U.S. economic competitiveness, even while the PRC continues to use unfair, non-market policies and practices to undermine fair competition. Given the numerous WTO disputes that have sided with China on critical issues, it is clear that the WTO has been effective in advancing China’s interests and ineffective for core U.S. interests.

This is, in large part, why the Biden-Harris Administration has been clear that we must fundamentally reform the WTO dispute settlement system. The United States initiated the interest-based reform conversations in Geneva which were a collective and collaborative exercise that resulted in draft text totaling 50 pages of potential reforms that would advance shared interests. I am pleased that we have made more progress in the interest-based reform conversations than was made in nearly 20 years of the previous process.

Although difficult issues remain unresolved, such as correcting critical erroneous Appellate Body interpretations—including several criticized by Members of Congress as diminishing U.S. rights to defend our workers and businesses—the United States is continuing to engage in an interest-based manner as we pursue a system that supports all WTO Members in the resolution of their disputes in an efficient and transparent manner, and in doing so limits the needless complexity and interpretive overreach that has characterized dispute settlement in recent years.

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<sup>1</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/june/wto-affirms-us-trade-enforcement-win>

We will utilize all our trade policy tools, including enforcement, to defend American workers and businesses and promote our values and interests. Enforcement includes all those actions to make sure that workers, farmers, and businesses enjoy the full benefits of trade agreements, not only at the WTO, but also under our USMCA and other agreements. We have not hesitated to utilize all of those tools, from bilateral dialogue, to engagement through trade agreements, to USMCA Rapid Response Mechanism actions, to dispute settlement, to Section 301 investigations and actions to secure more fairness for our workers, farmers, and businesses.

### **Question 3**

Since 1998, the WTO e-commerce moratorium has ensured that electronic transmissions—including things like music, movies, software, and electronic communications—can be sent across borders tariff-free. Attempts to introduce tariffs to electronic transmissions would not only jeopardize the open internet but also put U.S. exporters, innovators, creators, and workers across every industry at a disadvantage. The United States has long supported the moratorium and has pushed to make it permanent, with support from Congress.<sup>2</sup> I commend your work to secure an extension of the moratorium at the 13th Ministerial Conference in March 2024<sup>3</sup>; it is also critical that USTR continue its work to keep the moratorium in effect.

- 1. Do you support making the e-commerce moratorium permanent on a WTO-wide basis?*
- 2. Will you advocate for a permanent extension of the e-commerce moratorium on a WTO-wide basis in negotiations and discussions leading up to and during the 14th Ministerial Conference?*

Answer: I was pleased we were successful in our efforts to extend the e-commerce moratorium and work program. While the moratorium and work program enjoy broad support among WTO members, it is clear that the WTO membership needs to have a more robust discussion about the future of the moratorium and the impact of the digital economy on developing members.

### **Ranking Member Mike Crapo**

#### **Question 1**

Ambassador Tai, the National Potato Council expressed disappointment with how Japan's ban on U.S. potatoes appeared in the National Trade Estimate, or NTE, because it didn't capture the full extent of the problem. A number of stakeholders also took issue with this year's NTE because of your decision to cut a number of trade barriers by seeing if they were in our trading partners' purported public interest.

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<sup>2</sup> See H.Con.Res.190, Urging the United States to seek a global consensus supporting a moratorium on tariffs and on special, multiple, and discriminatory taxation of electronic commerce, <https://www.congress.gov/bill/106th-congress/house-concurrent-resolution/190/>.

<sup>3</sup> ICYMI: USTR Secures Extension on E-Commerce Moratorium at MC13, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/march/icymi-ustr-secures-extension-e-commerce-moratorium-mc13>.

1. *Did you take the opportunity of the April Japan State Visit to raise potatoes, and if not, will you commit to do so immediately?*

Answer: I fully appreciate the importance of opening the Japanese market to U.S. table-stock potato producers, which is why USTR has engaged with Japan on this issue many times and has undertaken a number of efforts to secure access for U.S. fresh table stock potatoes to Japan. Following Prime Minister Kishida's state visit in April 2024, USTR raised this issue with senior officials from the Japanese Ministry of Agriculture, Forestry, and Fisheries. Additionally, USTR has raised this issue with Japan in all four meetings of the U.S.-Japan Partnership on Trade, most recently in December 2023 and in a June 6, 2024, bilateral meeting with Japan's Minister of State Foreign Affairs. Moving forward, USTR will continue to press the appropriate Japanese ministries to advance this issue in a timely and science-based manner in coordination with our colleagues at the U.S. Department of Agriculture (USDA).

2. *Relatedly, why look at our trading partners' justifications for their discrimination rather than the measure's content and effects on American workers? As part of this explanation, please explain if the statute for the NTE requires you to consider the trading partner's justification or public interest in determining whether a measure is a trade barrier, and if so, how?*

Answer: The statute requires USTR to identify trade barriers in order for USTR to then seek to remove those barriers. According to the legislative history, Congress intended for USTR to "consider vigorously utilizing existing authorities" to "deal with the identified barriers." Thus, the exercise is not simply listing barriers, but listing barriers the United States then seeks to remove. Prior NTEs have, for example, listed import licensing for narcotics as a trade barrier. Consistent with the statute, and with our values as a nation, the United States does not seek to "deal with" a measure that, while it may impact trade, is for the purpose of protecting the public.

## **Question 2**

Ambassador Tai, you speak of USTR's partnership with Congress. Both sides of the aisle agree that consultation is poor. Briefings rarely share any information, including USTR's position on an issue, until it is a fait accompli. This must change.

1. *Will you agree to follow, completely, the consultation provisions in the United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act ("U.S.-Taiwan Initiative on 21st-Century Trade Implementation Act") for that agreement?*

Answer: Under my leadership, USTR has taken steps to enhance consultation and transparency with Congress, stakeholders, and the American public. In 2021, I released Transparency Principles that established guidelines for our engagement with Congress, stakeholders, and the public. These principles include: providing inclusive opportunities for the public to participate in the development of trade policy and trade initiatives; encouraging the participation of a broad range of stakeholders; striving to ensure that the membership of federal advisory committees includes a wide variety of expert interests and is reflective of the diverse set of stakeholder perspectives; and adhering to the Guidelines for Consultation and Engagement that USTR adopted in October 2015. We have also taken additional steps to keep the public engaged in our

negotiations, including holding public listening sessions with stakeholder groups in advance of and during negotiating rounds, publishing summaries of negotiating text, and increasing congressional staff's access to our negotiating text.

USTR has consulted extensively with Members of Congress, the Senate Finance Committee, the House Ways & Means Committee and staff for various members on a bipartisan basis. These consultations have heavily influenced our views and positions and USTR has made changes to negotiating text in response to feedback from Democrats and Republicans.

In the current negotiation regarding a further agreement with Taiwan, USTR has acted consistently with the U.S.-Taiwan Initiative on 21st-Century Trade Implementation Act for its consultations with the trade committees and intends to continue doing so.

That said, USTR is mindful of the President's Signing Statement for the legislation, which said, in part, that "[i]n cases where the requirements of section 7 of the Act would impermissibly infringe upon my constitutional authority to negotiate with a foreign partner, my Administration will treat them as non-binding."

- 2. Please further explain USTR's position during a January 26, 2024 call with Senate Finance Committee staff that Taiwan's comments and bracketed text on USTR's proposed labor chapter and non-paper were not "negotiating text" as defined in the U.S.-Taiwan Initiative on 21st-Century Trade Implementation Act, which resulted in USTR providing updated labor negotiating text on January 16, 2024—well beyond the statutorily required three-day deadline for negotiating text drafted by Taiwan.*

Answer: USTR provided to Congress an updated consolidated labor chapter negotiating text on January 16, 2024, which incorporated attributions provided by Taiwan during a recent virtual meeting, consistent with section 7(b)(3) of the legislation.

The informal "non-paper," which you refer to from a staff briefing, did not include negotiating text as defined in the legislation. Rather, it was a conceptual paper designed to help USTR understand Taiwan's views and develop negotiating text. As such, the non-paper falls outside of the scope of section 7(b)(2)-(3) of the legislation.

Where USTR has developed text that meets the definition of "negotiating text" in the legislation or is in possession of a consolidated negotiating text, USTR has shared those texts with the trade committees consistent with section 7(b)(2) or 7(b)(3).

- 3. Will you apply the consultation procedures set forth in the U.S.-Taiwan Initiative on 21st-Century Trade Implementation Act for all other ongoing negotiations?*

Answer: As discussed above, USTR has acted consistently with section 7 of the legislation for the current negotiation of a further agreement with Taiwan. In its other negotiations, USTR has acted consistently with its longstanding transparency practices, including consulting with the trade committees on the basis of proposed negotiating text prior to USTR sharing that

negotiating text with the foreign trading partner, inviting committee staff to negotiating rounds, and briefing them at those negotiating rounds. USTR has also applied the additional transparency and consultation measures mentioned in an earlier response to our negotiations with Taiwan and in other ongoing negotiations.

### **Question 3**

Recently, when asked about discrimination against U.S. technology companies, you said “how many of these American companies are actually really American companies?” because they are “actually paying taxes there as opposed to paying taxes here...” Actually, these companies pay billions in taxes here, but they are paying more overseas—because of discriminatory digital services taxes, or DSTs.

*You said at the hearing that Treasury has a role as well in addressing DSTs through its negotiations with individual countries. If Treasury is unsuccessful in its role, and the decision is between trade enforcement measures or not—will you move forward with enforcement action rather than note that all options are under consideration?*

Answer: USTR initiated Section 301 investigations of the digital services taxes of France, Austria, India, Italy, Spain, Turkey, and the United Kingdom in 2019 and 2020. USTR and Treasury have worked closely together in trying to address these DSTs, which burden technology companies and challenge the existing international tax system.

An important purpose of the Section 301 investigations is, and always has been, to support Treasury’s efforts to find a lasting solution to the challenge of DSTs through the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting negotiations and in any other negotiations relating to DSTs.

In November of 2021, USTR terminated the trade actions in the investigations on the grounds that action was no longer appropriate due to political arrangements that Treasury had reached with the DST countries. Since then, all seven investigations have been in a monitoring phase under section 306(a) of the Trade Act. Specifically, USTR is monitoring the implementation of the political agreement on an OECD/G20 Two-Pillar Solution as pertaining to DSTs, the commitments under the joint statement between Treasury and the DST countries, and associated measures.

On August 30, 2024, USTR requested consultations with Canada concerning its DST under the USMCA dispute settlement chapter. Moving forward, USTR will continue to consider using all available tools to make progress towards addressing unilateral, discriminatory DSTs.

### **Question 4**

Some of our trading partners have privately told us they felt the United States was not helpful in securing the recent extension of the e-commerce moratorium. They point to the uncertainty of the U.S. position, such as when your deputy, Ambassador Pagán, said it supports the moratorium “for now.”

*Can we set our partners straight right now by agreeing that the United States supports a permanent moratorium, which is what Congress approved in USMCA and 80 countries in the WTO E-commerce negotiations support?*

Answer: I was pleased we were successful in our efforts to extend the e-commerce moratorium and work program. While the moratorium and work program enjoy broad support among WTO members, it is clear that the WTO membership needs to have a more robust discussion about the future of the moratorium and the impact of the digital economy on developing members.

#### **Question 5**

One of the main challenges to recommencing meaningful agriculture talks at the WTO is India's demand to exempt its trade distorting public stockholding programs. In some years, India's stockpiles have become so large that it exported subsidized wheat at discounted prices overseas, which hurt our farmers and those of our allies in Canada and Japan.

*Do you agree it is past time to challenge India's trade distorting agricultural subsidy programs?*

Answer: We understand that India's agricultural policies are distorting and adversely affecting markets in India and globally.

The United States is actively coordinating with a growing number of WTO Members who are also deeply concerned about India's trade-distorting agricultural subsidies, including those connected with public stockholding programs.

We continue to take actions in WTO Committee on Agriculture meetings, including by registering formal questions of India and counter-notifying India's domestic support measures, laying a track-record of our concerns and bringing greater scrutiny to India's policies.

We will continue to closely monitor India's policies and actions and continually assess our options for holding India accountable to its WTO commitments.

#### **Question 6**

Many stakeholders feel that the framework agreements—particularly farm groups—are not sufficiently ambitious. They are also worried our partners will not adopt the commitments because we don't have a plan for dispute settlement. Last year, you said you would not insist our partners implement IPEF before declaring entry into force.

*Will you revisit that decision and now agree that our partners need to implement any obligations in a framework agreement before we conclude any such agreement?*

Answer: USTR's trade initiatives will provide substantive benefits to a wide variety of U.S. producers, including agricultural producers. For example, through the IPEF Trade Pillar, we are working to produce mutually beneficial outcomes that advance workers' rights through strong and enforceable labor standards; improve economic opportunities for families, farmers and

ranchers, and micro-, small-, and medium-sized enterprises; and promote fair, open, and rules-based trade.

When it comes to farm groups, the Trade Pillar aims to tackle persistent barriers for agricultural producers by seeking commitments from trading partners to facilitate agricultural trade through science and risk-based decision making and through the adoption of sound and transparent regulatory practices. According to USDA data, the Biden-Harris Administration has facilitated roughly \$21 billion in blocked agricultural market access through the addressing of non-tariff barriers like ones being tackled through the Trade Pillar.

We are committed to ensuring that trading partners implement their international trade commitments, including those made in U.S. trade agreements.

### **Question 7**

The United States and Kenya agreed to discuss standards, conformity assessment procedures, and technical regulations—commonly known as TBT commitments—in the context of the STIP negotiations, but USTR has yet to table any proposals in these areas.

- 1. Will USTR table TBT commitments in the STIP negotiations and when?*

Answer: In response to concerns expressed by Congress over problematic WTO decisions under the TBT Agreement, as well as concerns expressed by Congress about the nature of the participation of the People's Republic of China in standards-setting bodies, USTR has sought to ensure that any standards commitments address those concerns. USTR continues to work with Kenya, including by facilitating meetings between Kenya and U.S. standards-related bodies, to advance common goals with respect to standards and compliance. We have also been working with Kenya within the WTO Committee on Technical Barriers to Trade on issues of common interest.

- 2. If so, will USTR also commit to ensuring that any TBT commitments proposed by the United States reflect the same level of ambition as found in the TBT chapter of USMCA?*

Answer: Please see above.

### **Question 8**

Stakeholders assert that USTR's decision to support a TRIPS waiver for COVID vaccines was not a unique instance of agreeing to waive the interests of U.S. innovators but symptomatic of the Administration's failure to engage on intellectual property rights generally. Among the issues that stakeholders have flagged where USTR appears to be inactive are (1) South Africa's proposed copyright law, (2) India's lack of trade secret protection and proposals to extend statutory licensing to internet and digital broadcasters, and (3) Peru's failure to implement all of the intellectual property commitments in the United States-Peru Trade Promotion Agreement.

- 1. Please identify all significant enforcement or high-level engagement actions taken by USTR during the Biden Administration to press intellectual property protections,*



*including for the three issues flagged above. (Please note that this question does not consider noting an issue in a report to constitute significant enforcement or high-level engagement.)*

Answer: On South Africa, USTR has engaged heavily throughout South Africa’s copyright reform process, going back nearly a decade to the initial stages of the recently passed legislation. Throughout the process, we have engaged extensively with senior South African government representatives, Members of Parliament, and other relevant stakeholders.

Also, USTR has had extensive high-level engagement with India to raise both the lack of trade secret protection and proposals to extend statutory licensing to internet and digital broadcasters, as well as other high priority intellectual property (IP) issues. These issues were raised at the 2024 United States-India Trade Policy Forum led by Ambassador Tai, and USTR continues to engage on these issues in all levels of bilateral IP engagement.

