

U.S. TRADE POLICY AGENDA

HEARING BEFORE THE COMMITTEE ON WAYS AND MEANS U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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CONTENTS

	Page
Advisory of June 22, 2017, announcing the hearing	2
WITNESS	
Honorable Robert E. Lighthizer, Ambassador, United States Trade Representative	6
QUESTIONS FOR THE RECORD	
Questions from Trade Subcommittee Chairman Reichert to Ambassador Lighthizer	61
Questions from Ranking Member Neal to Ambassador Lighthizer	64
Questions from Trade Subcommittee Ranking Member Pascrell to Ambassador Lighthizer	72
Questions from Representative Johnson to Ambassador Lighthizer	77
Questions from Representative Lewis to Ambassador Lighthizer	78
Questions from Representative Nunes to Ambassador Lighthizer	84
Questions from Representative Larson to Ambassador Lighthizer	86
Questions from Representative Jenkins to Ambassador Lighthizer	88
Questions from Representative Crowley to Ambassador Lighthizer	90
Questions from Representative Marchant to Ambassador Lighthizer	92
Questions from Representative Higgins to Ambassador Lighthizer	93
Questions from Representative Reed to Ambassador Lighthizer	95
Questions from Representative DelBene to Ambassador Lighthizer	96
Questions from Representative Holding to Ambassador Lighthizer	97
Questions from Representative Chu to Ambassador Lighthizer	99
Questions from Representative J. Smith to Ambassador Lighthizer	102
Questions from Representative Schweikert to Ambassador Lighthizer	104
Questions from Representative Rice to Ambassador Lighthizer	105
Questions from Representative Walorski to Ambassador Lighthizer	107
Questions from Representative Bishop to Ambassador Lighthizer	109
SUBMISSIONS FOR THE RECORD	
Advanced Medical Technology Association (AdvaMed)	110
American Farm Bureau Federation	121
Borderplex Alliance	126
Center for Fiscal Equity	136
Flexible Packaging Association (FPA)	139
Fresh Produce Association of the Americas (FPAA)	143
National Pork Producers Council (NPPC)	146
TechNet	156

U.S. TRADE POLICY AGENDA

THURSDAY, JUNE 22, 2017

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

The Committee met, pursuant to call, at 10:05 a.m., in Room 1100, Longworth House Office Building, Hon. Kevin Brady [Chairman of the Committee] presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
Thursday, June 22, 2017
FC-05

CONTACT: (202) 225-3625

Chairman Brady Announces Hearing on U.S. Trade Policy Agenda

House Ways and Means Chairman Kevin Brady (R-TX), announced today that the Committee will hold a hearing on the U.S. trade policy agenda with U.S. Trade Representative Robert Lighthizer. **The hearing will take place on Thursday, June 22, 2017, in room 1100 of the Longworth House Office Building, beginning at 10:00 a.m.**

In view of the limited time to hear the witness, oral testimony at this hearing will be from the invited witness only. However, any individual or organization may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select the date on the calendar to see the list of hearings. Select the hearing for which you would like to make a submission, and click on the link entitled, "*Click here to provide a submission for the record.*" Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Thursday, July 6, 2017**. For questions, or if you encounter technical problems, please call (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

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

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TDD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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

Chairman BRADY. The Committee will come to order.

Good morning. Today, our Committee is honored to welcome United States Trade Representative Robert Lighthizer to testify on President Trump's trade policy agenda.

Ambassador Lighthizer, thank you for joining us. We look forward to your testimony.

Mr. Ambassador is a former Deputy U.S. Trade Representative under President Reagan, and as an experienced trade negotiator, you understand that U.S. leadership and participation in a rules-based trading system is essential to our Nation's prosperity. America has led the world in global commerce for the better part of the last 100 years. Through our network of strong and forceful trade agreements, we have expanded economic freedom so that our businesses, our workers, and our consumers can thrive.

Through strict enforcement of the rules we created and our leadership in the World Trade Organization, we have held our competitors accountable. And through our steadfast commitment to the principles of free enterprise, open markets, and rules-based international commerce, our Nation has set itself apart. The world looks to us, not China, to lead in setting the standards of global commerce. When we set an example, the world follows.

Today, American leadership on trade is more important than ever, especially in the Asia-Pacific region where China's influence is growing every day. It is urgent that we take charge on trade in the Asia Pacific so that we don't lose ground to China. After all, to preserve and strengthen America's leadership in global commerce, it is not enough to simply buy American products and services; we also have to sell American. And we need strong trade agreements that allow us to do so in Asia and in fast growth markets throughout the world.

Our trade agreements, including NAFTA, have been tremendously successful. They have created American jobs, lowered prices for consumers, and helped our businesses compete and win in all three crucial segments of our economy: agriculture, services, and, yes, manufacturing.

That said, we have to take action to strengthen our existing agreements to ensure they continue to benefit the American people. I am pleased that President Trump is taking this approach with NAFTA. NAFTA was negotiated nearly 25 years ago. It should be updated to reflect the modern realities of trade on digital commerce, intellectual property, state-owned enterprises, and customs barriers, among others, following the negotiating objectives Congress set forth in TPA.

And as you have committed to us during earlier consultations, Mr. Ambassador, this modernization must be accomplished in a

manner that retains current benefits in a seamless way that doesn't disrupt the current agreement, ongoing trade, or the millions of American jobs at stake.

With the Administration's commitment to our strong balanced negotiating objectives and deliberate timetable established by TPA, I am confident we can work together to deliver a high-quality deal for the American people, one that can serve as a model as you move forward with other bilateral agreements.

Given that the Administration does not support a multilateral approach, we must move quickly together on an ambitious network of deals that break down barriers and allow us to sell American all over the world. I am particularly interested in T-TIP once the European Union can conclude an ambitious and comprehensive deal. Also, I am interested in trade agreements with Japan and the United Kingdom, when it can come to the table, as well as the Trade in Services Agreement and the Environmental Goods Agreement. And we plan to renew GSP and move quickly on our miscellaneous tariff bill to help U.S. exporters.

I am encouraged to see the President's dedication to strict enforcement of trade rules. The President has already taken important steps by putting in action many new enforcement tools passed by Congress last year. If countries fail to uphold their trade obligations, these powerful tools and our participation in the WTO allow us to challenge them and, if necessary, push back strongly on behalf of our businesses and our workers.

And when it comes to America's trade deficit, we welcome the President's efforts to examine the issue. There are, as you know, many factors behind our trade deficit. Some may be related to trade, but many are not. For example, the dollar status as the world's reserve currency is a significant factor. Examining the trade balance as black or white conceals what is really going on. Many exports from, say, Mexico reflect tremendous U.S. value added through research, development, design, intellectual property, services support, and manufacturing. To the extent the trade deficit is caused by unfair trading practices, we must rip down those barriers. And through our powerful enforcement tools, we can. Another solution is to push for strong trade agreements that open up new markets worldwide for American products and services.

Through trade agreements that are strictly enforced, we have reduced and even eliminated trade deficits in manufacturing, agriculture, and services. In many cases, we have even turned deficits into surpluses. While our first instinct may be to restrict imports, history shows that the most successful approach is not protectionism; it is breaking open new markets to American made goods and services. We have some of the best businesses, workers, and products in the world. If we can reach these customers on a level playing field, America will usually come out on top.

That is the recommendation I offer as the Administration considers whether to restrict steel and aluminum imports. I agree: We must address market distortions created by China. Section 232 authority must be used with careful consideration of consequences to our economy and trade rules that we wrote and fully expect our trading partners to abide by. Done improperly, we cut off supply that our companies need to stay competitive. Done hastily, we raise

costs and prove to our partners that we aren't reliable. Done indiscriminately, we harm countries that trade fairly and send a protectionist signal to those looking for an excuse to do the same. It will encourage others to restrict our exports even in unrelated sectors, which only hurts the growth of jobs and paychecks here at home.

I want to work with the Administration to identify a remedy that is balanced, effective, and protects our national security and economic interests.

America must continue to set the standards of global commerce. With 96 percent of the world's customers located outside of the United States, we cannot afford to sit on the sidelines, or worse, lead the world into abandoning the very rules that have served us so well.

Ambassador Lighthizer, we are eager to work with you and President Trump on a pro-growth trade agenda that creates jobs, grows paychecks, and improves the lives of all Americans.

Thank you again, Mr. Ambassador, for being here. We look forward to your testimony. And I now yield to the distinguished Ranking Member, Mr. Neal, for the purposes of an opening statement.

Mr. NEAL. Thank you, Mr. Chairman.

Ambassador Lighthizer, I want to welcome you on behalf of the committed Democrats. Today's hearing is an opportunity for us to hear from you about the Administration's vision for U.S. trade. The Administration has certainly been busy on trade. The headlines these past few months have been filled with stories about modernizing NAFTA, withdrawing from NAFTA, Executive orders, Executive memos, Section 232 national security reviews on steel and aluminum imports, Canadian dairy, Mexican sugar, U.S. China, a 100-day plan and certainly the issue of currency manipulation.

What we have been missing in this overall vision, as well as the specifics behind all of it, is activity. What are the Administration's trade policy goals? What priorities are you trying to serve? How are you going to do it? And I hope this morning you can provide us with some answers.

On a range of issues, there has been a lack of clarity, consistency, and consultation. For example, by statute, the Administration was required to submit a report on trade policy and its agenda by March 1st. On that date, the Administration instead submitted a statement and promised to submit a full report after USTR was confirmed and had the full opportunity to participate in developing the report. The report has still not been submitted to this Congress. So I hope you will clarify the Administration's position on a full range of trade issues today, from specific objectives of a NAFTA rewrite to the Administration's position on negotiating TTIP and an Environmental Goods Agreement to how the Administration will address currency manipulation to the Administration's current thinking in steel and aluminum national security investigations as well.

As you know, House Democrats have the most open mind when it comes to revisiting and taking new directions in U.S. trade policy. We look forward to working with you to prioritize the needs of American workers and their families through trade policy, and we await your testimony.

Thank you, Mr. Ambassador.

Chairman BRADY. Thank you.

And, without objection, other Members' opening statements will be made a part of the record.

Today's sole witness is Ambassador Robert E. Lighthizer, United States Trade Representative.

The Committee has received your written statement. It will be made part of the formal hearing record. You have 5 minutes to deliver your oral remarks. Ambassador Lighthizer, again, welcome, and you may begin when you are ready.

Ambassador LIGHTHIZER. Thank you, Mr. Chairman, Chairman Brady.

Chairman BRADY. Ambassador, can you check that microphone just to make sure we have it on? There you go.

Ambassador LIGHTHIZER. Is it better now?

Chairman BRADY. Yes, sir.

**STATEMENT OF HONORABLE ROBERT E. LIGHTHIZER,
AMBASSADOR, UNITED STATES TRADE REPRESENTATIVE**

Ambassador LIGHTHIZER. All right. Chairman Brady, Ranking Member Neal, Members of the Ways and Means Committee, it is an honor to appear before you today. In recent weeks, it has been a pleasure getting to know the Chairman, the Ranking Member, and several Members of the Committee. I look forward to developing these relationships and to working with each of you. The USTR has a special relationship with this Committee, and I intend to continue that tradition.

I met some of you for the first time on May 16th when I appeared before the House Advisory Group on Negotiations and the Ways and Means Committee bipartisan meeting. Those consultations are critical to helping the Administration establish its negotiating objectives for NAFTA, and more generally, they are helpful for developing trade priorities going forward.

To implement this agenda the President has requested increased funding for USTR in the coming fiscal year. Our budget calls for \$57.6 million, an increase of nearly 6 percent over the 2016 level.

These additional resources will be used to implement the Interagency Center on Trade Implementation, Monitoring and Enforcement, and will allow USTR to hire eight additional staff to support our trade enforcement activities.

The President's budget request is consistent with his desire to control Federal spending, as well as his insistence on a strong and aggressive trade policy.

Since being sworn in last month, I have been working with our team to advance the President's trade policy. We have been active on the international front with trips to the APEC ministers meeting in Hanoi, a meeting of the OECD in Paris, and a WTO mini ministerial. At all of these meetings, as well as the numerous bilateral meetings here in Washington, I have conferred with my counterparts from almost every major world economy.

In many cases, they have indicated a willingness to work with the United States on efforts to reform the global trading system in ways that will lead to market outcomes that are both fairer and more efficient. We have also reached out to Members of this Committee, other Administration officials, and key stakeholders in an

effort to determine what improvements are needed in the international trading system.

We are already making progress in four vital areas. One, the President's plan to renegotiate NAFTA. Two, advancing a strong enforcement agenda. Three, opening markets for U.S. exports. And, four, lowering the Nation's trade deficit.

Let me briefly discuss each of these topics.

First, on May 18th, I notified Congress that the President will conduct negotiations with Canada and Mexico in an effort to renegotiate and modernize NAFTA.

As you know, the congressional notification is followed by a 90-day period of consultations with the public and Congress. This means that the NAFTA negotiating rounds can begin as soon as August 16, and we intend to move very quickly.

In the meantime, USTR is talking to Members, stakeholders, your staffs, and the public to help us develop policy outcomes for the negotiations. We have put out a request for comments and received more than 12,000 responses. We have scheduled hearings for June 27, 28, and 29.

During the 90-day period, we will continue working closely with Congress to develop and refine our negotiating objectives. In the interest of a transparent process and as required by TPA, we will be publishing a detailed summary of negotiating objectives on July 17.

Second, we have an aggressive enforcement agenda. We are both defending our rights and holding other countries accountable for their trade violations. For too long, the United States, one of the freest and most open markets in the world, has been the chief target of litigation at the WTO. This makes no sense. At the same time, we are proceeding with several WTO cases, and this is only the beginning. We will aggressively pursue countries that violate trade deals with the United States. We have a number of potential cases under review as I speak.

Third, we intend to improve market access for U.S. producers. Let me be very clear on this point. We at USTR want to help every American business that makes a product or provides a service increase exports to the world. Sometimes this requires an enforcement action. Other times negotiations are sufficient. The Administration is currently engaged with conversations with all of our major trading partners about how to lower barriers that harm U.S. companies, workers, farmers, and ranchers.

Finally, we hope that these and other efforts by the Trump Administration will help to lower the Nation's chronic trade deficit. I understand that many observers believe that we should not concern ourselves with the trade deficit, that this figure is merely a number that reflects macroeconomic factors not related to trade policy. But the President's view, and mine, is that the trade deficits in the hundreds of billions of dollars that persist for years and years and years, regardless of changes in the broader economy, are indicative of structural problems in global trade.

[The prepared statement of Ambassador Lighthizer follows:]

WRITTEN TESTIMONY OF AMBASSADOR ROBERT E. LIGHTHIZER
HOUSE COMMITTEE ON WAYS AND MEANS
HEARING ON U.S. TRADE POLICY AGENDA
THURSDAY, JUNE 22, 2017

Chairman Brady, Ranking Member Neal, and other Members of the House Committee on Ways and Means, it is an honor to appear before you today as the United States Trade Representative. Under President Trump and his administration, I am here to tell you that trade is certainly a top priority, and it is my intent to work with this Committee to achieve true progress for all Americans. During my first few weeks on the job, the President has instructed me to negotiate trade deals that put American workers, farmers and ranchers, families, and businesses first, and to complement those negotiations with a vigorous enforcement agenda.

I am pleased to report to you today, that since January 20, USTR has been hard at work. The agency submitted a new budget request to Congress and has started implementing President Trump's agenda on trade. Thirty-five days ago, I notified Congress of the Administration's intent to renegotiate the North American Free Trade Agreement (NAFTA), a principal priority of the President.

In addition, my USTR team and I traveled to Vietnam to participate in the Asia-Pacific Economic Cooperation (APEC) Ministers Responsible for Trade meeting, and led the U.S. delegation for the Organization for Economic Co-operation and Development (OECD) ministerial meeting in Paris. These overseas engagements allowed me to press our trading allies on a bilateral basis to open markets for American exports and to reiterate the President's message that America and our workers insist on a fair shake.

It has been a very productive first month, and all of us at USTR intend to continue working at this productive pace in order to level the playing field for American workers, ranchers, farmers, and businesses.

Before discussing our activities and agenda in detail, it is important to note that the President has requested increased funding for USTR to enhance the agency's mission. USTR's FY 2018 request calls for \$57,600,000, a roughly 6% increase over the FY 2016 level. These additional resources would be used to implement the Interagency Center on Trade Implementation, Monitoring, and Enforcement, and would allow USTR to hire eight additional staff to support the mission of that office.

As is typical for our agency, the overwhelming majority of our resources are used

for personnel and travel in support of the core mission of the agency; for the FY 2018 request, payroll is expected to account for 76% of the budget and travel for 11%.

These resources are vital to fulfill USTR's mission. They will enable the agency to meet our statutory obligations, including the obligations to (1) enforce trade agreements, including detecting violations and taking swift action to enforce U.S. rights, (2) vigorously and successfully defend the ability of the United States to exercise its rights to ensure fair trade in the U.S. market, and (3) take action under U.S. law to advance U.S. economic interests. To advocate for and defend U.S. economic interests in these ways, among others, USTR is preparing to take significant action far beyond that taken by previous administrations, including, for example, self-initiated litigation in defense of U.S. workers, farmers, ranchers, and businesses. And as we speak, USTR is reviewing the effectiveness of our trade agreements, preparing to provide its assessment to the President in October of this year.

First and foremost among our activities, on May 18, in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA), I notified Congress that the President will conduct negotiations with Canada and

Mexico with respect to the NAFTA. As required by TPA, the Congressional notification is followed by a 90-day period of consultations with the public and Congress, and provides Congress the opportunity to review and comment on the negotiations. That means that the NAFTA negotiating rounds can begin as soon as August 17, and that is our intention.

In the meantime, USTR is talking to stakeholders, your staff, and the public to help us develop our policy outcomes for the negotiations. USTR is reviewing the more than 12,400 comments received from everyday Americans during the open-comment process. The public had such a strong interest in our work on NAFTA that the website crashed, so we extended the comment period to ensure that everyone had an opportunity to provide input. My staff is now busy reviewing and analyzing those comments, in order to help formulate our positions on how to improve the NAFTA. In addition, USTR will hold several days of public hearings beginning on June 27. Again, we expect great interest and look forward to hearing the testimony of a wide range of stakeholders.

Of course, during the 90-day period, we will also be working closely with the Congress to develop and refine our negotiating objectives, consistent with TPA. To that end, we have already had numerous meetings with Congressional offices,

members, and aides to hear your ideas. And, in the interest of a transparent process, and as required by TPA, we will be publishing a detailed summary of the negotiating objectives at least 30 days before the negotiations begin.

USTR also is working to advance each point of President Trump's trade policy agenda, which includes promoting U.S. sovereignty, enforcing U.S. trade laws, leveraging American economic strength, protecting U.S. intellectual property rights, and reducing America's persistent trade deficit. We are doing this on a number of fronts.

For example, we are fully engaged in working with our trading partners in Asia to increase market access and dismantle trade barriers. My staff and I have had productive visits with officials from Vietnam, Indonesia, India, and other countries and have been successful in resolving some outstanding trade issues to improve market access for both goods and services in these countries.

Specifically, during my bilateral meetings so far, I have raised several issues about which members on this Committee are concerned, including Internet advertising, e-payment services, the export of agricultural goods, and others. My team and I have made progress with respect to many of these issues, but I intend to continue pressing them to ensure that markets remain open.

The economic dialogues with China and Japan are also proceeding, and USTR staff has contributed to those market-opening efforts as well. Through the pursuit of these reforms, and securing more access for American exporters, I hope to see Asian markets provide strong demand for our exporters.

We are also involved in other areas of the world. I was in Paris last week at OECD meetings where I had the opportunity to meet with European Commissioner for Trade, Commissioner Malmstrom. We discussed areas of common concern and a way forward on a U.S.-EU economic dialogue. We are currently in the process, with our EU counterparts, of establishing the scope of that engagement, which includes both bilateral and global issues. We know that there are areas where we can ally ourselves with our European trading partners to address issues such as non-economic capacity and non-market economy status for certain countries.

However, the President's agenda is not limited to new negotiations, as the President takes seriously the need for the United States to enforce laws already on the books. The Office of General Counsel, in accordance with the President's recent directives in Executive Order 13796, is in the process of examining our

trade relationships and identifying issues that can be addressed through enforcement of U.S. trade laws. We believe that too little has been done in this area in recent years, and we are actively assessing ways to get tough on countries who do not respect our economic system. We have also been active in identifying countries that have serious problems with protection of intellectual property, and we are reviewing and amending our action plans to ensure that we can identify violations and take appropriate enforcement actions. We have also initiated out-of-cycle reviews or investigations of countries that receive trade preferences under programs such as the Generalized System of Preferences and the African Growth and Opportunity Act.

USTR is also working hard, defending the interests of the United States through multilateral engagement at the World Trade Organization (WTO). For many years, the team at USTR has been engaged in the WTO dispute process regarding European Union subsidies for Airbus and EU claims of American subsidies for Boeing. On June 9, a WTO Compliance Panel rejected 28 of 29 claims made by the European Union. Make no mistake; this was a big victory for the United States. I look forward to continuing the trend of defending American businesses against unfair claims from foreign nations. Further, we will not hesitate to file claims against nations that do not follow the rules.

During my first month in office, I have had several promising discussions with the Director General of the WTO, Roberto Azevedo, in order to express our priority to improve the functioning of the WTO. In Paris, I had the opportunity to participate in candid discussions among parties many of which showed the significant differences among members. I have begun to articulate my desires to seek reforms to the WTO dispute settlement system, and have made that clear to our partners. This is now a topic of serious discussion at the WTO. We expect to see meaningful changes in order to maintain the relevance of the system. Looking ahead to December, we are pursuing successful ministerial in Buenos Aires this December that reinvigorates the WTO. We do not advocate a meeting that seeks major deliverables or significant negotiated outcomes.

Finally, we at USTR are committed to enhancing U.S. food and agricultural exports globally. Secretary Perdue and I will be working closely together to ensure that we are effective in achieving this goal. Thus far, USTR has made progress with respect to China, Argentina, and Vietnam, in addition to the ongoing work that USDA and USTR staff undertake every day to promote U.S. agriculture. We raised our concerns with Canadian officials and at the WTO on Canada's dairy pricing policy, and I engaged Vietnam to address concerns

affecting U.S. exports of offal and use of certain veterinary drugs in beef and pork. I am moving forward with dispute resolution on China's trade-distorting farm support for corn, wheat and rice with a panel formed and dispute proceedings ongoing.

Again, it has been a very productive first month, and we hope to keep the momentum in realizing the President's trade agenda as we move further into the year. I look forward to working closely with Congress and in particular the House Committee on Ways and Means to work on the President's Trade Agenda to Make America Great Again.



Chairman BRADY. Thank you, Mr. Ambassador.

That 5 minutes always goes fast. Thanks for your testimony.

We will now proceed to the question-and-answer session. Let me lead off. I want to ask two very basic questions about freedom and leadership.

My view is that free trade is economic freedom. It is a freedom to buy and sell and compete around the world with as little government interference as possible. It is a freedom that, if you and I build a better product, we should have the freedom to sell it throughout the world, and if someone else builds a better product, we should have the freedom to buy it for our family and for our business. It is really one of the greatest economic rights of every American. So, given the choice between more economic freedom and less, we should always choose more. So the question is, will the Trump Administration work to expand American's economic freedom to trade or ultimately restrict it?

Ambassador LIGHTHIZER. The Trump Administration wants to expand economic freedom, wants to expand trade, believes that we can reduce our trade deficits through sales. That certainly is our objective. Philosophically, I would say that the President believes in free trade. He doesn't think that it exists right now, and the question becomes, what do you do to get there? So there are a variety of approaches. I think his approach is to aggressively go after people that are engaging in unfair trade and hope that leads to market efficiency, more economic freedom, and globally more wealth.

Chairman BRADY. Thank you, Ambassador.

That really steps into leadership. I think the view of many of us is, if America doesn't lead in free and fair trade, we will grow weaker and our foreign competitors will grow stronger. Our factories and farmers, our technology companies, local businesses will be priced out and shut down around the world. My State of Texas is made for trade. America is made for trade. And that is nowhere more important than in the Asia-Pacific region. It is imperative we continue to communicate to our trading partners and the rest of the world we are not abandoning the Asia-Pacific region, even though we are no longer part of TPP. This is one of the reasons that I, along with Ranking Member Neal, Chairman Reichert, and our Senate colleagues introduced a resolution last month expressing our strong support for continued U.S. leadership engagement with other APEC countries.

So, in the area of leadership, especially in that region, at the end of the day, do you see America's trade values and standards prevailing in that region, or do you see China's trade values and standards prevailing in that region?

Ambassador LIGHTHIZER. I certainly believe that America's trade values will prevail. I would say, this issue of engagement, I was on the job 4 days when the President sent me off to Hanoi to go to the APEC meeting. I remember walking around bleary-eyed trying to read briefing papers so that I could tell one country from another. But he did that because he wanted to make the point that you are making, that we have to be engaged. These people have to know that we are coming, that we are going to do business, that we are going to sell American products, that we are going to do bi-

lateral agreements, that pulling out of TPP was by no means pulling out of the Asia Pacific. In fact, to the contrary, the President's view is that we can get better deals on a bilateral basis and engage.

In terms of, overall, whose model works, ours or China's? I mean, that is a very big, very serious question. My belief is that ours is the best and it will prevail. And I believe that a lot of the people in that part of the world are concerned about this question, but the question that I ask is, how do we prove that? We have to take on China when they do things that are inconsistent with our values, with the way we think the economy should develop and work.

If you look at it objectively, you would say, for example, in an area like steel, they have now a huge steel industry. None of it is based on economics. And somebody in a country in Asia looking at that might think their system is succeeding and ours is failing. They have at least 1.1 billion tons of steel, a billion tons of steel capacity, and we can't produce 100 million tons.

So what we look at, A, I think we are going to prevail; B, I think we have to prevail not just for our own good but for the good of the world. The question that I always had and that I believe the President has is, what do we do to assure that? And that to me is taking on China whenever they do something that is inconsistent with not only our model but their obligations. I apologize for that being too long.

Chairman BRADY. No, Ambassador, thanks for your thoughtful answers.

And, Mr. Neal, you are recognized.

Mr. NEAL. Thank you, Mr. Chairman.

Mr. Ambassador, I am very interested in T-TIP negotiations, which we discussed in my office when you paid a visit. And as we look at the negotiations between the United States and EU, I am hoping that you can give us an update on the plan. There are 500 million consumers in Europe. They have a very similar lifestyle to us, and one of the things that I also found very interesting was I actually suggested to President Obama early on that we juxtapose the two trade agreements, Europe and Asia, that we would have considered Europe first because I think it would have been much easier to accomplish, and given the fact that there were many prospects of actually doing that and now to find that the Administration, I think, needs to update us on what their plans are for T-TIP, I do think it has an awful lot of potential for America's East Coast if done correctly.

And the second question—and you perhaps can just answer both—we all read this week about Ford Motor Company deciding to build small cars not in Mexico but in China and importing those cars to the United States. That seems to be inconsistent with the President's promise to keep jobs here in America. And with Ford's decision, it also seems to indicate that now China, despite the President's comments during the course of the campaign, is hastening a relationship with automobiles in China and what we are trying to, I think, discover perhaps with your comments today, does this suggest that for some reason we are focusing more on China than we are on NAFTA?

Ambassador LIGHTHIZER. Mr. Neal, first of all, on T-TIP, we certainly agree that is an important negotiation. For a variety of reasons, it stalled when it did, and this was not a very good year to get it started because of internal European reasons. They had a series of elections which made it difficult to make compromises and to really make an agreement. I guess the final one of those elections is September, and it is in Germany. And then, after that, I think we will talk to them. I have certainly met with the Trade Commissioner, Ms. Malmstrom, and I have talked to her about bilateral issues and cooperating issues, and I am not here to make any announcement about it, but it is something that we certainly realize the importance of.

On the issue of Ford moving a plant, which I saw in the paper also, from Mexico to China, I agree with you. I think that is troubling. We don't have an Administration position that I have sat in on and talked about at this point, but as the USTR, I find that very troubling. I want to look and see what the incentives there are. It doesn't necessarily make sense to me. Obviously, it makes sense to Ford, or they wouldn't be doing it. But I think it is incumbent upon us to sit back and look at all the incentives and just figure out exactly why that happened. And if it happened for reasons that are noneconomic reasons, then I think the Administration should take action.

In terms of the President's relationship to the Ford move, I guess I am reminded of a quote in the back of "Profiles in Courage" where—when he is sort of taking little quips, and he says that a Congressman once wrote in the thirties that one of the problems with being elected to Congress was that—this is in response to a constituent letter—he said: is that I get letters from people like you who say that I ran for Congress based on reforesting the Sierra Nevada Mountains; I have been in office 6 weeks, and I haven't gotten it done. I am sorry; can't help—or something like that.

So I guess that is a long way of saying—I think it is probably early to say that the President's policies are responsible for Ford doing whatever it is that it is doing, but I think it is something we have to look at. We have to look at incentives, and it was as troubling to me as it was to you.

Mr. NEAL. I thank you, and, Mr. Ambassador, I hope that you might inform the Committee of the Administration's position as promptly as you can on that issue.

Ambassador LIGHTHIZER. I am sorry?

Mr. NEAL. I hope that you can inform the Committee promptly on your position and the Administration's position on that issue of those cars being manufactured in China.

Ambassador LIGHTHIZER. I will undertake that, and I appreciate that question. And I will use that as a mandate to develop a position and report it to you.

Mr. NEAL. Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Neal.

Mr. Nunes, you are recognized.

Mr. NUNES. Thank you, Mr. Chairman.

Ambassador, I have three topics I want to cover with you and try to get through all three of them quickly here. The first is NAFTA.

I think we are all for looking at ways to improve NAFTA. However, as you know, with all negotiated trade, whatever action becomes a reaction, and so there could be a reaction from our allies and our partners, trading partners. With agriculture specifically, as you know the United States produces more food than we can consume, and I am worried about any type of retribution that either Mexico or Canada could take. Canada could take on our U.S. farmers. And so I know you are aware of this, but I wanted to just get your thoughts on ensuring that we protect agriculture in these upcoming negotiations on NAFTA.

Ambassador LIGHTHIZER. Congressman, that is very important. I have testified on this before. We realize there have been winners, and there have been losers in the NAFTA process as it has developed over these 23 years, 25 years since the negotiations themselves began. Agriculture has been a winner. I would say, even with that, I would drop a footnote down and say that, although we do have a \$4.7 billion deficit even in agriculture, it is not for the kind of products that you are thinking about, and it is very important that we do no harm.

So our very high priority will be making sure that we do not disrupt our sales in agricultural products to either Canada or Mexico, but presumably you are mostly thinking about Mexico. And that is a problem. It is a legitimate worry. It is something we are worried about and very concerned about.

Mr. NUNES. There is no question that Canada could do a lot more to open up their trading practices for our agricultural products.

If I could, I would like to move to India. I know I think you and I share and the Administration share the goal of enhancing our partnership with India, the world's largest democracy. They made a lot of growth over the years, but they have continued to have trading practices that make it hard for us to actually get to the table with each other. And one of those issues I want to make sure that maybe I can just bring to your attention in case you are not aware of it and maybe you can come back to us just for the record, but specifically with almonds and other types of walnuts and pistachios, there continues to be problems with moving those products to India, and I am not going to ask you to be an expert on specific products, but if you could come back to us with a report on India's different potential problems that they are creating with these trade practices, I would appreciate it.

Ambassador LIGHTHIZER. I will certainly do that. And with the Prime Minister coming to Washington, this is an opportune time to do that. I have raised the almond issue with the Indians—

Mr. NUNES. Great.

Ambassador LIGHTHIZER [continuing]. So it is clearly something that we are concerned about, and part of my response always is, look, with the size of the trade surplus you have with the United States, you ought to be looking for things to buy to get that trade deficit down, and that is one of the ways we are trying to help America export.

Mr. NUNES. Well, thank you, Ambassador. I appreciate that comment.

Finally, I want to just explore a little bit, there has been a lot of debate about whether or not our tax system needs to have a border adjustment. As you know, 150 countries around the world border adjust. And I just find it hard to believe in the long run how we are going to be competitive if everything that we export to most of our trading partners has anywhere from a 15 to 25 percent VAT put on top of those products, and then, of course, anything that we import doesn't pay the VAT in their country.

And I am not asking you to wade into whether or not you support or oppose border adjustment, but I would be interested in your thoughts as to how we can fix these discrepancies with these countries that border adjust.

Ambassador LIGHTHIZER. Well, thank you, Congressman. I have from time to time written op-eds and the like on this subject. It is troubling to me. First of all, I am not the Treasury Secretary mercifully. So I don't have to worry about negotiating a tax deal, and I don't envy any Member of the Committee who has that ahead of them as we go forward. But I do agree that value-added tax creates an unfair advantage, and there has been a clear migration throughout the world from income taxes to value-added taxes precisely for that reason.

So I don't agree with people who say it doesn't make any difference. I think that it does make a difference. So that isn't to say I am endorsing any particular solution or anything like that, but I am sympathetic to the problem, and I think it has an impact on exports. I think it has an impact on manufacturing and competitiveness in America, so it is a major issue.

Mr. NUNES. Thank you, Mr. Ambassador. My time has expired. The Chairman is going to gavel. Thank you so much.

Chairman BRADY. Thank you, sir.

Mr. Levin, you are recognized.

Mr. LEVIN. Welcome. Hi. NAFTA became very much involved in controversy mainly because of the lack of enforceable labor and environmental provisions. The auto sector is a major source of the trade deficit. So let me just review a few facts and ask you some questions.

In the last decade or two, the employment in the Mexican auto sector has gone up over 200,000 people, while in the U.S., it has dropped 90,000; really more than that if you go back over a decade. And in terms of competition, Mexican workers in the auto industry are paid 19 percent of what is paid in the big three, and the President called Mexican factories sweatshops. And that is further evidence that autoworker wages in Mexico went down 20 percent, though productivity went up 80 percent. And sweatshops, that is correct, because workers in the auto industry in Mexico cannot form unions. There are sham outfits.

So let me ask you three questions, if I might, relating to it. First, do you agree that depressed wages in Mexico are leading to negative wage pressure and job loss in the United States? If so, can any renegotiation of NAFTA truly promote jobs here in the United States without addressing labor rights in Mexico?

Two, with that in mind, can you tell us what specific proposals—specific proposals—the Administration is considering to require

Mexico to change its laws and practices relating to labor rights as a way to create and safeguard jobs in the United States?

And, number three, I take it on this you are the lead person in the Administration, though that isn't always clear, but I assume you will be and hope you will be: Will the Administration insist that Mexico bring its labor laws and practices into compliance with basic labor standards before Congress is asked to vote on a renegotiated NAFTA agreement? So fire away.

Ambassador LIGHTHIZER. Yes.

Mr. LEVIN. Since I did.

Ambassador LIGHTHIZER. Thank you, Congressman.

First of all, do I believe that Mexican labor laws are having a negative effect on the United States? Yes, I believe that. And I believe if we are going to get the deficit down, if we are going to have an appropriate agreement and one that will pass, it will have to have an effect on that. I do believe, though, that the Mexican government itself understands there is a problem, and I think they are taking steps, which is a good sign. But I am not suggesting—

Mr. LEVIN. You need to talk further about that, but keep going.

Ambassador LIGHTHIZER. With respect to what our specific proposals are, we are still in the process of talking to stakeholders and the Congress, and we are interested in people's views. We do believe you have to have basic ILO core standards, and we believe that they have to be enforceable just like we believe that every provision in the agreement has to be enforceable. Do I believe there should be a commitment and proof before a vote? No, I don't. I think we are going to put together an agreement. We are going to come forward. It is going to be an aggressive agreement that we have, and in the final analysis, the U.S. Congress will rule on whether it is a sufficiently good agreement, and I don't think there will be preconditions like this.

Mr. LEVIN. Okay. I think, unless practice is showing that changes are made before we vote both in laws and practices, that essentially it will be difficult and should be difficult to pass NAFTA. We insisted with Peru that they change their laws and practices before we voted on it. May 10th was a major breakthrough, but unless it was made real before we voted it was impossible to vote for. And time has shown with Colombia and other countries that if you don't have that standard, you are chasing enforcement everywhere. So we are going to be very emphatic about that.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Levin.

Mr. TIBERI, you are recognized.

Mr. TIBERI. Thank you, Ambassador, for being here. I know that you know that the volume, the complexity, the challenges of trade have only grown over the years. I want to associate myself with what Mr. Nunes said with respect to NAFTA and agriculture. In Ohio, my home State, Canada is our number one trading partner, and agriculture is our number one issue, number one job economic driver.

But, Mr. Ambassador, I want to focus on our trade agreement with Korea. We have seen an influx of imports of oil country tubular goods, OCTG, from the Republic of Korea. In 2015, Congress

gave the Department of Commerce new authority to address market distortions in the production of foreign merchandise and to calculate dumping margins that more accurately account for the unfair pricing practices of foreign exports.

Can you commit to this Committee that you will make it a priority of this Administration to engage with our trading partners, particularly in this case, Korea, the Republic of Korea, who continue to dump these products into our country?

Ambassador LIGHTHIZER. Yes.

Mr. TIBERI. Thank you. I certainly appreciate that. The other issue the Chairman mentioned that I want to comment on is our ongoing section 232 investigation on national security implications of steel and aluminum imports. And I again want to applaud and say I appreciate the Administration's commitment to America's security in ensuring a level playing field with our trading partners. However, I have heard from a number of employers in my district, manufacturers, about the potential that some of our trading partners could misuse national security justifications to have retaliatory and protectionist actions taken against them. Are you at all concerned about the potential for retaliation by some of our trading partners and the effect it would have on domestic manufacturers?

Ambassador LIGHTHIZER. Yes, we are concerned, although we start with the proposition that we have a global extraordinary excess amount of capacity that is basically created by China and that we can talk about some other potential problems, but we have this 1.1 or more billion tons, which I mentioned before, and the question becomes, how do you deal with that? You can't deal with it just at the border with China because it is not that kind of a problem. It is sending it everywhere in the world. And as you said in your first question, they are sending it to Korea, who is then sending it to us in the form of OCTG. So it is a huge problem.

Given that problem, it is reasonable to sit back and say, what are all of the possible tools we have? And one of the tools we have is 232, because it does have a national security effect that is quite significant.

Now, there is the response, one, of retaliation. We are always worried about retaliation, but if we don't defend ourselves because of a fear of retaliation, then we are just going to be the residual of what nobody else wants. So we can't let unfair trade go forward just for that reason, but it certainly is a reasonable thing to think about and try to control. So I don't disagree with that at all.