In addition, USTR has regularly engaged with Peru on various IP concerns, such as Peru’s lack of pre-established damages for copyright infringement and trademark counterfeiting and Internet service provider liability regulations, including through the U.S.-Peru Free Trade Commission under the United States-Peru Trade Promotion Agreement, which most recently met in February 2024.

Further details regarding USTR’s significant enforcement and high-level engagement activity are in the 2024 Special 301 Report.

*2. Why is USTR not including an intellectual property chapter in any of the framework negotiations it is undertaking such as the Indo-Pacific Economic Framework or U.S.-Taiwan Initiative on 21st-Century Trade?*

Answer: We recognize that intellectual property (IP)-dependent industries can be drivers of employment and economic activity. We worked with Indo-Pacific Economic Framework partners to develop the scope for Trade Pillar negotiations and with Taiwan to develop the scope for the U.S.-Taiwan Initiative on 21st-Century Trade, and focused on topics that would enhance our resilient, sustainable, and inclusive trade. We look forward to continuing discussions with you and your team on other ways that we can advance IP protections, including through bilateral engagement with trading partners.

**Question 9**

U.S. Free Trade Agreements that contain commitments on antitrust or competition normally include due process protections such as right to counsel. These protections are a critical distinguishing feature between legitimate competition regimes such as the United States’, and arbitrary regimes such as China’s which uses its antimonopoly law as a pretext to attack foreign companies. USTR has indicated in briefings that including due process protections—many of which are guaranteed by the constitution—may be inconsistent with “Bidenomics.”

*Does USTR agree that it is important that any negotiated commitments concerning competition also include due process protections? If not, please explain in detail USTR's position, including if appropriate, why "Bidenomics" precludes USTR from pressing constitutionally guaranteed rights in antitrust matters.*

Answer: USTR has never indicated in a briefing that due process protections may be inconsistent with the President's economic agenda. USTR has, however, noted that the only instance in which concern has been expressed about constitutional rights is in the competition chapter. As USTR has explained repeatedly in briefings, the competition chapter has historically been drafted to reflect the priorities of large corporate interests, including those that benefit from weak competition enforcement regimes.

I would note that the President's Executive Order on Competition states that those harmed by corporate consolidation include farmers, who "are squeezed between concentrated market power in the agricultural input industries — seed, fertilizer, feed, and equipment suppliers — and concentrated market power in the channels for selling agricultural products. As a result, farmers' share of the value of their agricultural products has decreased, and poultry farmers, hog farmers, cattle ranchers, and other agricultural workers struggle to retain autonomy and to make sustainable returns." Therefore, in this regard, the President's agenda aligns with the interests of American farmers, as well as small businesses, workers, and consumers.

As the United States and other governments promote fair competition, including for the purpose of addressing monopolistic behavior by non-market autocracies, it is important to ensure that our trade agreements reflect that priority.

### **Senator Maria Cantwell**

#### **Question 1**

Japan is a huge market for frozen potatoes from the state of Washington. Washington growers export approximately \$220 million worth of frozen, dehydrated, or chipped potatoes to Japan each year. However, American growers continue to face significant obstacles in gaining market access for fresh "table stock" potatoes in Japan. I raised this issue in a letter with nine of my colleagues to President Biden last week during the Japanese Prime Minister's visit to Washington, DC.

Japan's Ministry of Agriculture, Farming and Fisheries continues to delay substantive technical discussions on table stock access. They have raised phytosanitary concerns, however, the U.S. has a strong history of exporting fresh potatoes to Asia, including South Korea, Taiwan, Hong Kong, Singapore, Indonesia, the Philippines, Malaysia, and Thailand. If this market access for fresh potatoes is achieved, the U.S. potato industry estimates it will result in an additional \$150 million per year in exports.

I appreciate that you have repeatedly raised with the Japanese government the need to lower their trade barriers on fresh potatoes and find a solution for U.S. potato producers. We need a concerted effort between the USTR and the Department of Agriculture to make progress.

*Can you describe the concrete steps you will take to lead Japan to remove barriers to fresh U.S. potatoes?*

Answer: I fully appreciate the importance of opening the Japanese market to U.S. table-stock potato producers, which is why USTR has engaged with Japan on this issue many times and has undertaken a number of efforts to secure access for U.S. fresh table stock potatoes to Japan. Following Prime Minister Kishida's state visit in April 2024, USTR raised this issue with senior officials from the Japanese Ministry of Agriculture, Forestry, and Fisheries. Additionally, USTR has raised this issue with Japan in all four meetings of the U.S.-Japan Partnership on Trade, most recently in December 2023 and in a June 6, 2024, bilateral meeting with Japan's Minister of State Foreign Affairs. Moving forward, USTR will continue to press the appropriate Japanese ministries to advance this issue in a timely and science-based manner in coordination with our colleagues at the U.S. Department of Agriculture (USDA).

## **Question 2**

In October, USTR withdrew its support at the WTO for long-held positions that would have allowed the free flow of data, protected forced transfer of American technology, and combat data localization requirements. USTR also dropped reference to countless digital trade barriers in the 2024 NTE Report (National Trade Estimate Report on Foreign Trade Barriers) and stopped standing up against digital protectionism abroad, just as U.S. services exporters are facing a barrage of harmful barriers and a proliferation of discriminatory regulatory thresholds around the world.

Business groups across every sector, along with key civil rights and civil society organizations like the ACLU, have called for USTR to continue its long tradition of enforcing digital trade rules and standing up for an open internet. Similarly, you suggested that one reason for backing out of digital trade negotiations and rescinding support for strong digital trade commitments at the WTO and IPEF is a lack of a domestic privacy law.

I wrote the American Privacy Rights Act, a privacy law draft with a colleague Congresswoman McMorris Rodgers. In my view, this proposal is fully consistent with existing digital trade rules, such as those in USMCA, and would not interfere with your ability to replicate those rules in other trade forums, including the WTO and IPEF.

*Do you agree that current privacy proposals like mine, if enacted, will help you in your negotiations in different trade forums?*

Answer: Given the dynamic nature of the digital economy, USTR is working diligently to ensure that any digital trade rules do not get ahead of the legislative and regulatory considerations taking place right now, including the important efforts that you are leading. As the Administration and Congress continue their work on issues critical to the digital economy, such as privacy and personal data protection, USTR will take all such actions, including the proposal of the American Privacy Rights Act, into account in further evolving our trade policy.

In the Biden-Harris Administration, USTR has been committed to digital trade that is inclusive, that protects the privacy of consumers and workers, that supports U.S. values like freedom of expression and freedom from discrimination, and that supports environmental sustainability goals.

### **Question 3**

When it comes to a foreign country that targets and blocks U.S. manufactured aircraft, automobiles, or machinery, or raises barriers to U.S. agricultural products, you have been a strong advocate for those industries – which in the State of Washington, we really appreciate. But my state also has major U.S. services exporters. These businesses and their workers rely on fair treatment by foreign countries, yet USTR has stopped standing up against digital protectionism abroad. Many of these other sectors, including aircraft and automobiles, are highly regulated, yet you are able to work through trade agreements and resolve disputes.

- 1. Given your approach to supporting other sectors and the clear economic, security, and human rights justifications for upholding open digital trade, why have you not used these same tools to support U.S. services exporters and their workers?*
- 2. How does digital differ from these other regulated sectors? Why is it that you argue that unfolding regulations in digital are a barrier to your ability to set appropriate standards in trade, when in these other sectors, regulations are also always in flux?*

Answer: USTR continues to support U.S. services exporters and their workers through active engagement with trading partners to ensure fair treatment for U.S. exporters. U.S. services exports in 2023 reached a record of \$999 billion, \$71 billion more than in 2022 and \$108 billion more than in 2019. The U.S. trade surplus in services in 2023 was \$280 billion, \$48 billion more than in 2022.

The digital economy is a rapidly evolving aspect of the entire economy that includes new and emerging technologies, such as A.I., and an increasing heavy reliance on the use of data, including personal data. U.S. products and services in the digital economy are largely unregulated compared to more mature and less dynamic areas of the economy, and we need to give the Administration and Congress their due policy space in trade agreements to address issues important to the American people.

### **Question 4**

The EU's Digital Markets Act targets five U.S. companies and no European companies, and it does not apply to massive Chinese technology companies like Huawei, Tencent, Alibaba, or Baidu.

- 1. Will you commit to enforcing our trade rights in Europe with respect to the EU digital regulatory agenda that targets U.S. companies?*

Answer: This Administration is committed to ensuring that U.S. companies are treated fairly by our trading partners and that our trading partners honor their obligations to the United States.

USTR and interagency colleagues will collaborate to analyze and monitor EU digital legislative and regulatory developments with that perspective in mind.

- 2. Can you explain why you haven't held to a position that opposes foreign laws that target U.S. companies and in fact leave Chinese competitors unregulated? If a reason is U.S. domestic policy debates, can you be more specific about which U.S. domestic policy conversation prevents USTR from opposing protectionist policies that hurt U.S. interests and U.S.-led innovation while benefitting Chinese companies?*

Answer: Through the U.S.-EU Trade and Technology Council, the Administration is working with the EU to preserve U.S. and EU technological leadership in a range of sectors. As part of this overall effort USTR is working closely with our European Commission counterparts to address Chinese non-market policies and practices that unfairly undermine the ability of U.S. and EU workers and the companies that employ them to compete fairly both at home and abroad.

#### **Question 5**

In 2018, USTR issued tariffs on selected U.S. imports from China under Section 301. In the process of setting the tariffs, seafood products harvested by fishermen in my state, sent to China for secondary processing, and then exported back to the United States for consumption, were improperly included. USTR recognized this error and permanently excluded some of these products, like salmon and cod, from the tariffs. However, Bering Sea flatfish products were accidentally left on the list even though they follow the very same market channel as salmon and cod. Since that time the U.S. flatfish sector has successfully applied for and received exclusions from the tariffs five times.

The most recent exclusion expires on May 31, 2024. However, there are often gaps in the exclusions which result in market disruptions and the uncertainty of the process means U.S. fishermen are receiving lower prices for their products.

*Are there plans to revise the Section 301 list and potentially remove these products from that list? If not, would USTR consider exclusions of a longer duration to remove some of the uncertainty of this process?*

Answer: In a *Federal Register* notice published at the end of May, USTR further extended certain exclusions through May 31, 2025. The extended exclusions include five exclusions for flat fish products. *See* 89 Fed. Reg. 46955. The exclusions cover all imports under the following statistical reporting numbers: 0304.83.1015; 0304.83.1020; 0304.83.5015; 0304.83.5020; 0304.83.5090.

**Senator Robert Menendez**

**Question**

As we discussed at the hearing, it has been reported that Mexico helps finance the Cuban regime by participating in its medical missions, which the State Department has identified as a form of forced labor.

1. *Has USTR reviewed the applicability of USMCA's forced labor standards to Mexico's decision to host Cuban forced labor?*
  - a. *If USTR does not believe these standards are applicable, please explain why.*
  - b. *If USTR has not reviewed the applicability of these standards, will you commit to doing so?*

Answer: We are aware of concerns related to Cuban medical professionals working in Mexico and are tracking this issue closely. We take all allegations of forced labor seriously and we are committed to enforcing the relevant obligations under our trade agreements to ensure that worker rights are upheld.

2. *Does USTR agree with the State Department's characterization of Cuba's medical missions as forced labor?*

*If not, please explain.*

Answer: In the 2023 Trafficking in Persons Report, the U.S. Department of State found that "Cuban nationals working in Mexico, including medical professionals contracted by the Mexican government, may have been forced to work by the Cuban government." USTR continues to work closely with the Department of State on labor issues in U.S. trade partner countries, including issues related to allegations of forced labor.

3. *If USMCA's forced labor standards are found to be applicable to Mexico's use of Cuban forced labor, will USTR commit to using USMCA's enforcement tools to combat this practice?*

*If not, please explain why.*

Answer: The full implementation and enforcement of the USMCA is one of my top priorities. We are committed to using the tools available under the USMCA to ensure that Mexico and Canada provide all the benefits negotiated for our workers, farmers, ranchers, service providers, and producers under the agreement.

### **Senator Tom Carper**

#### **Question 1**

As Chairman of the Environment and Public Works Committee, I was encouraged to see your office focus on strengthening environmental provisions in our trade agreements and putting the climate crisis, which we have evidence to show is intensifying every week, at the forefront of your work.

*In light of the formation of the White House Climate and Trade Task Force, how is the Administration working to appropriately use trade tools and work with our trading partners to address the climate crisis in ways that foster job creation?*

Answer: The on-going work of the White House Climate and Trade Task Force was publicly announced by White House Senior Advisor and Climate Envoy John Podesta in March. The Task Force work is divided into three priority areas: methodologies and data, potential trade measures, and other industrial competitiveness policies. This Task Force work complements USTR's existing efforts to utilize trade tools to address the climate crisis and support job creation. USTR continues to align U.S. trade policies and relevant trading partner engagement with domestic environment and climate efforts. In addition to ongoing engagement in bilateral and multilateral fora, USTR submitted a recent U.S. communication to WTO Members to advance discussions on practical ways that Members' respective trade-related climate measures can complement and support efforts to address climate change.

### **Question 2**

In March 2024, the U.S. Trade Representative's office released a request for comment on strategies to advance U.S. supply chain resilience in trade negotiations and related initiatives. Learnings from the COVID-19 pandemic have shown that trade and regulatory barriers can adversely impact supply chains, and specifically medical supply chain resiliency.

- 1. How is USTR evaluating the role of trusted trade partners in its efforts to build supply chain resiliency?*
- 2. How do you envision incorporating and enforcing such policies in new forms of trade cooperation you are seeking?*

Answer: In furtherance of supply chain resilience, USTR recognizes the importance of building and strengthening trusted networks among regional and like-minded trading partners and allies, where consistent with and supportive of domestic economic policy priorities. When weighing new strategies or forms of trade cooperation identified through the public comment process, we will identify and collaborate with trusted trading partners as appropriate. This collaboration would include efforts to enhance coordination and alignment on labor and environmental protections that are critical to supply chain sustainability.

### **Question 3**

Highly pathogenic avian influenza (HPAI) is a deadly disease that has taken a toll on poultry farms on the Delmarva peninsula. After the detection of HPAI on a farm in the United States, farms are subject to a quarantine period to limit the spread of the disease, before they can return to regular operations and exports.

*How are you working with China to relist states eligible for export after they have cleared the U.S. Department of Agriculture - Animal and Plant Health Inspection Service required protocols for cleaning and disinfection after an HPAI detection?*

Answer: We understand concerns regarding China's refusal to re-open the market for products from states that are free of HPAI, consistent with our bilateral HPAI regionalization protocol. In January 2024, the Chief Agricultural Negotiator raised this issue in person with his counterpart at China's Ministry of Agriculture and Rural Affairs. At the staff level, we continue to press China on this issue at every opportunity, including through regular consultations through the consultative mechanism available under the Phase One Agreement. At the same time, we have been working closely with USDA experts to ensure our efforts are coordinated as we press China at both the technical and political level to adhere to science- and risk-based standards and commitments related to trade in poultry products from regions impacted by HPAI.

#### **Question 4**

Ambassador Tai, last year I submitted a question for the record asking if it would be worthwhile to re-evaluate the use of Section 301 tariffs in light of implementing some of the marquee pieces of legislation passed in recent years, including the Bipartisan Infrastructure Law and the Inflation Reduction Act.

In response you noted that as part of the 4-year review of the Section 301 tariffs, your office is reviewing the effectiveness of the tariffs in achieving the objectives of the investigation, as well as the effect of the tariffs on consumers, workers, and the U.S. economy at large. And as part of this review, USTR is considering the existing tariffs structure and how to make tariffs more strategic in light of impacts on sectors of the U.S. economy as well as the goal of increasing domestic manufacturing.

- 1. Can you provide an update on the status of the review? How are you considering the needs of domestic manufacturers and others hard at work building out our infrastructure and working to further the energy transition?*
- 2. Would you agree that a comprehensive robust and transparent exclusion process that balances the Administration's economic, environmental, and social goals with countering China's unfair trade practices would create an effective trade policy with greater public support?*

Answer: USTR has issued a comprehensive Report on the statutory review of the tariff actions in the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.<sup>4</sup> In the Report, I recommended a series of actions that the President could take to pursue the objectives of the 301 investigation to obtain the elimination of China's acts, policies, and practices, including modifications to increase tariffs on specific products in strategic sectors. Many of the sectors included are targeted by China for dominance or are sectors where the U.S. has recently made significant investments through initiatives such as the Inflation Reduction Act and the Bipartisan Infrastructure Law. The sectors include: electric vehicles; lithium-ion batteries, certain critical minerals, ship-to-shore cranes, semiconductors, solar cells (whether or not assembled into modules) and steel and aluminum products. The report also recommends the establishment of an exclusion process targeting

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<sup>4</sup> <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-china-technology-transfer/china-section-301-tariff-actions-and-exclusion-process/four-year-review>



machinery used in domestic manufacturing and recommends 19 exclusions for certain solar manufacturing equipment, with the goal of supporting investment in U.S. solar manufacturing.

Having considered my advice, President Biden directed me to take action by proposing substantial tariff increases on targeted products and establishing an exclusion process for machinery used in domestic manufacturing. Consistent with the President's direction, in a *Federal Register* notice published on May 28, 2024, I proposed certain modifications to the tariff actions, including increasing Section 301 tariffs on products in the above sectors.<sup>5</sup> Additionally, the notice establishes the framework for an exclusion process for machinery and proposes temporary exclusion for certain solar manufacturing equipment.

On September 13, my office announced the final modifications.<sup>6</sup> The proposed modifications announced in May 2024 were largely adopted, with several updates to strengthen the actions to protect American businesses and workers from China's unfair trade practices following the review of more than 1,100 comments from the public. The updates included new timing and rates for tariffs on face masks, medical gloves, needles, and syringes; an exclusion for enteral syringes; a proposal regarding coverage of additional tungsten, wafers, and polysilicon tariff lines; an exclusion for ship-to-shore cranes ordered prior to May 14, 2024; an expansion of the scope of the machinery exclusions process to include five additional tariff lines; and modification of the coverage of proposed exclusions for solar manufacturing equipment.

These finalized tariff increases will target the harmful policies and practices of the People's Republic of China that continue to impact American workers and businesses. These actions underscore the Biden-Harris Administration's commitment to standing up for American workers and businesses in the face of unfair trade practices.

Information on the revisions to modifications are detailed in USTR's Federal Register Notice.

### **Question 5**

The Bipartisan Infrastructure Law includes important provisions to ensure that American infrastructure is built by American companies, workers, and that components that support infrastructure products are made in America.

In 2022, Congress passed legislation to help build out our domestic manufacturing base and to combat climate change, as we passed the CHIPS and Science Act and the Inflation Reduction Act. I understand you have been working with U.S. allies on trade measures to facilitate the implementation of the Inflation Reduction Act.

*How are you working with U.S. manufacturers, workers, and others to ensure they have the resources needed to successfully and swiftly implement the Bipartisan Infrastructure Law and its robust domestic content provisions?*

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<sup>5</sup> [https://ustr.gov/sites/default/files/89%20FR%2046252%20\(May%2028%202024\).pdf](https://ustr.gov/sites/default/files/89%20FR%2046252%20(May%2028%202024).pdf)

<sup>6</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/september/ustr-finalizes-action-china-tariffs-following-statutory-four-year-review>

Answer: Strengthening our supply chains is a critical component of the Biden-Harris Administration's efforts to advance our worker-centered trade policy, create sustainable economic growth, ensure that our economy is more resilient in the face of supply shocks, and enhance U.S. economic security. This is why the Administration is undertaking a whole-of-government effort to proactively strengthen domestic manufacturing and to secure trusted supply chains through strategic arrangements with trusted partners (friend-shoring) and with regional partners (near-shoring). The President is using all the tools at his disposal, including new authorities under the CHIPS and Science Act, Inflation Reduction Act, and Bipartisan Infrastructure Law, to incentivize the reshoring and domestic expansion of critical supply chains. Enduring resilience will require new investments in infrastructure, new incentives to increase the supply of key inputs, and new forms of cooperation with allies and trading partners to prevent and withstand supply chain disruptions and mitigate risks of price spikes and volatility that could contribute to inflationary dynamics. USTR endeavors to empower American workers and businesses, large and small, that are recalibrating and rebuilding secure and trusted supply chains for resilience, through a new approach to trade and investment policy—one that is supported by innovative strategies, tools, and mechanisms, and also integrated with domestic economic policy to position U.S. manufacturing and services for continued leadership and competitiveness.

### **Senator Sherrod Brown**

#### **Question 1**

As part of the renewal of USMCA, it will be critical to revisit the automotive rules of origin to address growing concerns in the automotive supply chain, particularly threats from countries seeking to circumvent duties like China, that present challenges to the United States auto industry and auto workers.

*Does USTR intend to revisit the automotive rules of origin to address the potential for countries outside of the agreement to exploit the current rules? How does USTR intend to examine potential problems such as Chinese EV companies setting up production facilities in Mexico, or the need for a smelt and cast provision for aluminum automotive parts to prevent Chinese and Russian aluminum from entering the U.S. through Mexico?*

Answer: As you know, one of the principal outcomes of the USMCA negotiation was much stricter rules of origin for North American trade in automobiles, to better ensure that preferential tariff treatment is only accorded to automobiles substantially manufactured in the United States and North America, and that the Agreement's benefits accrue to U.S. and North American workers. At the same time, we are clear-eyed that China has developed and implemented a plan to target the EV sector for dominance through a wide and evolving range of non-market-based policies and practices applied across the entire EV supply chain, and is looking to invest in EV production outside of China to circumvent Section 301 duties. We will continue to consider any necessary changes to the USMCA rules to ensure the competitiveness of the North American automotive and aluminum industries and that the USMCA's benefits continue to accrue to U.S. and North American workers. In addition, USTR is assessing other potential policy responses, given that the USMCA duty preference is only one element of Chinese automakers' calculus in shifting production abroad.

Section 301 tariffs on Chinese goods have promoted diversification of supply chains away from China, thereby protecting U.S. firms from forced technology transfer. Those tariffs have also encouraged Chinese firms to set up operations abroad, whether in the United States or with our trading partners. Rules of origin have left openings for those Chinese firms to benefit from Most-Favored Nation (MFN) treatment (avoiding Section 301 tariffs) or preferential treatment under free trade agreements (avoiding MFN tariffs). Given the openness of our market to goods from key trading partners and to foreign investment, we will need to work closely together with the Congress on evaluating and addressing these challenges.

## **Question 2**

*What are you doing to address Chinese and Russian-origin aluminum entering the United States through Mexico? What steps are you taking to work with Mexico to develop and implement an effective aluminum monitoring system?*

Answer: Maintaining a viable aluminum industry is essential to U.S. national security. Aluminum helped fuel American industrialization and build the American middle class.

On July 10, 2024, President Biden and President of Mexico Andrés Manuel López Obrador announced actions to jointly prevent the evasion of tariffs on aluminum and steel. Under this agreement, in order to enter the United States free of Section 232 tariffs, aluminum imports from Mexico must not contain primary aluminum smelt or cast in Belarus, China, Iran or Russia.

My staff and I have repeatedly pressed Mexico to ensure greater transparency with regards to its official trade statistics for aluminum and steel, including through the publication of these data in Mexico's Tariff Information System (SIAVI) and will continue to do so.

## **Senator Michael Bennet**

### **Question 1 - African Growth and Opportunity Act**

As China increases its influence in sub-Saharan Africa, the United States must renew the African Growth and Opportunity Act (AGOA) to boost U.S. investment in the region and provide an alternative to Beijing's initiatives and investments. I am glad to co-sponsor Senator Coons' bill to reauthorize AGOA, which expires in September 2025. I am also glad President Biden has called on Congress to reauthorize and "modernize" AGOA. But the longer we wait to reauthorize AGOA, the less time we give U.S. firms to make decisions to invest in sub-Saharan Africa. Waiting until the last minute will weaken AGOA's effectiveness.

*What specific improvements to AGOA would the administration like to see? How would a failure to renew AGOA undermine the administration's efforts to advance U.S. interests and influence in sub-Saharan Africa?*

Answer: For the last two decades, AGOA has been a positive force to grow Africa's extraordinary economic potential. It has made a difference for millions of Africans by opening new doors for trade and investment, creating hundreds of thousands of jobs, and promoting

regional integration. It has also incentivized many African governments to undertake key political and economic reforms.

The Biden-Harris Administration strongly supports the timely reauthorization and modernization of AGOA. Reauthorization requires an act of Congress, and I am committed to working with Members of Congress, African partners, and other key stakeholders to enhance AGOA and make the program as impactful as possible.

As noted in the 2024 Biennial Report on Implementation of AGOA, this includes supporting continental integration under the AfCFTA; improving utilization rates; exploring ways to deepen economic engagement post-graduation; and providing additional tools for assessing and reinstating eligibility.

### **Question 2 - WTO and China**

Last month, China requested World Trade Organization (WTO) dispute consultations over the clean energy tax credits Congress passed as part of the Inflation Reduction Act. China claims these credits discriminate against Chinese goods and violate key international trade rules. But over the past decade, China has made concerted efforts to evade or undermine these rules, most recently when it comes to electric vehicle dumping. You have noted that China “continues to use unfair, non-market policies and practices to undermine fair competition and pursue the dominance of [Chinese] manufacturers both in [China] and in global markets.”

*How can we use existing venues to build an evidentiary base demonstrating China’s consistent violation of international trade rules? Are there legislative reforms that would support efforts to counter China?*

Answer: USTR has been working intensively with key trading partners in a variety of venues to identify China’s non-market policies and practices, assess their impact, and design more effective responses, including in the G7,<sup>7</sup> the US-EU Trade and Technology Council (TTC),<sup>8</sup> and with diverse like-minded partners.<sup>9</sup> Regrettably, the primary multilateral venue is the World Trade Organization (WTO), which has undermined U.S. efforts to defend U.S. workers and businesses from China’s non-market policies and practices and is widely acknowledged to have been ineffective in disciplining those policies and practices. As we explained in the 2023 USTR Report to Congress on China’s WTO Compliance, WTO rules and the WTO’s dispute settlement mechanism over the years have not proven effective in addressing the serious issues that arise from a WTO Member’s state-led, non-market approach to the economy and trade that systematically disadvantages that Member’s trading partners and broadly conflicts with the fundamental, market-oriented underpinnings of the WTO system. Despite the extensive enforcement efforts of the United States and other WTO Members, China has been able to continue to pursue its predatory non-market policies and practices, which WTO rules and the dispute settlement mechanism have proven unable to discipline effectively.

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<sup>7</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>

<sup>8</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/31/u-s-eu-joint-statement-of-the-trade-and-technology-council-2/>

<sup>9</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices>

Domestically, the Biden Administration and USTR have been intensely focused on using available trade tools to defend U.S. workers and businesses from China's non-market policies and practices and to invest in American workers and businesses to rebuild our manufacturing and supply chain strength and resilience. I would welcome the chance to work with you on ways to support our efforts to counter and more effectively address the threat from China.

### **Question 3 - De minimis Reform**

When Congress passed the de minimis law that allows for tax and duty-free treatment for certain shipments valued under \$800 per person, per day, it was meant to cut red tape for small business and reduce costs to the American consumer. As time has passed, the de minimis law has been used as a loophole for bad actors to skirt laws on forced labor and drug trafficking, among others.

*What is your view on the existing de minimis law? Would you agree that we must reform the law to better align with the United States' values and standards on labor, environment, and national security?*

Answer: Yes. USTR has serious concerns about the exploitation of the de minimis exemption to circumvent laws and regulations governing health and safety, labor rights, and environmental protections. USTR also has concerns about the quality of the data that is being provided to government officials seeking to enforce the law.

In addition, I would note that, on September 13, 2024, the Administration announced specific administrative actions to address de minimis -- including a notice of proposed rulemaking by CBP that would exclude all shipments covered by Section 301, Section 201, or Section 232 trade enforcement actions; a notice of proposed rulemaking by CBP to require specific, additional data for de minimis shipments; and a final rule from the Consumer Product Safety Commission requiring importers of consumer products to file Certificates of Compliance electronically with CBP and CPSC at the time of entry, including for de minimis shipments -- and urged Congress to pass legislation this year to reform the de minimis exemption comprehensively to further protect American consumers, workers, and businesses.

### **Senator Mark Warner**

#### **Question 1**

As you know, Virginia is a top poultry producing state, and the industry is critical to the Commonwealth's economy, employing approximately 18,000 Virginians and providing a direct economic impact of \$5.8 billion to the state economy. Unfortunately, the poultry industry has faced numerous challenges in recent years amidst one of the worst outbreaks of highly pathogenic avian influenza (HPAI) to hit the U.S. As this outbreak has persisted, it has had an uneven impact on commercial flocks in various states. In Virginia, it has been over a year since HPAI has been detected in a commercial flock.

However, despite the U.S. Department of Agriculture's (USDA) rigorous monitoring regime confirming the safety of Virginia's commercial poultry industry, China continues to restrict

imports of Virginia poultry products. This appears to be a case where China is ignoring the science and defying their trade obligations under the 2020 Phase One trade agreement.

As of this writing, more than 30 states are banned from exporting poultry products into China, including Virginia. This ban remains even though Virginia's commercial poultry flocks have been free of HPAI for over a year.

1. *How has USTR been engaging with USDA and the Chinese government on HPAI restrictions and what progress has been made towards reopening the Chinese market for American poultry producers, including those in Virginia?*

Answer: We understand concerns regarding China's refusal to re-open the market for products from states that are free of HPAI, consistent with our bilateral HPAI regionalization protocol. In January 2024, the Chief Agricultural Negotiator raised this very issue in person with his counterpart at China's Ministry of Agriculture and Rural Affairs. At the staff level, we continue to press China on this issue at every opportunity, including through regular consultations through the consultative mechanism available under the Phase One Agreement. At the same time, we have been working closely with USDA experts to ensure our efforts are coordinated as we press China at both the technical and political level to adhere to science- and risk-based standards and commitments related to trade in poultry products from regions impacted by HPAI.

2. *What tools have you considered using if China continues the seemingly willful violation of their obligations under the Phase One agreement?*

Answer: We continue to use the consultation mechanisms available under the Phase One Agreement to address these types of concerns directly with China as they arise. In addition, our strategy has expanded to include working with allies and partners on China-related issues of common concern while also pursuing the vigorous defense of our values and economic interests from the negative impacts of China's unfair, non-market policies and practices.

3. *Can I get a commitment that you will work with me and other members representing affected states to ensure China follows through on their obligations?*

Answer: I look forward to working with you and other members on this.

## **Question 2**

China has spent years tightening its grip on the world's supply of key critical minerals and processing and refining technologies. For dozens of critical minerals, China controls the entire value chain from mining to refining and processing after years of strategic investment in key industries.

Recent legislation including the Infrastructure Investment and Jobs Act, CHIPS and Science Act, and Inflation Reduction Act is helping us take a massive step forward in re-shoring critical supply chains for technologies like semiconductors, EV batteries, solar panels, etc. However, the investments made by these bills – while transformational – will not be enough to fully shake our dependence on China for the critical materials and technologies we require for these products.

To address this issue, the U.S. needs a comprehensive strategy that includes multilateral engagement with our allies to secure critical mineral supply chains. One market that is ripe for additional U.S. engagement is Africa. The continent is home to numerous untapped reserves of critical minerals, including a significant quantity of the world's manganese, platinum, chromium, cobalt, graphite, and copper reserves.