The argument that, well, other people will use their national security exemption for ways that are really hidden protectionism, that is also a concern, something we have to think about, but I am inclined to believe personally that, with respect to a lot of these countries, they will use every tool they have right now to defend their interests and to take advantage of our market. So I am kind of less persuaded by that argument, although I think it is a legitimate argument, something we have to be concerned about, but I think we do have an obligation to all Americans: When you see something that is very bad going on, we have kind of a contract with all of our workers and all of our farmers that we are going to defend America or free trade doesn't mean anything. I think

every Member of this Committee agrees with that. And this is one of the tools that it is legitimate to look at and use in that context.

Mr. TIBERI. I certainly appreciate your work, your expertise on this issue, and I just would hope that you and your team would clearly review the Chairman's opening statement because I think it reflects on this side of the aisle some concern about the balance in this area.

Thank you so much.

Ambassador LIGHTHIZER. Thank you, Congressman.

Chairman BRADY. Thank you, Mr. Tiberi.

Mr. Doggett, you are recognized.

Mr. DOGGETT. Thank you, Mr. Chairman.

And thank you, Mr. Ambassador.

You have been a personal long-time critic of WTO dispute panels overreaching and effectively declaring new obligations and undermining our democratic processes. Under NAFTA, the investor-state dispute settlement procedures with which you are very familiar, the ISDS, permit three private attorneys whose decisions are not subject to appeal to effectively create new obligations and commit unlimited amounts of taxpayer funds to foreign corporations for claimed violations.

Yesterday, at the Finance Committee, you testified concerning your concerns about ISDS. You are aware that the National Association of Attorneys General, the National Conference of State Legislatures have objected to ISDS, that recently the American Automotive Policy Council, our major manufacturers said that "ISDS provisions in NAFTA—or an ISDS provision in NAFTA is unnecessary." Do you agree with them?

Ambassador LIGHTHIZER. I am sorry?

Mr. DOGGETT. Do you agree—without reading it—do you agree that ISDS is unnecessary in NAFTA?

Ambassador LIGHTHIZER. I think ISDS is something that we have to discuss and be informed of more by the Members. So I won't take a final position right now.

I would say this: It clearly is a balance. There is a legitimate interest in people who go overseas and invest, and the United States has an obligation to do what it can to make sure those people are treated fairly.

On the other hand, as you suggest, Congressman, I am troubled by the sovereignty issue. I am troubled by the fact that anyone, anyone can overrule the U.S. Congress and the President of the United States when it has passed a law. That is troubling to me. So trying to balance those two things is something that I really want to kind of work through and be informed of—

Mr. DOGGETT. Certainly—

Ambassador LIGHTHIZER [continuing]. Members' views.

Mr. DOGGETT [continuing]. We do want to see our investors protected wherever they are, and Canada has a mature court system. There are a few more challenges in Mexico, but I hope you will be looking closely at a system that I think has failed us.

And a second area, you say in your testimony—and I was pleased to hear it—that you expect significant action far beyond previous Administrations, including, for example, self-initiated litigation in defense of U.S. workers. While that is good, it is a fairly low bar,

since USTR under all previous Administrations I think has never successfully challenged a labor or environmental provision with any trading partner. And as you know, yesterday, the United States lost in its drug out lengthy 9-year action with reference to Guatemala labor with a finding apparently that it was not a matter affecting trade. I believe that the failure to effectively enforce our environmental and working condition provisions is one of the reasons many of us do not have confidence in the TPP or in other recent agreements, that the comments about labor and environment were really meaningless.

Given the short time, I would just ask you to respond in writing as to whether you consider artificially suppressed wages to be a subsidy and whether these subsidies impact trade between countries? Tell us how this decision may affect the need for changes in the NAFTA agreement with reference to workers.

Similarly, with Peru, there are both labor complaints on which there are provisions that have not been enforced, and I would ask you to respond concerning the complaint filed in 2015 on Peru labor concerning the fact that we are effectively denying improved wages and conditions in Peru, and also, in Peru, on the environmental provision, that about 90 percent of all timber leaving Peru was harvested illegally when we set up the agreement and it still is and if you believe that Peru is in compliance with its environmental obligations under the forest annex, and why there have been no audits of producers and exporters.

And I will submit others concerning all the pending enforcement actions on which we see really no effective enforcement.

Finally, you have 500 advisers on trade agreements, corporate advisers. When will the Members of Congress be able to see the specific language that USTR proposes to Mexico and Canada on NAFTA changes?

Ambassador LIGHTHIZER. Well, in the first place, we will submit an answer in writing as you requested, Congressman.

In terms of the language, we have an agreement with the Chairman. We expect to be very transparent. We are going to follow the TPA to the letter. I realize that, in the past, there have been issues about whether or not the Congress has had adequate access to text, and I think I am in agreement with the Chairman. We have a plan. I expect to follow that plan and make that text available, and I expect the Chairman to instantly tell me when I haven't followed the plan, which, if it happens, will only be by accident.

Mr. DOGGETT. Could you disclose what the plan is?

Chairman BRADY. We are in discussions with the Ranking Member on this important issue. We agree with you, Mr. Doggett, about the access to text.

So thank you, Ambassador. I let you run a little long there.

So, Mr. Reichert, Chairman of the Trade Subcommittee, you are recognized.

Mr. REICHERT. Thank you, Mr. Chairman.

Welcome, Mr. Ambassador.

Every Member on this panel will tell you that trade is critical to their home State, and I am here to tell you that is true of Washington State. Apple growers export one-third of their crop each year. State services exports over \$26 billion a year, and of the jobs

in Washington that are supported by exports, over 90 percent depend on manufacturers selling their world class products across the globe. But Washington workers, farmers, and businesses cannot be left behind as other countries race to establish strong bilateral and regional agreements that carve us out. So, while we work to update NAFTA, we must begin to put other negotiations in the pipeline.

So I am an old career law enforcement retired. I get the enforcement piece, but there is always community outreach. In my view, the TPP countries have now been left hanging. And, frankly, I was disappointed but encouraged that the President wants to go with bilateral agreements. I am on board with that and ready to go. As you know, we have had a chance to visit. But I think there has to be an aggressive, energetic outreach to these countries, and my question is, beyond Canada and Mexico, which countries, regions, and/or sectors are priorities for the Trump Administration? What's the next step after NAFTA?

Ambassador LIGHTHIZER. Thank you, Congressman. We are still in the process of developing those priorities and that list. First, I would say that the President is very pro-trade; second, that we, as you say, our objective is to have bilateral agreements and a series of them, and we think we can do that using model agreements and do it effectively and have agreements, which are better for American workers and American apple growers and others.

In terms of what specific countries we would go to, there are a lot that are on the table. Obviously, there is T-TIP, which has been mentioned. There is a lot of people who believe that we have to go up to the TPP countries and start negotiating those, and, of course, foremost among those in some people's opinion is Japan. So that is something we have to think about now.

Mr. REICHERT. But you are in communication with those TPP countries?

Ambassador LIGHTHIZER. We are. I have met with several of them and there are, you know, there are a variety of issues in various places, and, you know, the Japanese, my guess is right now are not ready to do a bilateral agreement with the United States, but these things are all developing. We are in discussions—

Mr. REICHERT. So, after NAFTA, you are still considering T-TIP or Japan or the U.K.

Ambassador LIGHTHIZER. The U.K. is another option. So these are things—but I do think there is a lot of pressure to move in the direction where the TPP would have filled a gap and to go in there—and my instinct is that Members of Congress would also feel comfortable if we started doing that. So there are a lot of reasons to militate in that direction, but the other thing is it does take two to tango, so we have to kind of develop this.

Mr. REICHERT. I want to be engaged with you on that. I am sure other Members of the Committee do.

How do you see the bilateral agreements coming together to create the high standards throughout the world? That has been touched on by a couple of Members. And, you know, just my personal experience with one country—Mr. Tiberi mentioned South Korea. In my discussions with assembly men and women in South Korea, asking them the question, after the Korean agreement was finalized, what was their opinion as far as the impact it had on

China, I learned their first response was China should start to pay attention because high standards now are in the region and will be developing. Of course, back then, TPP was the thing that people were looking to. So that one agreement with Korea made an impact on that region. And so, again, emphasizing the need to reach out to those countries, TPP countries, strengthening that position of strong standards, how do you see a bilateral agreement with Japan, for example, or others strengthening that standard, our standards, throughout that region and the world?

Ambassador LIGHTHIZER. Well, I would say, first of all, I don't want to suggest that we are going to have a bilateral agreement at this time with Japan. That is something that they are looking at and we are looking at and all that sort of thing.

Mr. REICHERT. Sure.

Ambassador LIGHTHIZER. But I certainly agree with the Chairman's basic point at the very beginning, which you have also endorsed, which is that the United States moves in; we have an agreement that is a high standards agreement. In many cases, on a bilateral basis, you can have higher standards because that country you are negotiating with may not have a particular problem in an area where you can get a high standard. A good example of that would be currency. If you are negotiating with someone who really isn't a currency manipulator it is easier to get to a high standard on currency and then set the standard. So there are a lot of things that can be done like that, but I think having those kinds of agreements does push back against China, does change the standards, and does have people realizing the United States is engaged, and it has a ripple effect throughout the region. So I completely endorse them.

Mr. REICHERT. Great point.

Thank you, Mr. Chair.

Chairman BRADY. Thank you.

Mr. THOMPSON, you are recognized.

Mr. THOMPSON. Thank you, Mr. Chairman.

Mr. Ambassador, thank you very much for being here. The priorities for our trade policy must be to support and help create good American jobs, grow the economy, set basic standards for our partners to live up to, improve market access, and protect the labor rights and the environment. And I think that Congress has an important role in this, and I value the opportunity to work with you to make sure that this happens. And increasing exports and eliminating trade barriers can really be a win for our economy, provided that the playing field is level and everyone operates under a fair and basic set of rules and that those rules are enforced.

So, in that regard, I want to associate myself with the ag comments that have been made by a couple of my colleagues on the dais. And I also want to associate myself with something that Mr. Doggett said when he asked if you thought that wages, suppressed wages in other countries are a subsidy to manufacturers in those other countries. And I would ask, similarly, do poor environmental rules equal a subsidy to producers in other countries?

Ambassador LIGHTHIZER. Let me say, first of all, that I think low labor standards are an unfair advantage to someone with whom we are dealing. Whether it is technically a subsidy under the

countervailing duty laws is not something that I am addressing right now here in this case. So I don't want there to be any misunderstanding. The same thing is true with respect to the environment.

But I think it is—I look at it the other way. I think it is wrong in the Ricardian way we think about these things to have some things be a legitimate competitive advantage, and to me, environmental pollution shouldn't be—it is not a legitimate competitive advantage in the way we analyze trade because, at a level, we are all really free traders. We all have the same objective. The question is, how do we get there?

So I look at it the other way around. I think it is not a legitimate competitive advantage to have very low environmental standards. So that is why I am troubled by it, and I think the same thing is also true with respect to labor standards.

Mr. THOMPSON. Well, I certainly know, in my business, if I didn't have to pay attention to regulations and rules and particularly with environmental standards, I could make a lot more money than I do, and that would put me at a competitive advantage over someone who had to do that.

U.S. wine exporters continue to face highly burdensome trade barriers in Canada. British Columbia has a very discriminatory grocery store program that prohibits American wine from being sold on the same shelves as domestic wine, giving the BC producers an enormous competitive advantage.

In January of 2017, USTR requested WTO dispute settlement consultations with Canada on this matter, but the consultations failed to bring about any grocery access for American wine makers. Given Canada's continued refusal to modify its discriminatory program in any way, will USTR now work to fully enforce U.S. rights under the WTO agreement and formally request a dispute settlement panel?

Ambassador LIGHTHIZER. First of all, Congressman, I am, of course, very much aware of this problem. I completely agree with the sentiment of your question. Whether we go to the panel stage is something that is under review right now. You can take from my general attitude that I am very pro-enforcement. The only caveat I would add is, is this something you are better off dealing with in a NAFTA negotiation? So I think we have to think about that. The stakeholders have to think about it. The Members have to think about it. And I have to be informed by all of you. But it is a very serious problem. It is the kind of problem that ought to be brought to a panel, in my opinion, if it can't otherwise be resolved.

The only thing I would say is we have to think about whether this belongs in the NAFTA context, in which case it would make more sense to negotiate it and do it in a less kind of hostile way. But it is a major problem, and it is an extraordinary problem for those people who are affected, those producers, and there is no justification for it.

Mr. THOMPSON. So, in modernizing NAFTA, is this something, this elimination of this discriminatory practice, we can see as a possibility?

Ambassador LIGHTHIZER. It certainly is something that we are going to raise and deal with one way or the other.

Mr. THOMPSON. It was said that if TTP fails, that would give China an upper hand. How much time do you think we have to address that before they do, in fact, have an upper hand?

Ambassador LIGHTHIZER. Do I have—I am minus 7 seconds.

Chairman BRADY. You are, Mr. Ambassador. I am afraid we will have to come back to you on that question.

Ambassador LIGHTHIZER. I am sorry, sir.

Chairman BRADY. Thank you.

Mr. Buchanan, you are recognized.

Mr. BUCHANAN. Thank you, Mr. Chairman.

I want to thank the Ambassador. I know all of us look forward to working with you going forward. Just a couple of points from Florida. We have 14 ports. One in five jobs in Florida are tied to trade. So trade is a big opportunity for us, but I believe—I am a free trader, but I think trade needs to be a win-win. I am concerned, especially with some of the bigger countries, with large trade imbalances. I think it is something we need to look at. I am sure you will. But I think, on some of our trade agreements over the years, we have been played. That is just my opinion, and that is something we can talk about further going forward.

I want to drill down a little bit on a Florida issue in terms of NAFTA. We are the second largest State in terms of fruits and vegetables grown. We have pretty much the same growing season as Mexico. It is a \$12 billion industry, but a lot of people feel, because of some of the techniques, the antidumping, and other things that are going on in Florida, it has cost us about \$1 billion to \$3 billion in terms of Florida's opportunities down there and a lot of jobs, and I just wanted to get your thoughts if that is on your radar, something you are looking at. Mexico is next to us, a good neighbor, but we want to make sure it's fair.

Ambassador LIGHTHIZER. Well, I would say that I completely agree with you. I am familiar with the issue. I am not as familiar, obviously, as you are. I have talked to the Governor about it who has raised this issue a lot.

When I say we have a trade deficit in agriculture with Mexico, what we are talking about is the problem that you raise, because with respect to everything else, we have a surplus.

So I think it is something that we have to work on, something I would be happy to work with you on. It is something that we ought to be talking about in the NAFTA context. And then there are issues of whether or not there is unfair trade involved here. There are a lot of things we have to consider. But I realize it is an acute problem, and it has become more and more acute. And it is really something that I want to engage on.

Mr. BUCHANAN. Well, I would appreciate the opportunity to work with you going forward.

I want to talk—Mr. Neal had brought this up about T-TIP. It sure seems to me that—and I have had the opportunity to travel in Europe, I have met with a lot of American businesses in Europe. It makes a lot of sense. We have a lot of same shared values. When you look at labor rates, a lot of it is fairly competitive, comparable sized markets in terms of the EU.

And I know that the last Administration, because I met with several folks in your office back a couple of years ago, there has been

a lot of work product and a lot of effort that has been done. I know there are a lot of individual issues with various countries.

What is your sense of where that is today? Is that something we can resurrect? Or do you just see that we are going to move forward on a bilateral agreement with every single country individually which would seem would take a long time to get anything done? But I wanted to get your comments on it.

Ambassador LIGHTHIZER. Well, first of all, it is something that the President has spoken on. He mentioned it during his meeting with Chancellor Merkel some months ago. It is something we are looking at. We are reviewing all of these agreements.

So I don't want to prejudge it, but it is clearly something that I understand there is a lot of momentum behind. There are a lot of reasons to do it. On the other hand, it wasn't accomplished, so there are obviously problems or it would have been done and we wouldn't be talking about it at this point.

It is in the group of things that we are going to review, agreements that we are in the process right now of reviewing to decide where to allocate our resources. There are a lot of arguments against it. But, as I say, if it was so close to being done, it would be done and we wouldn't have to worry about it. Right now, it can't be done because of—

Mr. BUCHANAN. Let me just throw this out. Being in Congress for 10 years, I have watched trying to get agreements done. It takes, seems like, forever. So when you go at it just on a bilateral basis, and there are probably reasons, strategically, to do some countries that way, but it seems like there has been a lot of work product in terms of the EU. Because of shared values, it makes some sense to see if there is not an opportunity to do something in a big way that would impact. And I know it is not easy because there are a lot of issues with individual countries in Europe, but I would be interested in you guys being open-minded to that as a possibility.

Ambassador LIGHTHIZER. Thank you, sir. And we are. It is under review. And I could make an argument, if I had to, that it is a bilateral agreement.

Mr. BUCHANAN. Well, thank you. And I yield back.

Chairman BRADY. Thank you, Mr. Buchanan.

Mr. Lewis, you are recognized.

Mr. LEWIS. Thank you very much, Mr. Chairman. Thank you for holding this hearing today.

Mr. Ambassador, thank you for being here. I would like for you to give me some idea when it comes to trade policy, what is your position on the issues of human rights, labor rights, protecting the environment? It is my belief that a trade policy should be a reflection of our own values. I would just like to hear you out.

Ambassador LIGHTHIZER. Well, I think that is a very important point. I think it is not really fundamentally different than the point that the Chairman made. I mean, this is—we have a system. And we are proud of that system. And the system has created an enormous amount of good for not just Americans, but for people around the world. And we have an obligation to push that forward.

To be honest, personally, I view myself as worrying about the dollars-and-cents part of it. I am not worried the foreign policy part of it or the—

Mr. LEWIS. So are you suggesting, Mr. Ambassador, that we make money, we get the dollar, at any cost?

Ambassador LIGHTHIZER. No. I think that—

Mr. LEWIS. But you said you are concerned about the dollar.

Ambassador LIGHTHIZER. No, I don't think that is right. In the first place, I don't believe that at all. In the second place, I view my focus has to be on trade and economics. That is really what I am paid to do. That isn't to say that the other things aren't even more important, but my focus is.

But where we overlap, Congressman, is I think labor and the environment are economic issues, and I approach them as economic issues. That is how I think of them.

I think the United States—and many of the Members have said this—the United States, every businessman, every farmer, every worker has a right to get a fair shake in their own market.

And we have to remember that. This is not just about exports. We have a right to have a fair—we have a contract with these people where we will pursue a certain economic policy which we all think is the right policy, which makes everybody richer. But part of that contract is that we will give them all a fair break. And that means fair competition in their own market and overseas. And part of that fair competition, in my judgement, are things like labor rights overseas and the environment.

Now, that isn't to say that I think you want to ratchet up or do any of those things. I am just saying there are certain minimum standards that are part of our system, and to fall below that is an economic advantage which I don't think is a fair advantage.

So I don't disagree with your premise. I am just saying I am worrying about the economic side of it. I am worrying about workers and farmers making more money at the end of the day. And the other things are important, but they are not my focus.

Mr. LEWIS. But you are not prepared to commit to me, this one Member, that our trade policy should be a reflection of our values as a country? We can't say one thing at home and do something else abroad.

Ambassador LIGHTHIZER. I think it should be a reflection of our values.

Mr. LEWIS. Thank you very much. I yield back.

Chairman BRADY. Thank you. Thank you, Mr. Lewis.

Mr. Roskam, you are recognized.

Mr. ROSKAM. Thank you, Mr. Chairman.

Ambassador, thank you very much for your time today.

Just to shift gears a little bit, one of the big priorities is our relationship with Israel historically. And back in the last Congress, we overwhelmingly passed into TPA one of the stated trade objectives of the United States is to push back against the BDS movement, the anti-Israel Boycott Divestment and Sanctions Movement.

This is into a larger context. The former Ambassador from Israel to the United States, Michael Oren, wrote an op-ed in which, a few years ago, he made this point. He said the first wave of anti-Israeli activity was military, and we know how that turned out. The sec-

ond wave was terror movement against Israel. But the third wave is, in some ways, more insidious in that it is trying to take away Israel's legitimacy and, therefore, just simply remove it from the world stage.

So one of the tools that you have as the Trade Ambassador is the capacity to push back against that, particularly as it relates to European governmental actors. Can you just give us a sense of where that stands and how the Administration is adopting that TPA objective?

Ambassador LIGHTHIZER. Well, right now we are not in negotiations with Europe. But we understand that's an objective. And, indeed, I would say it is a threshold. It is more than an objective. I think that I shouldn't speak for the Administration on matters of foreign policy, but on this one I think it is so clear. The Administration very strongly agrees with that sentiment.

And we think that these boycotts and divestitures and the like are very dangerous. They are not just dangerous for Israel, they are dangerous as a precedent for the whole economic system.

So, personally, I am very sympathetic. I believe the President is very sympathetic. And that will be a very important objective when we get to the point that we are talking to Europe about T-TIP or other agreements.

Mr. ROSKAM. Very good. Thank you. I yield back.

Chairman BRADY. Thank you.

Mr. Larson, you are recognized.

Mr. LARSON. Thank you, Mr. Chairman.

And thank you, Ambassador.

In my State of Connecticut we have a great deal of exports. In fact, nearly 6,000 companies in Connecticut are involved in exporting. Nearly 90 percent of them are small businesses. That is why we believe it is critical to ensure our businesses and our workers maintain their economic and competitive position in the international markets.

I know you understand this thoroughly. I know you also understand that many American workers feel that the international trade has eroded the middle-class wages and led to job loss, as you can hear in some of the sentiments and the questions that a number of our Members are asking.

So that means that enforcement of labor and environmental provisions in our existing agreements and insisting on strong protections in any future agreements is essential. I know you understand that.

But what I have, and there is not enough time for me, but I want to pose six questions with the permission of the Chair. If I could pose the questions and then have them answered in writing, because I don't believe the Ambassador, it would be fair to him. But at least he will get the gist, and then we can further correspond beyond the Committee, and I won't supersede the time that I have been allotted.

The first is, with regard to NAFTA, how do you plan to seek greater access to the Canadian and Mexican procurement markets while protecting our own Buy American priorities? These seem to be in conflict. And so what specific changes will you seek to the

government procurement chapter of NAFTA? That would be question number one.

What kind of enhancements with regard to NAFTA, with respect to intellectual property protection, is the Administration contemplating in the NAFTA rewrite?

Third, what is your plan when it comes to the enforcement of labor and environmental provisions in our future FTAs?

The fourth has to do with currency that a number of people have discussed and you have raised here. What is the Administration's intention with respect to seeking the inclusion of currency rules in its trade agreements? You have already elaborated on standards and the need for those. And, again, I would appreciate if you could respond to that.

Further, in that regard, do you support including strong and enforceable disciplines in NAFTA and other trade agreements?

And, finally, Mr. Ambassador, we are very concerned about the issue that was raised when the President said that he might terminate the U.S.-Korea Free Trade Agreement. What are the Administration's plans with respect to the U.S.-Korea Free Trade Agreement? And if you could answer that, that would be great.

Ambassador LIGHTHIZER. So I am going to put six in the record and answer the last one?

Mr. LARSON. Yes.

Ambassador LIGHTHIZER. We are looking at all of our trade agreements. And the KORUS is one of them that we are looking at very closely. There have been winners and there have been losers. I would be less than candid if I didn't say it is troubling to me the direction the trade deficit has gone with respect to that agreement. It has had a negative effect on the U.S. trade balance.

Having said that, it is just in the group that we are looking at. There are no plans to drop out of KORUS at this point. It is just something that we are talking to the Koreans about.

In fact, I have a meeting today or tomorrow with the Koreans on these issues. We have a variety of thorny issues, issues that we think are costing us exports, and those things are all we are going to raise.

And it fits in that category of things that I say, if you have a big trade surplus with the United States, you had better get rid of the barriers to our exports to you. And it fits into that category of things. And I am going right down the line, insisting with these people, that you can't have barriers to trade and have a \$20 or \$30 billion surplus to us. You had better get rid of the barriers and let us sell there, because we are not going to tolerate it anymore.

But in terms of a plan right now to get out of KORUS, no, there is no such plan. But it is under review. It is seriously being looked at. And the President is troubled by the trade imbalance.

Mr. LARSON. That is reassuring, certainly, to hear. I know a number of people over the recess will be traveling to Korea for a variety of purposes, not the least of which is national security. So I do think it is important that message be reinforced.

And I couldn't agree with you more in terms of the trade imbalance. So I commend you in that area, and also for the encouragement that we are not going to be dropping out of KORUS.

Thank you.

Chairman BRADY. Thank you, Mr. Larson. You may have set a record for the number of questions stuffed into a 5-minute period. Thank you.

Mr. Smith, you are recognized.

Mr. SMITH OF NEBRASKA. Thank you, Mr. Chairman.

And thank you, Ambassador, for your service and for sharing your time here today.

I certainly want to associate my comments and concerns with my colleagues who have raised the issue of agriculture and NAFTA, and the progress that has been made with NAFTA. I know that producers across rural Nebraska certainly appreciate the gains that have been made.

And I think you have heard from us numerous times. They call us the agriculture delegation here on the Committee. You have heard us mention and emphasize several times how important these issues are, agriculture issues, that we not undermine the successes that NAFTA has brought to U.S. agriculture.

Shifting gears just a bit, thank you for the work that you and the President and others in the Administration have done on pressing China on a number of trade issues. This isn't just a market access issue. For the biotech firms, the lack of approval for these products also forces U.S. producers to choose between the most current seed varieties or continuing to access—continuing access to China's 1.3 billion consumers. And it is obviously a big deal.

As agreed to under the U.S.-China 100-Day Plan, China's National Biosafety Committee, or the NBC, recently met to review approval petitions for eight U.S. biotech products which have seen their approval for the Chinese market delayed by an average of 5 years. That's pretty astonishing.

So following the Biosafety Committee meeting, the NBC meeting, the Chinese Ministry of Agriculture approved only two of the eight pending products. And so approval of only two of these eight, obviously, is disappointing, and I am concerned that China will not honor the spirit of the 100-Day Plan in approving the remaining six products.

So I understand the NBC is set to meet again by the end of June, giving us the opportunity to have the other six products approved.

What is USTR doing to ensure China follows through and approves the remaining six products before the conclusion of the 100-Day Plan?

Ambassador LIGHTHIZER. Well, thank you, Congressman.

First of all, I would say that there was some progress made in the 100-Day Plan, as you suggest, and this is one of the principal areas where there was progress.

We are continuing to press China. We expect and will require that they, after they follow their process, very quickly approve all eight documents—I mean, all eight applications. This is important not just because of those, but because it actually delays U.S. farmers from implementing a lot of these high-tech techniques in the domestic market as well as internationally.

So I can assure you that Secretary Ross is very focused on this, is making it very clear that this has to be done. We have been in contact with the Chinese as recently as the last couple of days on this. And my feeling is that, before long, we are going to have all

eight of them agreed to. That is what we expect. That is what we think was agreed to. And the Secretary, as I say, who actually had that negotiation at that time, is very focused on it.

Mr. SMITH OF NEBRASKA. Thank you. I know that there is great opportunity in being good stewards of our natural resources with biotechnology. We have a great story to tell of how far we have come utilizing biotechnology, and I think it is very promising for the future.

I was pleased to see the President's budget did include a renewal of the GSP program, and this is very important. More specifically, the recent GSP reauthorization included language to also consider for duty-free access a variety of travel goods. The previous Administration did not provide the consideration for travel goods from all eligible countries as intended by the law, and instead only provided it to the least developed and AGOA nations. I appreciated Ambassador Froman's basically delegating that, or deferring that, expansion to the current Administration.

Could you give us an update on that effort in GSP and travel goods?

Ambassador LIGHTHIZER. Yes. Well, I don't necessarily appreciate him deferring it. But I say that just in jest.

No, we are in the process of looking at it right now. We are very close. The documents are in front of me and I think you will see an outcome very soon. And my guess is you won't be disappointed.

Mr. SMITH OF NEBRASKA. Okay. Thank you. Again, thank you, Ambassador.

And thank you, Mr. Chairman.

Chairman BRADY. Thank you.

Mr. Kind, you are recognized.

Mr. KIND. Thank you, Mr. Chairman.

Mr. Ambassador, thank you for being with us here today.

Mr. Ambassador, I want to just make a couple of comments before I ask you a question more specifically involving the dairy issue we have with Canada and NAFTA renegotiation.

But my first comment is I hope—and this is a good start today—that your approach in dealing with Congress is going to be extremely open, consultative, collaborative. I think it is going to be beneficial that whatever you go out and negotiate, you are going to have to come back here for our approval. And it is better for us to be on the takeoff, rather than trying to get us on the landing with these agreements, because we have to justify and explain this to our bosses back home too.

And Secretary Froman, I think, set a very high standard as far as outreach and time he spent on the Hill getting feedback from us, and us getting feedback from him, in the course of negotiations. That also included language of what was being negotiated.

Now, past USTR offices have been loath or reluctant to share language with us. If that occurs in the future, that is going to cause problems. I am just telling you right now.

And with that in mind, I recently just sent you, as well as Secretary Perdue, a letter inviting you to come back with me to my home in Wisconsin to have a good meeting with our agriculture producers. I think you are going to find that getting out of the bubble of Washington can be extremely helpful, just going out into the

countryside and listening to people and getting feedback from them. We had a great farm visit with Secretary Froman a couple of years ago where he got a lot of good input from agriculture producers in my large agricultural area.

So I hope you seriously consider the invitation and possibly find time to come to meet in the Midwest and have that conversation with folks back home.

In regard to NAFTA, I may be in the minority on this side of the dais, or even within my own party, but I happen to believe our withdrawal from the Trans-Pacific Partnership trade agreement will go down as one of the great strategic mistakes that we made in the 21st century—unless you and this Administration figure out a way to get us back into the game, into the fastest-growing economic market on the globe, the Pacific Rim area.

Because right now a tremendous vacuum has been created. These countries were looking to us for leadership and they didn't find it. We turned our back on them. And that vacuum will be more than willing to be filled by China. And if we have to operate from the outside looking in, trying to compete with China's rules, that will be a race to the bottom, and that will not help us or our people economically in this country.

And with TPP in mind, I hope—and we have talked to Secretary Ross about this—it seems to me, just logically, a good place to start with NAFTA renegotiation is to look to what Mexico and Canada has already agreed to under TPP, the elevation of standards that were included in the agreement, the reduction of tariff and non-tariff barriers that they had agreed to. And if you have ideas on how to improve upon that, let's go. Let's do it.

But if I see slippage in those standards from what they had already agreed to under TPP, that is going to be a problem from my perspective too. We can't be going backward now on something that was already agreed to with Canada and Mexico.

And, you know, a lot of people think NAFTA renegotiation means mainly with Mexico. We also have problems with Canada. And one is the dairy issue right now with the Class 6 and Class 7 pricing system with ultrafiltered milk, something that wasn't addressed with NAFTA but which many, if not all, of our dairy producers right now feel that they are being treated in an unfair and discriminatory manner.

So I am hoping that you have a plan for moving forward to try to resolve this so that we level the playing field and it is a two-way street when it comes to the exchange of products, but especially the issue we are having with Canada right now with dairy. And I'd be interested to hear if you have been thinking about this at all, if you have some type of plan to move forward on, and hopefully look forward to some additional meetings where we could talk a little bit more in detail about what we feel needs to be done dealing with Canada and renegotiation.

Ambassador LIGHTHIZER. Great. Thank you, Congressman.

First of all, I do believe that this is a partnership. And we don't want to bring an agreement back here that doesn't pass, implementing a bill that doesn't pass. So that makes no sense. So we want to be involved. I completely agree.

Senator Dole used to always say the same thing: If you want me on the plane when it lands, put me on it when you take off. And I always thought that was good advice.

In the second place, I have some background on the Hill, and I understand the importance of Congress. And, to be candid, I enjoy working with Congress. So that is number one.

Number two, with respect to TPP, the President didn't pull out of the Asia-Pacific area. He pulled out of TPP. He is very much—he wants to be engaged. And I think we are going to do a better job. It is not going to happen in a week or two.

And there are also questions I always had when I talked to people about—TPP was going to pass anyway. There are questions as to whether or not that was ever—whether that train was ever going to—whether that, I guess, with your analogy, whether that plane was ever going to leave the airport.

Having said that, the final thing I would say on—because I am so clock conscious here—is that on the issue of Canadian dairy, yes, we are very much involved in that. We care very much. You ask, do we have a plan? I have, like, this thick of options. So it is something we are focused on for a whole variety of reasons.

Mr. KIND. Great. I would love to stay in touch with you on that as we move forward.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Kind.

Ms. Jenkins, you are recognized.

Ms. JENKINS. Thank you, Mr. Chairman.

Ambassador, thank you for being here to talk trade with us this morning.

National security should, unquestionably, be a priority of any government. But I worry that using national security as a basis for trade restrictions in NAFTA or elsewhere could backfire if other countries do the same to us. In particular, food security for many countries is a vital component of national security.

Along that vein, here at home wheat farmers in my eastern Kansas district are just finishing their wheat harvest, and the work continues to roll north and west across the State. Many Kansas farmers will then ultimately look to foreign markets, here in North America or abroad, to sell their products in the coming months.

What argument would you make to a country that tries to restrict its imports of U.S. wheat or other products for food security reasons?

Ambassador LIGHTHIZER. Well, in the first place, as I said before, it is a legitimate argument: Should you use national security in the case of steel? I believe it is a legitimate argument. I, however, think that it is a legitimate use of the statute if the President decides to go in that direction. Steel, aluminum, these are national security issues, in my opinion.

Now, there is always the argument: Are you worried about somebody else using it? Yes, I am worried about somebody else using it. But they have to have a legitimate reason also. They can't just willy-nilly use it or we would challenge them. And my guess is that any country that thought they had a legitimate reason to use national security would, in fact, use it whether we use it or not. That is my own personal belief.

I don't see how someone could preclude Kansas wheat based on national security of a food need basis. That doesn't strike me as a legitimate argument. If it certainly happened, we would have to decide what makes sense in our judgment. And I can assure you that the President will look at this very, very hard. And his—the reaction will be the same as we are going to have with respect to any time we take an action on trade at all, there is always the possibility of somebody retaliating against us. It even happens when you do something in anti-dumping or countervailing duty or all the normal things.

There is always a possibility of retaliation. And the question you have is, what are you going to do in response? And that is something that we are thinking about. But if we get unfair retaliation against us, I would expect the President to react very strongly. I would expect him to take the position that we won't tolerate that.

Ms. JENKINS. Okay. Great. Thanks.

About 50 percent of all U.S.-grown wheat is exported, making trade incredibly important to a wheat State like Kansas. Mexico, for example, was the largest export market for U.S. wheat last year, made possible by the benefits of NAFTA. In fact, according to the National Association of Wheat Growers and the U.S. Wheat Associates, Mexico imported 3.1 million metric tons of wheat in the 2016–2017 marketing year.

In the views of many of my constituents, NAFTA has been overwhelmingly successful. I do agree, however, there is room for updating in this agreement, which is more than 20 years old, to include strong and enforceable SPS rules based on sound science, like those that were negotiated under the TPP. Kansas farmers and ranchers are also looking beyond NAFTA to future trade deals for additional markets.

What are your views on how NAFTA renegotiation can serve as a blueprint for securing those future trade deals, which would mean the inclusion of strong SPS provisions that will help the Kansas producers gain new market access?

Ambassador LIGHTHIZER. Well, SPS is something that needs updating, and it is an important objective. Generally, there are advantages in putting in model agreements in negotiation between Mexico, the United States, and Canada. Because we have a long history, we don't have a lot of the—some of the outlier economic activity that you might have if you were negotiating with somebody else. For example, we don't have massive state-owned enterprises in either place.

So I think that NAFTA is, as you suggest, it is a great opportunity to put in place between the three countries very high-level provisions with respect to a variety of things. SPS is one of them. But there are also, other people have suggested currency. It was kind of a classic example of what you are talking about where there really aren't currency problems between the United States, Mexico, and Canada, but that makes it a good opportunity for everyone to sit down and say, okay, let's put together a model agreement here that ought to apply to everyone.

So I look upon NAFTA as a real opportunity to create a model. And I believe that with respect to some of these things the Canadians and the Mexicans look upon it the same way. And then take

those provisions, with the additional legitimacy of being in the NAFTA and be able to use those in future negotiations.

Ms. JENKINS. Thank you, Mr. Ambassador. We look forward to working with you.

With that, Mr. Chairman, I yield back.

Chairman BRADY. Thanks, Ms. Jenkins.

Mr. Pascrell, you are recognized.

Mr. PASCARELL. Good morning, Mr. Chairman.

Chairman BRADY. Good morning.

Mr. PASCARELL. Mr. Ambassador, congratulations on your confirmation. Good luck. You are going to need it.

We have heard a lot of talk about what should be changed. I have to say that in various meetings with the U.S. Trade Representative and Department of Commerce, White House officials, I and many of my colleagues find ourselves confused by the inconsistency from this Administration when it comes to trade. We need some very basic questions answered. So I am going to get into the questions.

But I want to associate myself with the words of Mr. Buchanan concerning the difference between the bilateral agreements and regional agreements. I think he is on target. I think it would be foolish simply to deal in those bilateral agreements. This is a different world, and we need to understand that.

And I would like to associate myself also with Mr. Larson's comments on the relationship between our trade agreements and stagnant wages in the United States and the ability to create new jobs. There is a lot of data coming out on this. Trade affects things in our own country, and we need to take a look at the labor market to understand it fully.

Now, the President called NAFTA a disaster, and all I am hearing so far is tweaking the edges. If it is a disaster, and I am looking at, at least, 22 speeches that he made during the campaign where he riled up people, riled up people, about the trade agreements.

Now, I voted against many of those trade agreements. So one would think we are on the same side. We are not. We are not.

In the Administration's notice to Congress of an attempt to renegotiate NAFTA, your office failed to provide us with specific negotiating objectives or detailed descriptions of what you would like to see changed. Many American manufacturing companies have moved to Mexico, for instance, because of the much lower labor costs across the border. Mexican manufacturing workers make only 20 cents on the dollar that we make. And they have yet to comply with minimum internationally recognized labor standards.

So today, when Mr. Levin asked about implementing reforms prior to renegotiation, you would not commit to demanding labor improvements in Mexico. And you did the same thing yesterday when you were questioned by the good Senator from Ohio.

Now, I am disappointed you did not respond. So how will you ensure Mexico—how will you ensure that Mexico enforces labor provisions in a new NAFTA, now that we are going to abandon this disaster, if they have failed to meet basic internationally recognized labor standards?

Before you answer that question, I want to remind you, I did submit to you the principles of trade which we are having as our standards. I want to know what your standards are.