Currently, our commercial relationship in Sub-Saharan Africa is dominated by the African Growth and Opportunity Act (AGOA), which is set to expire in 2025. As Congress considers AGOA reauthorization, I'm intrigued by the possibility of updating the agreement to help encourage more trade between the U.S. and AGOA-eligible nations in the critical minerals sector.

Such a provision could incentivize non-Chinese investments in both mining and processing in eligible African countries, which could help drive infrastructure investment, employment creation, and revenue generation. Including a critical minerals-specific provision in AGOA could have multiple benefits, including building resilience in the U.S. critical mineral supply chain, deepening U.S. economic relationships on the continent, and providing a significant alternative to China.

- 1. How is USTR engaging with African nations to facilitate trade relating to critical minerals and combat Chinese influence on the continent?*
- 2. Do you believe AGOA reauthorization is an appropriate place to address critical minerals trade between the U.S. and African nations? Based on your conversations with our African trading partners do you believe there would be significant interest in addressing critical minerals trade in AGOA?*
- 3. Do you believe a critical minerals agreement with AGOA beneficiaries could incentivize nations to maintain eligibility for the program and help reduce Chinese influence in the region?*

Answer: Strengthening our supply chains is a critical component of the Biden-Harris Administration's efforts to advance our worker-centered trade policy, create sustainable economic growth, and ensure that the global trade and economic system is more resilient in the face of supply shocks. We are undertaking a whole-of government effort to proactively strengthen supply chain resilience and mitigate the impact of disruptions. This includes addressing supply chain risks arising from unfair trade practices, creating opportunities for businesses to increase sourcing options, including and especially those located domestically, facilitating the movement of supply chains to trusted partners through friend-shoring and near-shoring, and strengthening labor standards and environmental protections governing global supply chains. The Administration remains committed to exploring ways to work more closely with African partners on critical minerals and supply chain resilience more broadly, in a way that advances U.S. values, including labor rights and environmental protections.

### **Question 3**

The United States and Australia have for decades enjoyed a deep and long-standing trade and investment relationship, underpinned by the US-Australia Free Trade Agreement. Recently, Australia's Ministry of Culture proposed mandatory screen content requirements on American streaming services. The proposed requirements could place significantly greater obligations on American streaming services and curb foreign investment in Australia and consumer access to Australian content.

1. *Do you believe Australia's proposed mandatory screen content requirements are permissible under the US-Australia FTA?*

Answer: We are closely tracking the Government of Australia's consideration of domestic expenditure requirements for streaming services. We have engaged the Government on this issue, and have made clear our expectation that any legislation in this space adhere to rules set out in our FTA.

2. *How have you engaged with the Government of Australia on this matter? Will you keep my office informed of progress on USTR's engagements with Australia?*

Answer: We have engaged the Government on this issue, and have made clear our expectation that any legislation in this space adhere to rules set out in our FTA. My office will keep yours informed on these engagements.

### **Senator Sheldon Whitehouse**

#### **Question 1**

On April 16, 2024, White House Senior Advisor John Podesta announced the formation of the White House Climate and Trade Task Force.

*What is the status of this task force? Has it started on its three workstreams? And who are the members of this task force?*

Answer: The White House Climate and Trade Task Force was publicly announced in March by White House Senior Advisor and Climate Envoy John Podesta. In addition to USTR, it includes EOP components: NSC (international economics and climate and trade staff), NEC, Climate Policy Office, OSTP, OVP, CEQ, OMB, and CEA, as well as Treasury, State, EPA, DOE, Commerce, DOD, GSA, DOT, EXIM, DFC, USTDA, USDA, and NASA (satellite monitoring of emissions). It is currently active and will operate through three priority areas: methodologies and data, potential trade measures, and other industrial competitiveness policies.

#### **Question 2**

The Biden Administration has rightly opposed adding investor-state dispute settlement (ISDS) provisions to new trade agreements. But foreign corporations continue to exploit ISDS through many existing agreements to the detriment of workers, consumers, and small businesses.

Numerous countries have recently decided to exit ISDS-enforced agreements. For example, the UK and European Union states are leaving the Energy Charter Treaty, Honduras exited the



World Bank's ISDS arbitration forum, and Ecuador just voted in a referendum to affirm its ISDS exit.

Experts have detailed viable strategies<sup>10</sup> for the U.S. to eliminate ISDS from existing investment and free trade agreements, and I joined colleagues on May 2, 2023<sup>11</sup> and November 1, 2023<sup>12</sup> in urging you to investigate and pursue all options at your disposal to achieve this. I appreciate that you are actively looking into it.

*Can you provide an update on the status of your investigation into how to effectively remove ISDS provisions from existing agreements? Have you discussed ISDS removal with our trading partners?*

Answer: The Biden-Harris Administration does not believe corporations should receive special tribunals in trade agreements that are not available to other organizations, and the President opposes the ability of private corporations to attack labor, health, and environmental policies through ISDS. I share these views, and the United States is not currently pursuing any trade or investment agreements that would establish ISDS.

USTR has focused instead on working with our trading partners to advance worker-centered trade policies that deliver sustainable and inclusive economic growth and benefit workers, consumers, and businesses of all sizes.

Over the past several months, USTR has consulted with a range of stakeholders on this issue, including representatives from labor unions, environmental groups, and the business community. I also look forward to working with you and other Members of Congress, including those on our committees of jurisdiction, to identify the best path forward with respect to ISDS provisions in our existing agreements, recognizing the role of Congress in such matters. To the extent that our trading partners have engaged with us on our investment commitments with them, such discussions generally relate to the standards of investment protection in the context of ISDS.

### **Senator Maggie Hassan**

#### **Question 1**

Please provide information on the scope of USTR's involvement in discussing LOGINK with other countries involved in the IPEF negotiations, and details on the discussions. If any of that information falls under the federal classification system, please provide such information to

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<sup>10</sup> Daniel Rangel, Lori Wallach, Ladan Mehranvar, Alvaro Santos, and Mario Osorio, October 2023, "Turning the Tide: How to Harness the Americas Partnership for Economic Prosperity to Deliver an ISDS-Free Americas," Center for the Advancement of the Rule of Law in the Americas at Georgetown Law, Columbia Center on Sustainable Investment, Rethink Trade, and American Economic Liberties Project, <https://rethinktrade.org/isds-freeamericas-papermain/>.

<sup>11</sup> Letter to Amb. Tai and Sec. Blinken, May 2, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.05.02%20Letter%20to%20Tai,%20Blinken%20re%20eliminati%20of%20ISDS.pdf>.

<sup>12</sup> Letter to Amb. Tai and Sec. Blinken, November 1, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.11.01%20Letter%20from%20Warren,%20Whitehouse,%20Cohen%20to%20USTR,%20State.pdf>.

cleared members of my staff in a manner consistent with the level of classification and all applicable laws and regulations.

Answer: We are aware of concerns related to LOGINK. We would be happy to provide further information to cleared staff regarding our engagement on this matter

## **Question 2**

USTR is negotiating critical minerals agreements with the E.U. and the U.K. and has negotiated a critical minerals agreement with Japan. Cooperation with our allies is important, as is ensuring that American companies have access to critical minerals.

- 1. What lessons has USTR taken away from these negotiations that could be used to inform future trade agreements, including potentially with Ukraine?*

Answer: The ongoing and concluded Critical Minerals Agreement negotiations have demonstrated the importance of working with allies and partners to support more resilient, diverse supplies in critical sectors and promote high standards with respect to both labor and the environment. We are working with Ukraine through our Trade and Investment Council to lay the foundation for a sustainable economic recovery and long-term reconstruction including business climate reforms.

- 2. How will agreements be implemented in a way that makes them durable enough to provide confidence to U.S. companies and our allies?*

Answer: USTR remains committed to implementing agreements it reaches, including the U.S.-Japan Critical Minerals Agreement, in a manner that achieves our common goal of fostering secure, sustainable, and equitable supply chains in critical minerals.

## **Senator Catherine Cortez Masto**

### **Question**

Titanium sponge is a critical material for U.S. national security needs that is 100% imported. Nearly all imports come from our key ally Japan, yet the U.S. applies a 15% tariff on these imports, which harms downstream producers in the United States. This counterproductive tariff threatens American jobs and national security by driving up costs for American manufacturers who must compete with those in China and Russia. I have introduced bipartisan legislation called the Securing America's Titanium Manufacturing Act to remove this tariff.

*Does the Administration support my legislation to remove this tariff?*

Answer: I understand your concerns regarding the lack of domestic production of titanium sponge, the impact of the existing 15 percent tariff rate on American manufacturers, and reliance on imports from our key ally Japan and other countries. My team is carefully assessing this issue and welcomes engagement with Members of Congress and affected stakeholders on the matter.

## Senator Elizabeth Warren

### Question 1

You and President Biden have opposed the inclusion of investor-state dispute settlement (ISDS) in future trade and investment agreements, another sign that the Biden Administration is reorienting trade policy to work for consumers, workers, and small businesses and not the largest corporations. Yet those corporate interests continue to take advantage of ISDS provisions in existing trade and investment agreements, sticking taxpayers with the bill and extorting U.S. trading partners. Countries as diverse as Germany and Honduras are recognizing the threat posed to necessary public policy by ISDS and have begun to extricate themselves from ISDS liability.<sup>13</sup> In fact, you reportedly discussed ISDS with your Colombian counterpart in a March meeting.<sup>14</sup>

It is clear that the United States must also begin the process of disentangling itself from ISDS liability, and experts have provided detailed blueprints for how the United States could achieve this.<sup>15</sup> Last year, I was joined by several colleagues in urging you to investigate and pursue all options at your disposal to removing ISDS from U.S. trade and investment agreements,<sup>16</sup> and you shared at the April 17 Finance Committee hearing that you are “looking at this question actively right now,”<sup>17</sup> which I appreciate.

- 1. What is the status of your review of the process by which the United States can withdraw itself from ISDS liability under existing trade and investment agreement?*
- 2. What has been the content and tone of your engagement with U.S. trading partners—such as Colombia—regarding ISDS?*
- 3. Would you consider forming a working group under the umbrella of the Americas Partnership for Economic Prosperity (APEP) specifically aimed at reviewing and assessing options for removing ISDS from existing pacts among APEP members?*

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<sup>13</sup> The Guardian, “UK quits treaty that lets fossil fuel firms sue governments over climate policies,” Arthur Neslen, February 22, 2024, [https://www.theguardian.com/environment/2024/feb/22/uk-quits-treaty-that-lets-fossil-fuel-firms-sue-governments-over-climate-policies?utm\\_term=.65d738703b7eedbf621e439f80513337](https://www.theguardian.com/environment/2024/feb/22/uk-quits-treaty-that-lets-fossil-fuel-firms-sue-governments-over-climate-policies?utm_term=.65d738703b7eedbf621e439f80513337); ICSID, “Honduras Denounces the ICSID Convention,” press release, February 29, 2024, <https://icsid.worldbank.org/news-and-events/communiqués/honduras-denounces-icsid-convention>.

<sup>14</sup> Office of the U.S. Trade Representative, “Joint Statement from the United States and Colombia,” press release, March 8, 2024, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/march/joint-statement-united-states-and-colombia>.

<sup>15</sup> Rethink Trade, “Turning the Tide: How to Harness the Americas Partnership for Economic Prosperity to Deliver an ISDS-Free Americas,” October 2023, [https://rethinktrade.org/wp-content/uploads/2024/03/ISDS\\_Report\\_Tides\\_03.12.2024.pdf](https://rethinktrade.org/wp-content/uploads/2024/03/ISDS_Report_Tides_03.12.2024.pdf).

<sup>16</sup> Letter from Senator Warren and colleagues to Amb. Tai and Sec. Blinken, November 2, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.11.01%20Letter%20from%20Warren,%20Whitehouse,%20Cohen%20to%20USTR,%20State.pdf>; Letter from Senator Warren and colleagues to Amb. Tai and Sec. Blinken, May 2, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.05.02%20Letter%20to%20Tai,%20Blinken%20re%20elimination%20of%20ISDS.pdf>.

<sup>17</sup> CQ, “Senate Finance Committee Holds Hearing on US Trade Policy Agenda,” April 17, 2024, <https://plus.cq.com/doc/congressionaltranscripts-7991639?5>.

Answer: The Biden-Harris Administration does not believe corporations should receive special tribunals in trade agreements that are not available to other organizations, and the President opposes the ability of private corporations to attack labor, health, and environmental policies through ISDS. I share these views, and the United States is not currently pursuing any trade or investment agreements that would establish ISDS.

USTR has focused instead on working with our trading partners to advance worker-centered trade policies that deliver sustainable and inclusive economic growth and benefit workers, consumers, and businesses of all sizes. The Americas Partnership is a mechanism for regional cooperation that will operate alongside our existing free trade agreements in the hemisphere.

Over the past several months, USTR has consulted with a range of stakeholders on this issue, including representatives from labor unions, environmental groups, and the business community. I also look forward to working with you and other Members of Congress, including those on our committees of jurisdiction, to identify the best path forward with respect to ISDS provisions in our existing agreements, recognizing the role of Congress in such matters. To the extent that our trading partners have engaged with us on our investment commitments with them, including Colombia, such discussions generally relate to the standards of investment protection in the context of ISDS.

## **Question 2**

The Biden administration has taken several steps to address high prices and anti-competitive practices within the pharmaceutical sector to check corporate abuses and lower healthcare costs. USTR has taken steps in alignment with these domestic policies, including steps to ensure that corporate interests are not prioritized over rational trade policy and international commitments.

Inequitable access to COVID-19 medicines needlessly prolonged the pandemic, costing lives and exacerbating economic losses.<sup>18</sup> The United States supported the WTO's COVID-19 vaccine waiver, acknowledging that pharmaceutical companies' patent protections should not be a barrier to addressing urgent public health needs.<sup>19</sup>

*How are you approaching ensuring countries are able to utilize compulsory licensing and other mechanisms to respond to health crises, including during future pandemics?*

Answer: Under the Biden-Harris Administration, the United States has made it clear that it respects its trading partners' rights to grant compulsory licenses in a manner consistent with the provisions of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the Doha Declaration. The United States also recognizes that the TRIPS Agreement provides for additional flexibilities, including in public health emergencies and other circumstances of extreme urgency within a Member's

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<sup>18</sup> See e.g., Health Place, "Global inequities in access to COVID-19 health products and technologies: A political economy analysis," Deborah Gleeson et al., September 2023, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10247888/>.

<sup>19</sup> Office of the U.S. Trade Representative, "Statement from Ambassador Katherine Tai on the Covid-19 Trips Waiver," press release, May 5, 2021, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/may/statement-ambassador-katherine-tai-covid-19-trips-waiver>.

territory. Article 31 of the TRIPS Agreement establishes requirements that must be met with respect to compulsory licenses. Importantly, a Member choosing to issue a compulsory license may waive some of these requirements in certain circumstances. For example, in cases of national emergency or extreme urgency or in cases of public non-commercial use, Members may waive the requirement to seek prior authorization from the patent holder before issuing a compulsory license. In addition, under Article 31*bis*, the requirement that compulsory licenses must be authorized predominantly for the supply of the Member's domestic market may be waived in certain circumstances. Recognizing that Members with insufficient pharmaceutical manufacturing capacities could face difficulties in making effective use of compulsory licensing, Article 31*bis* and its related Annex set forth a system whereby such Members can import from another Member pharmaceutical products produced subject to a compulsory license.

It is also important to note that work on public health and pandemic preparedness issues is continuing not just in the TRIPS Council, but across the WTO, including under the June 2022 Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics. This Declaration directs multiple WTO bodies to analyze lessons that have been learned and challenges experienced during the COVID-19 pandemic. The Abu Dhabi Ministerial Declaration adopted at the Thirteenth Ministerial Conference (MC13) in March 2024 recalled the June 2022 Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics and encouraged the relevant WTO bodies to continue their work, to which the United States is contributing.

Finally, the Biden-Harris Administration has continued its policy of declining to call out countries for exercising TRIPS flexibilities, including with respect to compulsory licenses, in a manner consistent with TRIPS obligations.

### **Senator John Cornyn**

#### **Question 1**

China has been aggressively signing trade and economic agreements across the Indo-Pacific, Latin America, and Africa, including the Regional Comprehensive Economic Partnership (RCEP). China also applied to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). I am concerned about China's growing influence in global trade.

- 1. Are you concerned that the U.S. is losing leverage to set trade terms in the region because we are not negotiating free trade agreements?*
- 2. Do you agree that free trade agreements with countries in the Indo-Pacific would help the U.S. counter China's influence?*
- 3. Are your policies creating greater trade opportunities for China that will disadvantage U.S. firms?*

Answer: We are working with key trading partners, and also regionally and multilaterally, to find solutions to the many serious problems posed by China's state-led, non-market approach to the

economy and trade. USTR has been working intensively with key trading partners in a variety of venues to identify China's non-market policies and practices, assess their impact, and design more effective responses, including in the G7,<sup>20</sup> the US-EU Trade and Technology Council (TTC),<sup>21</sup> and with diverse like-minded partners.<sup>22</sup> The United States is also holding discussions with many other like-minded trading partners, including in the Indo-Pacific region, on how to strengthen our existing trade relationships. In the current negotiation regarding a further agreement under the U.S.-Taiwan Initiative on 21st-Century Trade, the United States and Taiwan are seeking to adopt provisions to collaborate on ways to address unfair, anti-competitive non-market policies and practices. Given that China's approach to the economy and trade poses so many serious risks and potential harms, it is in the United States' interest to enhance our trade relationships with like-minded economies.

## Question 2

Last year I submitted a question for the record asking what it would take to restart and reform the Section 301 exclusions process. In your response you noted "Within the four-year review, USTR is reviewing the overall structure of the tariffs, including which products should be subject to additional duties...and that USTR continues to consider whether additional exclusion processes may be appropriate."

1. *What is the Administration's position on restarting and reforming the Section 301 exclusions process?*
2. *Can you provide an update on the Administration's timeline for completing the review of the Section 301 tariffs on products from China, which has been ongoing for nearly two years? Will there be an announcement this year?*

Answer: USTR has issued a comprehensive Report on the statutory review of the tariff actions in the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. In the Report I recommended a series of actions to the President, including modifications to increase tariffs on specific products in strategic sectors. Many of the sectors are targeted by China for dominance or are sectors where the U.S. has recently made significant investments through such initiatives as the IRA and Bipartisan Infrastructure Law. The report also recommends the establishment of an exclusion process targeting machinery used in domestic manufacturing and recommends 19 exclusions for certain solar manufacturing equipment.

Having considered my advice, President Biden directed me to take action. Consistent with the President's direction, in a *Federal Register* notice published on May 28, 2024, I proposed certain modifications to the tariff actions, including increasing Section 301 tariffs on products in certain strategic sectors. Additionally, the notice establishes the framework for an exclusion process for machinery and proposes temporary exclusion for certain solar manufacturing equipment.

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<sup>20</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>

<sup>21</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/31/u-s-eu-joint-statement-of-the-trade-and-technology-council-2/>

<sup>22</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices>

On September 13, my office announced the final modifications.<sup>23</sup> The proposed modifications announced in May 2024 were largely adopted, with several updates to strengthen the actions to protect American businesses and workers from China’s unfair trade practices following the review of more than 1,100 comments from the public. The updates included new timing and rates for tariffs on face masks, medical gloves, needles, and syringes; an exclusion for enteral syringes; a proposal regarding coverage of additional tungsten, wafers, and polysilicon tariff lines; an exclusion for ship-to-shore cranes ordered prior to May 14, 2024; an expansion of the scope of the machinery exclusions process to include five additional tariff lines; and modification of the coverage of proposed exclusions for solar manufacturing equipment.

These finalized tariff increases will target the harmful policies and practices of the People’s Republic of China that continue to impact American workers and businesses. These actions underscore the Biden-Harris Administration’s commitment to standing up for American workers and businesses in the face of unfair trade practices.

Information on the revisions to modifications are detailed in USTR’s Federal Register Notice.

### **Question 3**

I appreciate that USTR has continued to provide extensions for certain product exclusions under the Section 301 tariffs. However, I am disappointed that USTR has continued to announce its decisions regarding the extensions of the exclusions with little time for importers or interagency partners to react. For example, during the extension announced at the end of December 2023, USTR did not provide U.S. Customs and Border Protection (CBP) enough time to program its system (the Automated Commercial Environment or ACE) to note that the exclusions had been extended. As a result, importers who imported products eligible for the exclusions during the first few days of January were required to pay duties to CBP and then subsequently file for a duty refund – creating additional administrative burdens.

*Will USTR commit to providing importers and its interagency partners with more advanced notice about the status of the exclusions?*

Answer: In a Federal Register notice published May 30, 2024, USTR extended all exclusions through June 14, 2024, to provide a transition period, and further extended certain exclusions through May 31, 2025. This notice was submitted to the Office of the Federal Register and to Customs and Border Protection (CBP). USTR’s notice provided CBP with sufficient time to program ACE prior to the exclusions expiring and without interruption.

### **Question 4**

The USTR budget indicates that the agency might be preparing for a scale-down of its 301 exclusion operations. In the President’s budget, USTR references a consolidation of two staff contracts “...that USTR is using to operate the 301-tariff exclusion process and support trade agreement enforcement; in FY 2024, USTR anticipates consolidating the two staffing contracts into one and adjusting the total staffing to the anticipated 301-tariff exclusion process effort.”

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<sup>23</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/september/ustr-finalizes-action-china-tariffs-following-statutory-four-year-review>

*What are the implications of this action?*

Answer: Each year USTR must consider the level of contract staffing needed for the Section 301 exclusion process and other enforcement activities. In FY 2024, with the statutory review and exclusion extension docket, USTR maintained the previous year's staffing level. However, with the recent announcement of a proposed exclusion process, the level of contract staffing is likely to increase at the end of FY 2024 and in FY 2025. The consolidation of the two staffing contracts helps streamline USTR's contractual services, but will not affect the level of contract staffing maintained.

## **Question 5**

The Administration is expressing deepening concerns about another round of PRC overcapacity, this time in advanced manufacturing sectors beyond EVs.

### *1. What does the Administration plan to do about that coming overcapacity?*

Answer: We continue to have significant concerns about PRC industrial targeting policies across a range of sectors. These non-market policies and practices are leading to market concentration and excessive dependencies, distortionary effects, and harmful non-market excess capacity in a range of sectors. These policies and practices undercut our workers, industries, and the investments we are making in our economic security and supply chain resilience.

The Administration has urged Beijing to consider the broad international spillovers of these distortions, and has taken measures to foster more balanced growth, as we continue to maintain active communication through both economic and commercial channels.

USTR has also developed and engaged in joint initiatives with trading partners to share concerns about China's use of unfair non-market policies and practices and to build a common understanding as a basis for taking more effective action. USTR has been working intensively with key trading partners in a variety of venues to identify China's non-market policies and practices, assess their impact, and design more effective responses, including in the G7,<sup>24</sup> the US-EU Trade and Technology Council (TTC),<sup>25</sup> and with diverse like-minded partners.<sup>26</sup>

In addition, USTR's recent Request for Comments on Promoting Supply Chain Resilience has prompted stakeholder discussion of China's non-market excess capacity in a range of sectors, and we expect to consider the issue further as we weigh the comments received.

### *2. How will it affect the outcome of the four-year Section 301 tariff review?*

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<sup>24</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>

<sup>25</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/31/u-s-eu-joint-statement-of-the-trade-and-technology-council-2/>

<sup>26</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices>



Answer: USTR completed a thorough statutory review of the tariff actions imposed in the Section 301 investigation into the PRC's acts, policies and practices related to technology transfer, intellectual property, and innovation. USTR found that the PRC's unfair, non-market policies practices have persisted and, in some cases, become more aggressive. Accordingly, and pursuant to direction from the President, USTR proposed making modifications to the Section 301 tariff actions to increase tariff on strategic sectors, including imposing 100% tariffs on EVs.<sup>27</sup>

On September 13, my office announced the final modifications.<sup>28</sup> The proposed modifications announced in May 2024 were largely adopted, with several updates to strengthen the actions to protect American businesses and workers from China's unfair trade practices following the review of more than 1,100 comments from the public. The updates included new timing and rates for tariffs on face masks, medical gloves, needles, and syringes; an exclusion for enteral syringes; a proposal regarding coverage of additional tungsten, wafers, and polysilicon tariff lines; an exclusion for ship-to-shore cranes ordered prior to May 14, 2024; an expansion of the scope of the machinery exclusions process to include five additional tariff lines; and modification of the coverage of proposed exclusions for solar manufacturing equipment.

These finalized tariff increases will target the harmful policies and practices of the People's Republic of China that continue to impact American workers and businesses. These actions underscore the Biden-Harris Administration's commitment to standing up for American workers and businesses in the face of unfair trade practices.

Information on the revisions to modifications are detailed in USTR's Federal Register Notice.

### **Question 6**

The supply chain for compound semiconductors used in the critical telecommunications infrastructure sector, data centers, and artificial intelligence is largely dominated by foreign adversary production and includes investments from companies like Huawei and ZTE. In fact, reports indicate that Huawei, from wafer production to finished products such as optical transceivers, has made strategic investments to dominate the U.S. and global supply chains in these areas in order to "leapfrog" the United States and its companies. Not only does this create U.S. supply chain dependency on foreign adversary countries, but it creates the potential for cybersecurity risk in critical infrastructure through hardware and software vulnerabilities. In addition, these investments have resulted in the strategic overcapacity of compound semiconductors, driving prices below market value and harming U.S. compound semiconductor manufacturers and optical transmission equipment manufacturers.

*In its review of Section 301 tariffs, its Request For Comments on Promoting Supply Chain Resilience, and related supply chain assessments, has USTR considered the impact of*

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<sup>27</sup>[https://ustr.gov/sites/default/files/89%20FR%2046252%20\(May%2028%202024\).pdf](https://ustr.gov/sites/default/files/89%20FR%2046252%20(May%2028%202024).pdf)

<sup>28</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/september/ustr-finalizes-action-china-tariffs-following-statutory-four-year-review>

*overcapacity in foreign adversary compound semiconductor production, from wafer production to finished products such as optical transceivers?*

Answer: Yes. USTR has considered the impact of China’s non-market excess capacity in the semiconductors sector, and we continue to assess the threats posed by China’s unfair, anti-competitive non-market policies and practices on an ongoing basis.

We continue to have significant concerns about PRC industrial targeting policies across a range of sectors, including the semiconductor industry. These non-market policies and practices are leading to market concentration and excessive dependences, distortionary effects, and harmful non-market excess capacity in a range of sectors including semiconductors. These policies and practices undercut our workers, industries, and the investments we are making in our economic security and supply chain resilience.

The Section 301 Investigation of China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation and resulting tariff modifications are only part of the solution to our broader concerns about China’s non-market policies and practices, including the threat posed by rapidly emerging non-market excess capacity and market concentration in the semiconductors sector.

The Administration has also urged Beijing to consider the broad international spillovers of these distortions, and also to take measures to support domestic demand and more balanced growth, as we continue to maintain active communication through both economic and commercial channels.

In addition, USTR’s recent request for Comments on Promoting Supply Chain Resilience has prompted stakeholder discussion of non-market excess capacity in semiconductor production, and we expect to consider the issue further as we weigh the comments received.

USTR has also developed and engaged in joint initiatives with trading partners to share concerns about China’s use of unfair non-market policies and practices and to build a common understanding as a basis for taking more effective action. USTR has been working intensively with key trading partners in a variety of venues to identify China’s non-market policies and practices, assess their impact, and design more effective responses, including in the G7,<sup>29</sup> the US-EU Trade and Technology Council (TTC),<sup>30</sup> and with diverse like-minded partners.<sup>31</sup>

### **Question 7**

On March 7, 2024, USTR announced it is seeking comments to “inform the development of trade and investment policy initiatives that promote supply chain resilience.”

- 1. Why is USTR launching this comment period and initiative just now in Year 4 of the Administration?*

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<sup>29</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>

<sup>30</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/31/u-s-eu-joint-statement-of-the-trade-and-technology-council-2/>

<sup>31</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices>

2. *How will USTR communicate with stakeholders and Congress about outcomes, strategies, and objectives developed from this public comment period?*

Answer: While USTR continues to pursue a range of efforts to promote supply chain resilience, we seek through the public comment period to solicit input from a wider group of stakeholders, which will inform a more integrated, holistic understanding of supply chain resilience. Additionally, having weathered the acute disruptions wrought by the Covid-19 pandemic during earlier years in the Administration, many stakeholders now have new perspectives that can help shape trade policy going forward. Accordingly, we aim to harness these insights to both build on our past work and identify new tools and approaches.

We are committed to communicating in due course with stakeholders and Congress about relevant trade policy outcomes, strategies, and objectives developed from the public comment period.

### **Question 8**

I understand USTR conducted a review of China's industrial subsidies and has a report on the topic that it never issued.

1. *Why has USTR not issued that report?*
2. *Does USTR plan to formally launch a Section 301 review of China's industrial subsidies?*

Answer: China utilizes a wide range of unfair, non-market policies and practices to undermine fair competition and dominate markets, both in China and globally. Those anti-competitive policies and practices, which include non-market excess capacity, pervasive subsidization, forced labor and other labor violations, and many others, create strategic dependencies and vulnerabilities, which undermine our supply chain resilience and economic security. The United States must consider all available tools and options to more effectively address this threat, including use of Section 301, strategic investments, and other actions, in order to defend our workers and market-oriented businesses and address China's non-market distortions.

USTR does not have a report on the topic that it has never issued.

### **Question 9**

The Administration has expressed an interest in engaging with Congress on renewing the African Growth and Opportunity Act (AGOA), which is currently set to expire on September 30, 2025. USTR has also indicated it would like to explore how AGOA could be improved to increase the utilization rates and "ensure that the program's benefits fully reach all segments of society."

*In your view, what changes to AGOA would help accomplish these goals?*

Answer: For the last two decades, AGOA has been a positive force to grow Africa's extraordinary economic potential. It has made a difference for millions of Africans by opening new doors for trade and investment, creating hundreds of thousands of jobs, and promoting

regional integration. It has also incentivized many African governments to undertake key political and economic reforms.

The Biden-Harris Administration strongly supports the timely reauthorization and modernization of AGOA. Reauthorization requires an act of Congress, and I am committed to working with Members of Congress, African partners, and other key stakeholders to enhance AGOA and make the program as impactful as possible. As noted in the 2024 Biennial Report on Implementation of AGOA, this includes improving utilization rates, particularly for smaller and lesser developed African economies; exploring additional trade tools to complement our AGOA relationship, collaborating on the implementation of the AfCFTA, and better using the multilateral trading system for the benefit of underserved groups in each of our economies.

### **Senator John Thune**

#### **Question 1**

Recently, USTR published taking the dairy cases under USMCA as an example of having advocated for agriculture, and then answered questions related to next steps for Canada dairy with brainstorming next steps. That response is similar to how this administration answered the same question on next steps for Canada dairy in December 2023.

*What specifically is the administration working on and when do you expect to be able to take action for U.S. dairy export trade barriers in Canada?*

Answer: The Biden-Harris Administration is committed to ensuring that American dairy farmers workers, processors, and exporters receive the full benefit of the market access Canada agreed to provide under the USMCA. While the United States won a previous USMCA dispute on Canada's dairy TRQ allocation measures in 2021, USTR is disappointed with the USMCA panel report released in November 2023. We continue to work closely with U.S. industry to consider all options to ensure our dairy sector receives the full benefit of market access under the USMCA and will not hesitate to use all available tools to enforce our trade agreements.