Thank you, Mr. Ambassador.

Ambassador LIGHTHIZER. We expect to negotiate an agreement that has enforceable labor standards. And we expect them to be consistent with the agreement that the Committee had with the Bush Administration on May 10, 2007. We expect them to be enforceable. And I look forward to working with the Members of the Committee to make sure that happens.

In spite of the disagreements that you articulated, I think that with respect to labor standards, my guess is we are not that far apart.

Chairman BRADY. All time has expired. Thank you, Mr. Pascrell.

Mr. PASCRELL. Mr. Chairman, I will submit the other questions to the Ambassador with your approval.

Chairman BRADY. Without objection.

Mr. PASCRELL. Thank you.

Chairman BRADY. Thank you.

So we will now move to two-to-one questioning to balance out the rest of the hearing.

Mr. Paulsen, you are recognized.

Mr. PAULSEN. Mr. Ambassador, the movement of data around the world is essential for businesses of all types here in the 21st century. From automobiles, to airplanes, to agricultural, and different apps, access to data around the globe is paramount in importance for businesses of all sizes in order to compete in a global economy. So data flows today have increased, they have grown by 45 times since 2005, and they are expected to grow by another 9 times by 2020.

However, as you know, currently there are no enforceable trade rules specifically protecting data flows, which leaves American companies vulnerable to digital manipulation by foreign governments. And such efforts include data localization, forced technology, or source code transfers, and other pernicious efforts that undermine competition from U.S. companies.

And both you and Secretary Ross have voiced public support for enforceable digital trade rules in your confirmation hearings as well as more recently. So does the Administration view inclusion of digital trade rules as a top priority for a NAFTA modernization and other future trade agreements?

Ambassador LIGHTHIZER. Absolutely.

Mr. PAULSEN. That is good to hear.

And, Ambassador, you have also mentioned that you have notified Congress of the intent to initiate negotiations with Mexico and Canada regarding NAFTA. Given that NAFTA modernization will set that precedent also for future negotiations with other countries and other agreements, it is a tremendous opportunity to help break down barriers to digital trade and allow U.S. companies to compete in North America.

Can you share with us, or the Committee, any information about Mexico and Canada's views on digital trade heading into those negotiations?

Ambassador LIGHTHIZER. I have not had discussions with Mexico or Canada with respect to this issue. We expect to have a digital chapter, as you suggest. We expect it to be a very high-level agreement.

I will have discussions with them. But I have to be careful, because we are not allowed to begin negotiations until we go through the TPA process, which we take as a very important commitment.

Having said that, I guess I would be very surprised if both of them didn't agree fundamentally that we need this. Neither one of them are in the group of countries that are, as you suggest, trying to create new industries by using tactics like forced transfer of technology, like data localization rules.

So I am optimistic that we will be able to put together a good chapter. But I certainly take it from our point of view that it would be very difficult to pass a NAFTA-implementing bill that doesn't have a very high standard digital chapter.

Mr. PAULSEN. Good. That is good to hear.

Let me just shift gears real quick. You know, the United States, and my home State of Minnesota, is a leader in medical device innovation and growing exports in that area that create a lot of really good jobs here at home and then help improve healthcare outcomes around the world. And other countries now are increasingly taking very extreme and misguided measures to control healthcare costs.

As an example, in India, we are seeing severe price controls that disproportionately affect American medical device manufacturers, putting them at a competitive disadvantage. India has also rejected requests by U.S. medical device manufacturers to withdraw affected products from the market and then has announced its intention to impose price controls on additional categories of medical devices.

And then another example would be in Italy where only U.S. publicly traded companies are required to account for expected revenue losses related to a yet-to-be-implemented and highly controversial payback law that would require companies to pay back to the government any medical device spending in excess of an arbitrary predetermined level of spending.

These are policies that hurt American companies and deter these companies from introducing new, innovative technologies in these markets, which ultimately means patients are going to have less access to these products.

So can you just share a little bit, how will the Administration work with India or other foreign governments to ensure that our companies are not being driven out of the market by arbitrary price caps or spending measures that make it impossible for innovative companies to compete?

Ambassador LIGHTHIZER. Thank you, Congressman.

I have met with a group of medical device executives and have heard the horror stories. And that really is what they are. This is an issue that we are raising with India, and we are going to use the Prime Minister's visit as a launching pad to make sure that this gets proper attention.

So everything you say, we completely agree with. All we can do at this point is raise the issues with them, show the unfairness of them.

And this, to me, fits into the category also of things that if you have a big trade surplus with the United States, you should not be doing things like this to the United States. They should be trying to encourage imports from the United States.

And their problem is even bigger because this is another example, the medical device area, is another example where China is now going to move in, has it on their Made in China 2025 list of industries that they want to become world class in.

So this is an industry that I think we really do have to focus on. And we met with them and we expect to put together an action plan.

Mr. PAULSEN. Thank you, Ambassador.

Chairman BRADY. Thank you, Mr. Paulsen.

Mr. Marchant, you are recognized.

Mr. MARCHANT. Thank you, Mr. Chairman.

Thank you, Ambassador, for being here today.

I have a couple of questions and issues I want to bring to you about the negotiations of NAFTA and how they may affect my district in Texas.

My district is the DFW Airport. The DFW Airport is the center of my congressional district. The airport has an astonishing value that it adds to our economy of \$37 billion a year. The Metroplex area that encompasses my congressional district is generating nearly half a trillion dollars in the GDP, and the DFW Airport is the driving force behind much of that growth. Most people in Texas say that the airport really is the economic generator for the whole State.

Just recently, the mayors of Fort Worth and Dallas and a delegation traveled to Toronto. And their main concern was that both parties, both those in Toronto and Dallas-Fort Worth, are uneasy about the upcoming negotiations, and they want to make sure that these relationships they have developed over the past few decades are going to last.

So I would like to know what steps the Administration is taking to make sure that the areas of the country that experienced economic growth as a benefit of NAFTA won't be harmed or see a downtick in the results of the modernization.

Ambassador LIGHTHIZER. Thank you, Congressman.

First of all, we are very much aware of how important that airport is to the State of Texas. And we are also aware, as the Chairman points out, that Texas is the number one exporting State in the country, at this point, as I understand it.

So our objective is to have more trade, not less trade. And our objective is to, first of all, do no harm. We expect that as a result of this the United States will have more sales and we hope that there is more trade. But, clearly, with respect to the provisions where NAFTA has been successful, we want to secure that going forward.

Mr. MARCHANT. Thank you.

Lastly, I would like to bring up a letter that was sent to you by our two Senators on June 8th. And, basically, the letter states that

NAFTA has played a key role in all North American energy markets, such as oil and natural gas, and that the NAFTA agreement allows the United States to maximize the benefit of being the world's largest energy producer.

As the Administration moves forward, I would like to echo the sentiments of this letter and ask for your opinion on the free flow of energy products, including electricity, oil, and natural gas, across the United States and Mexico and Canadian borders.

Ambassador LIGHTHIZER. Yes. I agree with you. We think that—Senator Cornyn of course is on the Finance Committee, where I testified yesterday, and this did come up.

We support the free flow of energy across the borders. We think it is one of the advantages we have as a North American market.

Mr. MARCHANT. And you don't think that any of the NAFTA negotiations that we contemplate will have any effect on that free flow?

Ambassador LIGHTHIZER. Well, I am not privy, obviously, to what the other people want to do. We think it has been a success. We hope it fits in the category of "do no harm," and we hope that everyone agrees with that, although, there are complications in this area, as you know.

Mr. MARCHANT. Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Marchant.

Following the practice of the Gibbons rule, Ms. Sewell, you are recognized.

Oh, Ms. DeBene, you are recognized.

Ms. DELBENE. Thank you, Mr. Chair.

Thank you, Mr. Ambassador, for being here with us today.

First, we talked a little bit about digital trade, and digital trade is critically important. We have 3 million Americans who are employed in the Internet sector, and it has helped the United States achieve a trade surplus, a \$159 billion trade surplus. So this is a very, very important issue.

In order to build on this—and I know you mentioned that digital trade would be a priority in any NAFTA renegotiation—how will you ensure that digital trade is prioritized within your office with appropriate levels at the agency?

Ambassador LIGHTHIZER. Well, first of all, as I went through my confirmation process, and in meeting with Members of the Ways and Means Committee, digital trade, after agriculture probably, is the number one thing that is raised. And it is self-evident that it is very, very important to the U.S. economy, and it is an area where we have a real competitive advantage. So it is important.

We have at USTR a position that was created just last year, it has not yet been filled, for an Intellectual Property Innovation Ambassador who is a negotiator, who is responsible for that area. We are in the process right now of filling that spot. And that will be someone who will, along with a few other things, focus very much on exactly this area.

So we do understand how important it is, and we think it is an important way to get our trade deficit down, which is a primary objective of the President.

Ms. DELBENE. Thank you. I urge you to fill that position quickly. That is important.

Ambassador LIGHTHIZER. Are you available between now—you are probably booked.

Ms. DELBENE. I also wanted to talk to you a little bit about cloud computing and some of the issues we are seeing with China. Various Chinese regulations are making it difficult, or even impossible, for U.S. technology companies to operate in China, possibly in violation of WTO commitments.

Specifically, I am concerned with China's proposed draft regulations, that when combined with existing Chinese law would require U.S. cloud providers to transfer valuable intellectual property and effectively hand over control of their businesses to Chinese companies in order to operate.

Global cloud services totaled more than \$100 billion in 2016 and has a very strong presence in my district and in my State. So it is very critical that the U.S.-China Comprehensive Economic Dialogue's 100-Day Plan includes a commitment by China to resolve this problem.

And so I wanted to hear from you. Are you aware of this issue? And can you talk about any progress that the Administration is making toward addressing this issue?

Ambassador LIGHTHIZER. Well, yes, Congresswoman, I am aware of the issue. It is an extremely important issue. And it, to me, when I read about it, is another example of a country being a mercantilist and basically having an industrial policy.

They see an industry or sector that has value, that is high technology, that has a huge growth potential that affects not just its own sector, but every sector, right, because it is this linkage that is so important. And then they try to get themselves in the position where they take over, first within their own country, and then way beyond that. And it is exactly the same pattern that we see everywhere. They limit. You have to have a partner before you can go in.

Anyone who hasn't followed this issue, it is worth looking at. It is a prototype of exactly how they have gotten to where they are in a whole bunch of industries for noneconomic reasons. None of this has anything to do with the economy.

So it is an extremely important issue. It is something that I am focused on, that the Secretary of Commerce is focused on, and others in the Administration are focused on. And we are raising our complaints with the Chinese, and we are looking at all of our options. So we are aware of the issue. We realize how important it is, and we are engaged on it.

Ms. DELBENE. Thank you.

You know, the fact that China has these regulations is particularly really offensive given the fact that Chinese cloud computing companies don't face these types of restrictions when they operate in the United States.

Ambassador LIGHTHIZER. I mean, this is an extremely important point. There is no reciprocity at all. And it is something that if we can take care of it through current law, we should do. And if we can't, the Congress should look at it, in my judgment.

Ms. DELBENE. One quick point which will be for the record, because we don't have time. I want to make sure you are aware of some of the concerns and questions we have heard about the Covered Agreement with respect to the EU. And so I will submit a question for the record, and I would appreciate your feedback on that.

Thank you.

Chairman BRADY. Thank you, Ms. DelBene.

Mr. Renacci, you are recognized.

Mr. RENACCI. Thank you, Mr. Chairman.

I want to welcome you, Ambassador, from one Buckeye to another. My district, Mr. Ambassador, starts in northeast Ohio. So it is in northeast Ohio. It starts in Cuyahoga County and then rolls all the way down into Wayne County. Because of that, Wayne County, actually, is one of the largest dairy-producing districts in the State.

The Ohio dairy sector relies significantly on exports. I am particularly interested in the potential to make good use of our engagement with Canada to tackle both the excessive tariffs our industry still faces there, and just as importantly, the non-tariff policies Canada has been using to distort trade.

Canada's new Class 6 and 7 pricing tools seem designed to let Canada have its cake and eat it too at our expense. The programs are a concern not only to companies exporting to Canada, but also those exporting protein products around the world, since the Canadian programs are designed to undercut our sales on both fronts.

How do we tackle both the problems facing us now with Canada on dairy and find a way forward to establish more open and dependable trading conditions with them on dairy?

Ambassador LIGHTHIZER. Well, first of all, if you had said Ash-tabula County, I would have paid more attention.

But seriously, we are very much aware of this issue. I have talked to Minister Freeland in Canada about it. And as you say, the way to think about it is exactly the way you put it. This is not just about exports from the United States to Canada. This is about exports from the United States to everywhere, because they have created such a, really as a byproduct, such a volume of dried skim milk that they can knock us out of markets everywhere.

So it is way beyond just a problem with Canada. It is something that we are engaged on, and that we have heard from not only Members from Ohio, but obviously Members from Wisconsin and from all over the place. And it is something that we want to deal with in the context of NAFTA. Our agriculture people at USTR are engaged and they have a variety of options that we are looking at right now.

Mr. RENACCI. Thank you.

Mr. Ambassador, I am an avid motorcycle rider. I learned this past week that Vice President Pence is also an avid motorcycle rider. But on the EU-U.S. beef hormone trade dispute issue, motorcycles are on the approved list for a 100 percent import tariff, specifically 51cc to 500cc. If this import tariff goes into effect, it would do economic harm to motorcycle dealerships and facilities in the State of Ohio and seriously impact domestic consumers.

My question to you is, a number of us here in the Congress have expressed our concern over the import tariff proposal on motorcycles and how harmful it would be on our constituents. As the USTR has done in the past, would you withdraw motorcycles from the approved import tariff list in the EU–U.S. beef hormone trade dispute?

Ambassador LIGHTHIZER. Well, my hope is that we are going to negotiate our way out of this. That is our objective. I realize there are a variety of products that are on the potential list and nothing has been happening to anybody at this point.

I know that the motorcycle industry, the motorcycle riders, have been very activated on this. I am sympathetic to their position. But right now we are just hoping to negotiate it out. I am not taking anything off of the list at this point. I think that would be counter-productive to the negotiation.

Mr. RENACCI. I would hope we take a good look at this.

Again, I want to thank you, Mr. Chairman, for allowing me to participate in this hearing. And I yield back.

Chairman BRADY. Thank you.

Mr. Meehan, you are recognized.

Mr. MEEHAN. Thank you, Mr. Chairman.

And thank you, Ambassador, for being here today.

Many of the themes get repetitive by the time you get down to this point of the aisle. But I want to attach myself to the comments that have been made by a couple of my colleagues with regard to the importance of the free flow of data and the effort that we are putting forth with the recognition that what you do here with NAFTA may also have some influence with regard to bilateral agreements that you intend to reach with other countries.

As we are looking at Europe and other places, the questions of privacy demands and others in the European sector create a genuine concern for the free flow of data.

So you did say that you were looking toward putting the highest-level people in your organization as focused on those questions. May I inquire, the position that you are looking for with the IP Ambassador, is that something that requires Senate approval or is that within your own bailiwick?

Ambassador LIGHTHIZER. It requires a Senate approval.

Mr. MEEHAN. So this is part of a problem. I hope my colleagues on the other side who are concerned about this issue would be weighing in with their colleagues in the Senate to assure that we would have this kind of support for that very, very important position.

But I thank you for your emphasis on that and hope in lieu of that appointment you will still look to assure that there are senior-level people working on those negotiations.

Another issue which I know you are well aware of but which continues to have great significance has been the patent protection for innovation that takes place in the United States in the biopharma area. There are questions about data protection for biologic and other kinds of drugs.

This has certainly been a part of TPP negotiations in the past and was not really resolved in a way that was as clear in TPP negotiations, with the Five Plus Three being about the best, notwith-

standing many representations by the Trade Rep that they were looking for the 12 years of patent protection that are enjoyed here in the United States.

Currently, as best as I can understand, Canada does not recognize 12 years of protections for the biologics, and Mexico is ambiguous at this point in time.

Is it your intention to try to work in that space to maximize the protections for biologics?

Ambassador LIGHTHIZER. Yes, absolutely.

Mr. MEEHAN. We would be grateful for your continuing commitment to that.

And can you address for me, as well, what you might be able to do with regard to mechanisms for patent disputes where they may arise in the context of that space?

Ambassador LIGHTHIZER. Well, this is another area where we want to have discussions and where NAFTA will—the whole protection of intellectual property will be a major issue in this negotiation, not just in the biologic area, but in the dispute area.

There have been, for those Members who aren't aware, there have been a number of cases in Canada where we think, unfairly, people have lost their patent protection, and this is something that we are going to focus on.

We understand the issue. We think it is a significant issue. And it is a surprise to a lot of Members who don't focus on it like you do that this is something that would go on in Canada.

Mr. MEEHAN. Well, I thank you. I thank you for your attention to those important issues.

And, Mr. Chairman, I yield back.

Chairman BRADY. Thank you, Mr. Meehan.

Dr. Davis, you are recognized.

Mr. DAVIS. Thank you, Mr. Chairman.

And welcome, Mr. Ambassador.

I live in Chicago, Illinois, and my hometown has the largest concentration of companies that process sugar-contained products made in our country. They are currently, though, paying 75 percent more for sugar than their competitors who can buy on the world market.

In the TPP partnership agreement negotiations, a consensus was reached without significant dissent in the United States to increase the sugar export quotas for Australia and Canada. What my constituents would like to know is, are these legacy negotiations regarding additional access for the U.S. sugar market going to be on the table during the renegotiation of NAFTA with Canada and Mexico?

Ambassador LIGHTHIZER. Well, we have, with respect to Mexico, we have an agreement that was entered into, a suspension agreement that was entered into, and it seems unlikely that is going to change in the context of NAFTA. Certainly, with respect to Mexico and Canada, if it is something that Members care about, we will be informed by what the Members' views are on it, and we will certainly take note of the fact that you are concerned about it. The biggest sugar issue we have right now is with Mexico and our chances in the context of that litigation, of the Title 7 litigation, is

that we have a suspension agreement, and I think we will probably end up resolving that issue through the negotiation.

Mr. DAVIS. I serve as Cochair of something called the Sugar Caucus, and, of course, Chicago used to be known as the candy capital of America. Our Members are expressing serious concern about the continuing domestic rise in sugar price, which has actually caused already a number of our companies and corporations and entities to move or relocate out of the country or to look elsewhere to purchase their sugar because they use huge amounts of it. Some of the candy and other things they make are mostly sugar.

Could you share with us the Administration's concerns relative to this continuing rise in domestic sugar prices for these businesses?

Ambassador LIGHTHIZER. Well, Congressman, I don't have any views on that issue. It is more of an agricultural issue from my point of view. I am concerned about the trade aspects of it, and will certainly want to engage with the Committee on that, but the domestic price of sugar is out of my purview. I am not unsympathetic to the points you make, but I have this whole world of things that are probably impossible to do, and if I add domestic agricultural prices to it, then I will go from a small chance to zero chance, so I think I have to sort of stay in the realm of trade.

Mr. DAVIS. We would urge you to add this trade issue. Any time we continue to lose jobs that we can't replace, that becomes for me a trade issue, as well as an agriculture issue, and so we would just urge you to take a real serious look at this issue and this problem. I thank you so much for being here, and I yield back the balance of my time.

Chairman BRADY. Thank you, Dr. Davis. Ms. Noem, you are recognized.

Ms. NOEM. Thank you, Mr. Chairman, and thank you, Ambassador, for being with us today. I know you are busy working on NAFTA renegotiations and modernization and new trade opportunities for us and this country, but I also want to thank you for your work with Secretary Ross and the Commerce Department on allowing U.S. beef back into China. That is huge for my State of South Dakota and our cattle producers and access to the \$2.5 billion market is welcome news for all of us.

What concerns me about the deal is that our beef is going to have a tough time getting back up to that 70 percent import market share that American beef producers enjoyed previously. Australia, one of our top competitors in the region, has negotiated a free trade agreement with China to completely reduce tariffs on their beef by 2024. So as we work to modernize NAFTA, other countries are working on free trade agreements, and we are losing market share in foreign economies.

So what is your plan to ensure that American agricultural exports are going to be on a level playing field in foreign markets, so we won't continue to see our market share reduction in other countries, and also getting there quickly before those other countries are able to snatch up that market share before we get other agreements completed?

Ambassador LIGHTHIZER. Well, first of all, we are very pleased with what was accomplished with respect to beef in the China 100-

Day Plan. And we think there are lots of other restrictions that we can eliminate with respect to all agricultural products in China. Many times the United States has the best and the cheapest product, and there is some reason, there is some impediment to the importation, and that was a classic example in the beef case, and in many cases, also poultry. There are a whole variety of these kinds of issues. So the first thing we have to do is remove impediments to trade, to U.S. trade. U.S. agriculture, as you know far better than I do, is the best, it is the most competitive, and it is the cheapest, and if we have a level playing field, we will do fine.

I think it is extremely unlikely that we are going to end up with a free trade negotiation with China for a whole variety of reasons that I would be, you know, happy to sit down and talk about, but we do have a lot of leverage with China in terms of them removing impediments and granting access to U.S. agricultural products, U.S. beef particularly. I mean, the reality is that they have a \$350 billion surplus with us. You get a certain amount of leverage with that if you are willing to use it. And it fits into the category of the people who can't have that kind of a—I mean, in the history of the world, there has never been anything that was so imbalanced as that, and that gives us a certain amount of leverage. So continuing to push on those issues is important.

In addition, there is a lot of talk about other FTAs, bilateral FTAs. One of the ones that the beef producers always talk about, of course, is Japan. So we have discussions with the Japanese. We are not necessarily, at this point, moving in the direction of an FTA, because they are probably not ready to talk and neither are we, but we have a structure that is under the Vice-President where we are engaging in an economic dialogue. We are talking about a variety of issues, these kinds of issues, and it is the kind of thing that, at some point, may lead to an FTA, which I know is very important to agriculture.

The final thing that I would say on this issue is Japan has had a \$60- or \$70 billion trade surplus with the United States since I was at USTR 30 years ago, and I have taken the position that on these kinds of areas, at least on a temporary basis, the Japanese ought to be making unilateral concessions. The reality is that it is in their interest, it is not like you are pushing out Japanese production, in that case, you would be pushing out another competitor's production.

So I think that is something that we ought to look at. They ought to be letting our beef in at least on a temporary basis, just as an effort to get their trade deficit down and to show good faith in moving forward in developing a closer relationship.

Ms. NOEM. I think any reassurance you can continuously give that we are not just focused on a seamless negotiation of NAFTA, that we are continuing to focus on China, we are continuing to focus on Japan, that there are many of these—I know that—our number one industry in South Dakota is agriculture. I am a life-long farmer and rancher, and was a cattle producer for decades, so I know that market share is incredibly important, and they see other countries being aggressive and like reassurances that we are not unilaterally focused on renegotiating NAFTA, that we are continuing to push those other areas.

And so, I appreciate your work on all of that, and also just will mention—I know I am out of time—but geographical indicators in the European Union as well is an issue on which I will talk with you later, but thank you for your time, and with that, I yield back.

Chairman BRADY. Thank you, Ms. Noem.

Mr. Holding, you are recognized.

Mr. HOLDING. Thank you, Mr. Chairman. Mr. Ambassador, first, I would like to thank you and your very able staff for the assistance you have provided and continue to provide to our sweet potato farmers as they face an issue in the EU, a pending issue that could greatly harm their ability to export. North Carolina makes great sweet potatoes, and we wouldn't want to deprive the world of their great taste and benefits.

Touching on some other issues, as you can imagine, and I know that you know, a lot of Members of Congress are looking forward to a bilateral agreement with the United Kingdom. I watched the press reports from the meeting that Secretary Ross had with Secretary Liam Fox earlier this week, and out of that meeting they announced that as early as July they will begin a preliminary scoping for a U.S.-U.K. trade agreement.

So I would ask you to explain what preliminary scoping means? You know, what does the working group consist of? Do you have the lead in this? Is Commerce taking the lead in this? And then additionally, regarding TPA, will TPA procedures be followed in this preliminary scoping, including a consultation with Congress during the scoping process?

Ambassador LIGHTHIZER. Well, thank you, Congressman. Yes, as you say, Secretary of State Fox was in town last week. We met with him, also. USTR negotiates agreements like this, so while Secretary Ross will be very much involved, USTR will be the hub of this negotiation.

The first thing we have to remember is that the U.K. really can't do anything for a while. They have another several months, probably until the early part, I guess, maybe the middle of 2019 before they can actually get out of the EU, and then they would be eligible. There are a variety of things you can do that aren't really a trade negotiation that we can both agree on, things like licensing and this kind of thing, and I think there is an effort to try to talk about and do that in the meantime, to discuss the issues. As we get closer to the time that they can actually act, then we would start going through the process that you allude to.

But I think at the right time, the U.K. would like to have an agreement with the United States, and I believe that the United States wants to have an agreement there, also, so it is an important activity. It is something that has its own timeframe because of their situation, which is kind of controlling in this case, but we have begun talks about matters of mutual interest, and they are, for us, a natural partner.

Mr. HOLDING. Well, I agree with you, and as you engage in your preliminary scoping, Members of Congress who are engaged on this are engaging with our counterparts in the Parliament to talk about what the agreement would entail and get an idea of where potential sticking points might be, you know, certain—we will always have adverse interests in some regard.

Staying on the topic of the U.K., you know, I would urge you, as you look toward 232 investigations, that you recognize the very unique relationship, the special relationship we have with the United Kingdom, particularly in the regard of national security between our two countries, and take that into account, and, perhaps, consider exempting countries like the United Kingdom, perhaps there is no other country like the United Kingdom regarding our special relationship and national security when you decide what actions you are going to take vis-à-vis 232.

Lastly, ISDS has been touched on numerous times today. ISDS and the carve-out of tobacco from ISDS and the TPP was an absolute fatal flaw, and I would encourage you, as you look at trade agreements, and look at ISDS and whether that is appropriate in various trade agreements, that you commit to not carving out any sector of our economy from ISDS. As you and I have talked about before, you always have to be mindful of getting to 218 on a trade agreement. And any carve-out of tobacco from ISDS or really, any other privilege and benefit of a trade agreement would be fairly fatal to arriving to 218. So thank you.

Chairman BRADY. Thank you, Mr. Holding.

Mr. Smith, you are recognized.

Mr. SMITH OF MISSOURI. Thank you, Mr. Chairman. Thank you, Mr. Lighthizer, for being here. The folks in southeast and south central Missouri definitely agree with President Trump and yourself that we believe our trade deals need to put American workers and American farmers and ranchers and American families first. I think that is extremely important.

In the last two decades since NAFTA was signed, a lot has changed in our economy. When you talk with the folks that I represent, they associate NAFTA with job losses. They know someone who has lost a factory job making shoes or bicycles, and even clothing, in southeast Missouri. It is incredibly important that NAFTA be updated and modernized, and we need to do it in such a way that puts American workers, businesses, farmers, and consumers first.

While the full promise of American manufacturing was not realized under NAFTA, American agriculture saw significant gains in the market access, and this must be preserved. The district I represent is the most diversified agriculture district outside of California. Every August, I do a 2-week farm tour visiting all 30 counties promoting the diversity and all the different aspects of our district. And in Missouri, we are the fourth largest rice producing State in the country. And all of that rice is produced in just the five counties in the Bootheel of Missouri, which is my entire congressional district.

NAFTA is responsible for making Mexico and Canada the largest market for Missouri rice, with 87 percent of our exports going to those two countries. Mr. Lighthizer, Missouri farmers want to maintain the market access that they currently have in agriculture trade with Mexico and Canada. Any disruption of trade with Mexico and Canada is a concern of our farmers and our ranchers. What will your approach be in the renegotiations to be sure that no new barriers to U.S. agriculture trade are established under NAFTA?

Ambassador LIGHTHIZER. Well, we certainly intend in this negotiation to do no harm to the agriculture sector. Our objective is to modernize, to put in place the things that have to be put in place, to correct such things as rules of origin and the like that have become outdated and have led really to a very large trade deficit. But we clearly will not be part of a negotiation where there are new barriers to agriculture that come up for sure.

Mr. SMITH OF MISSOURI. I appreciate that statement. The task that you have at hand is not an easy one, but I stand with you and the White House and this Committee to make sure that we get the best agreement and the best deal for the American citizens. Thank you.

Ambassador LIGHTHIZER. Thank you.

Chairman BRADY. Thank you. Mrs. Black, you are recognized.

Mrs. BLACK. Thank you, Mr. Chairman, and, again, welcome, Ambassador. We are delighted to have you here today and look forward to working with you in the future. I want to talk about one of the issues that are affecting some of the good people, and also companies, back in my State, and that is the lack of fairness in selling across the Mexican and Canadian borders where there is a very low-dollar value and shipments, the de minimis shipment threshold. Basically, it was set aside as a low-dollar shipping—shipments for faster and easier processing in and out of countries, but at this point in time, since it has been years since that agreement was made, we really are in a situation where there is an unfairness.

For instance, in the United States, the de minimis shipment level is \$800, but when you look at Mexico, it is less than \$50. And when you look at Canada, it is \$15. And so there is a real unequal treatment, and actually a real cost to some of those folks that are doing business, such as FedEx, and FedEx has thousands of workers and employees in my home State of Tennessee that potentially are affected by this, as well as individuals. And so I would like to know from you if that is something you are looking at, and that you think we can find some resolution and some equality in, for both individuals and also companies in this area.

Ambassador LIGHTHIZER. Yes, thank you, Congresswoman. First of all, yes, that is something that we are looking at that we take very seriously. It is one of those issues where you think you know something about trade and then you look at this issue and you think how is it even possible this could be happening? And it is a real burden to everybody who shifts back and forth, probably more in Canada, but even as you say, quite a bit going back to Mexico.

So it is a very large problem. It is the kind of thing that fits into the category of reciprocity where you say to yourself how is it possible that we could—in some ways, it could be so much easier to ship it here than it is to ship to those two countries. So we are going to look at it. And I hope there is a resolution that is satisfactory to your constituents. It is clearly a priority. It seems like the kind of thing that would be easy enough to fix. It can't be in anyone's interest, just, if I may, a management point of view, to have these tiny little thresholds. It has to be a burden on them, I would think, and I hope it is not done intentionally, I hope it is just a

question of something that has just built up over time, but it is something we are going to look at and we are going to focus on.

Mrs. BLACK. Well, I appreciate that, because my understanding is these thresholds were set many, many years ago when things were different as far as the way in which shipment was done, the cost of products and so on, and so this seems to be something that has been around for a while and needs to be revisited, and the sooner the better for both individuals and for companies on the cost that is borne by this inequity.

The second item I want to talk to you about is one that has come to my attention most recently, and it is the issue of the U.S.-EU covered agreement on insurance. And it actually came to my attention by a couple of different sources. One was the Tennessee Farm Bureau in my State, which is a very large industry and does a lot of business around the country, around the world, as well. And then I also heard from the Tennessee Insurance Commission, and our own commissioner, Julie McPeak, who is the commissioner of insurance in Tennessee, who was here a couple of weeks ago testifying before the Senate. And so this agreement that was put into place, and I understand it was pretty much rushed through by the previous Administration in their closing days to change the way that insurance products are treated across borders, has not seemed to be in the best interest of those here in the United States, and probably the biggest part of this is there is just not clarity, and there are a lot of questions about what these agreements mean.

And so I wanted to know if that is something you are aware of, and that you are looking at getting some clarity for the insurance—for those who do insurance.

Ambassador LIGHTHIZER. Yes, thank you, Congresswoman. I am very much aware of the issue. It is something that the Secretary of Treasury and I have to come to grips with here in the not-too-distant future, and, in fact, have meetings scheduled very soon for he and I to sit down and discuss this issue. So it is a good time to have your view on it.

Mrs. BLACK. Well, I appreciate that. I think since the President is really very adamant about America First, that we need to make sure we are not, in some way, putting our companies and our folks here in the United States behind other countries with a lack of clarity and making sure that there is an equality and treatment there, as well.

Thank you, and I yield back.

Chairman BRADY. Thank you. Mr. Rice, you are recognized.

Mr. RICE. Thank you, Mr. Chairman, and thank you, Ambassador Lighthizer, for being here and your patience in waiting for 2½ hours to allow me to ask you a few questions.

I think that I am very much aligned with the Administration. Mr. Trump says, “Make America Great Again,” I say make America competitive again. And two of the things that give me the most hope, most optimism about this Administration are your appointment, and the appointment of Mr. Ross. So I am really excited about fair and free trade.

I appreciate your focus on the steel industry. I have already had one steel mill in Georgetown, South Carolina close during my 4 years here. During my 4 years here, I have had a constant stream

of apparently legitimate complaints about abusive trade practices, particularly from China. So I have Nucor Steel still in my district, I have a company called Metglas in Conway who has lost employees because of these unfair trade practices, and I very much appreciate your focus on that.

But I want to talk about something more fundamental. And that is what Mr. Nunes broached earlier, that being the fact that 140 other countries, including every one of our significant trading partners, have adopted border adjustment taxes generally through the value-added tax system.

And I know this hearing is about trade, but we have heard how so many factors enter into fair trade earlier today, whether it be employment practices, environmental practices, taxes, and others. So what I am particularly curious about is in negotiating these trade agreements, how can you ensure that we achieve fair trade, trade where American companies and American workers can compete on a level playing field? How can you ensure that when other countries are applying border adjustment taxes on our products when they hit their shores, and we are not doing the same things to them? How can you, when you renegotiate NAFTA, account for the fact that Mexico has a 16 percent border adjustment through a VAT, and we don't have the same offsetting tax, and, therefore, American workers and American companies are at a huge disadvantage?

Ambassador LIGHTHIZER. Well, thank you, Congressman. First of all, I have spent a lot of time thinking about this issue, and I think that this equilibrium between direct and indirect taxes is a serious problem. Now, there are a lot of different ways to deal with that, and so I am not in a position where I want to say what is the best way. And, in addition, I am not paid to worry about taxes. I am pretty worried about other things.

Mr. RICE. I agree, and I understand that you are not paid to worry about taxes, and this is a trade hearing, but don't taxes have a very direct impact on trade?

Ambassador LIGHTHIZER. Absolutely. Taxes have a direct effect on competitiveness, and competitiveness is what trade is all about. At its core, trade is about competitiveness, so taxes are a huge issue. In terms of direct or indirect taxes, I think there is a real problem, but when I do my negotiations, I take those systems the way they are, and people make their own judgments for their own societal reasons as to whether or not they want to have value-added taxes or income taxes or how they want to structure all that, but I am not blind to the fact that it does make a difference in the real world.

The most important thing, I think, is to get taxes down and to do all the other things that we need to do to become competitive. And in the area of taxes, there are a lot of different options, and as I noted, there has been a tendency on behalf of most countries really—or at least many countries, would probably be more accurate—to move from income taxes to an indirect tax system.

Mr. RICE. There has been that tendency, and would you speculate that tendency was due, in some part, to the fact that it makes them more competitive with respect to manufacturing and importing and exporting?

Ambassador LIGHTHIZER. Well, my guess is that they do it for a variety of reasons, and probably that is one. In respect to some issues, and this is something that has always been of concern to Republicans with respect to a value-added tax; I think to some extent, people go to it because they think it is easier to raise taxes, and there are a lot of people who are conservative Republicans who have the view that one of the principle reasons—that is an overstatement, but one reason that Europe has gone the way they have gone is because it has been too easy to raise taxes. So these are not totally—I mean, there are a lot of things to sort of think about in this discussion.

Mr. RICE. And this issue on competitiveness of American products, it doesn't just apply to manufacturing, it applies to agriculture, as well, doesn't it?

Ambassador LIGHTHIZER. Absolutely correct.

Mr. RICE. Thank you, sir.

Chairman BRADY. Thank you, Mr. Rice. Mrs. Walorski, you are recognized.

Mrs. WALORSKI. Thank you, Mr. Chairman. Ambassador, it is good to see you. Thanks for hanging in with us, and I just wanted to thank you. I am from the State of Indiana, and I want to thank you for indulging me when you first came in today and talking and chatting about this Section 232 that we have talked a little bit about, but I am more than concerned about the impact on aluminum and the aluminum industry as it pertains to my district in northern Indiana and my State. I would just ask that, you know, to consider the anxiety from my constituents about the prospect of tariffs and quotas on imports that they depend on to make RVs, trailers, and all sorts of other products. I have already been contacted by some of these manufacturers, and they are already being impacted by price differences, and they are very, very uncertain as to what is going to happen as am I, and I appreciate your willingness to look into it.

But could you convey to the President, to Secretary Ross, my request that they conduct these investigations and decisions that they are making thoughtfully, thoroughly, transparently, to determine what the impact of action might be for American companies and to avoid any type of quick action that would hurt these companies, could you just convey that information?

Ambassador LIGHTHIZER. Yes, I will. I would be happy to do that.

Mrs. WALORSKI. And then I just want to associate my remarks with previous remarks of Representative Paulsen about this issue in India. And our issue is the same type of thing, and it goes along with the medical device industry, and what we are seeing already, and, again, in Indiana, we are full of medical device manufacturers, so they are worried about the sudden and drastic nature of cuts, what it means to the products already being sold there, and products they may want to sell in India in the future.

Myself and Mr. Kind, previously who spoke, sent a letter with 16 of our colleagues to the Indian Ambassador voicing our strong concerns, and I am happy to provide that letter to you. My question for you is, what else can we do on Capitol Hill to help you with these issues with the medical devices? We are looking specifically

at stents, and some of the prohibitions, and just some of the things you referred to earlier, but is there anything else we can do to help you besides sending letters to their Ambassador?

Ambassador LIGHTHIZER. Well, first of all, the issue is a very serious one. Second, I have met with the manufacturers, and they are in a position where they literally are forced to sell something they don't want to sell way below the price of manufacturing it. I mean, it is like you can't even understand it. I think it is something that we are taking seriously, we are focusing on, and just the more pressure Congress can put, the better, to be honest with you.

Mrs. WALORSKI. Specifically to the Ambassador? Or does it need to go in any other direction?

Ambassador LIGHTHIZER. Well, it is probably better if I don't talk about that in a public session. This may be one of those things that we have to go into executive session to talk about. No, I am kidding about that. The Prime Minister of India is coming to town to meet with the President.

Mrs. WALORSKI. Right.

Ambassador LIGHTHIZER. So there are a lot of opportunities where they are looking at irritants, and this is clearly a major, major irritant, and it is important that they know that because we have pressed them. Now from their point of view, you know, they have a different take on this.

Mrs. WALORSKI. Sure. Oh, yeah.

Ambassador LIGHTHIZER. And we press them and our arguments are stronger when they are backed up by the U.S. Congress. I mean, it is just that simple. I mean, the power in Washington is right in front of me, so.

Mrs. WALORSKI. Okay. I appreciate that. And then a final issue I want to discuss, one I raised with you previously, and that is Canada's Promise Utility Doctrine. It has resulted in 28 pharmaceutical patents being partially or completely invalidated, which is going to be a big priority for us in any NAFTA update. Do you have any comment on those protections and that doctrine?

Ambassador LIGHTHIZER. Well, arguments too, but the result is you end up losing.

Chairman BRADY. Ambassador, could you move a little closer to that microphone?

Ambassador LIGHTHIZER. I am sorry. You end up losing patents because of abuse, and then somebody makes a generic drug out of the same product and starts selling it, so it is a serious problem, and it is clearly something that we are going to work on, and it is going to be part of this negotiation.

Mrs. WALORSKI. I appreciate it. And can you just give me the bottom line, 20 seconds, as you see the Section 232 as it pertains to steel and aluminum? I am particularly interested in the aluminum part.

Ambassador LIGHTHIZER. Well, I mean, I think you are going to see decisions on both of them fairly soon. I think the view in the Administration is that we have, you know, a very serious issue. The President has asked us to look at these things. They had hearings on one before. They have hearings on the other today, and the President wants action. He is worried about what is happening in

those industries, and the President wants action. So to the extent you have concerns about effects, it is certainly timely.

Mrs. WALORSKI. I appreciate that. I yield back. Thanks, Mr. Chairman.

Chairman BRADY. Thank you. Mr. Curbelo, you are recognized.

Mr. CURBELO. Thank you, Mr. Chairman, and thank you, Ambassador Lighthizer, for your presence here today.

One issue I wanted to bring up is the effect trade agreements have on the farmers of my south Florida district. Many people not from south Florida might be surprised to know that Miami-Dade County is one of the largest ag producing counties in the State. Most people think about our beaches, and we are very proud of those, but we also have a very robust ag industry in south Florida. We have avocados, mangos, tomatoes and many other specialty crops which can be grown year-round. So as we renegotiate NAFTA, which I support, I am concerned with how the deal will affect our farmers across the country.

We know a lot of farmers have benefited greatly from NAFTA; however, the story is a little bit different in south Dade. I try to spend as much time as I can with these farmers, and they have many issues that they are concerned about, immigration, taxes, but NAFTA is certainly a major one. Specialty crops like tomatoes, squash, eggplants, strawberries, pretty much anything that is hand-picked, faces a significant disadvantage when it comes to Mexican competition. Mexico has a similar climate, and for a whole host of reasons, can unfairly compete against many of my constituents.

Ambassador, I have raised this issue multiple times as NAFTA is being renegotiated for the fair treatment of south Dade, especially these specialty crops and the farmers who grow them. I have mentioned this to you and your staff, Secretary Ross, and Mr. Navarro. This issue is of critical importance to the south Dade farming community. Can you discuss what we might be able to achieve through this NAFTA renegotiation to put these south Florida farmers on a level playing field with Mexico moving forward?

Ambassador LIGHTHIZER. Well, first of all, we appreciate your input and those of other Members from Florida on this issue. We realize how important it is. As I said before, when we talk about how important agriculture is and the agricultural sales to Mexico, and they are extremely important, we, overall, have a trade deficit in agriculture with Mexico, and it is entirely because of the speciality crops, the fruits and vegetables that you are talking about. And there are a whole lot of additional elements of the seasonality and the perishability. There are just a lot of things that make it a very complicated issue, and I assure you, it is something that we are going to focus on in this negotiation and hopefully, we are going to get an outcome that is going to satisfy the producers in your district and in all of Florida.

But it is a major problem, and you are right, it is the one—maybe not the one, but it is a major outlier in the whole agriculture story with respect to NAFTA, it is something that I think we have to be cognizant of and try to work on, so we very much appreciate your involvement on the issue.

Mr. CURBELO. And I appreciate your commitment, and we will continue working with you and with your office and other Administration officials to try to make as much progress as possible.

Another issue I would like to briefly touch on is the Transatlantic Trade and Investment Partnership. Earlier this month, I joined members of the T-TIP caucus, including seven Members of the Ways and Means Committee, in sending a letter to your office in support of continued T-TIP negotiations.

Can you talk about the positive benefits T-TIP could have for our economy, especially with the inclusion of a dedicated chapter in the agreement identifying the importance of small- and medium-sized enterprises?

Ambassador LIGHTHIZER. Well, we have an ongoing reevaluation of all of our trade agreements and all of our ongoing negotiations right now at USTR. And we are looking at the benefits and the drawbacks of the trade-offs that we see. But I think that T-TIP is an area where there are a lot of very positive reasons to go forward with that. It, of course, requires two people to be involved in a negotiation and for a variety of reasons, largely the electoral process, the European Union is not in a position to be negotiating at this point. The last election, I think, that they have this year is in September in Germany, and then I think at that point, they will start focusing on this. But then they have Brexit to focus on. So they have a lot of things they have to look at, too, and we also have priorities.

But clearly, this is a very likely potential agreement, and it was entered into because an awful lot of people saw benefit to it. So as we go through this process, I think we will make an analysis, we will look at the pluses and minuses, and the views of the seven members of the caucus, of the Ways and Means Committee, will be very important to us, as I should say will all Members.

Mr. CURBELO. Thank you. Thank you, Mr. Ambassador.

Chairman BRADY. Thank you. Mr. Schweikert, you are recognized for the final question.

Mr. SCHWEIKERT. Thank you, Mr. Chairman. And I think last and least, or however the saying goes, trying not to repeat any of the questions, and when you are last, a lot of them have been used up, but first off, just conceptually, I have a great appreciation for how complex your world is. You know, you have this area of authority, but everything from currencies, to local national regulations, to technology, to infrastructure, I mean, everything ends up affecting ultimately—how trade ultimately works.

I do have a couple of odds and ends for you. Being from Arizona, we are one of the States that if you actually look at the baseline data, NAFTA has actually helped our State's economy. But as you move toward modernization, can I beg of you to have someone on the team fixate on just Customs technology, the ability to have those vegetables move across the border efficiently, the ability to say we are going to embrace a common platform for technology, and I don't care if it is based in a distributive ledger where you have GPS tags or RFIDs, but the ability to say how do you maximize the efficiency of those cross-border transactions and the movement of the Customs?

Ambassador LIGHTHIZER. Thank you. That is such an important question, and we have sort of touched on it in various ways because we talk about de minimis, there is a lot of different things, but one of the things that we are going to focus on in trade facilitation is just—and I think that the Mexicans and the Canadians will be in agreement on this—just how do we make whatever you decide your policy is once you have set it, it has to be easier to move product and data across the border. So, you know, this is important. Efficiency is clearly our objective. Facilitating trade is our objective. There will be technical problems, of course, but as a matter of direction, I can't imagine that the three of us would have a disagreement on that.

Mr. SCHWEIKERT. With this great opportunity with technology now, and the ability to track a truck, a lorry, down to certification at the dock to the movement to the backbone that actually is hack-proof. I am just, I embrace that technology.

And the second thing, and this one may be slightly more conceptual, but as you are working on the drafting, how do you design something that is partially future proof if, you know, this is substantially the driver of much of the U.S. innovation and technology, what happens when, you know, that hand-held super computer is my transmission of making purchasing decisions, or paying my fees or moving money back and forth, that the agreement be robust enough to understand everything from, you know, the way we transmit data to where we house the data, to the encryption of such data. It is that sort of digital trade world that we are very good at that would also make the relationships with our trading partners more efficient.

Ambassador LIGHTHIZER. Well, I think this has to be a focus. My guess is we will probably miss the mark because nobody really knows what is going to happen, and it is always unpredictable, but hopefully we won't miss it by as much as the people who did it 23 years ago. We will have the benefit of all that learning.

Mr. SCHWEIKERT. And, Mr. Ambassador, that is one of the great difficulties, and trust me, I am part of a body where sometimes we commit the sin of thinking we know what the future looks like. And so how do you design at least language that as technology improvements move, you know, the movement of whether it be a cryptocurrency, whether it be documents of value, documents of certification, documents of ownership, that the way you have written the agreement, there aren't these great gaps that we have to wait 25 years for the next major negotiation to fill?

Ambassador LIGHTHIZER. Well, this is so important, and hopefully, we are focusing on it enough, we will certainly try to, and then we have to build in processes, I think, within the agreement that allow you to make amendments when you—without actually going back through the whole process when there is sort of a huge directional change. But this is something that we are cognizant of, and we, perhaps, haven't thought enough about it, but certainly will, and we want to work with the Congress to do it.

Mr. SCHWEIKERT. And the last thing, trans-shipments, something that actually may be a product made in Asia, comes through a Mexican port, brought up, I am hoping, actually, the same movement toward the identifications and technology that can actually

deal with what are products that are actually part of the NAFTA agreement and what are just those who are passing through? And with that, I yield back, Mr. Chairman.

Chairman BRADY. Thank you, Mr. Schweikert. I would like to thank Ambassador Lighthizer for appearing before us today. Please be advised that in addition to questions you received here, Members have 2 weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record. Mr. Ambassador, we look forward to working with you on trade and expanding economic freedom, and with that the Committee stands adjourned.

[Whereupon, at 12:48 p.m., the Committee was adjourned.]

[Questions for the Record follow:]

Questions from Trade Subcommittee Chairman Reichert

1) Korea Trade Agreement

There is always the opportunity for improvement, but I am proud to have championed passage of the U.S.-Korea Free Trade Agreement. Just five years after the KORUS trade agreement entered into force, exports of potato products to Korea from my home state have increased by 80% and demand for Washington's cherries has risen by 200%. These benefits cannot be overlooked. Given the President's comment on June 30 concerning KORUS, as well as your follow-up letter to the Korean government, do I have your commitment to consult with Congress concerning any discussions with Korea under the auspices of the KORUS Joint Committee?

Answer: The Administration is engaging with Korea to address a range of serious trade concerns. Through this engagement, we seek to ensure that Korea lives up to its obligations so that all U.S. exporters are treated fairly, as well as to address broad concerns with our trade imbalance. We will consult with you and your colleagues.

2) Aircraft Subsidies

As you know, Boeing builds the vast majority of its commercial jets in my home state of Washington. I was pleased to see recently that a World Trade Organization (WTO) panel rejected 28 out of 29 of the European Union's claims that the United States provides WTO-inconsistent subsidies to Boeing. This decision made clear that the U.S. complies with the rules, but the EU does not. In fact, the EU has not remedied the billions of dollars they have provided in illegal subsidies to Airbus, including the additional illegal subsidies for the development of Airbus' latest jetliner model, the A-350.

I urge you to press the Europeans to comply with the rulings against it and not ignore its international trade obligations.

Can you advise the Committee on how the WTO dispute over aircraft subsidies fits into the Administration's enforcement agenda?

Answer: As noted in USTR's report to the Committee pursuant to section 601 of the Trade Facilitation and Enforcement Act of 2015, USTR is committed to strong enforcement of U.S. trading rights under the WTO as well as bilateral and regional trade agreements. Enforcement actions undertaken by USTR are designed to increase our economic growth, promote job creation in the United States, promote reciprocity with our trading partners, strengthen our manufacturing base and our ability to defend ourselves, and expand our manufacturing, agricultural, and services industry exports. EU aircraft subsidies have been an important U.S. concern for decades, as they have enabled Airbus to expand its market share at the expense of U.S. producers and American workers. USTR intends to pursue this dispute until we have achieved our objective of eliminating WTO-inconsistent subsidies to large civil aircraft and finally achieve a level playing field in this critical sector.

3) Trade in Services

There has been a lot of emphasis by the Administration on the need to address the manufacturing sector through NAFTA negotiations. I also have heard you talk about the importance of maintaining market access for agriculture. But I have not heard much about the Administration's plans for services -the sector accounting for 80 percent of the U.S. economy. Given that the United States enjoys a trade surplus with both Canada and Mexico for trade in services, I want to make sure that an overemphasis on reducing the trade deficit in goods could result in throwing the baby out with the bathwater -or in this case, the largest sector of the U.S. economy. Can you please tell us what your top priorities are for services in the NAFTA negotiations?

Answer: The U.S. services sector is a key driver of the U.S. economy, accounting last year for 80 percent of U.S. private sector gross domestic product and 34 percent of total U.S. exports. Securing open markets for U.S. services exports and reducing services trade barriers is a key objective for the Administration's trade agenda. Our services trade priority in the NAFTA negotiations is to update and strengthen the NAFTA across the full range of services sectors, including areas of core U.S. strength such as financial services, delivery services, telecommunications, and the Internet sector. Because digital trade now affects trade in all sectors, a key element of these negotiations will be to update the NAFTA to include state-of-the-art rules to help ensure that digital trade continues to flourish.

4) AGOA Used Clothing Dispute

I understand that USTR has initiated an African Growth and Opportunity Act (AGOA) out of cycle review for three countries in East Africa in response to concerns about restrictions on exports of "used clothing and footwear" from the United States. I applaud your efforts to remove trade barriers that harm U.S. exporters and ensure compliance with AGOA. At the same time, I urge you to consider also the many U.S. jobs - including in my district -dependent on the ability of these countries to export clothing to the United States under AGOA as well as our trade relationships with these countries. I ask you to please consult closely with my office and Members of this Committee. Could I have your assurance of that?

Answer: Trade enforcement, which includes ensuring that our AGOA partners adhere to AGOA's eligibility requirements, is a top Administration priority. USTR consulted with Congress prior to initiating the out-of-cycle review. Before taking any action on this matter, I will consult with Congress, including you and other Committee Members.

5) Vietnam

Our economic ties with Vietnam are of critical importance to Washington's technology companies, specialty crop producers, and footwear and apparel companies. As you consider pursuing policies to liberalize trade and investment with Vietnam, I ask that you also focus on the role of state-owned enterprises (SOE) in the port terminal industry. Specifically, I am hearing concerns about limitations on investments in joint ventures when an SOE is unable to meet its financial obligations as well as limitations on investments in companies responsible for handling transshipment containers. I hope you can work with me and my staff on these issues.

What are your goals and priorities with respect to liberalizing trade and investment with Vietnam? Are these issues you intend to raise with your Vietnamese counterparts?

Answer: I agree with you on the importance of deepening our relationship and addressing outstanding trade issues with Vietnam. Since taking office, the Trump Administration has been working to do both. In May, Vietnamese Prime Minister Phuc visited Washington to meet with President Trump and discuss ways to strengthen our trade ties and address unfair practices that have contributed to our \$32 billion trade deficit. We have followed up on these discussions, including through meetings under our Trade and Investment Framework (TIFA), where we have pressed Vietnam to address issues related to goods, agriculture, and state-owned enterprises (SOEs). As we consider additional agenda items and possible new initiatives to further our work, I welcome your input and looking forward to working with you and your staff.



Questions from Ranking Member Neal**1) TPA Consultation Guidelines**

TPA requires the Administration to issue specific guidelines for its consultations with Congress in the course of a trade negotiation. The Obama Administration issued a set of guidelines on October 27, 2015. To my knowledge, this Administration has not yet indicated whether it intends to follow the consultation guidelines for trade negotiations that were developed in 2015, nor whether it plans to develop new or revised guidelines that would address the shortcomings of the earlier guidelines. Is the Administration committed to following the 2015 guidelines in all trade negotiations currently pending? Is the Administration planning to develop new or revised guidelines? If the Administration is planning to develop new or revised guidelines, does the Administration intend to work with the Committee on a bipartisan basis to do so?

Answer: This Administration is committed to following the guidelines for consultations with Congress for trade agreement negotiations that were developed in 2015. Indeed, as we embark on NAFTA negotiations, we have been and will continue to follow those guidelines.

2) Consultations with Congress

As you know, consultations between the Administration and Congress are critical not just because of TPA's rules but primarily because of the authority that the Constitution assigns to Congress in matters of trade and international commerce. So far, there has been a lack of consultation between the Administration and Congress on trade matters. For example, Executive Orders and Memos have been drafted, signed, and issued on numerous important trade topics that Members of Congress first learned about from the press. This is not how Executive-Congressional consultations on trade are supposed to work. What are you doing, as the U.S. Trade Representative and the statutorily designated principal spokesman of the President on international trade, to address these problems?

Answer: As the United States Trade Representative, I place great importance on the both the history of the agency's relationship with Congress and its requirements under statute. In my first interactions with the Ways and Means Committee, I committed to follow the letter and intent of TPA, and I very much hold that commitment today. As the USTR, I have made it a habit of personally calling the Chairman and Ranking Member, or in some circumstances their senior staff, to deliver news on upcoming actions, and it is my intent to continue personally relaying important messages in this way.

3) U.S.-U.K. Trade Agreement Discussions

In addition, last week on June 29, Members of Congress first learned through press reports that, according to U.K. Trade Minister Liam Fox, "actual discussions" between the Administration and the U.K. regarding a U.S.-U.K. trade agreement are planned to take place on July 24. What is the Administration planning to discuss with Minister Fox on July 24? What is the timeline that the Administration contemplates for pursuing trade negotiations with the U.K.?

Answer: On July 24-25, I hosted UK International Trade Secretary, Dr. Liam Fox, for the first meeting of U.S.-UK Trade and Investment Working Group. The Working Group will help to provide commercial continuity for U.S. and UK businesses as the UK leaves the EU, explore ways to strengthen U.S.-UK trade and investment ties ahead of the exit, and begin to lay the groundwork for our future trade relationship, including exploring the possibility of a U.S.-UK trade agreement. Prior to these meetings, we briefed staff of the Senate Finance and House Ways and Means trade subcommittees. The first meeting was made up of representatives from several U.S. and UK government agencies. We expect to continue to have regular meetings of the Working Group going forward.

4) KORUS "Re-Negotiation"

Also last week on June 30, Members of Congress first learned that the Administration is "re-negotiating" the U.S.-Korea trade agreement (KORUS) through remarks made by the President before his bilateral meeting with South Korean President Moon. What specific changes is the Administration seeking to make to KORUS? What is the timeline that the Administration contemplates for pursuing trade re-negotiation with Korea? Does the Administration intend to comply with the consultation and transparency requirements of TPA in any renegotiation of KORUS?

Answer: Following the U.S.-Korea Summit, I requested a special session of the Joint Committee under the KORUS Agreement to consider matters affecting the operation of the Agreement, including possible amendments and modifications. Through this first step, the Administration looks to review progress on implementation, resolve market access concerns, and address our significant trade imbalance. We expect to meet with Korea in the very near term. We will consult with Congress. .

5) Re-Negotiations of Other Trade Agreements

In May, the Administration has submitted to Congress formal written notice, under TPA, of its intention to re-negotiate NAFTA. In addition, in June, the President stated publicly that the Administration is "re-negotiating" KORUS. Apart from NAFTA and KORUS, does the Administration also intend to re-negotiate or "modernize" those agreements? Will it matter whether the United States currently has a trade deficit or trade surplus with the trade agreement partner?

Answer: As President Trump has repeatedly stated, the Administration is reviewing all of our trading relationships and determining which deals do not serve the interests of the American people. Therefore, President Trump intends to pursue an aggressive strategy of renegotiating failing agreements and negotiating new ones when appropriate. As you mentioned, the President began the process of renegotiating NAFTA quickly after taking office. At his instruction, USTR has also called for the first ever KORUS Joint Committee special session, where we will consider matters affecting the operation of the Agreement, including possible amendments and

modifications. In addition, in July, I welcomed British Trade Minister Liam Fox to D.C. where we began a bilateral dialogue which may also lay the groundwork for a potential FTA with the United Kingdom once they leave the European Union.

6) Trade Deficit Report

On March 31, the President issued an Executive memo instructing USTR and the Commerce Department to prepare a report on significant trade deficits and identify the trading partners with which the United States had a significant goods trade deficit in 2016. The report was due at the end of June but, as of the date this question was submitted, has not yet been issued. What is the status of this report? What role has USTR played in developing this report?

Answer: USTR is working closely with the Department of Commerce and several other agencies on this report. At the appropriate time, it will be provided to the President.

7) Trade Deficits and Trade Agreements

I also understand from public reports that you see the NAFTA and other U.S. trade agreements as potential tools for re-setting the U.S. trade balance with trade agreement partners. Does this apply to goods trade only or services trade also? What types of trade agreement provisions are you contemplating for achieving this type of result? Is USTR planning to negotiate provisions in trade agreements that would encourage or compel a partner country to import more from the United States than it exports?

Answer: The Trump Administration is focused on reducing America's significant, persistent trade deficits. This applies to both goods and services, where appropriate. One way to pursue deficit elimination is to update old agreements which no longer reflect the 21st century economy. With respect to the NAFTA, this includes updating older provisions like the labor and environment chapters by bringing them into the text of the agreement and subjecting them to dispute settlement, this will help level the playing field for our workers and industries. It also includes the addition of chapters which had not yet been conceived when NAFTA was originally negotiated. Given that digital trade now affects trade in all sectors, a key element of these negotiations will be to update the NAFTA to include state-of-the-art rules to help ensure that digital trade continues to flourish. This chapter will seek to ensure the free flow of data within the NAFTA region and to prevent policies which require certain infrastructure to be localized in order to provide a service.

However, a deficit reduction strategy also includes updating older rules which have facilitated the offshoring of American industry over time. As the Administration's Summary of Objectives for the NAFTA Renegotiation outlined, USTR will be pursuing new rules in the NAFTA negotiations to protect American workers from industries which offshore due to government incentives, subsidies and other non-economic benefits. These provisions are critical to leveling the playing field for American workers.

8) Trade Violations Report

On April 29, the President issued an Executive Memo instructing USTR and the Commerce Department to "conduct performance reviews" of violations by other countries of U.S. trade agreements, investment agreements, WTO rules, or preference programs. The reviews are due within 180 days of the issuance of the memorandum - i.e., by the end of October. USTR and Commerce are also instructed to "as appropriate, take every appropriate and lawful action to address violations of trade law, abuses of trade law, or instances of unfair treatment." What is the status of these reviews? What is the status of any reports detailing the outcome of these reviews? What actions will the Administration consider taking once the review is concluded and a report on trade violations is issued? What are the options that you would consider to remedy the types of violations that this review may find?

Answer: USTR and the Department of Commerce are continuing work on the analysis and drafting of this report. USTR received over 100 public comments through a federal register notice requesting comments. USTR staff is currently reviewing those comments and determining how to best reflect in the report the public input we received. It is premature at this time to comment on which enforcement specific mechanisms may be utilized, but the Administration will consider using all available tools as appropriate. USTR and Commerce will ensure the report is delivered to the President by the deadline set out in the executive order.

9) Labor and Environment Enforcement

As you know, the May 10 Agreement of 2007 resulted in the incorporation of strong and enforceable labor and environmental provisions in U.S. trade agreements (as well as other provisions addressing access to medicines, investment rights, and government procurement). In the past 10 years, there have been virtually no actions taken to enforce those "May 10" provisions, despite clear evidence suggesting that certain of our trading partners are not - and in some cases have never been - in compliance with those commitments. The one labor enforcement action that has been pursued, under the CAFTA-DR Agreement (which pre-dated the May 10 Agreement), resulted in a recently published panel report that has been very discouraging. The general lack of enforcement and the lack of successful enforcement of these provisions in our FTAs is eroding confidence in these commitments. What specific steps do you intend to take to more vigorously enforce the labor and environmental provisions of our FTAs?

Answer: I am committed to vigorously enforcing our trade agreements, including the labor and environmental obligations in those agreements. USTR strongly disagrees with some of the interpretations developed by the panel in the Guatemala labor dispute, and we recall that no FTA panel can set "precedent" for future panels. I am currently undertaking a comprehensive review of all of our trade agreements, and I look forward to consulting closely with you and your colleagues, as well as our stakeholders, on specific steps we can take to ensure that our FTA partners are living up to their obligations and are subject to enforcement action when they do not.

10) NAFTA Re-Negotiation: FTA Dispute Settlement

Does the Administration intend to seek to retain the general state-to-state dispute settlement mechanism in the re-negotiated NAFTA? Does the Administration have specific concerns with any aspects of this mechanism? If so, please identify. Does the Administration intend to make any changes or updates to this mechanism? If so, which ones? For each change or update, please explain how the change or update would address the specific concern identified in your response to (b).

Answer: The Administration is looking at all options to ensure that our FTA partners live up to their obligations. I look forward to consulting closely with you and your colleagues on this issue.

11) NAFTA Re-Negotiation: Government Procurement

The Administration's draft NAFTA notification from March suggested that it would seek through a re-negotiation of NAFTA, increased access to the Canadian and Mexican procurement markets while denying access to the U.S. procurement market. What are the Administration's objectives with respect to government procurement and "Buy American" in the NAFTA re-negotiation? Does the Administration intend to continue or discontinue the longstanding U.S. policy of seeking access to trading partners' government procurement markets on a reciprocal basis?

Answer: As identified in the Summary of Objectives for the NAFTA Renegotiation, the Administration has specified the following as objectives for the government procurement chapter. We will work closely with Congress and stakeholders in formulating specific approaches to achieve these objectives:

- Increase opportunities for U.S. firms to sell U.S. products and services into the NAFTA countries.
- Establish fair, transparent, predictable, and non-discriminatory rules to govern government procurement in the NAFTA countries, including rules mirroring existing U.S. government procurement practices such as:
 - Publishing information on government procurement opportunities in a timely manner;
 - Ensuring sufficient time for suppliers to obtain tender documentation and submit bids;
 - Ensuring that procurement will be handled under fair procedures;
 - Ensuring that contracts will be awarded based solely on the evaluation criteria specified in the notices and tender documentation; and
 - Providing impartial administrative or judicial review authority to review challenges or complaints.
- Exclude sub-federal coverage (state and local governments) from the commitments being negotiated. Keep in place domestic preferential purchasing programs such as:
 - Preference programs for small businesses, women and minority owned businesses (which includes Native Americans), service-disabled veterans, and distressed areas;

- “Buy America” requirements on Federal assistance to state and local projects, transportation services, food assistance, and farm support; and
- Key Department of Defense procurement.
- Maintain broad exceptions for government procurement regarding:
 - National security;
 - Measures necessary to protect public morals, order, or safety;
 - Protecting human, animal, or plant life or health; and
 - Protecting intellectual property.
- Maintain ability to provide for labor, environmental, and other criteria to be included in contracting requirements.

12) U.S.-China 100 Day Plan on Trade

The preliminary results of the U.S.-China "100 Day Plan" on trade were announced on May 11 and consisted primarily of a number of commitments that China had already made or was already working on delivering. The announcement also stated that the Administration would be working on a number of other trade issues with China for the remainder of the 100 days. There has been very little consultation with Congress on this dialogue.

What other issues are being discussed between the Administration and China in this 100 Day dialogue on trade?

How were the issues placed on the 100 Day agenda decided?

The Chairman and Ranking Member of the Ways and Means Committee, together with the Chairman and Ranking Member of the Senate Finance Committee, sent a letter to the President in April specifying several priorities to address with China, including: (1) market distorting behavior harming American manufacturers; (2) weak IP protection harming American innovators; (3) Barriers to exports and market distorting policies compromising American farmers and rural communities; (4) currency and exchange rate policies; and (5) Retaliatory policies and nontransparent legal regimes. Please explain how the Administration is addressing in the 100 Day agenda each of the specific priorities identified by Congress. If a priority is not being addressed in the 100 Day agenda, please explain why it has been omitted.

Answer: The 100 Day Action Plan was conducted under the U.S.-China Comprehensive Economic Dialogue (CED), which is chaired on the U.S. side by the Secretaries of Commerce and Treasury. Based on an interagency input process, including from USTR, a set of U.S. issues were proposed for the 100 Day Action Plan as well as for the July 19, 2017 CED meeting. During these engagements, my colleagues and I pressed China to address priority issues, including the ones which you identified. However, to address these challenges we cannot rely solely on dialogue. Enforcement will be a key component of our strategy to achieve Administration and Congressional goals as we work to ensure that China plays by the rules and treats U.S. companies fairly.

13) U.S.-China Comprehensive Economic Dialogue 2017

On May 11 the Administration also announced that the first meeting of the U.S.-China Comprehensive Economic Dialogue will be held in the United States in the summer of 2017. What will USTR's role be in this dialogue? Will issues that were not included in the 100 Day Plan agenda be addressed in this dialogue? Will the dialogue address, for example: (1) China's over-capacity in steel and aluminum production; (2) draft measures currently under consideration that would restrict the ability of U.S. cloud service providers to access China's market and operate in China without handing over the control of their business to Chinese companies; or (3) China's use of national security reviews to impose localization requirements on companies and force the transfer of trade secrets and other intellectual property?

Answer: The Secretaries of Treasury and Commerce are the official chairs of the U.S.-China Comprehensive Economic Dialogue (CED). I participated in the CED plenary session with my Cabinet colleagues. I can confirm that the issues you identified – excess capacity, restrictions on cloud computing, and technology localization including forced technology transfer – remain top trade priorities for this Administration and that we pressed China at the CED to address these challenges. However, to address these challenges we cannot rely solely on dialogue. Enforcement will be a key component of our strategy as we work to ensure that China plays by the rules and treats U.S. companies fairly.

14) Electronic Payment Services in Vietnam

Vietnam's Prime Minister recently visited Washington. I understand that, during the visit, you raised with your Vietnamese counterparts concerns regarding a number of policies, including electronic payment services (EPS) regulations being advanced by the State Bank of Vietnam (SBV) that will require onshore payment processing and provide an unfair competitive advantage over U.S. EPS companies in favor of a state-owned payments company in which the SBV itself owns a majority share. As you know, this November, Vietnam will be hosting the APEC Economic Leaders' Meeting. To advance free and fair trade and to ensure Vietnam lives up to its trade and economic reform commitments, what steps do you plan to take to address unfair barriers to Vietnam's market, including with respect to EPS, in the lead up to the Economic Leaders' Meeting in November?

Answer: The visit of the Vietnamese Prime Minister provided an important opportunity to raise a number of priority trade bilateral issues, including electronic payment services. During the visit, we pressed Vietnam to address our concerns regarding the circular issued by the State Bank of Vietnam (SBV), which would require U.S. suppliers of electronic payment services to route transactions through a gateway in which the SBV is a majority shareholder. We made clear the priority we place on finding a mutually-satisfactory resolution to this issue as soon as possible and are working closely with U.S. stakeholders on this issue. My staff held follow-up meetings in June and July in Hanoi on this issue, and will be traveling to Hanoi again in August for further meetings, where we will seek Vietnam's agreement to delay implementation of its measure to give the United States and Vietnam additional time to resolve this issue. During my meeting with the Vietnamese Trade Minister in September, I will be stressing the importance of resolving

bilateral trade issues, including electronic payment services, before the APEC Leaders Meeting in November.

15) U.S.-EU Covered Agreement

I understand your office is reviewing the U.S.-EU Covered Agreement, which was concluded in January 2017, but is not yet signed. A number of U.S. stakeholders, including State Insurance Commissioners, the National Governor's Association, and the National Conference of Insurance Legislators, have concerns about the Covered Agreement, including whether it will require far-reaching changes to the current State system of insurance regulation.

The former Federal Insurance Director, Mike McRaith, who led negotiations of the Covered Agreement, has repeatedly committed in Congressional testimony that the Agreement will not require far-reaching changes to the State-based system of insurance regulation. For example, former Director McRaith committed that Art. 4(h) of the Agreement requires nothing more than the National Association of Insurance Commissioners (NAIC) and the States finish their existing work on a group capital calculation (GCC), and that the States have flexibility under the Agreement to develop a GCC based on the U.S. approach to regulation (which is entity-based regulation, focused on policyholder protection). These assurances are helpful, but are not binding on the European Union.

In April, the NAIC sent your office and the Treasury Department specific concerns, including with respect to requirements for a group capital calculation, and requested that USTR and Treasury obtain bilateral clarification of key concerns prior to signing the agreement. Such bilateral clarifications through an exchange of letters are routinely included in trade agreements. For example, the United States and Australia formally exchanged letters under the U.S.-Australia FTA to clarify what Australia was required to change in its laws to comply with provisions in the FTA.

Do you intend to pursue bilateral clarifications prior to signing, and if so, in what areas?

Answer: In the last six months, USTR and Treasury have undertaken a series of meetings with interested stakeholders and members and staff in the Congress to gather detailed feedback on the U.S.-EU Covered Agreement. Following careful consideration of this feedback, the Administration announced in July that it intends to sign the Covered Agreement. The Administration has also announced plans to issue a U.S. policy statement on implementation. We believe that this Agreement will be an important step in making U.S. companies more competitive in domestic and foreign markets and making regulations efficient, effective, and appropriately tailored. This Agreement will benefit the U.S. economy and consumers by affirming the U.S. state-based system of insurance regulation, providing regulatory certainty, and increasing growth opportunities for U.S. insurers.

Questions from Trade Subcommittee Ranking Member Pascrell

1) Negotiating Objectives

The President has called NAFTA a "disaster." But in the Administration's notice to Congress of intent to renegotiate, your office failed to provide us with specific negotiating objectives or detailed descriptions of what you would like to see changed. NAFTA must include labor and environmental provisions at least as strong as the May 10th Agreement language. Strengthening the bargaining power and wages of Mexican workers is essential to keeping jobs here in the US as well as lifting the living standards within Mexico. Ambassador Lighthizer, is Mexican labor standards and livable wages a top issue for this administration? Can you tell us the top two or three issues in NAFTA you see as a "disaster" and how, specifically, you would like them to change? As a follow up, how would these changes bring jobs and higher wages to the United States?

Answer: Among our top priorities for the NAFTA, are improvements that create incentives to increase manufacturing in the United States, lower our trade deficit, and improve exports opportunities for U.S. producers and workers. We intend to pursue these goals throughout the Agreement, including by re-thinking rules of origin and bringing strong labor and environment provisions into the core of the Agreement and subjecting them to the same dispute settlement mechanisms as other provisions in the Agreement.

With respect to labor specifically, I agree that this is a serious issue that we must address. Lower labor standards in Mexico, including wage issues, affect American workers and businesses. I am committed to ensuring that NAFTA and other trade agreements strengthen our trading partners' labor standards and meet the negotiating objectives that Congress has set out in TPA. The Administration is undertaking a comprehensive review of U.S. trade policy to determine how best to ensure strong labor commitments for future trade negotiations, beginning with NAFTA. I will work with you and other Members of Congress as we update and improve the NAFTA, as part of our examination of all aspects of the U.S. trade relationship with Mexico.

2) Intellectual Property

Intellectual property and innovation help drive productivity, employment, and economic growth, particularly for industries like the U.S. biopharmaceutical industry, which supports approximately four million U.S. jobs -and almost 500,000 in New Jersey alone. In your view, how does the monitoring and enforcement of trade agreements impact the growth of IP-intensive industries such as the biopharmaceutical sector? Does the Administration intend to seek modifications to the intellectual property rules of NAFTA, and if so, how?

Answer: Monitoring and enforcement of trade agreements is an important element of supporting the growth of U.S. IP-intensive industries, including the biopharmaceutical sector. The Administration will seek high standards throughout the IP Chapter in the NAFTA renegotiation, including standards of protection similar to those in U.S. law. We will be seeking an outcome that reflects our trade priorities with respect to Canada and Mexico, including solutions to new

and long-standing trade challenges in intellectual property protection and enforcement. I look forward to working closely with you on these issues.

3) Digital Trade

The U.S. is a leader in digital services, due to the emergence of the internet and rise of cross-border data flows. Data flows have grown by 45 times since 2005, and will have grown by another nine times by 2020, and data flows -practically nonexistent just 15 years ago -now hold more economic value than global goods trade. How will trade negotiations ensure that digital services are not left behind, including when it comes to issues of forced data localization, the transfer of private keys, and forcing U.S. companies to hand over their software source code?

Answer: The Administration recognizes the importance of the digital economy to American jobs, prosperity and security, as well as U.S. companies' unique competitive advantages in this area. For example, every year in the last fifteen years, the United States achieved a substantial surplus for trade in ICT-enabled and potentially ICT-enabled services, with that trade surplus exceeding \$100 billion annually in each of the last six years. Trade rules must work to maintain and advance U.S. strengths in digital trade. I fully intend to use our policy tools, including through the upcoming NAFTA renegotiation, to advance those goals. The Summary of Objectives for the NAFTA Renegotiation issued on July 17 identified key provisions that we will be seeking to advance, including in specific areas that you identified.

In China, the government has proposed forcing American companies to transfer their technology and to surrender their brand and operating control to do business in China. Can you comment on how the US Government is addressing this, including through any updates you can provide about a second tranche of deliverables from the 100 day plan?

Answer: For many years, China has failed to address a wide-range of policies and practices that harm U.S. companies, including forced technology transfer and surrender of brand and operating control to do business in China. During the recent CED discussions in Washington, I personally pressed the Chinese to end these policies and practices, but to address these challenges, we cannot rely solely on dialogue. I can assure you that considering all appropriate enforcement tools will be a key component of our strategy as we work to ensure that China plays by the rules and treats U.S. companies fairly.

4) Content and Copyright Protections

The potential of the online marketplace has been restrained by the rampant theft of creative content online, impacting U.S. workers that work in the creative industry. With estimates showing that one quarter of the world's Internet bandwidth is dedicated to copyright infringement, NAFTA must be modernized to effectively deal with online copyright theft. How do you foresee addressing this issue in a renegotiated NAFTA?

Answer: The Administration will seek high standards throughout the IP Chapter in the NAFTA renegotiation, including with respect to the protection and enforcement of copyright and related

rights. We will seek copyright protections that facilitate legitimate digital trade, including protections similar to those in U.S. law, and we will continue our intensive work combating digital piracy in foreign markets.

5) Ongoing Negotiations

I am also concerned that the Administration has not outlined a position on several major agreements that were in the works under President Obama. Could you give me a yay or nay on whether the Administration plans to continue negotiations on the following: 1 - TTIP (with Europe), 2 -TISA (The Trade in Services Agreement), 3 -U.S. -China Bilateral Investment Treaty (BIT), 4 -Environmental Goods Agreement (EGA)?

Answer: At this point, it is premature to make a definitive statement as to the status of those negotiations. On April 29, the President instructed USTR and the Department of Commerce, in consultation with other agencies, to conduct a comprehensive review of our current agreements and countries in which the United States runs a significant trade deficit. This review includes China and the European Union. By the deadline of July 31, USTR had received over 100 public comments related to this review and my staff is currently examining the input that we received. At the appropriate time, USTR will determine whether it is in the national interest to continue these negotiations.

6) U.S.-Korea Free Trade Agreement

The President has threatened to withdraw from the WTO and from the US-Korea Free Trade Agreement (KORUS). Does the President have any intention of pulling out of either?