#### **Question 2**

The United States has a dairy trade deficit with the European Union (EU) of more than \$2 billion. More onerous EU tariffs and nontariff barriers play a major role in driving this dynamic. As of last month, the EU appears poised to increase that gap even more. In March, the EU Health Ministry abruptly changed how it plans to enforce a regulation related to the use of veterinary medicines and imported animal products. It's bad enough that this statute dictates to U.S. farmers which medicines they will be able to use on their farms moving forward. Now, the EU appears to intend to enforce this regulation retroactively, insisting that no animals supplying milk or meat bound for the EU can have been treated with the newly restricted medicines in their entire lifetime. Since dairy cows live for several years, this new interpretation risks shutting down U.S. dairy exports to the EU.

- 1. How is the United States working to push back on European efforts like these to dictate to our farmers how to farm?*

2. *What steps is the United States taking to ensure that this veterinary medicines regulation is implemented on a forward-looking basis, rather than on a retroactive one?*

Answer: While the United States and European Union align on a number of strategic issues, the U.S. is concerned with EU efforts that treat American agriculture unfairly. The United States has raised concerns both bilaterally and at the WTO SPS Committee regarding the EU's proposed veterinary drug regulation, and the United States has shared comments and concerns throughout the EU's process of fully enacting their legislation. Like you, we are concerned with the EU's proposed approach, in particular their recent clarification that new restrictions on use of veterinary medical products will apply retroactively to animals currently in production. Over the last five years, the United States has built a strong coalition of like-minded countries that oppose the EU's proposed regulatory approach, and we will continue to engage on multiple fronts as the EU works to finalize implementation of the regulation.

### **Question 3**

Indonesia is a valued partner and important destination for many U.S. agricultural exports. For example, it is a top 10 market for U.S. dairy exports. Yet, it also has the slowest, most onerous process in the world for allowing new facilities to be authorized to ship. Some facilities have been waiting over four years just to enter the market – and still are not allowed to ship yet. In comparison, most other countries manage to register new facilities anywhere from a few days to a few months.

*Where do efforts stand to secure more reasonable new entry terms for our dairy exporters?*

Answer: The United States continues to press Indonesia on its onerous facility registration requirements not only for dairy, but meat products as well. We have raised this issue on multiple occasions over the past year with Indonesia, both bilaterally and in IPEF negotiations, with the aim of having Indonesia commit to increased transparency and a timely, science-based facility registration process that would allow U.S. businesses to export their quality products. USTR will continue to find opportunities to raise this issue and attempt to improve the process in our future engagements.

### **Question 4**

One of the non-tariff barriers that the EU has aggressively pursued domestically and exported to outside markets has been the monopolization of common food and beverage names. The result is that U.S. producers can suddenly no longer use certain terms, which have long been generic – like “parmesan”, “bologna”, and “chateau” – to market and sell their products abroad. The EU is pressing this issue with real tenacity.

1. *Can you provide an update on where USTR efforts stand regarding protecting the rights of U.S. producers to use common names in markets around the world?*

Answer: The United States has seen how European Union (EU) trade agreements with provisions that provide for automatic or virtually automatic protection for a list of terms as geographical indications (GIs) can undermine market access for U.S. products in third countries. USTR is working intensively through bilateral and multilateral channels to advance U.S. market access

interests in foreign markets and to ensure that GI-related trade initiatives of the EU, its Members States, like-minded countries, and international organizations do not undermine such market access, including through seeking provisions in trade agreements and exchanges of letters. USTR is also continuing to press other trading partners to ensure transparency and due process in the granting of GI protection and to ensure that the grant of GI protection does not deprive interested parties of the ability to use certain names.

2. *How are you working with trading partners to secure these protections so that U.S. export markets aren't further undermined?*

Answer: We are raising these concerns and engaging with trading partners through every available avenue, including in trade agreement negotiations, through exchanges of letters, and as part of bilateral dialogues, such as our trade and investment framework (TIFA) discussions. For example, on September 3, the National Congress of Chile approved the agreement on Chile Market Access and Prior Users for Cheese and Meats after a multi-year USTR-led effort to exchange letters on this exact issue. The agreement ensures that U.S. producers have the opportunity to grow their businesses and supply Chilean consumers with specialty cheeses and meats.

### **Senator Tim Scott**

#### **Question 1**

As you know, our country is projected to have a \$30.5 billion agricultural trade deficit this year. Surging imports of fruits and vegetables from Mexico, which benefit from unfair labor and pricing practices, are a large part of that trade deficit and continue to cause widespread harm to growers in South Carolina and throughout the Southeast United States.

*When will USTR officially launch its new Southeast Produce Advisory Committee that was promised eighteen months ago, and how quickly will the Administration take concrete trade measures in conjunction with that advisory committee to restore fair competition for farmers in South Carolina?*

Answer:

Since the beginning of the Biden-Harris Administration, USTR has been engaging with trading partners across the globe to provide export opportunities for farmers and producers, including through the reduction of both tariff and non-tariff barriers. According to USDA calculations, these actions have supported roughly \$21 billion in U.S. agricultural exports over the course of the three highest years of agricultural exports ever, breaking records in two of the past three years.

On May 30, USTR and USDA announced appointments to the Seasonal and Perishable Agricultural Products Advisory Committee. USTR and USDA will work with the Committee and Members of Congress to develop possible administrative actions and legislation that would provide real benefits to producers of seasonal and perishable produce in the Southeastern United States.

## **Question 2**

The United States' motion picture and television industry generates billions of dollars annually for the American people, and in South Carolina alone, the industry supports thousands of jobs, contributing to millions of dollars in wages supported by the licensing of content to over 140 countries.

This industry is one of the most highly competitive on the planet, generating a positive balance of trade in nearly every country in which the U.S. industry does business. However, U.S. leadership in this area faces significant challenges due to ever-increasing market access barriers—notably including the effort to impose legacy media obligations on streaming services.

*Given the importance of these industries to the U.S. economy and American jobs, do you commit directing USTR's resources to push back on such initiatives overseas?*

Answer: We are closely tracking the imposition of domestic expenditure requirements for streaming services. We are committed to engaging governments on this issue, and have made clear our expectation that any legislation in this space adhere to rules set out in our FTAs, where applicable.

## **Question 3**

While I appreciate your response to the bipartisan Senate letter sent in March of this year regarding the European Union Deforestation-free Regulation (EUDR), I would still like clarity as to how USTR plans to engage with the European Union on this issue moving forward. The EUDR as written will undoubtedly have a direct impact on producers in South Carolina, and it is primarily the EUDR's vague definition of "forest degradation" that gives me cause for concern.

*What specifically is USTR doing to engage with the EU on this, and what active steps will be taken to prevent the Commission from adopting vague criteria that would put an undue burden on American producers?*

Answer: The Biden-Harris Administration remains strongly committed to combating deforestation, but I share your concerns regarding how the EU's Deforestation-Free Supply Chain Regulation (EUDR) will be implemented and the impact it may have on U.S. producers that engage in sustainable production practices. USTR has directly engaged with the EU at all levels regarding our implementation concerns and continues to urge the EU to delay implementation and enforcement of penalties until U.S. concerns have been addressed. This includes adjustments to the risk benchmarking to take into account good forest management practices, such as those in the United States. I have engaged directly with Executive Vice President for the European Green Deal, Interinstitutional Relations and Foresight Maroš Šefčovič to request that implementation and enforcement issues are addressed, including by sending a letter with USDA Secretary Vilsack and Commerce Secretary Raimondo detailing our shared concerns. Chief Agricultural Negotiator Doug McKalip has also raised these issues directly to the European Commission. Additionally, we have raised EUDR implementation concerns at the WTO, including at the Committee on Technical Barriers to Trade, the Committee on Market

Access, and the Council for Trade in Goods. USTR will continue to engage at all levels to press the EU to ensure that this regulation does not lead to unnecessary barriers for U.S. exports.

#### **Question 4**

You have stated for some time now that USTR's ongoing review of the Section 301 tariffs is finishing soon.

A number of manufacturers in South Carolina have requested tariff exclusions related to machinery and key inputs that are critical to their manufacturing processes, and they continue to wait for you to complete the review.

*Why has it taken so long for USTR to conduct its four-year review of the Section 301 tariffs and can you assure me that your staff is moving as quickly as possible to address the needs of manufacturers South Carolina?*

Answer: USTR has issued a comprehensive Report on the statutory review of the tariff actions in the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. In the Report I recommended a series of actions to the President, including the establishment of an exclusion process targeting machinery used in domestic manufacturing. The report also proposes 19 exclusions for certain solar manufacturing equipment, with the goal of supporting investment in U.S. solar manufacturing.

Having considered my advice, President Biden directed me to take action and consistent with the President's direction, in a *Federal Register* notice published on May 28, 2024, I proposed certain modifications to the tariff actions and established the framework for an exclusion process for machinery. On September 13, my office announced the final modifications. The proposed modifications announced in May 2024 were largely adopted, with several updates to strengthen the actions to protect American businesses and workers from China's unfair trade practices following the review of more than 1,100 comments from the public. The updates included new timing and rates for tariffs on face masks, medical gloves, needles, and syringes; an exclusion for enteral syringes; a proposal regarding coverage of additional tungsten, wafers, and polysilicon tariff lines; an exclusion for ship-to-shore cranes ordered prior to May 14, 2024; an expansion of the scope of the machinery exclusions process to include five additional tariff lines; and modification of the coverage of proposed exclusions for solar manufacturing equipment.

These finalized tariff increases will target the harmful policies and practices of the People's Republic of China that continue to impact American workers and businesses. These actions underscore the Biden-Harris Administration's commitment to standing up for American workers and businesses in the face of unfair trade practices.

Information on the revisions to modifications are detailed in USTR's Federal Register Notice.

#### **Question 5**

I share the concerns of a number of my colleagues on this committee regarding USTR's stance on digital trade and cross-border data restrictions. The United States has had longstanding



negotiating objectives when it comes to digital trade, and I believe USTR's recent change of posture will ultimately harm American businesses and workers. In particular, cross-border data restrictions can have the greatest impact on the 61 million U.S. workers employed by U.S. small businesses, which account for 95 percent of all U.S. exporting enterprises.

*What is USTR doing to protect U.S. small businesses from digital trade barriers abroad?*

Answer: The digital landscape is rapidly evolving and is not the same as it was in 2020, particularly when it comes to the conduct of non-market autocracies. Congress recently enacted legislation to address the challenges associated with TikTok and also took action with respect to data brokers. Earlier this year, President Biden signed an executive order address the harms associated with the transfer of bulk data to countries of concern.

Given the dynamic nature of the digital economy and evolving public policy considerations, USTR is very careful to ensure that any digital trade rules do not get ahead of the legislative and regulatory considerations taking place right now, and in particular the bipartisan goal of addressing the risks associated with data flows to countries of concern. As the Administration and Congress continue their work on issues important to the digital economy such as privacy and personal data protection, USTR will take all such actions, including the proposal of the American Privacy Rights Act, into account in further evolving our trade policy.

USTR frequently meets with small business stakeholders to gather information on their challenges in the international digital economy. USTR works with inter-agency partners to address these concerns through bilateral discussions, at the WTO, the G7, and other international forums.

### **Senator Steve Daines**

#### **Question 1**

Australia is one of our longest trading partners and closest allies in the Indo-Pacific. Unfortunately, Australia's Minister of Culture is currently considering imposing screen content requirements on streaming services, which is a violation of Australia's Free Trade Agreement (FTA) commitments. This potential violation coincides with an all-time high for U.S. investment in Australian content services.

*Do you agree that it is imperative that Australia complies with its FTA obligations?*

Answer: We are closely tracking the Government of Australia's consideration of domestic expenditure requirements for streaming services. We have engaged the Government on this issue, and have made clear our expectation that any legislation in this space adhere to rules set out in our FTA.

#### **Question 2**

Chinese medical devices, particularly syringes and needles, have flooded the U.S. market. This has pushed out American manufacturers, impacted supply chains, and risks patient safety with substandard products.

*What steps will you take to help protect domestic manufacturing from coordinated attempts to undercut by foreign entities?*

Answer: Following the Report in the statutory four-year review of actions taken in the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, on May 14, 2024, the President directed USTR to increase tariffs on certain strategic sectors, including syringes and needles.

Consistent with the President's direction, in a *Federal Register* notice published on May 28, 2024, USTR proposed certain modifications to the tariff actions, including increasing Section 301 tariffs for syringes and needles to 50 percent. In the same notice, USTR announced the opening of a docket and requested public comments on the proposed modifications. With respect to needles and syringes, USTR is soliciting comments on whether the tariff rates should be higher than 50 percent.

On September 13, my office announced the final modifications. The proposed modifications announced in May 2024 were largely adopted, with several updates to strengthen the actions to protect American businesses and workers from China's unfair trade practices following the review of more than 1,100 comments from the public. The updates included new timing and rates for tariffs on face masks, medical gloves, needles, and syringes; an exclusion for enteral syringes; a proposal regarding coverage of additional tungsten, wafers, and polysilicon tariff lines; an exclusion for ship-to-shore cranes ordered prior to May 14, 2024; an expansion of the scope of the machinery exclusions process to include five additional tariff lines; and modification of the coverage of proposed exclusions for solar manufacturing equipment. These finalized tariff increases will target the harmful policies and practices of the People's Republic of China that continue to impact American workers and businesses. These actions underscore the Biden-Harris Administration's commitment to standing up for American workers and businesses in the face of unfair trade practices.

Tariffs are only part of the solution to our broader concerns about China's non-market policies and practices, including non-market excess capacity. China utilizes a wide range of unfair, non-market policies and practices to undermine fair competition and dominate markets, both in China and globally. Those anti-competitive policies and practices, which include non-market excess capacity, pervasive subsidization, forced labor and other labor violations, and many others, create strategic dependencies and vulnerabilities, which undermine our supply chain resilience and economic security. The United States must consider all available tools and options to more effectively address this threat, including use of Section 301 and strategic investments, in order to defend our workers and market-oriented businesses and address China's non-market distortions.

Under the U.S.-EU Trade Technology Council, we have engaged with the EU with respect to China's non-market policies and practices in the medical devices sector. The United States and the EU have engaged with other countries who share our concerns the medical devices sector, and conveyed these concerns directly to China.

### **Question 3**

Protecting American intellectual property in our trade initiatives should be one of the Administration's highest priorities, particularly in the Indo-Pacific Economic Framework for Prosperity (IPEF). While you have expressed that addressing tariff barriers in IPEF and other agreements, your position on protecting American IP is not clear.

*Do you agree that our trading partners need to do more to protect American intellectual property, and can you explain why the Administration is not pursuing that objective in IPEF and other agreements?*

Answer: We recognize that intellectual property (IP)-dependent industries can be drivers of employment and economic activity. We worked with Indo-Pacific Economic Framework (IPEF) partners to develop the scope for Trade Pillar negotiations, and focused on topics that would enhance our resilient, sustainable, and inclusive trade. We look forward to continuing discussions with you and your team on other ways that we can advance intellectual property protections, including through bilateral engagement with trading partners.

### **Question 4**

Mexico has yet to fully implement commitments in the United States-Mexico-Canada Agreement (USMCA) intellectual property chapter and continues to delay regulatory approval for innovative American medicines. These delays undermine American jobs and exports by restricting market access and weakens medical supply chains in North America?

*Will you commit to use all tools at your disposal to ensure Mexico's compliance with USMCA commitments?*

Answer: The full implementation of the USMCA is one of my top priorities, and I remain committed to ensuring that Mexico and Canada provide all the benefits negotiated for our workers, farmers, ranchers, service providers, and producers under the agreement.