Answer: At this juncture, the Administration is taking the step of calling a special session of the Joint Committee under the U.S.-Korea Free Trade Agreement (KORUS) to consider matters affecting the operation of the Agreement, including possible amendments and modifications. Through this work, we will review progress on implementation, resolve market access concerns, and address our significant trade imbalance with Korea.

Regarding the WTO, I intend to ensure that the United States' participation in the WTO is working to advance our national economic interests. This includes, in particular, an assurance that other WTO Members are fully implementing their WTO obligations. Some aspects of the WTO's functions clearly need attention — interpretive overreaching by the Appellate Body is a prime example.

7) Role of USTR

Prior to your confirmation, we had several meetings with Commerce Secretary and others within the Administration. Now that you have been confirmed, what do you envision as your role and USTR's role in leading trade negotiations and leading the Administration's trade policy?

Answer: As USTR, my statutorily mandated responsibility is to be the President's principal trade advisor and lead trade negotiator for the United States. I intend to fulfill that role.

However, as USTR has always done, and where required by statute, I will continue to work closely with all members of the President's cabinet, Congress, and the Trade Advisory Committees in order to develop a balanced trade policy that furthers the priorities of the President and the American people.

8) Air carrier subsidies

Several governments in the Middle East subsidize their domestic airlines, yet compete with unsubsidized U.S. carriers, in violation of the Open Skies agreements. This practice has impacts that can be felt in cities across America. Would you consider a loan which has no requirement to be paid back a subsidy? If a business has one shareholder and that individual is related to someone with decision making authority for a government, would you consider a loan made by the shareholder to the business for which he is the only shareholder a subsidy?

If a business were to purchase a futures contract or other similar financial instrument to mitigate risk and was unable to fulfill his responsibility but a family member in a position of authority within a sovereign nation paid it for the business, would this be considered a subsidy under WTO definitions?

Answer: Under the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement), a subsidy is defined as a "financial contribution" by a government or public body that provides a "benefit." A financial contribution can take many different forms, such as a loan or a grant. A "benefit" is conferred if the financial contribution was provided on terms that are more advantageous than those that would have been available to the recipient on the market. A government loan that does not have to be repaid is clearly a subsidy given that such a loan could not be obtained on the market. It should be noted however, that the SCM Agreement is only applicable to goods, and not services, such as air transportation. Moreover, we would note that air traffic rights are not covered by the WTO General Agreement on Trade in Services.

9) Labor enforcement

The failure to provide Congress and other stakeholders with confidence that our trading partners will live up to labor commitments in free trade agreements is one of the key reasons why new agreements have become so controversial. It is incumbent that this Administration significantly ramp up its labor enforcement efforts. In particular, I'm interested to know what the Administration's approach will be to countries where petitions alleging labor violations have already been filed. In the case of Honduras, a monitoring and action plan is already in place. Is Honduras living up to the commitments and timelines in that plan? What is the Administration's plan for ensuring compliance with the monitoring and action plan?

In the case of Colombia, consistently ranked as one of the worst countries in the world workers, the previous Administration raised "significant concerns" about labor practices and set an October deadline to assess any progress. Does the Administration plan to abide by this timeline? How does the Administration plan to address Colombia's failure to satisfy its labor obligations?

In the case of Peru, the previous Administration's deadline to assess progress recently passed. Does this Administration not intend to abide by the previous Administration's timeline? What does the Administration plan to do to address chronic enforcement and short-term contract issues in Peru?

Answer: Enforcement is a key aspect of our trade agenda and the Administration is working to ensure that trade partners comply with the labor obligations in our trade agreements. USTR works closely with the U.S. Departments of Labor and State, as well as other agencies, to monitor labor practices in trade partner countries and enforce the labor provisions of trade agreements. As part of this work, the Administration is committed to ensuring that Honduras, Colombia, and Peru address the concerns raised in the context of public submissions under the respective trade agreements with those countries. USTR and Department of Labor officials recently travelled to Honduras and Peru to engage with government officials on their initiatives to address concerns, including new legislation on labor inspections in Honduras, and an increase in resources for labor inspections in Peru. In addition, Labor Secretary Acosta and I recently had separate meetings with our respective counterparts from Colombia, and our teams will continue efforts in all of these countries. We look forward to consulting closely with you and your colleagues on these important issues in the future.

10) Cross-Border Trucking

NAFTA required parties to provide national treatment to cross-border long-haul trucking services. As applied to the Mexican trucking fleet, this provision has been opposed by industry groups, environmental groups, consumer networks, and labor organizations.

These groups have cited a range of concerns on this issue, including the potential failure of Mexican-domiciled trucks to meet U.S. safety standards, vehicle emissions from Mexican trucks lined up at the border crossings, differences in commercial driving licensing, medical certification, and drug testing, and the potential negative impact on the jobs and wages of U.S. truck-drivers. How do you plan to address this issue in the NAFTA renegotiation? Do you plan to go to the negotiating table with a proposal to revoke the national treatment provision for cross-border long-haul trucking? Do you plan to tell Mexican negotiators that the United States will not, for example, trade away highway safety?

Answer: In response to our Federal Register Notice and at our public hearing on NAFTA renegotiation, we received input from all perspectives on this issue. I intend to work closely with Congress and stakeholders on how best to deal with this issue.



Questions from Rep. Johnson**1) Section 232 Investigations**

Mr. Lighthizer, the folks over at the Commerce Department are investigating trade in steel and aluminum to look at potential national security impacts of imports of these goods. As you know, these types of investigations are very rarely used and it is even more rare to impose tariffs in these cases. With that in mind, what do you think the odds are that foreign nations may take retaliatory trade actions if U.S. tariffs are imposed on steel or aluminum?

Answer: Secretary Ross initiated these investigations under section 232 of the Trade Expansion Act of 1962 (section 232). The Secretary will report the findings of the investigations to the President after the investigations are concluded.

Since the initiation of these investigations on steel and aluminum on April 20 and 27, respectively, Secretary Ross and his investigators have consulted extensively with the public. Secretary Ross issued official notices notifying the public of the investigations and public hearings and soliciting public comments. Close to 200 written comments were submitted on the steel investigation and about 80 comments submitted on the aluminum investigation.

While some foreign countries have noted they would consider retaliation if the U.S. were to impose trade restrictions under section 232 to adjust imports, in the absence of a section 232 decision, I cannot engage in speculation about the results of the investigations, much less about whether foreign countries are serious about retaliation.

2) Section 232 Investigations

Mr. Lighthizer, as you know, many U.S. industries rely on imports of primary aluminum and tinplate steel from important U.S. military and trade allies. What steps will the Administration take to ensure that a tariff or other actions won't be levied in such a way that could ultimately harm U.S. industries?

Answer: The Department of Commerce is conducting these investigations. As required by the section 232 statute, Secretary Ross is consulting with the Department of Defense. However, absent a section 232 decision, I cannot engage in speculation about the results of the investigations.

3) Section 232 Investigations

Mr. Lighthizer, I am concerned that tariffs on aluminum could actually harm American jobs and raise costs for the consumers of canned food and beverages. Has your office modeled the downstream impact to American workers if a tariff was put on imported primary aluminum or cansheet? In your view, how would tariffs specifically impact those in the agricultural, food, can manufacturing, beer and soft drink production industry?

Answer: The current global overcapacity situation in the steel and aluminum industry is having a detrimental impact on U.S. workers and industries. At the core of this issue is China's non-market economy system, which is creating global oversupply and excess capacity in these and other sectors.

To address this serious problem, the Administration is working to address both the root causes and manifestations of the problem and is evaluating every appropriate tool in our arsenal. And we are committed to working closely with other countries, even countries that may have objections to the Section 232 investigations into the impact of steel and aluminum imports on the U.S. national security. There is no shortage of countries that want to work with the United States to address the excess capacity issue. Indeed, at the July 7-8, 2017 Hamburg Summit, G-20 Leaders committed to take necessary actions to find solutions to the challenge of excess capacity. The G-20 Leaders called for removal of market-distorting subsidies and urged Global Forum members to rapidly develop concrete policy solutions as a basis for tangible and swift policy action, to be included in a report to the Leaders by November 2017. We are also continuing to engage bilaterally with China, including through the Comprehensive Economic Dialogue that was held in Washington on July 19, 2017. To the extent your question relates to Commerce's investigations under section 232, however, I cannot engage in speculation about the results of those investigations, as neither has yet concluded.

Questions from Rep. Lewis

1) Inter-Agency Collaboration Regarding Labor and Human Rights

An important component of enforcing the U.S.-Colombia Free Trade Agreement is based upon the U.S. Trade Representative effectively and consistently coordinating with the Department of Labor's Bureau of International Labor Affairs (ILAB); the Department of State's Race, Ethnicity, and Social Inclusion Unit (RESIU) and Bureau of Democracy, Human Rights, and Labor (DRL); the Department of Justice; and other appropriate agencies.

Under your leadership, how will USTR coordinate with RESIU and ILAB to realize the promises of this FTA in protecting, upholding, and improving labor, human, and civil rights, and the rule of law in Colombia?

Answer: USTR works closely with the U.S. Departments of Labor and State, as well as other agencies, to monitor labor practices in trade partner countries, and to document any potential breaches of FTA obligations as necessary. When DOL receives a public submission regarding labor concerns under a trade agreement, as they did in the case of a Colombia submission in 2016, the Bureau of International Labor Affairs (ILAB), in coordination with USTR and State, is responsible for reviewing, reporting on the issues raised, and participating in dialogues with the country in question to address the issues. Since February, the Administration has engaged closely with Colombian officials on their efforts to address labor concerns, and we look forward to consulting closely with you and your colleagues on Colombia issues in the future.

2) Buenaventura, Choco, and Labor Rights

For many years, Members of Congress warned of the grave working and living conditions in Buenaventura, a key Colombian port city, and in Afro-Colombian and Indigenous communities along Colombia's Pacific Coast. Please explain how USTR will work with the Colombian Ministry of Labor, the United Nations Office of the High Commissioner for Human Rights (OHCHR), the Colombia Ombudsman, the Colombian Inspector General, and civil society to ensure that the June 4, 2017 agreement to improve labor and living standards are fully implemented?

Answer: I am aware of the situation at Colombia's Buenaventura port, and the recent agreement to address the concerns of workers in that region. USTR is coordinating with the U.S. Departments of Labor and State to monitor developments, and we will consult with you and key stakeholders here and in Colombia, including with relevant Colombian government officials, as implementation of the June agreement continues.

3) Colombian Human Rights Protections

Threats and violence against social rights activists continue to be concerning, and the impunity rates remain alarmingly high. In certain cases, activists requested, were denied, or delayed protective measures, and then murdered. Unfortunately, for those who work on Colombia policy, this is a long-standing concern. How will USTR work with Colombian authorities to ensure that law enforcement officials and the National Protection Unit provide timely and thorough responses and services to threatened and endangered social (e.g. Labor, human rights, religious, Afro-Colombian, Indigenous, and women) rights activists and journalists?

Answer: USTR will continue to work with the Departments of Labor and State on the issue of threats and violence against labor union leaders and other civil society advocates. Lower labor standards in other countries, including impunity for acts of violence and threats, affect American workers and businesses. I am aware that Colombia made commitments regarding the National Protection Unit in the context of the Labor Action Plan, and that the number of union members requesting protection has decreased significantly. The Administration will continue to closely monitor this important situation and consult with you and key stakeholders on this issue.

4) Status of the Colombian Action Plan Related to Labor Rights

Last year marked the five-year anniversary of the Colombian Labor Action Plan. Tactics to deter and repress labor rights in Colombia continue to evolve and thrive. What specific resources and strategies will be applied to make progress on the improvement of labor rights in Colombia and the realization of the Labor Action Plan's promises?

Answer: FTA partners should be held to their obligations; lower labor standards in other countries affect American workers. I am aware of the Labor Action Plan and the Department of Labor report on labor issues in Colombia. I am committed to ensuring that compliance and enforcement of trade laws are priorities, and the Administration will continue to engage closely with Colombia to ensure that it lives up to its obligations. As part of this engagement, Labor Secretary Acosta and I recently had separate meetings with our respective counterparts from Colombia to discuss these issues, and our teams will continue these efforts.

5) Trade, Equity, and Peace

Last year, Colombia made significant progress in ending the longest civil conflict in the Western Hemisphere. Much work remains to implement and expand the Colombian peace agreement. Unfortunately, the U.S.-Colombia Free Trade Agreement (FTA) may exacerbate pre-existing, socio-economic conditions, which are significant barriers to sustainable peace. Will USTR take action to ensure that the U.S.-Colombia FTA complements and does not undermine ongoing peace efforts -especially regarding working conditions, civil society consultations, and affected agrarian and rural communities?

Answer: The United States – Colombia Trade Promotion Agreement (CTPA) has contributed to economic growth, transparency and rule of law, and labor and environmental protection in Colombia since it entered into force five years ago. The Colombian government has cited export diversification as an important outcome of the CTPA, for example. According to the Colombian government export promotion agency Procolombia, 1,292 companies exported to the United States for the first time under the CTPA, and Colombia has introduced 850 new products to the world market during this period – in sectors such as manufacturing, agroindustry, and clothing – of which nearly half were exported to the United States. It is my understanding that Colombia sees the CTPA as important in creating new economic opportunities as the integration process of the Peace Accord advances. I am committed to ensuring compliance with our trade agreements by our trading partners, as well as to working closely with the Department of State and other agencies to ensure that the CTPA and the peace process in Colombia are mutually supporting. I look forward to consulting closely with you and your colleagues on these important issues in the future.

6) May 10th Standard in U.S. Trade Policy

The 2007 Bipartisan Agreement on Trade Policy frequently referred to as the "May 10th agreement", included key advancements on labor, environment, access to medicines, government procurement, investment, and port security standards, and worker education initiatives. Many were encouraged by the May 10th effort, which resulted in broader support for the U.S. Free Trade Agreements with Peru and Panama. Do you consider the May 10th standards to be integral in achieving bipartisan support of the U.S. Trade Policy Agenda?

Answer: I am aware of the importance of the May 10th agreement on U.S. trade policy and how that agreement is reflected in the Bipartisan Trade Priorities and Accountability Act of 2015. I am committed to ensuring that our trade agreements strengthen our trading partners' labor and environmental standards and meet the negotiating objectives that Congress has set out in TPA. The Administration is undertaking a comprehensive review of U.S. trade policy to determine how best to ensure strong labor commitments for future trade negotiations, beginning with NAFTA. I will work with you and other Members of Congress as we update and improve NAFTA, as part of our examination of all aspects of the U.S. trade relationship with Mexico.

7) Labor and Environmental Enforcement

One of the challenges of U.S. trade policy is the need for strong enforcement. During your Senate confirmation hearing, you pledged to work closely with Members of Congress and other stakeholders on enforcement and fulfilling labor obligations. What steps will you take to make progress in not only including meaningful labor and environmental standards in U.S. trade policy and agreements but also enforcing these standards in a regular and consistent manner?

Answer: I am committed to ensuring that our trade agreements strengthen our trading partners' labor and environmental standards and meet the negotiating objectives that Congress has set out in TPA. In consultation with Congress, the Administration will seek to modernize these obligations, including by incorporating high standard labor and environment provisions into the core of the agreement rather than in a side agreement as is currently the case with the NAFTA, and ensuring that the obligations are subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement. I look forward to working closely with you, other Members of Congress, and stakeholders as we develop our proposals. Enforcement is also a key aspect of our trade agenda and the Administration is working to ensure that trade partners comply with the labor and environmental obligations in our trade agreements. I am currently undertaking a comprehensive review of all of our trade agreements, and I look forward to consulting closely with you and your colleagues, as well as our stakeholders, on specific steps we can take to ensure that our FTA partners are living up to their obligations and are subject to enforcement action when they do not.

8) Global Overcapacity Investigations

I recently joined many of my Democratic colleagues in expressing strong concerns about the lack of congressional discussion with the Committees of jurisdiction regarding the administration's 232 investigation of steel and aluminum.

While this decision and authority lies within the Department of Commerce, the apparent departure from transparency and consultation standards on trade matters is concerning.

How does Commerce's investigation affect USTR's strategy in addressing overcapacity challenges?

Answer: The current global overcapacity situation in the steel and aluminum industry is having a detrimental impact on U.S. workers and industries. At the core of this issue is China's non-market economy system, which is creating global oversupply and excess capacity in these and other sectors.

To address this serious problem, the Administration is working to address both the root causes and manifestations of the problem and is evaluating every appropriate tool in our arsenal. And we are committed to working closely with other countries, even countries that may have objections to the Section 232 investigations into the impact of steel and aluminum imports on the U.S. national security. There is no shortage of countries that want to work with the United States to address the excess capacity issue. Indeed, at the July 7-8, 2017 Hamburg Summit, G-20 Leaders committed to take necessary actions to find solutions to the challenge of excess capacity.

The G-20 Leaders called for removal of market-distorting subsidies and urged Global Forum members to rapidly develop concrete policy solutions as a basis for tangible and swift policy action, to be included in a report to the Leaders by November 2017. We are also continuing to engage bilaterally with China, including through the Comprehensive Economic Dialogue that was held in Washington on July 19, 2017.

We will continue to explore all appropriate means to deal with the problem of excess capacity.

9) May 10th Standard and Guatemala

In your view, what impact did the decision by the CAFTA-DR panel in the Guatemala labor dispute have on the May 10th standard?

Answer: The Administration wants strong, enforceable trade agreements that work for American people, and USTR will continue to require that all of its trading partners maintain high labor practices to help level the playing field for American workers. I am committed to ensuring that our trade agreements strengthen our trading partners' labor standards and meet the negotiating objectives that Congress has set out in TPA, which are enshrined in the labor standards set out in the May 10 bipartisan Congressional agreement. We strongly disagree with some of the interpretations developed by the CAFTA-DR panel, including with respect to whether Guatemala's failure to enforce its own laws relating to internationally recognized labor rights affected trade. We also recall that no FTA panel can set "precedent" for future panels. We look forward to consulting closely with you and your colleagues on these important issues in the future.

10) Bangladesh and Labor Rights

In response to the collapse of Rana Plaza in 2013, the Obama Administration suspended preferences for Bangladesh under the Generalized System of Preferences (GSP) program in 2013. Thereafter, the Obama Administration developed an action plan for the Bangladeshi government to improve protections of workers' rights and safety in Bangladesh. Unfortunately, the Bangladeshi government not only made minimal progress, but also appears to be backsliding in certain key areas. What strategies will you use to ensure that the Bangladeshi government makes significant and substantive improvements to its enforcement and protection of internationally recognized labor rights?

Answer: USTR, and in close coordination with the Departments of Labor and State, will continue discussions with the Government of Bangladesh on the implementation of the GSP action plan, mostly recently during meetings of the bilateral Trade and Investment Cooperation Forum Agreement (TICFA) in Dhaka in May. The Administration is also coordinating closely with international partners through the Sustainability Compact for Bangladesh, an agreement between the Government of Bangladesh and the United States, the European Union, Canada, and the International Labor Organization (ILO), to improve labor rights and worker safety in the garment sector in Bangladesh. Similar to the bilateral GSP Action Plan, the Compact identifies a number of specific goals, including the protection of the right of workers to form and join unions, as well as ensuring adequate building inspections and safety protocols. In addition, the Administration has engaged the Government of Bangladesh through the ILO. At a recent high-

level ILO meeting, the Government of Bangladesh made a series of detailed commitments that -- if implemented -- would address a number of long-standing concerns. The Administration will continue to closely monitor these developments and urge critical reforms to Bangladeshi labor law and practices to improve respect for labor rights and worker safety.



Questions from Rep. Nunes**1) Canada**

U.S. and California wine exporters continue to face burdensome trade barriers in Canada. British Columbia's discriminatory grocery store program prohibits American wine from being sold on the same shelves as domestic wine, giving Canadian wine producers a significant competitive advantage. Given Canada's continued refusal to modify its discriminatory program, will USTR consider a formal request of dispute settlement?

Answer: Policies restricting sales of U.S. wine in Canada are a major problem. USTR has held consultations with Canada under WTO dispute resolution procedures on British Columbia regulations. I am consulting with my staff on the most effective next steps to address those regulations, as well as other measures in Canada that may be harming our wine exports. Whether we go to a dispute settlement panel or address these measures in the NAFTA negotiations, I will work to get this problem resolved for U.S. wine makers.

2) Dairy

USDA projects that over the next ten years, U.S. milk production will grow by 23%, or approximately 48 billion pounds. Today, we are exporting 15%, or 30 billion pounds, of our total production. Due to rising production, there is a growing need for additional export opportunities, especially over the next decade. Free trade agreements that open markets and lower trade barriers are crucial to the growth of U.S. dairy exports. More than 95% of our potential customers live outside the United States, which means that expanding access to international markets is essential for our economic future and success. The Asia-Pacific region is one of several markets that will be critical to future export opportunities, and has the potential to support increased production and American jobs. Our competitors in the European Union, New Zealand and Australia are already negotiating with key export markets in the Asia-Pacific region. Has USTR prioritized which countries it intends to begin bilateral negotiations with and determined when these bilateral negotiations will begin?

Answer: President Trump sees increasing trade with countries in the Asia Pacific as a priority. Since the beginning of the Administration, we have met with counterparts across the region both bilaterally and at APEC and other economic fora to communicate this message and to set the stage for new trade initiatives with these countries. We recognize the importance of moving forward expeditiously, and for that reason have already begun an economic dialogue with Japan, initiated a plan for engagement with China, and hosted numerous Asian leaders and Cabinet ministers in Washington in the past few months to discuss our existing trade relationships and how we might further deepen them. We are currently considering next steps, including potential bilateral deals with Asia-Pacific trading partners, and I look forward to input from you and your colleagues as we work to develop our strategy.

3. A) NAFTA

Government procurement chapters by their very design are fair because they require reciprocal treatment between the parties. I have heard from a number of American companies that they do

extremely well in competing for government procurement contracts in Mexico. Are you planning on preserving the NAFTA procurement chapter that has been so successful for U.S. exporters and service providers?

Answer: Yes, the Administration does plan on including a government procurement chapter in the re-negotiated NAFTA Agreement. The specific outcomes the Administration is seeking to achieve in the government procurement chapter are identified in the Summary of Objectives for the NAFTA Renegotiation. We will work closely with Congress and stakeholders in formulating specific approaches to achieve these objectives.

3. B) Cotton and Textiles

NAFTA has been a success for the U.S. cotton industry. Through the development of an integrated regional platform for textile and apparel production, NAFTA helps ensure reliable export markets for U.S. cotton producers and strengthens the competitiveness of U.S. textile manufacturers. Of course, NAFTA is more than two decades old and there are improvements in the textile segment that would help ensure its continued success. Can you explain how you are committed to maintaining export market access for the U.S. cotton industry and how you are working to further improve those provisions?

Answer: The Administration is committed to maintaining export markets for agriculture producers and creating opportunities to expand exports, including for cotton and cotton-based textiles. We are committed to doing no harm, and our goal is to avoid tariffs being raised as a result of NAFTA renegotiation.



Questions from Rep. Larson**1) EU Shellfish Trade**

You may be aware that there has been a trade dispute between the European Union and the United States that has blocked the trade of molluscan shellfish between the two trading partners for almost six years. The dispute centers around questions of whether our respective shellfish sanitation programs are equivalent and these matters are regulated in the United States by the Food and Drug Administration. We understand that years of negotiations were successful in resolving all the technical issues in December of 2015. At that time the FDA told industry members that rulemaking would take about a year, but 18 months later the FDA, in a letter to members of Congress, now suggests the process may take another 6-9 months. While this is an issue that involves the FDA, the USTR has always worked closely with the FDA to address the EU ban on shellfish exports.

Is there any action the USTR can take to encourage the FDA to speed up its rulemaking process so that U.S. producers can regain access to lucrative European markets? The previous USTR identified this issue as a priority bilateral trade issue in T-TIP negotiations. Does the USTR still view removal of the EU ban on US shellfish exports as a priority? Given the uncertain status of T-TIP negotiations, does the USTR feel that progress can be made on this issue outside of T-TIP?

Answer: The removal of the EU ban on U.S. shellfish exports remains a priority for USTR. We intend to restore market access for our shellfish producers through bilateral engagement with the EU. We have conveyed the importance of completing this work to FDA, and will continue to encourage FDA to complete the required administrative steps expeditiously.

2) NAFTA Government Procurement

Canada and Mexico combined are the largest export market for Connecticut so I have great interest in how NAFTA renegotiations move forward. However, the administration seems a bit inconsistent in its government procurement objectives. On the one hand, it talks about expanding our market access in Canada and Mexico. On the other hand, there is talk of implementing strong "Buy America" policies. How does the USTR plan to seek greater access to the Canadian and Mexican procurement markets while protecting our own "Buy America" priorities? And what specific changes will you seek to the government procurement chapter of NAFTA?

Answer: NAFTA was negotiated decades ago and the government procurement chapter does not reflect current procurement practices, such as the extensive use of e-procurement technology. The NAFTA renegotiation provides a unique opportunity to modernize the procedural obligations in ways that help U.S. suppliers compete in both Mexico and Canada. Furthermore, the Administration will seek to protect obligations that are consistent with our domestic acquisition laws and work closely with U.S. industry to identify areas to enhance market access in both Mexico and Canada.

3) NAFTA IP

What kind of enhancements to intellectual property rights protection is the administration contemplating in the NAFTA rewrite?

Answer: The Administration will seek high standards throughout the IP Chapter in the NAFTA renegotiation, including standards of protection similar to those in U.S. law. We will be seeking an outcome that reflects our trade priorities with respect to Canada and Mexico, including solutions to new and long-standing trade challenges in intellectual property protection and enforcement. I look forward to working closely with you on these issues.

4) May 10th Labor & Environment

As you know, we have just observed the 10-year anniversary of the May 10 Agreement, which incorporated for the first time strong and enforceable labor and environmental provisions in U.S. trade agreements. However, there have so far been no successful actions to enforce those provisions, despite clear indications by certain trading partners that they are not and in some cases have never been in compliance with those commitments. In commenting on the recent outcome of the Guatemala labor case, USTR reportedly stated that "President Trump is committed to the strict enforcement of our trade agreements" and that the administration "will continue to hold accountable its trading partners, including Guatemala, and require fair labor practices that help level the playing field for American workers." What is the USTR's plan when it comes to the enforcement of the labor and environmental provisions of our FTAs?

Answer: Enforcement is a key aspect of our trade agenda and the Administration is working to ensure that our trading partners comply with the labor and environmental obligations in our trade agreements. I am currently undertaking a comprehensive review of all of our trade agreements, and I look forward to consulting closely with you and your colleagues, as well as our stakeholders, on specific steps we can take to ensure that our FTA partners are living up to their obligations and are subject to enforcement action when they do not. In the Guatemala case, we strongly disagree with some of the interpretations developed by the panel, and note that no FTA panel can set "precedent" for future panels. We look forward to consulting closely with you and your colleagues on these important issues in the future.

5) Currency Provisions

When other countries manipulate their currency, it gives them an unfair advantage and forces American companies and workers to compete on an uneven playing field. So far, however, this Administration has given no indication that it intends to incorporate currency rules as a primary objective in its trade negotiations, including in the re-negotiation of NAFTA. What are the Administration's intentions with respect to seeking the inclusion of currency rules in its trade agreements? Does the USTR support including strong and enforceable disciplines in NAFTA and other trade agreements?

Answer: Consistent with the principal negotiating objectives on unfair currency practices contained in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and as noted in our Summary of Objectives for the NAFTA Renegotiation, the Administration will be seeking to ensure that the NAFTA countries avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage. We are consulting with Treasury Department on how best to achieve this.



Questions from Rep. Jenkins**1) Agriculture Exports and National Security**

National security should unquestionably be the priority of any government, but I won't that using national security as the basis for trade restrictions in NAFTA, or elsewhere, could backfire if other countries do the same to us. In particular, food security for many countries is a vital component of national security. Along that vein here at home, wheat farmers in my eastern Kansas district are just finishing up their wheat harvests and the work continues to roll north and west across the State; many Kansas farmers will then ultimately look to foreign markets- either in North America or abroad-to sell their products in the coming months. What argument would you make to a country that tries to restrict its imports of U.S. wheat or other products for food security reasons?

Answer: While food security is an important issue, many nations around the world are unable to achieve permanent food security by relying solely on domestic production. Robust markets and liberalized trade of agricultural products are the most efficient ways to promote and ensure sustainable food security at the domestic and international levels. Furthermore, export restrictions and other impediments to trade undermine long-term food security by increasing global food prices and exacerbating price volatility, disrupting price signals to domestic markets, and dampening the supply response by domestic producers.

2) NAFTA Renegotiation and Future FTAs

About 50 percent of all U.S.-grown wheat is exported, making trade incredibly important to wheat farmers in my home State of Kansas. Mexico, for example, was the largest export market for U.S. wheat last year, made possible by the benefits of NAFTA. In fact, according to the National Association of Wheat Growers and U.S. Wheat Associates, Mexico imported 3.1 million metric tons of wheat in the 2016/2017 marketing year.

Therefore, in the views of many of my constituents, NAFTA has been overwhelmingly successful. I do agree, however, that there is room for updating in this agreement, which is more than 20 years old, to include strong and enforceable SPS rules based on sound science-like those that were negotiated under the TPP. Additionally, Kansas farmers and ranchers are also looking beyond NAFTA to future trade deals for additional markets. What are your views on how NAFTA renegotiation can serve as blueprint for securing those future trade deals-which would mean the inclusion of strong SPS provisions that will help Kansas producer s gain access to new markets?

Answer: The Administration is committed to maintaining the markets our farmers, ranchers, and food processing industries have and creating opportunities to expand exports. We are committed to doing no harm, and our goal is to avoid tariffs being raised as a result of NAFTA renegotiation.

Unwarranted sanitary and phytosanitary (SPS) trade barriers, such as duplicative testing and unscientific regulations imposed on food and agricultural goods, are among the biggest challenges facing U.S. exporters of food and agricultural products. We intend to seek a modernized NAFTA that builds on and enhances the rules of the World Trade Organization's (WTO) SPS Agreement and provides enforceable SPS obligations with respect to science-based measures, good regulatory practice, import checks, equivalence, and regionalization. We will also seek provisions in the NAFTA to resolve expeditiously unwarranted barriers that block U.S. food and agricultural products, ensure that SPS measures are developed and implemented in a transparent, predictable, and non-discriminatory manner, and improve communication, consultation, and cooperation between governments. A modernized NAFTA gives us the opportunity to strengthen our SPS relationship with Canada and Mexico, and a successful outcome would provide the foundation for future agreements with other trading partners.



Questions from Rep. Crowley**1) Enforcement**

As you begin your tenure as USTR, do you consider that the tools and resources that are available to you on trade enforcement, including funding and staffing, are sufficient for the aggressive pursuit of enforcement actions that you have supported in the past?

As you are aware, Congress authorized \$15 million for a Trade Enforcement Trust Fund that is intended for USTR's use -above and beyond USTR's annual budget -to enforce WTO and trade agreement commitments, monitor our trading partners' implementation of FTA obligations, support capacity building for developing countries to implement FTA obligations, and to investigate and respond to petitions for trade actions. Will you commit to using the funds Congress has made available to you and what are your top priorities for USTR's enhanced trade enforcement efforts? Will those priorities include investigating and initiating enforcement actions related to the labor and environment provisions of existing FTAs?

Answer: The Administration will be pursuing an aggressive trade policy agenda and looks forward to serious bilateral engagement with our trading partners. As such, USTR will be simultaneously pushing forward with enforcement efforts to address unfair trading practices while pursuing a number of key bilateral trade agreements. Enforcement takes resources, like lawyers, analysts, researchers, and translators that enhance USTR capacity to intensify these efforts. For example, language and other specialized expertise is necessary to research issues with important trading partners such as subsidies, local content restrictions, import licensing restrictions, and market access barriers. Legal resources also aid in enforcing U.S. trade laws by defending disputes brought against the United States.

The Administration is also working to ensure that trade partners comply with the labor and environmental obligations in our trade agreements. I am currently undertaking a comprehensive review of all of our trade agreements, and I look forward to consulting closely with you and your colleagues, as well as our stakeholders, on specific steps we can take to ensure that our FTA partners are living up to their obligations and are subject to enforcement action when they do not.

2) Canada

The Canadian Radio-television and Telecommunications Commission (CRTC), Canada's broadcasting and telecommunications regulatory agency, issued a decision in 2015 that was inconsistent with Canada's obligations to provide protections to U.S. content- providers, namely the NFL. Subsequently, with bipartisan support, the previous Administration raised this issue with senior Canadian officials and asked for a change.

The United States also indicated that it was examining all of its options with respect to the CRTC decision. However, Canada's government did not change policy. What options does the new Administration plan to pursue to resolve this situation so that U.S. companies are treated equally?

Answer: USTR objected to the CRTC's decision preventing the NFL from fully monetizing the value of its programming in Canada to the same extent as other U.S. and Canadian programming, through control of advertising. We continue to look at options for addressing this problem. The United States is strongly committed to expanding access rights for U.S. services suppliers, and obtaining the strongest standard of protection for U.S. intellectual property rights holders in Canada, and believe that Canada must treat all rights holders fairly. This principle will be paramount in our engagement with Canada.



Questions from Rep. Marchant**1) India's Trade Environment and Enforcement**

On Monday June 26, Prime Minister Modi visited President Trump at the White House for their first face-to-face meeting of the new administration. As outlined by the joint statement following the meeting, both India and the United States agreed to "undertake a comprehensive review of trade relations" between the two countries. While this review is an important opportunity to spotlight the current imbalanced trading relationship, it should also support delivering concrete results that improve India's environment for doing business, including addressing trade barriers like high tariffs, forced localization policies, and a challenging environment for intellectual property protection. How does the Administration intend to press for resolution of these concerns, including by taking appropriate enforcement actions?

Answer: India is one of the only major economies with which we have a significant trade deficit in goods and services, and our exporters continue to face a variety of challenges in the Indian market. While we have welcomed recent improvements in certain areas, they do not go far enough to provide meaningful market access in important sectors. President Trump and Prime Minister Modi stated their intention to undertake a "comprehensive review" of the bilateral trade relationship, and we will continue to press the Indian government to address these issues and implement reforms that will increase U.S. exports through the U.S.-India Trade Policy Forum (TPF).

2) Where USTR Can Change Strategies re: India Trade

Despite frequent high-level bilateral engagement with India since 2014, India has failed to create significant positive opportunities for U.S. workers, businesses, and farmers. It remains a tough place to do business, ranking last among G20 countries in the World Bank's Doing Business report, and near the bottom of the U.S. Chamber of Commerce International IP index every year. One reason for the lack of progress seems clear: we do not have sufficient leverage in bilateral discussions. One area where we have had created leverage is at the WTO, winning cases on solar and poultry. Where can USTR and other agencies create leverage with the government of India?

Answer: The United States has a significant trade deficit with India and we emphasized during Prime Minister Modi's recent visit that this dynamic must change. President Trump and Prime Minister Modi stated their intention to undertake a "comprehensive review" of the bilateral trade relationship, a process that will include an evaluation of issues through the U.S.-India Trade Policy Forum (TPF). We will also continue to explore any other additional areas of leverage to push India to make the changes needed to rebalance the bilateral trade relationship.

Questions from Rep. Higgins**1) Aluminum**

On January 12, 2017, the United States filed a request to the World Trade Organization (WTO) for consultations to challenge China's illegal subsidization of its aluminum industry. The consultation period has now passed, but there appears to have been no movement. As you are aware, this case is great interest to Members on both sides of the aisle. What is the status of this case? Will the Administration commit to pursuing it in the interest of the U.S. aluminum industry, its workers, and communities that depend on it?

The Chinese government has effectively refused to negotiate regarding its use of illegal subsidies to create massive, globally distorting overcapacity in the aluminum industry. In addition to the WTO case, what plans do you have to address these destructive policies and China's unwillingness to remove them?

The U.S. aluminum industry is being hollowed out by unfair trade practices, potentially leaving our armed forces unable to procure metal domestically for national defense applications. Is the Administration prepared to implement a sufficient response under the Section 232 investigation of aluminum products?

Any response under Section 232 must only be part of a comprehensive solution to the threat to the U.S. aluminum industry. Is it safe to assume that the Section 232 investigation is only one part of a broader strategy, including the WTO case filed in January and any other necessary action, especially action targeting illegal Chinese subsidies?

Answer: The Administration is reviewing all appropriate options to deal with market distorting practices in the Chinese aluminum industry. At the core of this issue is China's non-market economy system, which is creating global oversupply and excess capacity in this and other sectors. We are now vigorously defending our right to apply a non-market economy methodology to imports from China against China's challenge in the WTO. We are committed to effective action to address unfairly traded aluminum through strong enforcement of U.S. AD/CVD laws, bilateral and multilateral engagement, and enforcement of our rights under trade agreements, as appropriate.

2) Steel

We appreciate your work on subsidized Chinese steel. The well-documented subsidies received by the Middle East air carriers have already impacted US workers. Will you encourage your Administration colleagues to exercise our rights under our agreements with the United Arab Emirates and Qatar to stop the subsidies?

Answer: The Department of State and the Department of Transportation, as the negotiators of our air transport agreements, have the lead on this issue. However, USTR has been actively participating in an on-going interagency review of the issue by the new Administration. As part

of this review, the Administration has met with key stakeholders holding diverse views and is currently evaluating appropriate next steps.

3) Infrastructure

There is a long history of cooperation between the United States and Canada on infrastructure planning, particularly through the development and maintenance of cross-border infrastructure (roads, bridges, land ports of entry generally). Will the administration commit to a robust and renewed commitment to cross border infrastructure as a part of a renegotiated North American Free Trade Agreement (NAFTA)?

Answer: The United States and Canada will continue to rely on a strong common infrastructure in order to facilitate trade throughout the region.



Questions from Rep. Reed**1) Currency Manipulation**

Ambassador Lighthizer, I was among members of this Committee and Congress to secure language in the Trade Promotion Authority and the customs legislation signed into law in the last Congress. I believe we have an opportunity to continue to act on currency issues through NAFTA negotiations and set the stage for future trade negotiations. Do you believe that getting agreement from Canada and Mexico on enforceable ways to combat currency manipulation will improve the United States' negotiating position for future agreements? Are you interested in pursuing enforceable provisions on currency manipulation within renegotiation of NAFTA?

Answer: Consistent with the principal negotiating objectives on unfair currency practices contained in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and as noted in our Summary of Objectives for the NAFTA Renegotiation, the Administration will be seeking to ensure that the NAFTA countries avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage. We are consulting with Treasury Department on how best to achieve this.

Questions from Rep. DelBene**1) U.S.-EU Covered Agreement**

I want to ask you about next steps on the Covered Agreement between the European Union and United States that was negotiated by the last administration. My understanding is that Insurance commissioners, governors, and state legislatures have responsibilities to implement significant portions of the agreement and if they don't, the agreement could fall apart because its provisions are cross-conditional. Governors and insurance commissioners including my own home state insurance commissioner have raised concerns with several ambiguities in the agreement and are concerned that if they are not clarified ahead of time with the European Union, they will have changed laws and regulations only to find out that the EU does not have a similar interpretation a few years down the road. This would essentially put us back to square one. The NAIC has submitted a few areas that they would like to see clarified with the European Union prior to the agreement being signed. What are your next steps with the agreement, and do you plan to seek such clarifications requested by the state insurance commissioners, who are responsible for implementing it?

Answer: In the last six months, USTR and Treasury have undertaken a series of meetings with interested stakeholders and members and staff in the Congress to gather detailed feedback on the U.S.-EU Covered Agreement. Following careful consideration of this feedback, the Administration announced in July that it intends to sign the Covered Agreement. The Administration has also announced plans to issue a U.S. policy statement on implementation. We believe that this Agreement will be an important step in making U.S. companies more competitive in domestic and foreign markets and making regulations efficient, effective and appropriately tailored. This Agreement will benefit the U.S. economy and consumers by affirming the U.S. state-based system of insurance regulation, providing regulatory certainty, and increasing growth opportunities for U.S. insurers.

2) Intellectual Property

The Administration has already signaled an ambitious trade agenda, which has the potential to significantly strengthen economic growth. But in order to continue accelerating the pace of innovation in our economy, our trading partners must all play by the same rules with respect to market access and protecting intellectual property. How can the United States use new and existing trade agreements to ensure U.S. businesses benefit from strong intellectual property protections and greater access to global markets?

Answer: The Administration intends to leverage all trade tools at our disposal to counteract any efforts by our trading partners to unfairly disadvantage U.S. IP-intensive industries. In renegotiations and new negotiations, we will seek strong IP provisions that address both new and long-standing trade challenges in IP protection and enforcement. We must hold other governments accountable when they initiate policies or take actions that undermine the ability of right holders to fairly use and profit from their intellectual property. Direct bilateral engagement is essential to resolving unfair trade practices. We must also vigorously monitor our trading partners' compliance with their bilateral and multilateral commitments, and we will take enforcement actions when appropriate.

Questions from Rep. Holding**1) ISDS**

One problem with the TPP was that the Obama Administration insisted on including within the agreement a carve-out from ISDS for one product, one legal export, for the first time ever. Do I have your commitment not to agree to such carve-outs?

Answer: I acknowledge your concern regarding the differential treatment of measures relating to a major U.S. agricultural export in the context of TPP investor-state provisions. I look forward to consulting with the Congress on this issue in the context of the NAFTA negotiations and other negotiations going forward, with a view to ensuring that our agricultural exports, as well as other goods and services exports, are treated fairly.

2) Intellectual Property

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3) Poultry

The opening of the Chinese market for beef was a great success. What is the timeframe for getting U.S. poultry back into China and what is USTR's current involvement?

Answer: Secretary Perdue and his team at USDA have been the primary interlocutors on negotiating the animal health terms for exporting U.S. poultry into China since its suspension in January 2015. USTR coordinates closely with USDA on these efforts and provides relevant guidance, especially given the prolonged impact the poultry ban has had on trade. I understand that a Chinese technical team visited the United States in July to visit U.S. poultry farms and exchange information with U.S. experts. We are awaiting the outcome of that visit, and are pressing China to re-open its market to U.S. poultry.

USTR won a WTO dispute challenging China's antidumping and countervailing duties (AD/CVD) on imports of U.S. chicken "broiler products". When China issued a redetermination

that kept the duties in place, we filed a WTO compliance challenge against that redetermination. We are now waiting for the compliance panel to provide its report, and we will continue to press China to eliminate its AD/CVD duties on U.S. broilers.

4) Subchapter 9802

The U.S. textile industry has seen export growth in recent years. Unfortunately, there are built-in disincentives to using U.S.-made yarn and other textile products in foreign-made finished goods. There is a provision -under Subchapter 9802 of the HTS -that allows the value of certain U.S. components to be deducted from the value of imported finished goods for customs valuation and duty assessment purposes. Currently only a few products are eligible for such treatment including sewing thread and narrow elastic fabric, while many other US components are eligible for the 9802 treatment. Would you be willing to look into the possibility of expanding the range of U.S. products to include U.S. yarn that would be eligible for similar deduction from the value of imported goods?

Answer: The requirements for U.S. components to be eligible for treatment under Subchapter 9802 of the HTS are set out in U.S. law. If Members of Congress are interested in exploring legislation to change these requirements, USTR would be happy to engage in a dialogue on the implications of such changes for U.S. trade policy and for the U.S. textile industry.



Questions from Rep. Chu**1) U.S. Film Industry/China Film Agreement**

As you know, the U.S. film industry is a major cultural and economic force globally. I want to share with you just how many jobs the creative industry creates and how much they drive our nation's economy. Their work significantly contributes to the \$1.1 trillion of economic output that our copyright industries are responsible for, and in 2015 supported around 5.5 million good-paying U.S. jobs. These industries are located throughout the country - Georgia, Louisiana, New York, Ohio, and California. They provide good jobs and contribute to the economy of so many states.

I want to flag an issue of great importance to independent film producers. The China Film agreement, which was originally signed in 2012, is subject to review this year. I am specifically concerned about opening up opportunities for new distributors to bring U.S. films to the Chinese marketplace. What steps will USTR take as part of the review of the China Film agreement to ensure that the Chinese are compliant with the commitment made in 2012?

Answer: Under the 2012 U.S.-China Memorandum of Understanding on films, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO dispute that the United States won. Significantly more U.S. films have been imported and distributed in China since the signing of the MOU, and the revenue received by U.S. film producers has increased substantially. The United States will continue to work to ensure that China implements the 2012 MOU, and that China provides further meaningful compensation for the United States in this area, as called for by the MOU.

2) Subsidies for Middle East Air Travel Carriers

Since 1992, the U.S. government has negotiated Open Skies agreements with over 100 foreign governments that helped promote fair principles and conditions for airline market competition. In some cases, open skies traffic rights have not been used in ways that honor free market competition and, troublingly, U.S. interests in fairness and openness in international commerce.

I understand that Ambassador Lighthizer is familiar with the substantial subsidies that many air travel carriers based in Middle East countries receive. I want to encourage you to work with your colleagues at the State Department and Department of Transportation to address this issue immediately. Swift action on this issue would go a long way toward improving enforcement of our existing trade agreements and would protect American jobs from unfair international competition.

What do you envision as the USTR's role in ensuring fairness in this market? I hope you would keep this issue in mind as you consider trade negotiations with countries that subsidize their airlines.

Answer: The Department of State and the Department of Transportation, as the negotiators of our Open Skies agreements, have the lead on this issue. However, USTR has been actively

participating in an on-going interagency review of the issue by the new Administration. As part of this review, the Administration has met with key stakeholders and is currently evaluating appropriate next steps.

3) U.S.-Canada WTO Wine Dispute

During the committee's hearing, you told Rep. Thompson that you were aware of the WTO enforcement action that former USTR Froman launched against Canada in January 2017 challenging British Columbia's (BC) regulations to permit the sale of wine in grocery stores. The new regulations gave stores the option of a "store-within-a-store" model or the option to buy a license to sell only BC wine on grocery store shelves. Under this option, wine sales must be conducted in a "wine store" that is physically separated from the grocery store, has controlled access, and separate cash registers from the grocery store's cash registers. The store-within-a-store model is more onerous for store owners and seems to discriminate against U.S. and other imported wine by allowing only BC wine on shelves for consumers.

Do you intend to support and continue the January 2017 WTO action against these regulations? In the context of NAFTA renegotiation, do you plan to consider issues like this one of your priorities when you enter discussions with Canada?

Answer: Policies restricting sales of U.S. wine in Canada are a major problem. USTR has held consultations with Canada under WTO dispute resolution procedures on British Columbia regulations. I am consulting with my staff on the most effective next steps to address those regulations, as well as other measures in Canada that may be harming our wine exports.

Whether we go to a dispute settlement panel or address these measures in the NAFTA negotiations, I will work to get this problem resolved for U.S. wine makers.

4) Enforcement Strategy for Labor and Environment

The May 10 Agreement incorporated strong environmental and labor provisions into U.S. trade agreements. Despite the inclusion of language similar or identical to the May 10 Agreement in many of our trade agreements, there have so far been no significant actions to enforce those provisions. I would like this Administration to articulate a concrete approach to enforcement going forward, not just verbal commitments to do better. This is important for the American economy and the American worker.

Please succinctly lay out the Administration's strategy to undertake meaningful enforcement of the labor and environmental provisions of our trade agreements.

Answer: Enforcement is a key aspect of our trade agenda and the Administration is working to ensure that trade partners comply with the labor and environmental obligations in our trade agreements. I am currently undertaking a comprehensive review of all of our trade agreements, and I look forward to consulting closely with you and your colleagues, as well as our stakeholders, on specific steps we can take to ensure that our FTA partners are living up to their obligations and are subject to enforcement action when they do not.

5) Timing on NAFTA Labor and Environment Provisions

During your June 21 hearing before the Senate Finance Committee, you were asked by Senator Sherrod Brown whether you would insist on better labor standards from Mexico before talks began on NAFTA renegotiation. You replied that it was unlikely we could get commitments from Mexico before talks begin. I would like to follow up on that question. Will the Administration insist that Canada and Mexico bring their laws and practices into compliance with NAFTA's environmental standards at least before Congress is asked to vote on a renegotiated NAFTA?

Answer: I am committed to ensuring that our trade agreements, including the NAFTA, strengthen our trading partners' labor and environmental standards and meet the negotiating objectives that Congress has set out in TPA. In consultation with Congress, the Administration will seek to modernize the labor and environmental obligations, including by incorporating high standard labor and environment provisions into the core of the agreement, rather than in a side agreement, and ensuring that the obligations are subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement. With respect to the implementation of the agreement, I note that TPA sets out procedural requirements that must be followed before Congress votes on an agreement and before the Administration puts an agreement into effect. We will adhere to these procedures as we update and improve the NAFTA.

6) Investor-State Dispute Settlement Regime

Please articulate your position on the Investor-State Dispute Settlement, or ISDS, regime which provides those with offshore investments a special procedure for getting their disputes with other countries heard. What do you think is the best approach for managing investor risk when investments or even U.S. firms are moved offshore? If you want to maintain the ISDS, would you support major reforms to it, and if so what might those reforms be?

Answer: I am mindful that seeking improved mechanisms to resolve investor-state disputes is a negotiating objective in TPA, and I understand the importance of ensuring that U.S. investors abroad are treated fairly. At the same time, I acknowledge some of the concerns that have been raised about ISDS, including with respect to U.S. sovereignty. I look forward to working with Members to achieve an appropriate balance on this issue.



Questions from Rep. J. Smith**1) China and Cotton**

Cotton is an important commodity in my district. We export our cotton all over the world. We support your work to secure reforms from China and open its market to U.S. companies, farmers, and workers. China is the world largest consumer of raw cotton, but it inhibits market access to U.S. cotton farmers through opaque and restrictive import regime. Our producers have developed successful relationships with Chinese buyers who want greater access to high quality U.S. cotton. But they need help convincing the Chinese government to open up. China also massively subsidizes the production of manmade fibers, primarily polyester, that compete directly with raw cotton fiber. Due to their lack of transparency, we don't know the full scope or exact nature re of these subsidies, but we know they are extensive and we can see their impact on the global cotton marketplace. Mr. Lighthizer, Will you prioritize greater export access for U.S. cotton as a part of the 100- Day Action Plan and, going forward, as a part of the new bilateral comprehensive economic dialogue?

Answer: I am very concerned about China's support for its domestic cotton industry, which can take the form of subsidies, , or the underutilized production capacity of manmade fibers. These policies can distort the global marketplace and unfairly disadvantage U.S. cotton farmers. While Treasury and Commerce are the U.S. chairs for the 100 Day Action Plan and the Comprehensive Economic Dialogue, I can assure you that this remains a high priority for USTR and our bilateral engagement with China, and we continue to gather information to better understand these policies and their impacts.

2) Japan and Agriculture

Vice President Pence's recent trip to Japan involved discussions about the prospects of a bilateral trade agreement. U.S. farmers and ranchers want a US-Japan trade agreement that will secure and improve upon the advances in the Trans Pacific Partnership (TPP) for beef, pork, rice, vegetables, fruits and dairy product access. How will you meet these goals for agriculture in a US-Japan agreement?

Answer: Under the leadership of the Vice President, the Administration is laying important groundwork under our economic dialogue with Japan, which includes trade as a key element. Advancing the interests of our farmers and ranchers in this important market is a critical component of our engagement with Japan.

3) EU-U.S. Covered Agreement

Mr. Lighthizer, When does the Administration anticipate making a decision about whether to sign the EU-U.S. "covered" agreement? Will there be any clarifications to the agreement before it is signed?

Answer: In the last six months, USTR and Treasury have undertaken a series of meetings with interested stakeholders and members and staff in the Congress to gather detailed feedback on the U.S.-EU Covered Agreement. Following careful consideration of this feedback, the

Administration announced in July that it intends to sign the Covered Agreement. The Administration has also announced plans to issue a U.S. policy statement on implementation. We believe that this Agreement will be an important step in making U.S. companies more competitive in domestic and foreign markets and making regulations efficient, effective and appropriately tailored. This Agreement will benefit the U.S. economy and consumers by affirming the U.S. state-based system of insurance regulation, providing regulatory certainty, and increasing growth opportunities for U.S. insurers.



Questions from Rep. Schweikert**1) Data localization restrictions**

The United States is a leader in digital services, due to the emergence of the internet and dramatic rise of cross-border data flows. In respecting the importance of protecting digital trade and data flows in future bilateral and multilateral trade deals, it is vital for Congress to understand the Administration's position on data localization requirements and restrictions on data flows. I believe the prior Administration made a big mistake when it initially carved out financial services from the ban on server localization requirements in the TPP negotiations. Will you commit to negotiating strong provisions to prohibit server localization requirements and restrictions on data flows in all sectors, including financial services?

Answer: Yes. As the Administration stated explicitly in the Summary of Objectives for the NAFTA Renegotiation issued on July 17, we intend to pursue strong provisions to ensure that countries refrain from imposing measures in the financial services sector that restrict cross-border data flows or that require the use or installation of local computing facilities.



Questions from Rep. Rice

1) Section 232 Steel Investigation

Mr. Ambassador, let me again express my appreciation for this administration's focus on the U.S. steel industry and unfair trade practices used by Chinese steel manufacturers. U.S. steel manufacturers continue to struggle with Chinese overcapacity, resulting in job loss and plant closures throughout my district.

With that said, I want to echo the concerns from some of my Ways and Means colleagues regarding Section 232 of the Trade Expansion Act of 1962. I fear that the broad application of this authority could result in unchecked retaliation from other major trading partners and harm American consumers. Accordingly, what other specific tools have been considered by this administration in combating these unfair trade practices? If the final recommendation is to utilize Section 232 to impose restrictions on steel imports, how will the administration ensure that those import restrictions have the desired effect of reducing Chinese overcapacity without harming other sectors of our economy?

Answer: As you know, the Department of Commerce is responsible for conducting section 232 investigations under the Trade Expansion Act of 1962. Since Commerce has not concluded its investigations, it would be improper for me to comment on them.

But I agree that the current global overcapacity situation in the steel industry is having a detrimental impact on U.S. workers and industries. At the core of this issue is China's non-market economy system, which is creating global oversupply and excess capacity in these and other sectors.

To address this serious problem, the Administration is working to address both the root causes and manifestations of the problem and is evaluating every appropriate tool in our arsenal. This includes bilateral and plurilateral negotiations, and the use of the full range of U.S. trade policies and statutory mechanisms to address injurious, unfair, and unreasonable practices, as appropriate.

We are working with many countries to address the excess capacity issue. Indeed, at the July 7-8, 2017 Hamburg Summit, G-20 Leaders committed to take necessary actions to find solutions to the challenge of excess capacity. The G-20 Leaders called for removal of market-distorting subsidies and urged Global Forum members to rapidly develop concrete policy solutions as a basis for tangible and swift policy action, to be included in a report to the Leaders by November 2017. We are also continuing to engage bilaterally with China, including through the Comprehensive Economic Dialogue that was held in Washington on July 19, 2017.

We will continue to work with industry and consult with Congress to explore all appropriate means to deal with the problem of excess capacity.

2) Ongoing EU-US Dispute Regarding US Beef Exports

Ambassador Lighthizer, I was greatly encouraged by your comments at our June 22 hearing regarding the ongoing negotiations between the EU and USTR in resolving our dispute over U.S.

beef exports. I remain fully supportive of your efforts to ensure that the EU maintains compliance with its WTO obligations, and I want to thank you for your efforts in maintaining the objective of resolving this dispute through negotiating a better deal with the EU.

I remain concerned, however, that in the event an agreement cannot be reached that USTR will impose retaliatory duties to products unrelated to this dispute that could cause undue harm to other U.S. companies, including potential loss of jobs to companies like Nestle Waters in my district. I understand that taking any specific good off the list of potential duties would be counterproductive to the negotiation, but how will your office balance the leverage gained in imposing these retaliatory duties and the potential for a disproportionate impact to U.S. companies? What factors will your office use in making this decision?

Answer: This is an important issue for the U.S. beef industry and my staff is engaged in discussions with the European Commission to seek a negotiated solution. The Trade Act of 1974, as amended, requires us to consult with representatives of the domestic industry concerned, and provide an opportunity for the presentation of views by interested parties. Nestle Waters testified at the hearing we held on this matter in February of 2017, and also provided written comments.

The Trade Act further provides the factors to be considered in making a determination on the beef industry's request to reinstate trade action. They include the effectiveness of such an action, and of other actions that could be taken (including actions against other products), in achieving the objectives of section 301; and the effects of such actions on the United States economy, including consumers. You can be assured that we will balance all relevant factors in making our determination of the appropriate action to take.



Questions from Rep. Walorski**1) Misuse of International Bodies by the EU**

We are seeing an alarming trend in which some of our trading partners, such as the EU and others, misuse international bodies like the World Intellectual Property Organization and the World Health Organization, to pursue a discriminatory agenda that benefits their exports. These non-trade organizations end up taking positions on trade issues contrary to ours, and countries then use these actions to justify discriminating against U.S. exports.

The prior Administration did not do enough to stop this dangerous activity. I believe that we must maintain an active membership in these organizations to help stop this behavior. Do you agree? What will you do to stop abuse of the mission of these organizations?

Answer: The United States maintains membership and participates actively in the development of WIPO and WHO policies, and those of other UN organizations, providing leadership across multiple international organizations while promoting U.S. interests. USTR engages in these organizations to ensure a fair and equitable playing field for U.S. exporters, protecting U.S. economic and trade interests, and ensuring that regulatory practices and policies promoted by these multilateral organizations do not serve as an unnecessary trade barriers to U.S. exports. I am aware of the deep concerns regarding certain areas of work taking place in international organizations that run contrary to U.S. interests, and I have sought ways to increase USTR's staff-level participation in these organizations in order to more actively engage on these types of international issues. In addition, when other countries attempt to misuse international organizations to promote policies that run counter to U.S. interests, or when national governments adopt discriminatory policies that harm U.S. exports, we will engage to resolve those issues in bilateral negotiations and in the World Trade Organization.

2) World Health Organization and Dairy

Dovetailing off the previous question, I am concerned in particular that last year, the World Health Organization's Secretariat developed and rushed through a guidance that called for significant new restrictions and even prohibitions on the promotion and marketing of milk products for children up to age three. They provided no sound scientific evidence and conducted no analysis of its potential impact. Now, the WHO is incorrectly presenting the nonbinding guidance as a new international standard and is pressuring governments to implement it. In the US, the American Academy of Pediatrics recommends exclusive breastfeeding for the first year of an infant's life and for children ages one and up to begin consuming other types of milk to aid in growth and development. These recommendations are based on a wealth of quality, scientific evidence.

Recognizing that the Department of Health and Human Services, not USTR, is the lead interlocutor at the WHO, I sent Secretary Price a letter along with 16 of my colleagues urging him to advocate against measures being taken by other countries to implement this ill-advised, non-science-based guidance. However, since some of these measures may violate WTO obligations, I cc'd the office of the US Trade Representative as well. Have you entered into

dialogue with any trading partners, such as Thailand or Hong Kong, that have begun promulgating rules that may not be WTO compliant or other countries that are considering doing so, such as Indonesia?

Answer: When trading partners propose non-science based measures that may harm U.S. exports, USTR engages actively to defend U.S. interests. Regarding the measures that you mention that may adversely impact U.S. dairy exporters, USTR has raised our concerns regarding specific measures proposed by trading partners in the World Trade Organization Committee on Technical Barriers to Trade. In addition to raising concerns in the WTO, we have also raised concerns bilaterally with countries that are considering restrictive measures that may prove to be problematic if implemented.

3) The Netherlands and U.S. Veal Exports

The United States banned veal imports from The Netherlands after the discovery of Bovine Spongiform Encephalopathy (BSE) in 1997. Imports were cleared again last year. However, despite this clearance, numerous important safety concerns remain unresolved, which could leave American consumers at risk and damage the reputation of the broader industry. In particular, The Netherlands allows its veal producer s to use 50 veterinary drugs that are not approved for use in the U.S. In fact, American veal producers using these drugs could face fines and even imprisonment. Unfortunately, the residue for many of these drugs is found in the animal's organs, which would not be part of a shipment that reaches the port of entry. Additionally, American veal producers have specific practices in place to eliminate the passing of microbial pathogens to consumers and American veal packers have processes, interventions, and testing in place to prevent the spread of six Shiga toxin producing Escherichia coli (STEC) and E. coli 0157:H7 adulterants. Producers in The Netherlands do neither of these.

I understand that USTR has initiated talks with the European Union regarding market access for U.S. beef exports and that unsuccessful talks could result in tariffs on EU beef imports. Veal was a part of the 1999 and 2009 lists of products subject to retaliatory tariffs and I urge USTR to include them on any list that may be the result of unsuccessful talks, especially given the unresolved issues detailed above.

Answer: This is an important issue for the U.S. beef industry and my staff is engaged in discussions with the European Commission to seek a negotiated solution. The Trade Act of 1974, as amended, requires us to consult with representatives of the domestic industry concerned, and provide an opportunity for the presentation of views by interested parties. The American Veal Association testified at our hearing in February of 2017, and also provided written comments. We will keep these comments in mind as we consider future steps.

Questions from Rep. Bishop**1) Rules of Origin**

The U.S. Auto Industry has very complex, integrated global supply chains that have benefited greatly from NAFTA. NAFTA has helped U.S. autos compete not just regionally, but across the globe. I understand that the Administration has suggested rules of origin as a potential area for negotiation in the NAFTA discussions. With 62.5% Rules of Origin -which is already very high - the highest of any trade agreement anywhere -how do you plan to deal with rules of origin in NAFTA to ensure that the American Auto Industry is not harmed?

Answer: We are currently in the process of consulting with automakers, suppliers, labor, and others in the industry as well as reviewing comments from stakeholders. The automobile industry has changed significantly in the years since the NAFTA was negotiated, making the NAFTA out of date. Through such updates, we can reassert the importance of domestic manufacturing and workers in setting new rules in the context of our renegotiation, especially on automotive goods.

2) Currency Manipulation

For too long, the global marketplace has used currency manipulation as a way to put Michigan businesses and auto manufacturers at a disadvantage. So in 2015, in order to ensure our workforce is able to compete on a more level playing field, Mr. Tiberi's customs enforcement bill was signed into law, which included strong provisions to address currency manipulation. By strengthening enforcements against currency manipulation we can expand our consumer base, create and protect American jobs, and grow our economy here at home. Ambassador Lighthizer, what is the administration's position on currency manipulation? Can we have your commitment today that the administration will follow the mechanisms used to combat currency manipulation outlined in the customs enforcement law? Not just in NAFTA, but in future trade agreements as well?

Answer: Consistent with the principal negotiating objectives on unfair currency practices contained in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and as noted in our Summary of Objectives for the NAFTA Renegotiation, the Administration will be seeking to ensure that the NAFTA countries avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage. We are consulting with Treasury Department on how best to achieve this.

[Submissions for the Record follow:]



STATEMENT FOR THE RECORD

SUBMITTED BY:

THE ADVANCED MEDICAL TECHNOLOGY ASSOCIATION (AdvaMed)

HOUSE WAYS AND MEANS COMMITTEE

**HEARING ON THE U.S. TRADE POLICY
AGENDA**

JUNE 22, 2017

Introduction

The Advanced Medical Technology Association (AdvaMed) appreciates the opportunity to provide comments on the U.S. trade policy agenda for 2017 to the House Ways and Means Committee. AdvaMed represents approximately 300 of the world's leading medical technology innovators and manufacturers of medical devices, diagnostic products and medical information systems. AdvaMed members range from the smallest to the largest medical technology innovators and companies. AdvaMed is dedicated to the advancement of medical science, the improvement of patient care, and in particular to the contribution that high quality health care technology can make toward achieving those goals.

The medical technology industry, an American success story, is one of the few remaining manufacturing sectors of the U.S. economy with a positive net balance of trade, although this positive balance fell from over \$6.3 billion in 2013 to less than \$1 billion in 2016. The people who work in the U.S. medical technology industry depend on trade to ensure security, growth, and new opportunities. In fact, medical technology industry salaries are nearly 30% higher than the average U.S. salary because the industry employs so many highly skilled workers in the areas of research and development, manufacturing, sales and management. The medical technology industry is responsible for nearly 2 million high-paying U.S. jobs – roughly 350,000 directly and 1.6 million indirectly – and 9,800 manufacturing facilities across the 50 states.

Medical technology accounts for 3 percent of U.S. Gross Domestic Product. The United States exports over \$50 billion worth of medical devices annually. AdvaMed members supply medical technology to almost every country in the world. Opening markets and ensuring a level playing field are essential to the future growth of the U.S. medical technology industry.

AdvaMed Policy Position

AdvaMed continues to endorse policies that open foreign markets and enact fair and predictable rules. Over 60 percent of the global medical technology market is outside the United States. Opportunities are good for further sales growth in foreign markets due to aging populations and rising needs in the largest markets of Europe, Japan and China, as well as many emerging markets. U.S. companies rely on dynamic global supply chains to manufacture and deliver products to patients in these markets. These supply chains allow manufacturers to operate closer to customers, better manage geographic risks, and provide benefits to customers and shareholders alike in the form of greater operating efficiencies.

The medical technology industry is facing increasing market access barriers in many foreign markets. Over the past decade, the U.S. trade surplus in medical technology has narrowed to about 2 percent. While this decline does not automatically mean other countries are discriminating against U.S. products, trade policies in a number of countries are having a detrimental effect on U.S. exports.

AdvaMed supports the Administration's trade-opening initiatives. Our industry has consistently endorsed U.S. free trade agreements (FTAs), including NAFTA and KORUS, as well as trade expansion provisions negotiated in the World Trade Organization (WTO). The agreements

reached under what is now the WTO, dating to the General Agreement on Tariffs and Trade in 1948, have provided the foundation for stable global trade rules. Each successive “round” of multilateral trade negotiations expanded coverage of those rules and enabled trade to flourish among nations. FTAs have been built on those rules and substantially improved provisions benefitting U.S. industry – creating a more level playing field for countries in which the United States has FTAs. The United States needs more FTAs.

Our industry continues to face a wide array of barriers in overseas markets. We endorse U.S. Government trade initiatives that open markets and would like to work with the Administration and Congress on provisions that can benefit our industry. We appreciate U.S. Government support for helping us overcome foreign trade barriers and urge the vigorous enforcement of trade agreements. Such barriers include:

- **Localization:** Governments impose requirements on companies to invest in their countries as a condition for market access.
- **Regulatory:** Governments use their approval procedures to delay or prevent foreign medical technology from gaining market access.
- **Procurement:** Governments increasingly purchase medical technology, using opaque procedures that artificially control prices driving out higher value innovative products or otherwise limit the ability of U.S. medical technology companies to compete - often preferring domestic products and sometimes even banning foreign products from being purchased.
- **Other Measures:** Governments impose a variety of other policies that impede market access, including local standards, burdensome customs clearance procedures, high import duties, artificial price ceilings, unnecessary regulations, and arbitrary and discriminatory enforcement of anti-corruption or anti-monopoly laws.

Millions of overseas patients are alive today because of U.S. medical technology. We support policies that remove trade barriers and allow us to continue to serve patients around the world.

Country-specific Issues

AdvaMed member companies provide life-saving and life-enhancing products to patients throughout the world. Each market offers a unique set of opportunities and challenges. In a number of significant markets, these companies are encountering obstacles that could reduce their future exports and/or inhibit their ability to expand.

China

U.S. manufacturers with their advanced technologies can contribute to the Chinese goal of ensuring that patients can enjoy high quality and effective care, reducing costly complications and hospital readmissions. Especially as China faces an aging population, patients there would benefit from opening its market more for U.S. products, instead of erecting barriers and imposing

localization requirements. In addition, as Chinese industry seeks to move up the value chain, competition from U.S. firms would help strengthen the domestic industry.

The Chinese medical technology market is over \$25 billion. China imports about 70% of its medical devices and imports are expected to continue to grow, having quadrupled in the past decade. More recently, the annual rate of growth, which reached a high of 30% in 2010, is now in the single digits, the lowest since 2006. U.S. companies continue to be the leading suppliers of medical devices to China, with a 33.8% share of all medical device imports. Thus U.S. market share is approximately \$5 billion of the total China medical device market. However, that statistic includes more than just U.S. domestic exports to China, which directly accounted for 15% of China's market (\$3.8 billion in 2016).¹

There are several important factors that should continue to make China a very attractive market. First, China's rapidly growing economy has generated a middle class the size of the U.S. population. This expansion has helped fuel a double-digit increase in demand for medical technology (\$25 billion in 2015), with annual growth of approximately 15 percent expected through 2018.

Second, the Chinese leadership has recognized the need for substantially improved healthcare. China's 13th Five Year Plan (FYP) established the promotion of inclusive development through improved healthcare and social security as one of its core goals. Under this plan, annual healthcare expenditures are expected to rise 12 percent to nearly \$900 billion by 2018.

Third, healthcare demand is expected to continue surging as China's population ages rapidly and the disease burden shifts from infectious to chronic diseases. These diseases are projected to double or triple among Chinese over 40 years of age by 2030².

As noted in the attached table, China is one of the few countries in which the U.S. medical technology industry has a substantial trade deficit. We believe this situation will get worse unless specific Chinese policies are changed.

An overarching industry concern is "Made in China 2025 – Medical Devices," which calls for 80 percent of core components to be manufactured in China and 70 percent of county hospital high-end medical equipment to come from domestic producers by 2025. This initiative also envisages the Chinese industry making substantial inroads in international markets for high-end medical devices – in essence, moving up the value chain. Some AdvaMed members view "Made in China 2025" as a serious threat to the U.S. medical technology industry.

Reflecting "Made in China 2025" goals, government support for the domestic medical technology sector has become further entrenched in a number of policies released throughout 2016. From the broad policy guidelines laid out in the 13th FYP down to sector-specific actions developed by the Ministry of Industry and Information Technology (MIIT), China Food and Drug Administration (CFDA) or National Health and Family Planning Commission (NHFPC), the government is often favoring local technologies instead of allowing normal competition.

¹ U.S. ITC/Dataweb

² http://www.worldbank.org/content/dam/Worldbank/document/NCD_report_en.pdf

Localization is translating domestic products receiving relatively higher returns relative to costs than U.S. firms (with their much higher R&D expenditures) and a tendency to promote local brands in tendering and procurement by encouraging hospitals to purchase domestic products.

Policy support for domestic innovation was among the most prominent trends in China's medical device environment in 2016. Throughout the past year, multiple government departments rolled out programs aimed at supporting domestic R&D capabilities. Specifically, public support appears to be prioritizing the development of domestic heavyweights in the following areas: digital diagnostic equipment, in-vitro diagnostics (IVD), implantable and medical imaging devices, and 3D printing. These medical devices are consistently spelled out as prioritized categories across a range of key policy plans released last year, including the Ministry of Industry and Information Technology's (MIIT) *Guideline for the Medical Industry Development*³ (November 2016), the State Council's *13th FYP of Science and Technology Innovation*⁴ (July 2016) and the CFDA *Prioritized Evaluation Procedure for Medical Devices*⁵ (October 2016).

Through these initiatives, the Chinese government aims to move the domestic industry up the value chain and create national champions that can compete internationally. However, behind this localization push also lies the government's nationalist agenda to reduce China's reliance on foreign technology. Although the primary focus is core technologies that directly affect the country's national security, such as IT, the localization drive extends to all social and economic sectors including healthcare. Notably, during a speech at a major science and technology conference in May 2016, President Xi blamed foreign companies' monopolies over patent medication and the reliance on imported high-end medical devices as a "main contributing factor" to China's growing healthcare costs.⁶

The Administration should, as a first step, insist that China enforce previous commitments to not discriminate against U.S. medical technology firms. This will require, among other things, that Central Government agencies strengthen procurement oversight at the provincial level to ensure foreign firms are treated in a transparent, fair, equitable manner. Effective non-discrimination enforcement would at least address the direct measures in "Made in China, 2025." We would also appreciate U.S. Government investigation into the extent and nature of Chinese subsidies in the medical device industry.

China has also been implementing burdensome regulations that pose serious challenges to U.S. firms – such as country of origin requirements and redundant and/or scientifically unnecessary clinical trials. Similarly, investment regulations are vague, including the definition of "Chinese" investment. Thus, even if U.S. firms invest in China and try to become "local," Chinese agencies do not appear to consider them to be "Chinese" enough to receive favorable treatment.

Most of China's regulatory policies were not explicitly created to discriminate against U.S. firms but have the effect of substantially impairing market access – especially for small and medium

³ <http://www.miit.gov.cn/n1146295/n1146592/n3917132/n4061512/c5343399/content.html>

⁴ http://www.mostinfo/xinxifenlei/gjkjgh/201608/t20160810_127174.htm

⁵ <http://www.sda.gov.cn/WS01/CL0087/165582.html>

⁶ http://news.xinhuanet.com/politics/2016-05/31/c_1118965169.htm

size enterprises. The two biggest obstacles are obtaining country-of-origin (COO) approval and conducting unnecessary clinical trials. The COO forces U.S.-based companies to obtain U.S. FDA approval first, even if the company does not intend to sell the product in the United States. The local clinical trial requirement requires U.S. companies to conduct and/or duplicate in-China clinical trials. Time to market delay can be several years and cost millions of dollars per device. Since the innovation cycle for medical devices is typically under two-years, companies may no longer manufacture that product by the time they receive Chinese approval.

The most sensible approach would be for CFDA to accept foreign clinical trial data, in a manner consistent with international best practice – including that of U.S. FDA and other regulatory agencies. In addition, China should abolish its COO regulation, which is unfair in that Chinese firms do not have to meet comparable requirements to enter their products in the United States.

As part of China's wide-ranging standardization reform, CFDA released new draft Medical Device Standards Management Measures⁷, encouraging the adoption of international best practices to develop and implement medical device standards. We applaud this effort. However, it remains an open question whether China will actually follow international best practices and move away from its current top-down and rigid interpretation approach to standards.

At the provincial level, Chinese officials continue to impose drastic price cuts in tenders that sometimes discriminate against high-valued U.S. products. Some provinces have issued plans which would require prioritized procurement of domestic medical technology and some provinces have already limited or even prevented foreign firms from bidding. In addition, provinces are driving prices to such low levels that U.S. medical device companies (which devote up to 18% of revenue to R&D) cannot compete, as the value and quality of their products are not rewarded. U.S. firms are already withdrawing whole product ranges, and the effects of limiting winners will likely result in more lost opportunities to compete. Introduction of innovative products will become more difficult when tenders mandate price reductions without flexibility.

Downward spiraling prices also squeeze margins in the distribution chain and run a risk of disrupting sustainability, causing uncertainties to the health system and industry alike. Diminishing margins may also erode industry's ability to invest in provider/patient support for optimal use and outcomes. This result could mean that only low-end Chinese manufacturers survive, likely adversely effecting clinical outcomes, which increase healthcare expenditures over time. Chinese patients will not have access to innovative treatments.

Most purchases of medical technology at the provincial/local levels do not appear to be "government procurement" as defined in the WTO. Such purchases are usually made by local authorities from distributors at one price and resold by hospitals to patients at a higher price – making the transaction a commercial, not government, exchange.

⁷ <http://www.sda.gov.cn/WS01/CL0779/165700.html>

The U.S. Government has strongly supported our opposition to discriminatory practices. For example, USTR-Commerce reached some of the strongest commitments in years with China during the 2016 Joint Commission on Commerce and Trade (JCCT) meetings to develop a unique device identification (UDI) system based largely on the system developed by U.S. FDA. This harmonized approach to UDI will help save our industry an estimated \$1 billion in compliance costs⁸ and improve patient safety.

Other positive outcomes from the 2016 JCCT include commitments by China's government to: (1) require all local regions and agencies to de-link indigenous innovation policies from government procurement preferences; (2) strengthen government oversight of procurement activity; and (3) treat foreign products in a fair, equitable manner. CFDA is also working to implement a series of reforms aimed at reducing time to market. These successful outcomes for U.S. workers and Chinese patients alike reflect several years of focused and collaborative advocacy between the U.S. Government and AdvaMed.

Despite years of effort, the JCCT has made limited progress on the major impediments to U.S. exports. As noted above, the COO and clinical trial requirements remain in place, with no healthcare-related justification for these provisions. Procurement is becoming more discriminatory. Also, implementation of China's commitments has proved challenging.

Support through the new U.S. China Comprehensive Dialogue (CD) is critical to help our industry to continue to do business in China. We welcome the President's "100 days" plan. Additionally, as part of the One-Year Action Plan, intensive work is needed among key officials, industry experts and other stakeholders to formulate practical steps to resolve these trade barriers.

Based on the direction from the CD leaders, we are hopeful that the U.S. Government will support the creation of a new medical device project team with all relevant US-China entities over the next 12 months (July 2017 – July 2018) via regular meetings and other interactions as necessary to achieve meaningful solutions to these important issues.

Japan

Japan is our single largest market outside the United States, with total annual expenditures on medical technology of about \$35 billion. Its regulatory system was once considered to be the most burdensome in the world but has been improving as a result of a five-year "action program" adopted in 2009 and is expected to improve further as a result of a follow-on "collaboration plan" and a new law providing separate (from pharmaceuticals) rules for medical technology.