The United States continues to urge Mexico to address long-standing concerns related to intellectual property (IP), including with respect to enforcement against counterfeiting and piracy, protection of pharmaceutical-related IP, pre-established damages for copyright infringement and trademark counterfeiting, and enforcement of IP rights in the digital environment. The United States continues to monitor Mexico's compliance with outstanding IP-related USMCA commitments, including those with transition periods that end in 2024 and 2025.

In addition, I share your concerns about regulatory delays, which remain a primary barrier to entering the Mexican market for pharmaceuticals. The USMCA included novel commitments in the pharmaceutical sector with the goal to better strengthen regulatory cooperation in critical products and to enhance resiliency in North American pharmaceutical supply chains. USTR will continue to raise concerns about the regulatory delays and underscore the importance of the full implementation of all pharmaceutical commitments under the USMCA.

### **Question 5**

Recently, members reached an agreement to extend the e-commerce moratorium the 13<sup>th</sup> World Trade Organization (WTO) Ministerial Conference until 2026.

*Do you support a permanent extension of the e-commerce moratorium at the WTO?*

Answer: I was pleased we were successful in our efforts to extend the e-commerce moratorium and work program. While the moratorium and work program enjoy broad support among WTO members, it is clear that the WTO membership needs to have a more robust discussion about the future of the moratorium and the impact of the digital economy on developing members.

### **Question 6**

*Did you solicit feedback from or perform an economic impact analysis for small and medium sized businesses before the decision to step away from previously held digital trade and e-commerce commitments in October 2023?*

Answer: Given the dynamic nature of the digital economy, USTR is very careful to ensure that any digital trade rules do not get ahead of the legislative and regulatory considerations taking place right now. As the Administration and Congress continue their work on issues important to the digital economy such as privacy and personal data protection, USTR will take all such actions, including the proposal of the American Privacy Rights Act, into account in further evolving our trade policy.

The President's competition agenda recognizes that corporate consolidation is harmful to a wide range of Americans, including small businesses. Digital provisions under discussion implicate the ability of small businesses to compete with the largest actors. Therefore, small businesses were an important factor in evaluating whether traditional digital trade rules serve their interests.

USTR frequently meets with small business stakeholders to gather information on their challenges in the international digital economy. USTR works with inter-agency partners to address these concerns through bilateral discussions, at the WTO, the G7, and other international forums.

## **Senator Todd Young**

### **Question 1**

As a member of the Committee on Foreign Investment in the United States (CFIUS), you are at the forefront of scrutinizing foreign investments into American industries. The proposed acquisition of U.S. Steel by Nippon Steel not only has economic implications, but also captures political attention, including pointed remarks from President Biden.

*Given President Biden's critical comments on the acquisition, how do you—as a member—separate political perspectives from CFIUS's core mission to evaluate national security implications? Additionally, can you provide insights into how you will ensure CFIUS's decision-making process remains impartial and focused on the statutory criteria despite external political pressures in this particular case?*

Answer: CFIUS is subject to strict statutory confidentiality and, consistent with law and practice, I cannot comment on particular CFIUS matters including whether a transaction is being reviewed. I would refer you to the Department of the Treasury for any CFIUS-related questions. As chair of CFIUS, Treasury is committed to keeping Congress informed about its activities, consistent with its authorizing statute.

I take seriously USTR's role as a voting member of CFIUS and our responsibility to maintain the United States' open investment policy while taking appropriate action through CFIUS to protect our national security. By law, CFIUS reviews are focused solely on national security risks that arise as a result of a covered transaction. CFIUS's statute lists illustrative factors to consider as appropriate in the context of each transaction. Executive Order 14083, issued by President Biden in September 2022, elaborates and expands on this statutory list of factors to reflect the evolving national security threat landscape. The Executive Order directs CFIUS to focus on protecting U.S. supply chain resilience and security, technological leadership, and sensitive personal data, and to examine transactions in the context of wider industry and investment trends.

## **Question 2**

The 2024 National Trade Estimate Report on Foreign Trade Barriers (NTE Report) has scaled back its coverage of digital trade barriers as compared to previous editions. This reduction has raised concerns among various stakeholders about the United States' commitment to defending its digital trade interests, particularly when faced with escalating digital protectionism globally.

*While I understand that not all digital trade barriers were removed, can you clarify how this decision aligns with the mandate under the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 to aggressively counteract measures that hinder U.S. digital commerce?*

Answer: The National Trade Estimates report is governed by 19 USC Sec. 2241. Of note, the statute does not refer to digital trade. It refers to "electronic commerce." The statute cross references the definition of electronic commerce under 47 USC Sec. 151 Note. That definition provides that electronic commerce means "any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access." The definition thus refers to "information," and not to "data." Nevertheless, USTR included problematic data localization and other digital policies in its report.

With respect to Trade Promotion Authority, which Congress has not renewed, it is worth noting that the digital landscape has changed significantly since 2015. Congress has taken steps to address the behaviors of countries of concern, including with respect to TikTok in particular by passing the "Protecting Americans from Foreign Adversary Controlled Applications Act" in April 2024. Congress has also taken steps to address the behavior of data brokers, and the President earlier signed an Executive Order on bulk transfers of data to countries of concern. In this context, it is USTR's responsibility to ensure that we advocate for U.S. digital commerce, but not in a manner that puts the data of the American people at risk.

### **Question 3**

*Given USTR’s rationale for scaling back various digital trade barriers in the NTE Report—which argues that every government “has the sovereign right to govern in the public interest and to regulate for legitimate public policy reasons”—how will USTR ensure this approach does not enable foreign governments to justify discriminatory or unfair trade practices under the guise of “legitimate” public policy? For instance, if we examine some of the barriers removed from the NTE Report, such as the EU’s Digital Markets Act, isn’t there a risk that justifying these barriers as “legitimate” public policy could create a loophole for discriminatory practices?*

Answer: USTR indicated in 2021 that whether measures are discriminatory or in furtherance of legitimate public policy objectives is a factual question. The recognized tension between discriminatory measures and measures in the public interest dates back to the GATT 1947.

### **Question 4**

On page 32 of the NTE Report, it is noted that the “United States continues to engage with Brazil to lower its ethanol tariff to provide reciprocal treatment,” highlighting the bilateral trade disparities between the U.S. and Brazil.

*What specific diplomatic efforts are currently being undertaken to negotiate with Brazilian authorities for a resolution that benefits both parties? Additionally, in light of the challenges faced by American farmers and ethanol producers, such as market volatility and regulatory uncertainties, what strategies does the Administration have in place to mitigate the negative impacts of these tariffs?*

Answer: Market access for U.S. ethanol in the Brazilian market continues to be a top priority in our overall trade relationship with Brazil. USTR, led by Ambassador McKalip, is currently engaged with Brazil on this issue with the aim of lowering Brazil’s tariff and ensuring fair treatment for U.S. ethanol in Brazil’s market. We continue to work toward the goal of arriving at a mutually agreeable solution with Brazil soon where U.S. ethanol is once again treated fairly in Brazil’s market.

### **Question 5**

Last May, as part of the U.S.-EU Trade and Technology Council Joint Statement, the U.S. and EU committed to sharing information on non-market policies and practices impacting digital trade and their approaches to addressing risks from digital firms in non-market economies.

*What actions has USTR undertaken to assess how the EU’s digital regulatory framework, including the Digital Markets Act, affects the competitiveness of U.S. firms relative to Chinese firms? How important do you view this analysis for gauging our strategic stance in the global digital economy?*

Answer: This Administration is committed to ensuring that U.S. companies are treated fairly by our trading partners and that our trading partners honor their obligations to the United States. USTR and interagency colleagues will collaborate to analyze and monitor EU digital legislative and regulatory developments with that perspective in mind

Through the U.S.-EU Trade and Technology Council, the Administration is working with the EU to preserve U.S. and EU technological leadership in a range of sectors. As part of this overall effort USTR is working closely with our European Commission counterparts to address Chinese non-market policies and practices that unfairly undermine the ability of U.S. and EU workers and the companies that employ them to compete fairly both at home and abroad.

### **Question 6**

Last year, the G7 Trade Ministers' Joint Statement emphasized the significance of the Data Free Flow with Trust (DFFT) initiative in advancing digital trade.

*What are your views on the implementation and practicality of the DFFT initiative, and how does USTR plan to collaborate with international partners to find an agreed-upon definition of "trust" and its application in data regimes?*

Answer: USTR remains engaged in ongoing discussions about the appropriate role that trade rules play with respect to "data free flow with trust." Our objective is to secure space for legislators and regulators to address critical issues related to data flows, such as privacy, competition, and cybersecurity.

### **Question 7**

*What is USTR's plan for pursuing and concluding the Indo-Pacific Economic Framework's trade pillar? What hurdles remain in concluding these negotiations? How will USTR ensure that the trade pillar delivers meaningful, high ambition commitments that help American businesses and workers compete against China?*

Answer: The Biden-Harris Administration is committed to economic engagement with partners in the Indo-Pacific region and to concluding the IPEF Trade Pillar. Through Trade Pillar negotiations, the United States seeks to strengthen our economic ties to the region, while promoting inclusive growth for workers and businesses, advancing strong labor standards, and tackling climate change. As part of this effort, we are specifically focused on negotiating provisions that can help American businesses and workers compete in the global economy and are seeking to include commitments on labor, environmental sustainability, the digital economy, agriculture, transparency and good regulatory practices, competition policy, and trade facilitation. The Administration's focus is developing high-standard rules that can increase competitiveness among Parties to the agreement, which can generate increased access to foreign markets for U.S. exporters.

At this time, we are not in a position to share a timeline for concluding the agreement, but we are eager to make progress quickly and deliver results for U.S. workers and businesses. We are committed to continuing to keep Congress informed of progress on Trade Pillar negotiations.

### **Question 8**

The Administration has expressed an interest in engaging with Congress on renewing the African Growth and Opportunity Act (AGOA), which is currently set to expire on September 30, 2025. Yet, there are ongoing concerns regarding South Africa's increasingly close relationships with

adversarial nations such as China and Russia, raising questions about its alignment with the trade values AGOA supports.

*Considering South Africa's deepening ties with America's strategic competitors and persistent issues of public corruption, does USTR see value in an out-of-cycle review to confirm South Africa's adherence to the principles of AGOA and alignment with U.S. interests?*

Answer: USTR announced the initiation of the annual AGOA eligibility review on May 14, 2024. USTR, along with the AGOA Implementation Subcommittee of the Trade Policy Staff Committee (AGOA TPSC Subcommittee), will review written public comments and conduct a virtual public hearing on this matter.

### **Question 9**

As the co-author of the Trading System Preservation (TSP) Act alongside Senator Coons, our legislation directs USTR to negotiate trade agreements with like-minded partners in key economic sectors. This approach is designed to rejuvenate the World Trade Organization by navigating around the stalemates caused by a few obstructive members, enhancing our ability to secure sector-specific agreements vital for our national interests.

*In your view, could the TSP Act serve as a strategic tool for USTR to forge targeted trade agreements in vital sectors such as critical minerals? Additionally, if authorized to pursue sector-specific agreements specifically for critical minerals, how would USTR work closely with Congress to ensure that these negotiations are effectively targeted and meet our strategic economic objectives?*

Answer: We share your concerns regarding non-market policies and practices that harm U.S. workers and businesses in key sectors. USTR has been working with like-minded trading partners to formulate appropriate responses. One area of particular focus is the critical minerals sector. In March 2023, USTR, in consultation with Congress, concluded a targeted agreement with Japan that facilitates collaboration on strengthening critical minerals supply chains. A strengthened, resilient supply chain will include enhanced domestic production, as appropriate; more diversity of suppliers, through shifting supply away from China and other sources of concern; and more sustainability, through strengthened labor standards and environmental protections, to ensure that trade reflects U.S. values. The U.S.-Japan agreement provides for, among other things, collaboration with Japan on “domestic measures to address non-market policies and practices of non-Parties affecting trade in critical minerals” so that our trading partners are contributing to solutions to our over-dependence on China and other supply chain vulnerabilities. We are also pursuing critical minerals agreements with the UK and EU, in close coordination with Congress. In these critical minerals negotiations, as in any of our trade engagements, USTR is committed to ensuring that our domestic economic objectives drive and shape our trade policy, by consulting with Congress and stakeholders and by developing tools and strategies informed by a deep understanding of relevant supply chains. To that end, we would welcome the opportunity to work further with Congress on legislation relating to trade agreements focused on critical minerals or other sectors.



**Question 10**

We have seen a significant increase in imports of certain steel products from Mexico, particularly U.S. rebar imports, which have significantly exceeded the historical average from 2015 to 2017. This trend seems to challenge the 2019 U.S.-Mexico agreement that suspended the application of Section 232 tariffs under the condition that import volumes remain within historical norms. While I appreciate USTR's continued dialogue with Mexican authorities on this matter, I remain concerned that Mexico does not seem willing or able to take the action necessary to address U.S. concerns.

*What additional measures is USTR considering to ensure Mexico adheres to the terms of the 2019 agreement, and at what stage would it be necessary to reconsider the implementation of Section 232 measures for these surging imports?*

Answer: Maintaining viable steel and aluminum industries is essential to U.S. national security. These industries fueled American industrialization and built the American middle class.

On July 10, 2024, President Biden and President of Mexico Andrés Manuel López Obrador announced actions to jointly prevent the evasion of tariffs on steel and aluminum. Under this agreement, in order to enter the United States free of Section 232 tariffs, steel imports from Mexico must be melted and poured in the United States, Mexico, or Canada and aluminum imports from Mexico must not contain primary aluminum smelt or cast in Belarus, China, Iran or Russia.

The United States is committed to continued discussions with Mexico on surges, including in products like rebar where we know our industry remains deeply concerned.

**Question 11**

As you know, the Department of Commerce is currently assessing Vietnam's classification as a non-market economy under U.S. antidumping laws. This decision is critical, as numerous U.S. manufacturing sectors rely on robust trade remedy enforcement to ensure fair competition. The U.S. steel industry, in particular, has been significantly impacted by surges in steel imports from Vietnam.

*Could you elaborate on the Administration's concerns, if any, about potentially recognizing Vietnam as a market economy? Additionally, how does Vietnam's status as a market economy play into its role in broader trade discussions, such as those within the Indo-Pacific Economic Framework?*

Answer: We refer you to the U.S. Department of Commerce regarding its review of the nonmarket economy status of Vietnam. The Department of Commerce's determination that Vietnam is a nonmarket economy for purposes of U.S. antidumping and countervailing duty laws does not otherwise play a role in broader trade discussions with Vietnam.

## Senator Thom Tillis

### **Question 1**

The United States' creative industries play a vital role in growing the U.S. economy and creating good American jobs. In 2021, these industries accounted for over seven percent of the U.S. economy, employed nearly 9.6 million workers and exceeded the U.S. average annual wage by 51 percent. But U.S. leadership as the world's largest content creator is under attack by pirates who seek to profit from U.S. creativity and innovation. Unprecedented levels of digital piracy risk eroding one of our nation's greatest economic and cultural assets. Moreover, digital piracy exposes consumers to innumerable harms including identity theft, fraud and malware.

*Outside of Special 301, what is your agency doing to promote the robust copyright protections and enforcement needed to combat this threat?*

Answer: USTR, in conjunction with our colleagues across intellectual property (IP) agencies, monitors developments in our trading partners' copyright legislation and engages with them on improving their legislation to fully protect copyrighted content in the digital space. For example, we promote accession to and the full implementation of the World Intellectual Property Organization (WIPO) Copyright Treaty and WIPO Performances and Phonogram Treaty (collectively, WIPO Internet Treaties) with all our trading partners, as the rights and responsibilities laid out in these treaties are critical to supporting the digital copyright ecosystem. We engaged with the Dominican Republic's increased enforcement actions and interagency cooperation on combating signal piracy and with Bulgaria on its new *Act Amending and Supplementing the Criminal Code*, which provides for the criminal prosecution of persons who create conditions for online piracy. In addition, we have been engaging heavily with South Africa's government on recently-passed legislation that would implement protection for copy control technological protection measures and introduce a right of making available for copyrighted works. We also continue to engage with India to ensure that their statutory license for broadcasts is not expanded to include interactive Internet transmissions.