The U.S. medical technology industry enjoys a trade surplus with Japan. Also, we believe Japan's regulatory and payment policies do not explicitly discriminate against U.S. firms.

Nevertheless, a critical concern for our industry is Japan's reimbursement system. Every two years, Japan reduces prices of medical devices using a foreign average pricing (FAP) reference system – comparing Japanese prices to those in five other countries. This system does not

⁸ based on quantitative work previously requested by the AdvaMed Board

account for the much higher costs of doing business in Japan. The FAP system also only reduces reimbursement rates – never reversing those cuts – even when caused by arbitrary and large fluctuations of currencies. We believe this system is not appropriate and should be eliminated.

The impact of artificially reducing reimbursement rates is an implicit reduction in the value of U.S. exports below what they otherwise would be. That is, if the Japanese Government allowed market prices to prevail, instead of imposing cuts on the basis of foreign prices, U.S. exports would likely be hundreds of millions of dollars higher.

Our industry has received consistently strong support from U.S. Government agencies – Commerce, USTR, U.S. Embassy – to oppose Japan’s FAP system and other arbitrary and harmful changes in Japan’s reimbursement rules. These efforts have helped stave off even larger reimbursement cuts. The medical device industry supports the Administration’s decision to establish a new formal trade dialogue with Japan, and we are hopeful this dialogue will allow for continued government-industry discussion on medical device issues. We urge the Trump Administration to convince the Japanese Government that purchasing more, not less, medical technology would relieve the impact of its “hyper-aging” society and positively impact the overall trade balance between the U.S. and Japan.

India

While a relatively small medical technology market of about \$6 billion, U.S. companies have a large share of India’s rapidly expanding usage. The United States has a substantial trade surplus with India in medical technology. India’s population of 1.3 billion is also rapidly growing, and its middle class of 200-300 million people is projected to triple by 2025. Given these dynamics and tremendous healthcare needs, under the right conditions, India’s medical technology market could jump to \$50 billion by 2025.

However, India’s policies could significantly hinder the growth of U.S. exports. Most recently, the government of India (GOI) imposed a severe reduction and ceiling on the price of coronary stents and appears poised to add more medical devices to its list of products covered by price controls. Moreover, these price controls favor domestic producers by failing to differentiate their products from the newer advanced and higher quality U.S. products. At this stage, three major U.S. manufacturers applied to the GOI for permission to withdraw some of their advanced coronary stents from the Indian market, as the low price ceiling was reducing their return to an unreasonably low level and in some cases requiring companies to sell below landed cost. The National Pharmaceutical Pricing Authority has refused to allow two of the companies to withdraw from the market, requiring them to sell the aforementioned stents for at least next 6 months before reapplying for withdrawal again.

In addition to price controls as a barrier, the regulatory environment in India continues to be opaque and unpredictable with a select group of 22 medical devices regulated as pharmaceuticals under the 1948 Drugs and Cosmetics Act. For the past decade, AdvaMed has continued to work with the GOI to develop a distinct regulatory system specific to medical devices based on international standards. The Indian Parliament has failed to pass the necessary legislation.

The Modi Administration's "Make in India" initiative has potential to improve the business environment for medical technology – for domestic and foreign firms – given the government's laudable goals of seeking to attract investment, R&D, and manufacturing. However, this platform has also been used by parts of the government to justify protectionist measures such as import tariff hikes and preferential market access policies. In January 2016, the government announced a 50% hike in the main custom duty for medical devices, as well as the re-imposition of a secondary 4% duty on these products. This decision only serves to increase costs and puts India at odds with most other developing and developed countries that have eliminated or are reducing medical device import duties. On balance, "Make in India" has not encouraged U.S. medical technology firms to increase their presence in India.

We appreciated the direct intervention of Secretary Ross with Commerce Secretary Teatonia and Foreign Secretary Jaishankar, as well as the US Chargé in Delhi with the GOI. We recommend that senior Administration officials continue to engage with their counterparts in the Indian Government to press for sound regulatory policies and reasonable price systems. On the former, India should be urged to adopt internationally recognized regulations. On the latter, India should allow markets to function and avoid artificial restrictions on prices. Both sets of policies would benefit Indian industry and Indian patients.

Korea

Korea is a top ten U.S. export market for medical technology. It is also one of the industry's most important Asian markets, with a size of more than \$3 billion.

During the past few years, the government has implemented policies that have been detrimental to U.S. medical technology sales in Korea. These policies include: (1) periodic cuts in reimbursement rates with little notice or even supporting rationale; (2) proposed a completely new payment system, which caused uncertainty and confusion; and (3) periodic threats to impose burdensome regulatory requirements. In each case, advocacy by the U.S. Government helped our industry mitigate the Korean's actions.

Additionally, our companies face a lengthy and prolonged reimbursement process, especially for NHTA (new health technology assessments) related devices. NHTA approval is required if the new medical devices have a different indication or method to treatment from current procedure. For new innovative products, it takes at least 3 years to obtain reimbursement approval after the regulatory approval. Subsequent technologies that are similar to the innovator can launch their product as soon as the innovator technology sets the reimbursement level for the new technology. As a result, there is no benefit to being the first to launch innovative products in Korea. Being the first to market with innovative medical technology in Korea is thus time and resource consuming with little chance of success. In addition, the current reimbursement process offers little opportunity to seek premium reimbursement rates for products with proven incremental advances based on clinical data. This affects mainly U.S. or multinational companies, as we are the leaders in medical technology advances and innovation.

AdvaMed supports the Korea-U.S. FTA (KORUS FTA), as generally beneficial to our industry. The FTA eliminated import tariffs on medical technology. In addition, KORUS has a chapter

that specifically addresses reimbursement issues for our industry – “transparency and procedural fairness” – and is designed to contribute to a more stable and predictable market. However, we believe this provision needs to be more effectively implemented and enforced. We recommend continued and robust engagement with the Korean government to ensure that regulatory and reimbursement policies are aligned with KORUS implementation provisions.

EU

The combined EU market for medical technology is about two-thirds the size of the U.S. market. The EU’s regulatory system, based on private sector notified bodies, is considered the most efficient in the world at delivering safe medical technology to patients. Recent studies indicate that patients can have access to some innovative medical devices in the EU several years before patients in the United States.

AdvaMed supports many of the improvements that are now being implemented by the EU authorities under the new regulations designed to strengthen notified bodies and enhance regulatory consistency across the EU. While the new EU regulatory system will impose additional burdens on medical technology firms, it appears to reflect a reasonable balance between adopting stronger and consistent regulations and avoiding overly-burdensome requirements that undermine efficient approval and patient access to innovative medical technology. However, implementation of this new system must be carefully watched.

Each EU Member State maintains a separate reimbursement scheme, and the rewards for innovation can vary considerably by country. We remain concerned that major Member States – like France, Germany, and Italy – might pursue measures to cut prices without regard to fair assessment of total value or the clinical benefits of using advanced medical technology.

For example, Italy implemented arbitrary price cuts and has passed a payback provision that, if implemented, would make medical technology manufacturers liable for a percentage of any health care overspend by local health care authorities. The Italian Law 125/15 published August 7, 2015, and retroactively in force for all of 2015, is intended to mimic what has been in place for pharmaceuticals since 2012. All medical device suppliers (manufacturers) would be required to “payback” each of the 21 Italian Regions a portion of expenditure spent by Regions in excess of 4.4% of the National Health Fund (approx. €110B for 2015). Although Law 125/15 has passed, it has not yet been implemented because of uncertainty about how to do so and also because our industry and its supporters have raised the Italian government’s awareness of the controversy surrounding it. But because the law remains on the books, our companies are required by GAAP standards to accrue funds to prepare for any potential implementation. This means that they cannot use those funds for reinvestment in their businesses. We would welcome U.S. government’s engagement with the Italian or EU authorities to ensure this law is amended to make sure the “payback” provision is not implemented and to provide our companies with the clarity they need to sell their products in Italy.

There are examples troublesome policies in other EU Member States. For example, in the past, the U.K. made an attempt to implement *ad hoc* changes to its tendering system that would have severely limited product choice. Germany’s Federal Joint Committee recently considered strict

evidentiary measures to be applied to all Class IIB and III devices that would have delayed market access, but industry advocacy successfully defeated this proposal.

As the U.K. prepares to leave the EU, we are also concerned that Brexit poses potential unique challenges for our industry, as both the U.K. and EU are important markets for our industry. We urge the Trump Administration to remain engaged and prioritize maintaining a mutually beneficial economic and trading relationship with both markets. For example, we would like to ensure that no additional import tariffs are imposed on medical technology trade as a result of Brexit and that regulatory requirements remain as closely harmonized as possible.

We are also encouraged by recent indications that the Trump Administration might be prepared to resume TTIP negotiations. For the medical industry, we have a particular interest in the regulatory cooperation and in the medical devices annex that was under negotiations. Some of the ideas discussed in the annex, such as single audit would lead to significant cost savings for the industry (by avoiding double/unnecessary audits) and for the regulators. Another important issue that regulators worked on was the issue of Unique Device Identification (UDI) and interoperability of databases and harmonized template for regulated product data submission. Addressing some of these bilateral issues in the TTIP context or outside in another forum could result in gains for industry, regulators and patients, and in greater international cooperation on medical devices approval processes.

Mexico

With a population of 127 million people, Mexico has emerged as the second largest medical equipment market in Latin America, behind Brazil. The medical technology market is estimated to be \$4.5 billion, and it contributes to 0.4% of Mexico's GDP. As a result of NAFTA, the U.S. medical device industry has integrated Mexico into its supply chain, improving efficiency and mitigating costs.

Mexican regulatory requirements, which were confusing until a few years ago, have improved considerably under solid leadership at COFEPRIS, the Federal Commission for the Protection against Sanitary Risk, a division within the Mexican Ministry of Health (Secretaría de Salud) responsible for medical device and IVD oversight. The regulatory authority published several regulations in the past years that improved regulatory quality and timing. However, significant redundancy remains in the technology incorporation process, which results in patient access being hindered by the government's formulary system that substantially delays approval.

Mexico's strict application of NAFTA value-added content requirements to public hospital tenders for medical devices is also adversely impacting our companies' ability to sell product in Mexico. This is particularly problematic for companies that source multi-component products from a combination of different countries around the world, e.g., U.S., EU, Switzerland, etc. This procurement policy has the potential to restrict patient and physician choice of medical devices, as well as to restrain competition thereby increasing costs.





**Statement of the
American Farm Bureau Federation**

**Statement to the House Committee on Ways and Means regarding the
hearing:**

U.S. Trade Policy Agenda

JUNE 22, 2017

**Submitted By:
The American Farm Bureau Federation**

The American Farm Bureau Federation (Farm Bureau) offers the following statement for the record on the hearing: ‘U.S. Trade Policy Agenda. Trade agreements have significantly contributed to the decades-long positive growth in trade by U.S. agriculture. Between 2003 and 2016, U.S. agricultural exports to countries we have trade agreements with increased more than 136 percent – from \$24.1 billion to \$57.1 billion.

Trade is critical to the livelihood of the U.S. agricultural sector because it spurs economic growth for our farmers, ranchers and their rural communities. Agriculture supports jobs in the food and agricultural industries and beyond. The fact is 95 percent of the world’s consumers live outside of the United States and over 20 percent of U.S. farm income is based on exports. Expanding opportunities for U.S. crop and livestock producers to access international markets will boost farm income in the United States, while preserving existing access is critical to maintaining farm income at current levels. U.S. agricultural exports amounted to \$134 billion in 2016. Imports, critical for certain products, especially out of season produce, totaled \$112 billion in 2016.

Existing trade agreements have proved successful in tearing down tariff and non-tariff trade barriers that hinder U.S. farmers’ and ranchers’ competitiveness and prevent us from taking advantage of consumer demand for high-quality U.S. food and agricultural products throughout the world. For consumers, trade agreements provide access to new varieties of food products and off-season supplies of fresh produce.

NAFTA

One of the most talked about trade agreements, the North America Free Trade Agreement (NAFTA), has been overwhelmingly beneficial for farmers, ranchers and associated businesses all across the United States, Canada and Mexico for decades. While the sector as a whole has seen substantial benefit, there are some individual commodities that have faced challenges such as tomatoes and sugar with Mexico and a list of products with Canada. With NAFTA, overall, U.S. farmers and ranchers across the nation have benefited from an increase in annual exports to Mexico and Canada from \$8.9 billion in 1993 to \$38 billion in 2016.

Despite these numerous benefits, there are reasons to update and reform NAFTA from agriculture’s perspective. Some improvements at the commodity level are detailed below; however there are some improvements that are sector-wide. Improvements that reduce redundant regulatory costs, expedite transit across borders and hasten the resolution of disputes between members would go a long way towards more efficient trade between NAFTA partners. The rules related to biotechnology, sanitary and phytosanitary measures and geographic indicators are ripe for amendment in order to reflect the progress that has been made in these areas over the decades since NAFTA was enacted.

U.S. agricultural exports to Canada would grow if tariff barriers to dairy, poultry and eggs were reduced or eliminated. The current barriers to ultra-filtered milk exports to Canada need to be removed.

Remedies for our produce growers need to be strengthened. A timely trade dispute resolution process should be added that takes into account the perishability, seasonality and regional production of horticultural products. Well-constructed seasonal TRQs could help maintain consistent supplies of fresh fruits and vegetables for consumers, while helping to prevent a flood of imported product, while U.S. production is at its seasonal peak.

There are a number of longstanding SPS and TBT issues that exist in trade between NAFTA partners on specific products. This includes trade in fresh potatoes with Mexico and wine trade with certain provinces in Canada. The ongoing disputes over the classification of U.S. wheat and the trade in softwood lumber with Canada are also a concern to many of our members. The process of modernizing NAFTA should be viewed as an opportunity to address these issues once and for all.

Clearly there are several areas where the NAFTA agreement could be modernized to improve trade in agricultural goods, however, it is critical that the modernization effort should recognize and build upon the strong gains achieved by U.S. agriculture through the tariff eliminations, the recognition of equivalency of numerous regulatory issues, and the development of integrated supply chains that have arisen due to the agreement.

Trade agreements also provide the highest standard of trade rules, allowing the United States to lead in setting the foundation to establish market-driven and science-based terms of trade and dispute resolution that will directly benefit the U.S. food and agriculture industry. We support adding to NAFTA the SPS Chapter language from the TPP, which would strengthen the existing WTO SPS commitments. We strongly support the inclusion of a rapid response tool, which will help to resolve shipment-specific issues. Cooperative Technical Consultations (CTC) would allow agencies to find science-based solutions to SPS issues in a timely manner—most beneficial to perishable products.

In addition to the TPP SPS text we recommend some additional, significant provisions that would ensure that the revised NAFTA agreement could be used as a model for future trade agreements the U.S. may enter.

We support the inclusion of the TPP text on Geographical Indicators in order to preserve U.S. market access opportunities for common name products. The misuse of GIs is a constant and significant threat to maintaining and growing sales of high value U.S. products, in the United States, within the markets of our NAFTA partners, and in markets worldwide.

We support adding a new chapter on biotechnology to the NAFTA. Under a modernized NAFTA, USBCA requests that the U.S. government: (1) enter a mutual recognition agreement on the safety determination of biotech crops intended for food and feed, and (2) develop a consistent approach to managing low-level presence (LLP) of products that have undergone a complete safety assessment and are approved for use in a third country (ies) but not yet approved by a NAFTA member.

We oppose erecting new barriers to agricultural trade in NAFTA, including adding mandatory country of origin labeling for beef and pork products.

As an industry that is primarily made of price takers, however, it is critical to appreciate that variations in trade surplus/deficit in any particular year are impacted greatly by fluctuations in commodity prices, exchange rates and the existence of trade barriers to U.S. products. For example, the U.S. had a positive agricultural trade balance with Mexico, in 20 of the 23 years since NAFTA came into effect. Two, of the three years that the U.S. experienced a negative trade balance with Mexico occurred in 2015 and 2016, largely as a result of low commodity prices and a strong U.S. dollar.

For FY 2016:

U.S. agricultural exports to Canada - \$20.2 billion

U.S. agricultural imports from Canada -\$21.6 billion

U.S. agricultural exports to Mexico - \$17.9 billion

U.S. agricultural imports from Mexico - \$22.9 billion

While the raw numbers are impressive, they only tell part of the story. Equally critical, is the fact that the agricultural sectors of the member countries have become far more integrated, as is evidenced by rising trade in a wider range of agricultural products, substantial levels of cross-border investment, and important changes in consumption and production.

Trade in goods consists of not only final consumer products but also intermediate inputs and raw materials, as firms reorganize their activities around regional markets for both inputs and outputs, spurred in part by greater foreign direct investment (FDI).

This integration enables agricultural producers and consumers in the region to benefit more fully from their relative strengths and to respond more efficiently to changing economic conditions. The creation of a larger, single market has given producers access to cheaper suppliers of inputs, which allows U.S. producers to be more price competitive domestically and abroad.

U.S. agriculture depends upon a growing international economy that provides opportunities for farmers and ranchers to sell their products. Modernization of NAFTA will expand market opportunities for U.S. agriculture.

Japan

Farm Bureau supported the Trans Pacific Partnership (TPP) agreement due to the gains for U.S. agricultural exports from the lowering of tariff and non-tariff barriers with the TPP partner countries. The majority of the export gains were with Japan, due especially to the lowering of Japanese tariffs on beef, pork, dairy and other products. We encourage the discussions by the Administration with Japan towards a US-JAPAN trade agreement.





June 19, 2017

The Honorable Kevin Brady
Chairman, House Committee on Ways and Means
U.S. House of Representatives
1102 Longworth HOB
Washington, DC 20515

**Re: HEARING ON U.S. TRADE POLICY AGENDA; Specifically Negotiating Objectives Regarding
Modernization of the North American Free Trade Agreement with Canada and Mexico**

Dear Chairman Brady:

The financial ties that connect the USA with Mexico are symbiotic, not parasitic. Mexico is Texas' top trading partner with about \$173 billion in trade a year. Trade with Mexico supports about 463,000 jobs and thousands of small businesses and manufacturers in Texas.

Since 2011, New Mexico's trade with Mexico has quadrupled and now totals 1.7 billion. Additionally, 27,000 jobs in the Land of Enchantment are directly tied to trade with our Southern Neighbor. In New Mexico, electronics, processed food, transportation equipment, and computers are the major exports.

We not only sell to each other, we build things together. Roughly 40 percent of all goods imported from Mexico consist of parts that originated in the United States. By comparison, only 4 percent of products imported from China have U.S. origin.

For those of us who live, work and do business along the U.S.-Mexico border, we see the benefits of the North American Free Trade Agreement (NAFTA) and the U.S., Canada, Mexico economic bloc firsthand.

We must acknowledge the benefits NAFTA has brought to states like Texas, New Mexico, and the nation as a whole. NAFTA supports 5 million jobs across the U.S. — and by one economist's estimate, it enriches the U.S. by \$127 billion annually. Texas' exports to Mexico have grown by 354 percent since NAFTA, far outpacing export growth in other states and the nation as a whole. Texas also enjoys a \$12 billion trade surplus with Mexico.

The Borderplex Alliance (Borderplex) appreciates the opportunity to provide comments on the objectives, positions, and potential impacts of the United States Trade Representative's ("USTR's") renegotiation of NAFTA. As such, our organization submits comments on behalf of the El Paso, Ciudad Juarez, and Las Cruces border region, as well as the 25 companies, \$464 million in investment, and over 4,780 jobs that Borderplex has brought to the region.



I. About The Borderplex Alliance

The Borderplex Alliance is the first regional non-profit organization dedicated to binational economic development and prosperity in the North American Borderplex, which encompasses Ciudad Juárez, El Paso and southern New Mexico. As a gateway for international trade and affairs, The Borderplex Alliance is the go-to entity for regional ideas, information and influence. We are supported by a coalition of business, community, and civic leaders, all with a shared vision—to bring new investments and jobs to the region and create a positive business climate that attracts people to work, live, and play.

The Borderplex Alliance provides development opportunities, advocacy, promotion, and support to businesses looking to expand their operations within our region. We also work with a number of partner organizations, such as:

- Bridge of Southern New Mexico
- CONREDES
- Desarrollo Económico
- Greater El Paso Chamber of Commerce
- El Paso Hispanic Chamber of Commerce
- Hunt Institute
- Mesilla Valley Economic
- Development Alliance
- Rio Grande Council of Governments
- Texas One
- Wilson Center
- Workforce Solutions Borderplex

Most recently, we launched a partnership called “North America Works” with the Texas Business Leadership Council and the Texas-Mexico Business Council, which is intended to mobilize business leaders across Texas to build consensus on what our state would like to see in a modernized NAFTA.

II. How NAFTA is relevant to the Borderplex

As one of the largest international markets in North America, with a population of more than 2.5 million, the North American Borderplex has unique economic advantages, backed by the varied assets of two countries and three states. The region is a top trade location for North America and the world, with



\$48.1 billion of maquila exports, surpassing Tijuana, MX in foreign purchases from maquilas. We have the second busiest port of entry, which sees upwards of \$66 billion of economic activity each year. Moreover, we are number one in border regions for university R&D expenditures, have the highest college student population by workforce per capita of any border region, the second largest manufacturing employment center on the U.S.-Mexico border, and one of the largest binational, bilingual communities in the world.

Our region relies on industries that will be at the heart of much of the NAFTA negotiations:

- Advanced logistics
- Advanced manufacturing
- Business services and investment consulting
- Defense and Aerospace
- Tourism
- Life Sciences and Healthcare, including clinical testing, adaptive medical research and responsive bicultural product and media testing.

NAFTA remains a potent economic engine not only for those of us who live and work on the border but the same is true for communities across our nation. It's been 23 years since NAFTA was ratified. In that time, trade with Mexico grew from about \$150 billion to over \$675 billion today.

Approximately five million Americans owe their livelihood to U.S.-Mexico trade. There are more than 30 U.S. States in which more than 50,000 jobs are directly tied to Mexican commerce. For example, 31 percent of Michigan's overall trade is conducted with our southern neighbor, a percentage comparable to Texas and Arizona. 138,000 jobs in Michigan are reliant on Mexican trade.

III. The Borderplex Alliance Comments on NAFTA Negotiations

i. What Works

1. General principles

Our organization and key stakeholders firmly believe that NAFTA negotiations should be based on three core principles, without question:

- a) **Maintain NAFTA's three-party framework**
- b) **Do no harm**, we must not disrupt the annual trade that crosses our borders because of NAFTA. Reverting to the high tariffs and other trade barriers that were in place before the agreement could risk millions of American jobs, not to mention increased prices in all industries for consumers.



- c) Encourage the **integration of North America** as a competitive economic block

2. The Border

There has been much debate in the U.S. regarding the building of a wall, and a portrayal of the border as a dangerous, inhospitable region. Nothing could be further from the truth. First, there is already a physical and technological border wall along most of the border. It has worked, unauthorized crossings on the southern border are at an all-time low. The Borderplex area is one of the safest in the entire U.S. We should instead focus on how we help facilitate the crossing of commerce and invest in border infrastructure.

3. Importance of the Supply Chain

In the current debate on trade, it is often lost that when it comes to Mexico and Canada, U.S. exports and imports aren't strictly neat. The three countries joined together to become a productive platform in order to be able to remain competitive with other regions throughout the world. The North American supply chain is the result of NAFTA and of this goal, and this North America Supply chain should not be disrupted. Of every dollar in the value of an import from Mexico, \$.40 is U.S. content that was previously exported to Mexico.

4. Rules of Origin

In this vein, Rules of Origin is one area in particular in which we encourage the administration to do no harm. Our position is that there is a danger in touching something as important as the rules of origin. We would discourage the administration from making any changes to the existing regimen of rules of origin and tariff structure that would disrupt the existing North American supply chain.

The medical devices business makes a particularly revelatory case study of the difficulties of untangling global trade. Along the Borderplex region, we have producers of medical devices and their suppliers. U.S. firms are the world's largest suppliers of medical equipment and parts, with increasing domestic production. Domestic production increased 20% from 1997 to 2002, to \$78.6 billion. Surgical and medical instrument production and supplies have grown a remarkable 22% and 27%, respectively, and make up 59% of the industry's production.

NAFTA has transformed sprawling border towns to world class capitals of medical devices, many bearing the names of American-run companies: Medtronic, Hill-Rom, DJO Global and Greatbatch Medical. Nearly everyone in America who has a pacemaker — in fact, people all over the world — walks around with parts from the U.S.-Mexico border.



NAFTA also increased transparency in government procurement, which has benefited U.S. exporters of medical equipment to the growing public hospital sector in Mexico. Mexico is the leading supplier of medical devices, ahead of Ireland, Germany and China. Changes to rules of origin would not only potentially damage Mexico operations, it would hurt U.S. suppliers, many located in our region. In this industry, as in many others, the way to maintain U.S. manufacturing is to salvage our NAFTA supply chains.

5. Trade Balance

We understand that there is concern regarding the current trade deficit in goods with Mexico. While it is true that this deficit exists *in goods*, we note that the U.S. actually has a trade surplus of over \$10 billion in trade of services with Mexico. Additionally, U.S. firms had sales of services in Mexico of \$45.9 billion in 2014 (last data available). The services sector is actually one with the higher paying, more stable jobs that we want for the American people. We should be looking at how we continue to expand U.S. competitive edge in that sector instead of looking back in time.

6. Dispute settlement procedures

The NAFTA dispute settlement procedures under Chapter 11, Chapter 19, and Chapter 20 have worked, and we encourage the administration to keep them as is. Under Chapter 11, investment disputes, the 35 claims brought against Canada comprise 45 per cent of the total number of claims under NAFTA. That's significantly more than the 22 cases brought against Mexico, or the 20 brought against the U.S.

Canada has lost or settled six claims paying a total of \$170 million in damages, while Mexico has lost five cases and paid out \$204 million. The U.S. meanwhile, has won 11 cases and has never lost a NAFTA investor-state case.

In regards to the other two chapters, while the U.S. has the highest number of cases brought against it, it also exerts its rights through the mechanisms in Chapters 19 and 20 to keep the NAFTA partners accountable on antidumping and general trade obligations, giving the U.S. government or investors the options of dispute settlement mechanisms that do not involve Mexican or Canadian courts.

ii. Areas for Modernization

We firmly believe that the Trans Pacific Partnership Agreement (TPP) should be the point of departure in regards to the modernization of NAFTA. These re-negotiations should serve to update NAFTA to include industries and elements that reflect the 21st century economy. In general, we encourage the incorporation of stand-alone chapters into NAFTA on:



- Energy
- Customs Administration and Trade Facilitation
- Telecommunications
- E-commerce
- State-owned enterprises
- Labor standards
- Environment
- Small Business
- NAFTA worker authorization

1. Energy

Revising the Agreement to include a chapter on energy is a necessary starting point. Moreover, the energy sector should also be included in the NAFTA dispute settlement mechanisms, making them available to those in the sector (which is not currently the case).

The United States is the leading producer of oil and natural gas in the world. North America is on the verge of achieving energy self-sufficiency as production surpasses consumption across Canada, Mexico and the U.S. This global competitive advantage is the result of the open markets and free trade promulgated by NAFTA. Since the implementation of NAFTA, U.S. crude oil exports have increased dramatically, with Canada being our largest export market, and imports from Mexico spurring a U.S. advantage in refined products exported back into Mexico. Mexico and Canada also make up the number one and two export markets for U.S. natural gas, respectively. The U.S. now supplies 40% of Mexico's natural gas consumption demand.

There is great opportunity in the energy sector for the NAFTA partnership, and while growing U.S. oil and gas export capacity is a large part of that, we should look to our energy partnership as an

opportunity to also collaborate across the three countries in research and development of new technologies, manufacturing of materials needed for those technologies, energy infrastructure, and economic clusters around the energy sector. Beyond traditional sources of energy, renewables hold much promise and were a nascent sector in 1994. Solar, wind and geothermal trilateral accords should be pursued. A modernized North American energy grid should also be considered so that low energy costs to industry and consumers could place the region at a significant economic advantage over Asia, Europe and other parts of the world.

The Borderplex Alliance urges USTR to focus NAFTA modernization efforts on enhancing the competitiveness of the North American energy market as a whole, such that all Parties benefit from continued free trade in this area.



2. Customs Administration and Trade Facilitation

While the U.S., Canada, and Mexico have made important strides to facilitate trade, such as the Single Window program, there remains much to be done to modernize the North American supply chains and regional trade bloc.

U.S. exporters along the southern U.S. border continue to express concerns about Mexican customs administrative procedures, including insufficient prior notification of procedural changes, inconsistent interpretation of regulatory requirements at different border posts, and uneven enforcement of Mexican standards and labeling rules. Since 2011, numerous U.S. companies, in particular textile and apparel exporters, have reported concerns regarding verifications initiated by Mexico's tax authority, the Servicio de Administración Tributaria (SAT), with respect to the NAFTA origin of certain products imported from the United States.

Also, in the second half of 2016, several U.S. companies expressed concerns about a draft SAT regulation that would impose new requirements on the customs entry process for low-value goods entering Mexico, especially on electronic commerce goods. Such companies expressed concern that these requirements, if enacted, might make it more difficult for companies to use Mexico's informal entry requirements and increase the time it takes to ship goods to Mexico.

Customs procedures for express packages continue to be burdensome. U.S. exporters have highlighted the benefits of harmonizing the hours of customs operation on the U.S. and Mexican sides of the border, but they cite delays stemming from the lack of pre-clearance procedures at some of the border crossings.

Therefore, we believe that NAFTA cannot be truly modernized without a stand-alone chapter on trade facilitation. While the cooperation in Customs has increased significantly between the three governments, the reality is that in practice Single Window is still not fully streamlined, and often does

not work due to outdated technology. Moreover, we urge USTR to work for harmonization of Customs language and processes across the three countries. Borderplex would also encourage: greater Customs cooperation; advance rulings for goods; an intelligent, risk-based system (as opposed to random searches); response to requests for information and a speedy process to appeal Customs rulings; automated systems; pre-release of goods; and an expansion of the pre-inspection and pre-clearance processes geographically at more ports of entry, and substantively to include express shipments.

We should work with our NAFTA partners to construct and rebuild physical and digital ports of entry, particularly along the U.S.-Mexico border. A fair-trade agreement will cut down on transportation time and lower operating costs, permitting companies to hire more employees at better wages.



3. Infrastructure

Infrastructure investments and improvements would not only speed the delivery of goods and diminish border crossing lines, but it would also ensure a more secure border. By combining technology and capital, perhaps through public-private partnerships, we could optimize processes which would make North America the most globally competitive region in the world.

4. Environment

Significant improvements can be made to the environmental side agreement in NAFTA. Many advances were made in the past two decades regarding water conservation, air pollution reduction, and disease-related environmental research. The best ideas incubated in universities, national labs, and small business could become commercialized while improving North America's quality of life.

5. E-commerce

E-commerce didn't exist in 1994, and the internet was in its infancy. It is time to examine how technological advances could positively affect job growth and ease commerce bottlenecks like endless border crossing lines and product shipment delays. Small businesses and start-ups could be assisted by lowering barriers associated with e-commerce. In this regard, we encourage implementing a chapter on e-commerce that includes definitions on electronic and digital products; online consumer protection; cybersecurity and protection of personal information; principles on the use of internet for e-commerce; cross-border transfer by electronic means; computer facilities; and cross-border cooperation on digital infrastructure and issues.

6. Labor and Immigration

The Borderplex Alliance and our stakeholders also believe that it is time that labor issues across our region be revisited. First, we encourage the USTR to use this opportunity to incorporate the Labor side agreement into the NAFTA text and address the labor challenges of the 21st century.

We have to work from the mindset that as a region, we are economically integrated already. As such, it is smart and necessary to address immigration and labor flows in trilateral talks rather than pursuing the issue in a xenophobic vacuum. Security is a crucial matter that all three countries share. Why shouldn't all three nations seriously discuss mutual threats? Why not use technology to improve and expand the TN visa program to allow for an orderly and secure flow of labor?

Our maquila industry relies heavily on thousands of executive and professional U.S. workers for the performance of highly specialized services such as sophisticated water treatment, HVAC monitoring in clean rooms and laboratory environments, and more, resulting in additional jobs and economic trade in our region.



We cannot have trade in goods and services without the ability to transfer the financial and human capital that go along with that trade. Therefore, Borderplex recommends the USTR use this opportunity to amend 8 CFR Part 214, Sec. 214.6 to amend the requirement for a “professional” worker so that it may include all classes of workers, including low-skilled jobs that are already done by NAFTA partners, but after excessively onerous and impractical visa application processes. The reality is that the visa requirements for the existing often used programs like H1B and H2B or H2A do not meet the needs of the business community, particularly of those in agriculture, who have very specific seasons to get their work done. Moreover, the current legal framework does not respond to the reality that workers from NAFTA countries should not have to go through the same lengthy processes of individuals coming from countries with whom we do not have a trade relationship, nor the same geographical proximity.

Opening up the TN visa to all sectors will not hurt U.S. jobs, it will merely help U.S. employers fill jobs legally and easily that do not attract U.S. workers. At the Borderplex, we believe a rising tide lifts all boats, and that is why we believe that increased training, education, and exposure across the three countries makes our region more competitive.

For example, The Borderplex Alliance partners with regional public and private four-year and two-year institutions of higher education to ensure we are developing a highly skilled and talented workforce. Through our partnership with Workforce Solutions Borderplex, we are looking at ways to ensure we are meeting industry needs across the region.

One example of best practices in this regard is CONREDES, an entity created by Borderplex to advance the interaction and planning between the community and the public and private sectors to establish relationships between the leaders of the manufacturing plants and universities in Ciudad Juárez and align their efforts around workforce development. Together, these academic and industry entities represent 88 percent of the student population in higher education and 30 percent of the manufacturing workforce in Ciudad Juárez. They work together to develop internship and externship opportunities within the manufacturing sector, curriculum aimed at skills development, and competitions that foster innovation and creativity.

In conclusion, NAFTA 2.0 holds much promise. Certainly, there are other ideas to emerge as NAFTA renegotiation evolves. It’s a unique occasion to be bold and visionary and create hope, opportunity, and jobs on our continent. The process won’t be easy, but the results could be phenomenal.



THE
BORDERPLEX
ALLIANCE

The Borderplex Alliance appreciates the opportunity to provide its comments regarding NAFTA to the USTR and the Administration as it embarks on, what will no doubt be, a thoughtful and productive NAFTA reform effort. We remain at your disposal, please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Barela". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jon Barela
Chief Executive Officer
The Borderplex Alliance



Comments for the Record
United States House of Representatives
Committee on Ways and Means
Hearing on U.S. Trade Policy Agenda
Thursday, June 22, 2017, 10:00 A.M.
1100 Longworth House Office Building

By Michael G. Bindner
Center for Fiscal Equity

Chairman Brady and Ranking Member Neal, thank you for the opportunity to submit these comments for the record to the Committee on the. As usual, we will preface our comments with our comprehensive four-part approach, which will provide context for our comments.

- A Value Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure very American pays something.
- Personal income surtaxes on joint and widowed filers with net annual incomes of \$100,000 and single filers earning \$50,000 per year to fund net interest payments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates between 5% and 25%.
- Employee contributions to Old Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), which is essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age 60.

Far be it from the Center to interfere with a dispute between the Committee and the White House over NAFTA. Such arguments are like those over immigration, where some business owners want employees to stay in the shadows and be abused, others want legal employees (though non-union – repealing right to work laws would end illegal immigration because no one would hire an undocumented worker with union representation) and still other in the conservative camp simply hate the illegality or the ethnicity of the immigrants (speaking of the White House).

The real similarity in the short term is that attacking unions for the past 30 years has taken its toll on the American worker in both immigration and trade. That has been facilitated by decreasing the top marginal income tax rates so that when savings are made to labor costs, the CEOs and stockholders actually benefit. When tax rates are high, the government gets the cash so wages are not kept low nor unions busted. It is a bit late in the day for the Majority to show real concern for the American worker rather than the American capitalist or consumer.

Reversing the plight of the American worker will involve more than trade, but I doubt that the Majority has the will to break from the last 30 years of tax policy to make worker wages safe again from their bosses. Sorry for being such a scold, but the times require it.

Some of our prior comments to the Trade Subcommittee from June of last year on our standard tax plan still apply, even though that hearing was on agricultural exports. Allow us to repeat them now:

The main trade impact in our plan is the first point, the value added tax (VAT). This is because (exported) products would shed the tax, i.e. the tax would be zero rated, at export. Whatever VAT congress sets is an export subsidy. Seen another way, to not put as much taxation into VAT as possible is to enact an unconstitutional export tax.

The second point, the income and inheritance surtax, has no impact on exports. It is what people pay when they have successfully exported goods and their costs have been otherwise covered by the VAT and the Net Business Receipts Tax/Subtraction VAT. This VAT will fund U.S. military deployments abroad, so it helps make exports safe but is not involved in trade policy other than in protecting the seas.

The third point is about individual retirement savings. As long as such savings are funded through a payroll tax and linked to income, rather than funded by a consumption tax and paid as an average, they will add a small amount to the export cost of products.

The fourth bullet point is tricky. The NBRT/Subtraction VAT could be made either border adjustable, like the VAT, or be included in the price. This tax is designed to benefit the families of workers, either through government services or services provided by employers in lieu of tax. As such, it is really part of compensation. While we could run all compensation through the public sector and make it all border adjustable, that would be a mockery of the concept. The tax is designed to pay for needed services. Not including the tax at the border means that services provided to employees, such as a much needed expanded child tax credit – would be forgone. To this we respond, absolutely not – Heaven forbid – over our dead bodies. Just no.

The NBRT will have a huge impact on trade policy, probably much more than trade treaties, if one of the deductions from the tax is purchase of employer voting stock (in equal dollar amounts for each worker). Over a fairly short period of time, much of American industry, if not employee-owned outright (and there are other policies to accelerate this, like ESOP conversion) will give workers enough of a share to greatly impact wages, management hiring and compensation and dealing with overseas subsidiaries and the supply chain – as well as impacting certain legal provisions that limit the fiduciary impact of management decision to improving short-term profitability (at least that is the excuse managers give for not privileging job retention).

Employee-owners will find it in their own interest to give their overseas subsidiaries and their supply chain's employees the same deal that they get as far as employee-ownership plus an equivalent standard of living. The same pay is not necessary, currency markets will adjust once worker standards of living rise.