USTR also publishes an annual *Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List)* separately from the annual Special 301 Report. The *Notorious Markets List* identifies illustrative examples of online and physical markets that reportedly engage in, facilitate, turn a blind eye to, or benefit from substantial copyright piracy and trademark counterfeiting.

More about USTR's latest IP efforts and successes can be found in USTR's 2024 Special 301 Report.

### **Question 2**

There has been a surge in imports of certain steel products from Mexico. For example, U.S. rebar imports from Mexico increased by more than 1,700% in 2023 over the 2015-2017 historical average. This appears to be in violation of the 2019 U.S.-Mexico agreement to suspend application of Section 232 measures, provided that import volumes do not surge in excess of historical volumes. I remain concerned that Mexico does not seem willing or able to take the action necessary to address U.S. concerns.

*What more can be done to ensure that Mexico abides by the 2019 agreement? At what point does it become necessary to consider re-applying Section 232 measures to products where surges have occurred?*

Answer: Maintaining viable steel and aluminum industries is essential to U.S. national security. These industries fueled American industrialization and built the American middle class.

On July 10, 2024, President Biden and President of Mexico Andrés Manuel López Obrador announced actions to jointly prevent the evasion of tariffs on steel and aluminum. Under this agreement, in order to enter the United States free of Section 232 tariffs, steel imports from Mexico must be melted and poured in the United States, Mexico, or Canada and aluminum imports from Mexico must not contain primary aluminum smelt or cast in Belarus, China, Iran or Russia.

The United States is committed to continued discussions with Mexico on surges, including in products like rebar where we know our industry remains deeply concerned.

### **Question 3**

I understand that the U.S. and Mexico have been negotiating a provision that would require steel imports from Mexico to be melted and poured in Mexico in order to benefit from the tariff-free treatment. This provision is critical to help ensure that China and other countries don't evade the Section 232 measures by shipping product through Mexico.

*What is the status of these negotiations and what more can be done to ensure that Mexico agrees to this critical provision?*

Answer: We agree that a melt and pour requirement is critical to help ensure that China and other countries do not evade the Section 301 and Section 232 measures. On July 10, 2024, President Biden and President of Mexico Andrés Manuel López Obrador announced actions to jointly prevent the evasion of tariffs on steel and aluminum. Under this agreement, in order to enter the United States free of Section 232 tariffs, steel imports from Mexico must be melted and poured in the United States, Mexico, or Canada and aluminum imports from Mexico must not contain primary aluminum smelt or cast in Belarus, China, Iran or Russia.

### **Question 4**

A company with their headquarters and significant manufacturing presence in North Carolina is facing unfair competition from a Chinese company that has set up a new factory in Thailand to circumvent the China Section 301 tariffs. It is using cheap Chinese inputs in its production in Thailand and bringing the final products into the United States tariff-free, undercutting the local NC company. While the company is pursuing AD/CVD relief, we know that is costly, time consuming and uncertain. I understand the Chinese are duplicating these efforts in other industries.

*What emergency authorities or policies could combat this clear circumvention of U.S. tariffs? Could you provide any policy solutions USTR could take to address this type of situation?*

Answer: To maintain the effectiveness of the section 301 actions, the U.S. government must ensure that goods subject to the section 301 duties are properly assessed. That is why, in my report, *Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, I recommended additional funds be allocated to Customs and Border Protection (CBP) for the enforcement of trade actions. As noted in my report, despite the significant increase in trade actions under section 301, section 201, and section 232, the budget for CBP does not have funds specifically allocated for the enforcement of these trade actions. Additional funds for CBP's enforcement work would make these trade actions more effective.

Generally, as your question suggests, we must be aware of the incentives created by the Section 301 tariffs. These tariffs promote diversification of supply chains away from China, but they may encourage PRC-based companies to set up operations outside China, whether in the United States or in other jurisdictions, to avoid the tariffs. Given the openness of our market to goods from key trading partners and to foreign investment, we will need to work closely with Congress to evaluate and address these challenges.

### **Senator Marsha Blackburn**

#### **Question 1**

The theft of intellectual property (IP) by China poses significant risks to U.S. producers, undermining their competitive advantage and stifling innovation. When American ideas, designs, and technologies are appropriated without authorization, businesses face revenue losses and decreased incentives for research and development. This is exactly the situation facing Tennessee-based Meco, which is the last domestic producer of charcoal grills. Chinese producers have been flooding the U.S. market with knockoffs of Meco's grills, fully usurping Meco's IP down to stolen imagery (produced by Meco) used to advertise the grills online.

*What actions has the United States Trade Representative (USTR) taken to address China's anticompetitive practices, specifically concerning the intellectual property theft from American producers like Meco?*

Answer: USTR's statutory four-year review of the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation found that China continues to engage in intellectual property theft and forced technology transfer, which underpinned the initial 2018 investigation. In light of this finding and to further encourage the elimination of China's unfair technology transfer-related policies and practices that continue to burden U.S. commerce, the President directed USTR to increase tariffs on \$18 billion of imports from China in strategic sectors. We are committed to using the full range of tools we have and developing new tools as needed to defend American economic interests from harmful, unfair policies and practices.

We continue to press China to address a range of intellectual property (IP) enforcement concerns, including IP theft. Under the United States-China Economic and Trade Agreement, China committed to take sustained and effective enforcement action to stop the manufacture and

block the distribution of counterfeit products and to combat the prevalence of counterfeit goods on its e-commerce platforms, including by revoking licenses for repeated failures to curb the sale of counterfeit goods. We continue to use the consultation mechanisms established by the Agreement to address IP concerns as they arise. Nevertheless, China continues to be the world's leading source of counterfeit and pirated goods. China remains on the Special 301 Priority Watch List in 2024 and is subject to continued monitoring pursuant to Section 306 of the Trade Act of 1974, as amended (19 U.S.C. § 2416).

USTR also works closely with our colleagues across IP agencies, including regional IP attachés, the Department of Justice, and Customs and Border Protection, on these types of company-specific issues.

## **Question 2**

I appreciate your March 28 response to our bipartisan letter inquiring about USTR's engagement with its EU counterparts regarding the implementation of the EU Deforestation-Free Regulation. As you know, I am deeply concerned that EUDR will disrupt the US-EU trade relationship and urge the Biden Administration to work with the EU to ensure that American producers' market access is not disrupted.

*Could you please provide an update on USTR's discussions with EU regulators on EUDR's implementation?*

Answer: The Biden-Harris Administration remains strongly committed to combating deforestation, but I share your concerns regarding how the EU's Deforestation-Free Supply Chain Regulation (EUDR) will be implemented and the impact it may have on U.S. producers that engage in sustainable production practices. USTR has directly engaged with the EU at all levels regarding our implementation concerns and continues to urge the EU to delay implementation and enforcement of penalties until U.S. concerns have been addressed. This includes adjustments to the risk benchmarking to take into account good forest management practices, such as those in the United States. I have engaged directly with Executive Vice President for the European Green Deal, Interinstitutional Relations and Foresight Maroš Šefčovič to request that implementation and enforcement issues are addressed, including by sending a letter with USDA Secretary Vilsack and Commerce Secretary Raimondo detailing our shared concerns. Chief Agricultural Negotiator Doug McKalip has also raised these issues directly to the European Commission. Additionally, we have raised EUDR implementation concerns at the WTO, including at the Committee on Technical Barriers to Trade, the Committee on Market Access, and the Council for Trade in Goods. USTR will continue to engage at all levels to press the EU to ensure that this regulation does not lead to unnecessary barriers for U.S. exports.

## **Question 3**

U.S. agriculture exports dropped by \$17 billion in the last fiscal year. China did not live up to its agricultural purchase commitments under President Trump's Phase One Deal and USTR has failed to take enforcement actions against China.

*What are you doing to hold China accountable for failing to meet its purchase commitments?*

Answer: Since the beginning of the Biden-Harris Administration, USTR has been engaging with trading partners across the globe to provide export opportunities for farmers and producers, including through the reduction of both tariff and non-tariff barriers. According to USDA calculations, these actions have supported roughly \$21 billion in U.S. agricultural exports over the course of the three highest years of agricultural exports ever, breaking records in two of the past three years.

USTR's statutory four-year review of the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation found that China continues to engage in intellectual property theft and forced technology transfer, which underpinned the initial 2018 investigation. In light of this finding and to further encourage the elimination of China's unfair technology transfer-related policies and practices that continue to burden U.S. commerce, the President directed USTR to increase tariffs on \$18 billion of imports from China in strategic sectors. We are committed to using the full range of tools we have and developing new tools as needed to defend American economic interests from harmful, unfair policies and practices.

We remain open to meaningful improvements from China for our agricultural products and to mitigate against retaliation. But one of the challenges we have with China is an over reliance on China as a customer. Our strategy therefore has expanded to include working with allies and partners on issues of common concern and market opportunities while also pursuing the vigorous defense of our values and economic interests from the negative impacts of China's unfair economic and trade policies and practices.

#### **Question 4**

USDA projects that exports of corn, livestock, poultry, dairy, pork, soybeans, and wheat will all fall by hundreds of millions of dollars in fiscal year 2024. You have not negotiated or signed new trade agreements to create new markets for our farmers.

*Does your office intend to do so in 2024 or will American farmers experience more of the same and continue to lose market share to their competitors?*

Answer: Since the beginning of the Biden-Harris Administration, USTR has been engaging with trading partners across the globe to provide export opportunities for farmers and producers, including through the reduction of both tariff and non-tariff barriers. According to USDA calculations, these actions have supported roughly \$21 billion in U.S. agricultural exports over the course of the three highest years of agricultural exports ever, breaking records in two of the past three years.

USTR has been taking a leading role to develop innovative strategies and initiatives to integrate trade and other economic policy measures in a way that promotes trade and bolsters resilience. We have launched initiatives to strengthen our relationships with key partners in the Indo-Pacific and the Americas and with Taiwan and Kenya. With respect to existing agreements, we will continue to focus on full implementation, monitoring, and enforcement. We will remain

focused on the work ahead to drive more inclusive, sustainable economic growth—and to shape the global trading system for the better.

### **Question 5**

I would like you to address our exchange as well as your exchange with my colleague, Senator Grassley, during the hearing. When questioned about USTR's withdrawal from long-standing proposals made during international negotiations on issues related to free cross border data flow, data localization, and source code issues, you responded that the Administration's rationale was a changed perception of data – specifically that it should be viewed as a commodity as opposed to a facilitator of trade. You stated this in the context of the Kids Online Safety Act (KOSA), which is legislation that I am co-leading with Senator Blumenthal and that you acknowledged addressed data security for children's data in the digital economy and in the digital sphere.

- 1. In your view, how would KOSA violate U.S. commitments under the World Trade Organization, as well as trade agreements like the US-Mexico-Canada Agreement?*
- 2. Several countries have their own data privacy laws. Do the data privacy laws of other countries violate its commitments to international agreements?*
- 3. If so, why has USTR not taken enforcement action against these countries?*

Answer: At the hearing, I did not state that there was a changed perception of data. Rather, I stated that the very nature of the discussion about electronic trade had changed, from using digital technology to facilitate the flow of goods, to a circumstance in which the data itself is the commodity.

In circumstances in which the United States commits to the free cross-border flow of data, any measure that does not permit the free flow of data, including children's data, is subject to challenge as a violation of that agreement. Administrations dating back to President George W. Bush have expressed concern over WTO dispute settlement because it did not show adequate deference to Parties' sovereign rights. Dispute settlement panels have not consistently respected governments' efforts to regulate in the public interest. We need to ensure that international commitments on data permit the United States to act domestically to protect our citizens' data, and that those international commitments only proscribe what we agree governments should not do.

Respecting Congress' interest in legislating, the United States has limited its exposure to such challenges by refraining from making further commitments until we are confident that the interests of the American people are secure.

### **Question 6**

This past December, the EU extended their tariff suspension for products affected by the steel and aluminum trade dispute through March 31, 2025. This includes the suspension of a 50 percent tariff on American whiskey products.

*Please provide a detailed update on USTR's ongoing discussions with the European Union regarding its retaliatory tariffs imposed on American products in response to Section 232 tariffs on steel and aluminum?*

Answer: In December 2023, the United States extended the EU's access to U.S. tariff rate quotas for steel and aluminum until December 31, 2025, in order to give more time for both the United States and the European Union to negotiate a Global Arrangement. For its part, the EU chose to extend the suspension of its retaliatory tariffs on U.S. goods only until March 31, 2025. The United States has been clear to the EU that a resumption of the EU's retaliatory tariffs at that time could lead to a return of the Section 232 tariffs for the EU. We continue to strongly encourage the EU to extend the suspension of the retaliatory tariffs until December 2025.

### **Question 7**

Over the past two years, officials from USTR and the Department of Commerce have participated in several rounds of negotiations related to the Indo-Pacific Economic Framework for Prosperity (IPEF). I would like to know more about the costs associated with these international trips to U.S. taxpayers.

- 1. Could you please produce detailed expense reports or related documentation accounting for costs associated with sending USTR officials to the first negotiating round held in Brisbane, Australia, from December 10-12, 2022, followed by a special negotiating round on Pillars II-IV in New Delhi, India, from February 8-11, 2023?*
- 2. Could you please produce detailed expense reports or related documentation accounting for costs associated with sending USTR officials to the second negotiating round held in Bali, Indonesia, from March 13-19, 2023,*
- 3. Could you please produce detailed expense reports or related documentation accounting for costs associated with sending USTR officials to the third negotiating round held in Singapore from May 8-15, 2023?*
- 4. Could you please produce detailed expense reports or related documentation accounting for costs associated with sending USTR officials to the fourth negotiating round held in Busan, South Korea, from July 9-15, 2023?*
- 5. Could you please produce detailed expense reports or related documentation accounting for costs associated with sending USTR officials to the fifth negotiating round held in Bangkok, Thailand from September 10-16, 2023?*
- 6. Could you please produce detailed expense reports or related documentation accounting for costs associated with sending USTR officials to the sixth negotiating round was held in Kuala Lumpur, Malaysia from October 15-24, 2023.*
- 7. If you cannot produce expense reports or documentation, can you commit to providing cost estimates for each of these international trips?*



Answer: Through the IPEF Trade Pillar negotiations, the United States seeks to strengthen our economic ties to the region, while promoting inclusive growth for workers and businesses, advancing strong labor standards, and tackling climate change. As part of this effort, we are specifically focused on negotiating provisions that can help American businesses and workers compete in the global economy and are seeking to include commitments on labor, environmental sustainability, the digital economy, agriculture, transparency and good regulatory practices, competition policy, and trade facilitation. The Administration's focus is on developing high-standard rules that can increase competitiveness among Parties to the agreement, which can generate increased access to foreign markets for U.S. exporters. We are eager to make progress quickly and deliver results for U.S. workers and businesses. We are committed to continuing to keep Congress informed of progress on Trade Pillar negotiations.

As the U.S. lead for international trade and investment matters, USTR staff across Administrations have traveled to meet with trading partners to advance America's interests. This includes travelling for negotiating rounds, such as the IPEF negotiating rounds. Travelling to engage in-person is an essential feature of USTR's trade work. In-person meetings help USTR build important relationships and allows negotiations to occur in a setting that helps the United States make more progress on behalf of American workers, farmers, businesses, and others, as well as our national interest.

USTR reports travel expenses in its annual budget requests. As noted in USTR's Fiscal Year 2025 Budget Request, USTR's travel expenses totaled \$7.2 million in Fiscal Year 2023.