Over time, this will change the economies of the nations we trade with, as working in employee-owned companies will become the market preference and force other firms to adopt similar policies (in much the same way that, even without a tax benefit for purchasing stock, employee-owned companies that become more democratic or even more socialistic, will force all other employers to adopt similar measures to compete for the best workers and professionals).

In the long run, trade will no longer be an issue. Internal company dynamics will replace the need for trade agreements as capitalists lose the ability to pit the interest of one nation's workers against the other's. This approach is also the most effective way to deal with the advance of robotics. If the workers own the robots, wages are swapped for profits with the profits going where they will enhance consumption without such devices as a guaranteed income.

If Senator Sanders had been nominated and elected, this is the type of trade policy you might be talking about today. Although the staff at the Center supported the Senator, you can imagine some of us thought him too conservative in his approach to these issues, although we did agree with him on the \$15 minimum wage. Economically, this would have had little impact on trade, as workers at this price point often generate much more in productivity than their wage returns to them. This is why the economy is slow, even with low wage foreign imports. Such labor markets are what Welfare Economics call monopsonistic (either full monopsony, oligopsony or monopsonistic competition – which high wage workers mostly face). Foreign wages are often less than the current minimum wage, however many jobs cannot be moved overseas.

As we stated at the outset, the best protection for American workers and American consumer are higher marginal tax rates for the wealthy. This will also end the possibility of a future crisis where the U.S. Treasury cannot continue to roll over its debt into new borrowing. Japan sells its debt to its rich and under-taxes them. They have a huge Debt to GDP ratio, however they are a small nation. We cannot expect the same treatment from our world-wide network of creditors, an issue which is also very important for trade. Currently, we trade the security of our debt for consumer products. Theoretically, some of these funds should make workers who lose their jobs whole – so far it has not. This is another way that higher tax rates and collection (and we are nowhere near the top of the semi-fictitious Laffer Curve) hurt the American workforce. Raising taxes solves both problems, even though it is the last thing I would expect of the Majority.

We make these comments because majorities change – either by deciding to do the right thing or losing to those who will, so we will keep providing comments, at least until invited to testify.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.



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July 6, 2017

The Honorable Kevin Brady, Chairman
U.S. House of Representatives
Committee on Ways and Means
1100 Longworth House Office Building
Washington, DC 20003

RE: June 22, 2017 Hearing on U.S. Trade Policy Agenda

Dear Chairman Brady:

Thank you for the opportunity to submit comments on the above referenced hearing. The Flexible Packaging Association (FPA) is the voice of U.S. manufacturers of flexible packaging and their suppliers. The Association's mission is connecting, advancing, and leading the flexible packaging industry. Flexible packaging represents over \$30 billion in annual sales in the U.S., and is the second largest and fastest growing segment of the packaging industry. The industry employs over 80,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. With respect to aluminum foil, this packaging includes everyday food and beverage products such as candy, salty snacks, yogurt, and beverages; as well as health and beauty items and pharmaceuticals, such as aspirin, shampoo, and shaving cream. Aluminum foil is also used by the flexible packaging industry for medical device packaging to ensure that the products packaged, such as absorbable sutures, human tissue, and artificial joints, maintain their efficacy at the time of use. Even packaging for pet food and treats uses this substrate to deliver fresh and healthy meals to a variety of animals.

Introduction

FPA is concerned over the potential trade policy agenda with respect to aluminum and specifically aluminum foils. First, a Section 232 investigation has been initiated under the Trade Expansion Act of 1962, an obscure law that has rarely been invoked since it was enacted. When it has been invoked, a total of 26 times, prior investigations have involved multiple hearings across the United States and have taken the full statutory period to determine what, if any, action should be taken. In fact, most prior investigations under Section 232 have not resulted in action by the President. FPA is concerned that the Aluminum investigation appears to be rushed – with witnesses allotted only five minutes each to testify at the hearing, and only one hearing scheduled. In addition, the time for submission of comments was shortened amid reports that the investigation would not be taking the statutorily allowed 270 days to report to the President, but some faster, undisclosed timeline. Second, there is an open investigation at the International Trade Commission (ITC) of Chinese aluminum foil imports. This is based on a petition from The Aluminum Association, claiming that dumped and subsidized aluminum foil from China is causing or threatening injury to the domestic aluminum foil industry. This investigation is ongoing, with the preliminary hearing on March 30, 2017 and the preliminary report released on May 2, 2017. FPA believes this is the appropriate venue for where the debate on trade policy for aluminum foil should be pursued – not through a Section 232 action.

FPA supports efforts to protect domestic manufacturing and ensure national security. However, any such efforts must consider the impact and consequences on all U.S. manufacturing industries. Accordingly, the scope of any trade actions must be limited to address the specific objectives. FPA is not aware of any impacts aluminum foil



imports for use in the packaging industry has on U.S. national security. Thus, aluminum foil imports necessary for the packaging industry, and without application for national defense, should be excluded from consideration. In its investigation, the Administration is to consider a range of factors related to national security including the economy and the effects of foreign competition on the economic welfare of domestic industries, including impacts on employment. Any import restrictions on aluminum foil will have a significant negative impact on the flexible packaging industry and its employment in the U.S. Restrictions will impede packaging innovation and U.S. flexible packaging manufacturers' ability to compete with foreign companies that do not have similar restraints.

Aluminum Foil in Flexible Packaging is a Critical Substrate

U.S. end-users of aluminum foil are "converters," which coat, laminate, or print aluminum foil to make flexible packaging. As discussed above, flexible packaging is then used for a variety of purposes including food and beverage packaging, tobacco, pharmaceutical and medical device applications, as well as many others. Aluminum foil is a crucial component because it provides a superior moisture and oxygen barrier. This extends the shelf-life and ensures freshness of the products inside the package. Because FPA members are producing packaging for food, beverage, and medical use, the qualification process is long and the material components are critical – literally a matter of life and death in the case of medical packaging. Medical packaging, like food packaging, has to be sterile, but unlike food packaging, it will not have the telltale signs of spoilage. If the aluminum foil used for medical device packaging is defective, microbes can pass through the package, and there is nothing to alert the end-user that the supposedly sterile product, is in fact, not sterile. Shortened shelf life and spoilage of food and beverages may not mean life or death, but increases the very real problem of food waste and adds to a drain on the economy.

Aluminum foil provides a very real and necessary purpose in flexible packaging, and substitution of this substrate is not a viable option. As stated above, suppliers and converters of aluminum foil and flexible packaging go through rigorous vetting, both by U.S. regulatory agencies, such as the Federal Food and Drug Administration, as well as their customers. Suppliers must meet the needs of flexible packaging manufacturers and flexible packaging manufacturers must meet the needs of the consumer product companies. No other substrate provides equal barrier protection, and even if one did; changing a supplier or substituting a substrate is akin to changing a formula – the vetting process, which can easily take a year – if not two years or longer for pharmaceutical and medical packaging, would have to be started again. A good example is powdered infant formula, which is considered a pharmaceutical – the qualification process for any new supplier, let alone a new substrate, is long and rigorous and would take over two years. In short, flexible packaging manufacturers need a consistent, quality supply of aluminum foil to produce the products consumers use and rely on every day.

Domestic Production of Aluminum Foil Cannot Meet the Needs of the U.S. Flexible Packaging Industry

Consistent quality of aluminum foil necessary to meet the needs of the flexible packaging industry is simply not available from domestic producers. In some cases, for fine gauge aluminum foil (below .0003"), it is simply not manufactured in the U.S. At the ITC's preliminary hearing on March 30, 2017, the staff found that domestic ultra-thin foil production "may be limited or nonexistent." Gauge is the primary product characteristic that drives purchasing decisions for the aluminum foil that converters use. For other gauges, quality issues with the domestic supply have driven flexible packaging manufacturers to source overseas, including from China.

The conversion process can be summarized as unrolling large rolls of foil, often at high speeds, and coating, laminating, or printing on the foil. Quality is essential to ensure that the process is optimized. Domestic aluminum foil has a history of poor unwinding, causing web breaks that result in expensive machine downtime, and in some cases missed deliveries or recalls. Sheet flatness is important because when baggy material goes through the rolls, a wrinkle is created. Flexible packaging manufacturers can try to correct for bagginess by putting more tension on the web and stretching the rest of the material. However, there is a point where so much tension is

applied that the material tears or the equipment is just not capable of applying the required tension. Domestic foil can also have residual rolling oil, which undermines bonding and ink adhesion, resulting in substandard finished products that will not be accepted by the customer. Other reasons for package rejection include baggy edges, mill splice tear-outs, sticky foil, wrinkles in the foil, oxidation (brown spots), and foil stingers, which are lines of punctures in the foil. Rejection rates reported by FPA members through the ITC investigation range from 10% to 50%. This substandard product has a significant impact on plant efficiency and productivity, as well as the finished product being produced. This translates into lost time, wages, and profits for the U.S. flexible packaging industry.

Absence of Investment by the U.S. Aluminum Industry Lead to Lack of Competitiveness with Imports

U.S. supply of foil is not available in the quantities and quality necessary for the U.S. flexible packaging industry because of strategic decisions U.S. aluminum foil producers made decades ago. Over the last many years, domestic producers of aluminum foil have retreated from the production of thin gauge foil, and some have exited the market altogether. In some cases, they have exited while U.S. flexible packaging manufacturers were actively purchasing from them with little to no notice, leaving the flexible packaging industry with minimal time to find new sources. A lack of investment by the U.S. aluminum industry in the necessary capital to keep up with technological advances and not upgrading facilities so that they could produce a product of sufficient quantity and quality to meet the needs of U.S. customers, left the U.S. aluminum foil producers vulnerable to foreign competition. Chronic underinvestment, especially in machinery – with many U.S. mills tracing their last significant equipment purchase to the 1970s – has forced the domestic packaging industry to rely on imports to fill their needs.

By contrast, Chinese and other non-U.S. mills have invested heavily in modern machinery to serve the needs of U.S. converters. These imports offer superior quality, product selection, and sufficient volume. Chinese producers of aluminum foil can produce the gauges that converters need at the level and quality that converters can trust. Ongoing investment in modern machinery and the latest techniques allows Chinese producer to roll foil in widths that cannot be duplicated by the machinery in the U.S. Simply put, even if a robust domestic supply of aluminum foil was available, which it is not, the quality of the aluminum foil domestic flexible packaging manufacturers are able to get from China and other non-domestic suppliers far exceeds the quality of domestic aluminum foil. That quality standard is mission critical for domestic flexible packaging manufacturing. Underinvestment has been prevalent for years – the suggestion now, that unfairly priced imports are the cause, is specious at best.

Since domestic producers made strategic decisions not to participate in the ultra-thin gauge aluminum foil market – they cannot now blame imports for filling a void left by their own actions. Failure to invest, and quality lapses, including gauge, width, and lack of appropriate alloys all contribute to the fact that the U.S. producers of aluminum foil are not able to serve the U.S. flexible packaging industry.

Restrictions on Aluminum Foil Will Not Benefit the U.S. Aluminum Industry and Will Harm the U.S. Flexible Packaging Industry

In the ITC's investigation of the Chinese imports, their report found that despite The Aluminum Association's arguments about economic harm by imports, domestic aluminum foil manufacturing jobs declined by only "137 workers from 2014-2016." To put this number in perspective, flexible packaging manufacturing jobs in the U.S. exceed 80,000. The negative impact on American jobs of cutting off the supply of Chinese aluminum foil for flexible packaging manufacturing will far outweigh any job benefits that are envisioned by either the ITC or the Section 232 investigations. High tariffs or quotas will only lead to U.S. companies sourcing aluminum foil from other non-U.S. manufacturers. For example, there are several rolling mills that are currently supplying, or willing to supply, thin gauge foils to the U.S. from Europe and Korea. Since the domestic foil industry cannot meet the

quantity or quality needs of U.S. flexible packaging manufacturers, the only option is to pay the increased costs of imports and pass these costs along the supply chain to the consumer.

Other real possibilities will be Chinese and other non-U.S. suppliers of printed or otherwise converted aluminum foil products entering the U.S. market, since these products are not included in the actions. Increased import competition of finished flexible packaging would be immediate upon any restrictions of aluminum foil imports. The market is global for these packages, and since there is not a significant difference in freight costs between foil and packaging stock, there are ready entrants in Canada, Europe, and Asia. Lastly, U.S. companies may move flexible foil packaging production outside the U.S. altogether to avoid the higher costs and restrictions on the import of aluminum foil. There is simply no scenario where U.S. aluminum foil manufacturers benefit, and in most cases, U.S. flexible packaging jobs will be lost and consumer prices will increase.

Conclusion

FPA shares the same goal as domestic aluminum producers who want more American jobs and understands the importance of U.S. manufacturing to national security. The Administration should find ways to work together to improve our country's competitiveness. Everybody loses in unfair trade cases, especially the American consumer. The ITC's preliminary findings make it clear that its case is not going to result in any benefit to aluminum foil producers and the unintended consequences of including aluminum foil in any Section 232 remedy will be more damaging to the U.S. manufacturing industry and the economy than the benefits sought.

Please do not hesitate to contact Alison Keane, President and CEO of FPA (akeane@flexpack.org) with questions or for more information.

Sincerely,



Alison Keane, Esq.
President and CEO

** Submitted Electronically **





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June 28, 2017

On behalf of The Fresh Produce Association of the Americas (FPAA), thank you for allowing us to provide comments for the record following Ambassador Robert Lighthizer's testimony to the Committee on June 22, 2017.

Founded in 1944, FPAA provides a powerful voice for positive trade at the US Southwest border, serving U.S. companies involved in distribution of fresh produce.

We were very happy to hear Chairman Brady voice his commitment to free trade. The general bipartisan support for the concept of free trade voiced by members throughout the hearing, as well as the majority of Committee Members praising the North American Free Trade Agreement (NAFTA) and its positive impact on U.S. food & agricultural trade, was also welcome. We would like to thank the Chairman for his first question to Amb. Lighthizer – "Does the President support free trade?"

Where we have concern, is Amb. Lighthizer's response to this question, which was, "The President believes in free trade. He does not believe that it exists right now". While FPAA supports the positive goal of a modernization of NAFTA and continued efforts to improve trade, we believe that NAFTA in particular is a model for how to construct a free trade agreement and demonstrates that free trade not only exists in North America, but that it has been a tremendous success for all three signatories.

It is important to remember that free trade is a two-way street. Since the adoption of NAFTA, U.S. exports of grain, corn, soybeans and other bulk commodities to Mexico have expanded and Mexican exports of produce such as tomatoes and avocados to the U.S. have grown at similar rates. This two-way trade is in accord with WTO rules on antidumping and other trade rules. If there were truly serious abuse of the system, we would see antidumping cases being brought by both sides between the US and Mexico. In fact, the trade is so robust because NAFTA reduced barriers so that comparative advantage has worked to grow the overall pie for agriculture products for producers on both sides of the border. Imports of produce from Mexico have benefitted growers and consumers alike--all over the U.S. fresh produce is available year-round at affordable prices due directly to the impact of NAFTA.

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This brings us to another concern that arose from Wednesday's hearing. Congressmen Vern Buchanan (R-FL) and Carlos Curbelo (R-FL) both raised concerns from Florida produce farmers that Mexico has an unfair advantage in the trade of specialty produce, such as tomatoes, under NAFTA, due to low labor costs in Mexico. They asserted that this was contributing to an unfair advantage for Mexican farmers and asked Amb. Lighthizer to address this issue.

We were alarmed by Amb. Lighthizer's positive response to what we believe are misguided points. Amb. Lighthizer talked about an "agricultural trade deficit" with Mexico and asserted that the Trump administration must address this during the NAFTA negotiations. As you know, trade deficits on specific products are not in themselves evidence of a problem. For example, there is a US trade deficit for bananas, but this is not a problem. The reason is simply that the US does not grow enough bananas to meet US demand. It is the same for many produce items. US internal production does not meet US demand. For items such as apples, where the US has an excess in production, the apples are exported to Mexico. In the case of NAFTA agriculture trade with Mexico, Mexico has the comparative advantage for some specialty crops items, and the US has the comparative advantage for other specialty crops items and most commodities like grains, soybeans, and corn.

In point of fact, the growers in Florida who complain bitterly about imports often misrepresent the cause of their problems. The facts show that imports are not the main cause for issues they face. Florida, which is not particularly well suited to agricultural production, continually suffers from pest infestations, labor shortages, hurricanes and other weather events. They also suffer from a failure to innovate to better production methods. Trade is a two-way street. We hope the committee understands that just because a deficit exists in a certain area, the conclusion does not follow that free trade does not exist. While we hope there is a way to address Florida's downward trend in sales, we caution that resorting to unfounded trade remedies runs the risk of: 1) ruining the benefits of NAFTA for all of us if there is a trade war; 2) straining our participation in WTO if and when a case is brought against the U.S.; and 3) helping the chances for a protectionist government being elected in Mexico.

In the Thursday, June 22nd, 2017 edition of the Washington Post, writer Ana Swanson raised the possibility of retaliatory tariffs against wheat by Europe if the Trump Administration placed tariffs on steel and aluminum. Indeed, agricultural products, the pride of U.S. exports, are usually the first targeted. Swanson writes: "Any investigation that leads to new tariffs on imports could spark retaliatory duties or tariffs on U.S. products," said a spokesperson for a separate farm industry group, who spoke on condition of anonymity because of the sensitivity of upcoming North American Free Trade Agreement negotiations. "As we've seen historically, agricultural products tend to be on the front line for retaliation." She went on to point out that exports from Florida are especially vulnerable.

As an example, when the Bush administration imposed tariffs on steel in 2001, Florida citrus products were targets of tariffs themselves. Free trade does not mean the absence of trade deficits, especially in a globalized economy. It would be potentially disastrous to pursue any



tariffs on Mexican produce in the absence of clear evidence that they were in violation of WTO obligations.

FPAA encourages the Committee to resist efforts from a small production area in Florida for trade protection that is likely to lead to a trade war-- with huge harm to US exports leading to industry damage and jobs nationally. There may be other ways to assist Florida, but trade restrictions are not the answer.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Jungmeyer".

Lance Jungmeyer
President
Fresh Produce Association of the Americas





**Written Testimony Of
National Pork Producers Council**

On

The U.S. Trade Policy Agenda

House Committee on Ways and Means

June 22, 2017

Introduction

The National Pork Producers Council (NPPC) is an association of 43 state pork producer organizations that serves as the global voice for the nation's pork producers. The U.S. pork industry represents a significant value-added activity in the agricultural economy and the overall U.S. economy. Nationwide, more than 60,000 pork producers marketed more than 118 million hogs in 2016, and those animals provided total gross income of nearly \$24 billion. Overall, an estimated \$23 billion of personal income and \$39 billion of gross national product are supported by the U.S. pork industry.

Economists Daniel Otto, Lee Schulz and Mark Imerman at Iowa State University estimate that the U.S. pork industry is directly responsible for the creation of more than 37,000 full-time equivalent pork producing jobs and generates about 128,000 jobs in the rest of agriculture. It is responsible for approximately 102,000 jobs in the manufacturing sector, mostly in the packing industry, and 65,000 jobs in professional services such as veterinarians, real estate agents and bankers. All told, the U.S. pork industry is responsible for nearly 550,000 mostly rural jobs in the United States. U.S. pork producers today provide 25 billion pounds of safe, wholesome and nutritious meat protein to consumers worldwide.

Exports of pork continue to grow. New technologies have been adopted and productivity has been increased to maintain the U.S. pork industry's international competitiveness. Of course, the biggest driver of increased exports over the past three decades has been free trade agreements.

U.S. pork exports have gone up by 1,550 percent in value and almost 1,300 percent in volume since 1989 – the year the United States began using bilateral and regional trade agreements to open foreign markets. Today, the U.S. pork industry exports more product to the 20 countries with which the United States has free trade agreements than it does to the rest of nations of the world combined.

In 2016, the United States exported nearly \$6 billion of pork, which added more than \$50 to the price that producers received for each hog marketed, and those exports supported approximately 110,000 jobs in the U.S. pork and allied industries. Net exports last year represented almost 26 percent of U.S. pork production.

Importance of NAFTA and Free Trade Agreements

One of the most important trade deals for the U.S. pork industry has been the North American Free Trade Agreement (NAFTA), which includes the United States, Canada and Mexico.

Although NAFTA is an old agreement, it has accomplished a great deal in its 23 years. Still, it has been overtaken by new, unanticipated forms of trade as well as new trade problems. It needs to be modernized. But there are enormous risks associated with withdrawing from the deal if efforts to negotiate a more modern agreement fail.

Many more U.S. jobs would be almost immediately lost than could possibly be created by high-protective tariffs, which inevitably would be imposed by all sides. The hardest hit would be the states with the strongest trade and investment ties to Mexico and Canada and sectors and companies that have developed supply chains in Mexico and Canada critical to their businesses. Especially hard hit would be American farmers and ranchers.

(See the NPPC White Paper on the importance of NAFTA to agriculture and other sectors of the economy, which is available at: <http://nppc.org/whitepaper NAFTA/>.)

Agricultural exports to Canada and Mexico, America's second and third largest foreign markets, totaled more than \$38 billion in 2016, or 28 percent of all U.S. exports. Those exports generated more than \$48 billion in additional business activity throughout the economy and accounted for some 306,000 jobs.

Importantly, much of the growth in U.S. agricultural exports has occurred during the period the United States implemented new trade agreements. The U.S. agricultural sector, as the most efficient and competitive in the world, has benefited greatly from more open markets brought about by these agreements. The United States now export as much to its 20 FTA partner countries as it does to the rest of the world, excluding China. While exports to at least some of these countries would have increased without the FTAs, there is no doubt that FTAs played a major role in the growth. In all cases, very high tariffs or other restrictive measures were negotiated away, allowing for freer access for U.S. products and, in many cases, preferential access over products from competitor countries.

Growth in U.S. Agricultural Exports to FTA countries

FTA	Date Entered into Force	Year Before Agreement	2016		Growth Percent
			Million Dollars	Percent	
Canada FTA/NAFTA	1/1/89	2,019	20,242	+903	
Mexico - NAFTA	1/1/94	3,618	17,850	+393	
Jordan	1/1/02	122	273	+124	
Singapore	1/1/04	266	738	+177	
Chile	1/1/04	144	848	+489	
Australia	1/1/05	410	1,292	+215	
El Salvador -CAFTA	3/1/06	239	560	+134	
Honduras - CAFTA	4/1/06	249	649	+161	
Nicaragua - CAFTA	4/1/06	125	218	+74	
Guatemala - CAFTA	7/1/06	455	1,081	+138	
Morocco	1/1/06	164	425	+159	
Bahrain	8/1/06	15	65	+333	
Dominican Rep.	3/1/07	629	1,175	+87	
Costa Rica - CAFTA	1/1/09	608	701	+15	
Oman	1/1/09	77	65	-16	
Peru	2/1/09	424	1,146	+170	
South Korea	3/15/12	6,976	6,202	-11	
Colombia	5/12/12	868	2,377	+174	
Panama	10/31/12	206	670	+225	

Source: USDA/FAS Global Trade Atlas

It is clear from the table that one of the most important trade agreements for agriculture is NAFTA. But no trade agreement is perfect. It is encouraging that efforts are underway, with Mexican and Canadian support, to negotiate needed improvements in this important deal. But it is vital that in doing so the United States does not backtrack on provisions that have made the two countries among America's top three markets in the world.

Cost to the U.S. Pork Industry of Withdrawing from NAFTA

Mexican WTO tariff rates were substantially higher in the agricultural sector (45 percent bound and 15.6 percent applied) than U.S. WTO rates in agriculture (4.8 percent bound and 5.2 percent applied). It is clear which country's agriculture would suffer more from moving away from NAFTA tariffs – which are essentially zero in both directions – and back to WTO levels.

With the productivity of U.S. agriculture growing faster than domestic demand, the U.S. food and agriculture industry – and the rural communities that depend on it – relies heavily on export markets to sustain prices and revenues. Disrupting U.S. agricultural exports to Mexico and Canada would have devastating consequences for U.S. farmers and for American processing and transportation industries and workers supported by these exports.

In 2016, the United States exported more than 730,000 metric tons of pork and pork products, valued at \$1.36 billion, to Mexico, making it the largest volume market and the second largest value market for U.S. pork exports. According to Iowa State University economist Dermot Hayes, U.S. pork exports to Mexico have created more than 9,000 U.S. jobs. Canada is the U.S. pork industry's third largest market, taking almost \$800 million in pork in 2016. Together, the two countries account for more than 40 percent of total U.S. pork exports and about 15 percent of U.S. production.

Hayes calculates that if Mexico were to place a 20 percent duty on U.S. pork – a likely response to a U.S. withdraw from NAFTA – and allowed EU and Canadian pork duty-free access, the U.S. pork industry would eventually lose the entire market. In his assessment, Hayes also looked at the possibility of U.S. pork finding alternative markets and concluded the U.S. pork industry would be left with a net loss of about 600,000 tons, or 5 percent of total U.S. production. This would cause a 10 percent reduction in U.S. live hog market. At today's hog prices that is \$14 per hog, Hayes concluded. Based on 118.3 million hogs harvested in 2016, that's an aggregate loss to the pork industry of nearly \$1.7 billion.

A loss in exports to Mexico of that magnitude would be cataclysmic for the U.S. pork industry. Pork producers will support updating and improving NAFTA but only if duties on U.S. pork remain at zero and pork exports are not disrupted.

The U.S. pork industry believes it is vital that U.S. negotiators, stakeholders and members of Congress have a full understanding of NAFTA's benefits and the need to avoid putting those benefits at risk in this renegotiation process. In the following section, NPPC recommends several ways that NAFTA can be improved and modernized, but the

first obligation is to ensure that in the renegotiation process the United States does not backtrack on NAFTA's existing market access commitments and obligations.

Proposals for Modernization of NAFTA in the Pork and Meat Sector

WTO-Plus SPS Chapter

With tariffs and other border measures essentially eliminated among the United States, Mexico and Canada under NAFTA, the principal objective of negotiations to modernize the agreement to the benefit of the U.S. meat industry will be to remove unnecessary or spurious regulatory measures that impede trade among the three nations. Many of these are what are commonly referred to as sanitary-phytosanitary (SPS) measures.

A starting point for addressing such issues is the SPS chapter negotiated in the Trans-Pacific Partnership Agreement (TPP). NPPC urges U.S. negotiators to model a new NAFTA SPS chapter on the TPP chapter. TPP improved the "Agreement on the Application of Sanitary and Phytosanitary Measures" adopted by members of the World Trade Organization (WTO) as part of the Uruguay Round of Multilateral Trade Agreements. The WTO's SPS agreement should remain the foundation of SPS policy globally, but it can be greatly improved. NPPC sees a modernized NAFTA with an SPS chapter based on the work done in TPP providing an improved regulatory environment for trade in food and agriculture among the three NAFTA members.

It should include the following key objectives and principles, to the extent that either Canada or Mexico do not already accept and apply them:

General

The rules should provide assurance that U.S. trading partners use science and risk analysis as a foundation for SPS measures; that they use appropriate import check and restriction policies focused on direct threats to health and safety; that they avoid duplicative or unnecessary testing requirements where food already meets accepted international standards; and that they use transparent procedures for developing regulations, including opportunities for public comment.

Science and Risk Analysis

The SPS chapter should establish rules for identifying and managing SPS risks while preserving the ability to maintain regulations that are not more trade restrictive than necessary and consistent with WTO principles.

Transparency

The SPS chapter should include commitments to ensure that the public can comment on proposed measures and that producers understand the requirements they must meet in each country.

Import Checks

The SPS chapter should commit NAFTA members to ensure that import checks for SPS requirements are based on the actual potential risk posed by the import. In addition, the chapter should require members to inform importers or exporters within seven days if a

shipment is being prohibited or restricted entry for a reason related to food safety or animal or plant health.

Emergency Measures

The SPS chapter should enable NAFTA members to take the emergency measures they deem necessary to protect food safety and human, animal and plant health. To discourage the use of such measures simply as a way to block market access, it should require members to disclose the scientific basis for them.

Certification

The SPS chapter should ensure that SPS certificates only require information related to SPS issues.

Equivalency and Regionalization

The SPS chapter should improve the communications and information exchange between governments when a NAFTA member is considering equivalency or regionalization requests. This will improve the predictability and the scientific basis for the other countries' decisions.

Food Safety Audits

The SPS chapter should promote the use of audits to assess the adequacy of another country's food safety regulatory system, consistent with the U.S. approach. In addition, the chapter should establish a process of communication among NAFTA members regarding the requirements, processes and procedures for conducting audits.

Cooperative Technical Consultations (CTC)

To help encourage the early and expeditious resolution of SPS matters, the SPS chapter should establish a consultative mechanism under which relevant agencies will work to find science-based solutions to SPS issues that emerge between NAFTA countries.

Dispute Settlement

Where the CTC mechanism does not resolve a matter, NAFTA members may use the agreement's dispute settlement mechanism to enforce most of the SPS commitments. However, to ensure that members have sufficient time to align their SPS procedures with the new NAFTA requirements, the application of dispute settlement should be phased in for certain provisions. The underlying WTO-based SPS obligations on which the commitments in this chapter are based also remain subject to WTO dispute settlement.

Specific Regulatory Issues in the Meat and Livestock Sector to be Included

- USDA should publish the rule recognizing Mexico as free from Classical Swine Fever. USDA's Animal and Plant Health Inspection Service (APHIS) in early 2016 concluded the risk of CSF from pork imports from Mexico was negligible. A proposed rule to allow pork imports from all Mexican states was drafted by APHIS but never was cleared by the last Administration for final review and publication. Given that APHIS has found negligible risk and that U.S. pork producers are dependent on export markets, USDA should expeditiously publish the rule.
- U.S. pork producers and live hog exporters are concerned that the export of live U.S. market hogs to Canada and Mexico may sometimes be encumbered by non-tariff-barriers. U.S. hog producers should have the ability to ship hogs north or south for

harvest into pork and pork products when market circumstances make such shipments beneficial.

- Food safety technology approvals in all three countries should be harmonized. This should include harmonizing interventions and processing aids.
- True equivalence of meat safety systems should be implemented, to include:
 - Enhanced transparency on sampling (e.g., the rate of sampling, targeted pathogens, etc.) and on communication of test results, namely the nature of the tests performed.
 - Changes in sampling plans. Reducing sampling lot sizes would prevent meat products from being destroyed.
 - Institute a Laboratory Sampling Pilot Project. This project would test a process under which shipments would continue to be sampled at the direction of the importing country's regulatory agency for laboratory analysis, but the collection of the product to be sampled would occur at the originating federally inspected establishments, including cold storage establishments.
 - Allow imported product designated (Labeled/Certified) intended for use in preparing "Artisan and other Fully-Cooked Ready to Eat (RTE) meat and food products" to move to federally inspected establishments for further processing without border testing.
- The establishment of a common "window" for an E-document transmission and communication system in the NAFTA region to facilitate review and clearance of meat shipments crossing common borders.
 - Including Canada and Mexico in the new electronic documentation system (called PHIS) that USDA is rolling out starting June 29 of this year would be a tremendous achievement. Since they are two of our largest protein trading partners, this would be an immense help. If successful, this system could eliminate the need for trucks to carry hard copy documents and greatly improve border-crossing times while also avoiding routine inspection issues. This would be a natural application given the daily volume of shipments and technological advancement of both countries
- Expansion of existing "trusted trader" programs to allow companies with facilities in multiple NAFTA countries with strong records of safety and reliability to reduce border inspection requirements when product remains under same-company control.
- Facilitating procedures on shipments from the United States to Mexico. The current transportation procedures create huge inefficiencies. If the United States could ship via railcar reefers, transportation costs could be lowered and efficiencies increased.
- Allowing federally inspected facilities to host onsite inspection house (I-House) operations, regardless of proximity to border. This would permit imported product to bypass inspection at the border and be federally inspected at the destination facility.
- Harmonizing approval of processed product ingredients.
- Establishing equivalency agreements for label claims and quality-related specifications for government programs.

- Establishing equivalency and consistency in packaging material approvals, including labeling.

Do Not Include Country-of-Origin Labeling in a Renegotiated NAFTA

The United States implemented a Country-of-Origin Labeling (COOL) law in March 2009, requiring meat to be labeled with the country where the animal from which it was derived was born, raised and harvested. (The law also applied to fish, fruits, vegetables, ginseng, peanuts, pecans and macadamia nuts.)

Canada and Mexico brought cases against COOL to the World Trade Organization, which ruled that the law violated U.S. international trade obligations, discriminating against Canadian and Mexican livestock sent to the United States to be fed out and processed. The WTO authorized Canada and Mexico to put retaliatory tariffs on U.S. goods going to those countries – the No. 1 and No. 2 U.S. export markets – setting the retaliation level at \$1 billion annually.

The trade body asked the United States to comply with its international trade obligations under the WTO Agreement on Technical Barriers to Trade.

Before Congress in December 2015 repealed the COOL provisions for meat, Canada issued a preliminary retaliation list that included fresh pork and beef, bakery goods, rice, apples, wine, maple syrup and furniture. And while Mexico didn't have a list, in March 2009 it put tariffs as high as 45 percent on \$2.4 billion of U.S. products, including pork, from 43 states because of the refusal of the United States to implement a provision of NAFTA, allowing long-haul Mexican trucks into the country.

That 31-month retaliatory action was very costly to a number of U.S. industries, with tariffs reducing the value of U.S. exports of prepared soups and broths, frozen potatoes and dog and cat food, for example, by more than \$100 million each.

The modernization of NAFTA must not include mandatory COOL, which the WTO found to be inconsistent with U.S. international trade obligations. The U.S. economy cannot afford to have its products restricted, through tariffs, to its two biggest export markets.

Other Trade Priorities

Abandon Transatlantic Trade and Investment Partnership (TTIP)

The European Union (EU) is one of the world's most protected markets from imported meat products, with elevated levels of tariff protection and a wide array of onerous and scientifically unjustifiable SPS and technical measures. Taken together, high tariffs combined with SPS barriers make shipping product to Europe difficult, if not impossible.

The removal of EU SPS barriers could be accomplished through a broad recognition by the EU of the equivalence of the U.S. animal health and meat inspection practices in ensuring product safety. However, the EU rejects technological innovation, even when

based on sound science. The EU, through its policies, practices and subservience to non-governmental activist groups, rejects both new food technologies and competition from imports.

Moreover, the EU's political approval process for trade agreements is seriously flawed, with veto power available to the smallest regions. (The Canada-EU FTA was nearly killed by the Belgian region of Walloon.) In any future negotiation, the United States should insist on a binding "fast track" approval process by the EU Parliament, much like the United States has under Trade Promotion Authority.

Failing assurances on that and on acceptance of the equivalence of U.S. food safety practices, NPPC sees no value in wasting tax payer dollars on a fruitless TTIP negotiation with the EU.

Focus on Asia-Pacific Region

Rather than waste time and effort on TTIP, the U.S. pork industry suggests that the Trump administration focus its trade efforts on the fast-growing Asia-Pacific region, starting with bilateral negotiations with Japan, the industry's top export market.

An FTA with Japan would expand the overall size of the Japanese market and give Japanese consumers full access to internationally priced, high-quality pork. It would help preserve U.S. market share in the face of competition from third country suppliers that have FTAs with Japan or that are in the process of negotiating FTAs with Japan, such as the European Union. Additionally, it would give the United States a major tariff advantage over countries that do not have an FTA with Japan.

Vietnam is another priority for the U.S. pork industry. Domestic pork consumption in the Southeast Asian nation is 2 million metric tons (MT) a year, bigger than South Korea and Mexico.

Market prices for pork of commercial quality in Vietnam are substantially higher than they are in the United States, and small, inefficient backyard producers represent more than 60 percent of Vietnam's total pork production.

When Vietnam acceded to the WTO in 2007, there were high hopes that it would become a major market for U.S. pork sales. It had agreed to reduce import duties on pork and had given the United States what appeared to be a valuable commitment by recognizing the U.S. pork plant inspection and approval system as equivalent to its own.

In 2008, U.S. pork exports to Vietnam hit a record of 17,477 MT. Since then, however, U.S. pork sales to Vietnam have plummeted, with the country importing just 2,303 MT last year, representing less than .07 percent of its total pork consumption.

An FTA with Vietnam must eliminate import barriers, including an unscientific ban on white offal and a zero-tolerance policy on certain veterinary drugs, that prompted that precipitous decline.

Likewise, the Philippines is an important market for U.S. pork exports, with sales in 2016 of 37,220 MT, valued at \$83 million. But U.S. pork sales could be much larger if the country would remove market access barriers that restrict exports.

The Philippines maintains a reference price scheme that it uses to determine import duties on shipments of frozen pork, beef and poultry. Under the scheme, many imported frozen pork cuts are assessed duties based on reference prices established by the government rather than declared import prices, which makes duties significantly higher. Philippine importers report that the reference price scheme has significantly suppressed demand for U.S. pork products, particularly for lower-priced cuts and pork offal.

Additionally, the Philippines recently implemented new import permit rules that require importers to obtain authorization for their permits from the Philippine Secretary of Agriculture, or his high-level designee. Such scrutiny is unwarranted in the case of legitimate meat imports from the United States, since the shipments already include a phytosanitary import certificate, an international health certificate and a pre-inspection certificate issued by the exporting country.

The new import permit measure is just the latest in a long history of unwarranted actions, going back two decades, the Philippine government has taken to impede pork imports.

The elimination of trade barriers through an FTA would allow the United States to increase pork exports to the Philippines.

Conclusion

Trade is vital to the continued success of the U.S. pork industry, which supports more than half a million jobs, mostly in rural America.

Without maintaining NAFTA and other trade agreements and without negotiating new trade deals, the U.S. pork industry will lose in key markets much of the advantage that it now has over competitor nations. For the U.S. pork industry to continue expanding and to continue being the most efficient and competitive in the world, it must increase its exports by eliminating tariff and non-tariff barriers, and that is accomplished through free trade agreements.

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June 22, 2017

The Honorable Kevin Brady
Chairman
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Neal:

On behalf of TechNet and our 72 members, we appreciate your commitment to modernizing our nation's trade agreements to empower American innovators, entrepreneurs, and workers to seize all the economic opportunities of digital trade in the 21st century. As the House Ways and Means Committee holds a hearing today examining the "U.S. Trade Policy Agenda," TechNet reiterates our commitment to work with you, the committee's members, and the entire U.S. House of Representatives to enact U.S. trade policy that encourages job creation and establish clear digital trade rules.

TechNet is the national, bipartisan network of innovation economy CEOs and senior executives. Our diverse membership includes the nation's leading technology companies in the fields of information technology, e-commerce, advanced energy, biotechnology, venture capital, and finance.

Since the North American Free Trade Agreement (NAFTA) took effect 23 years ago, much has changed in our economy. As the breadth of our membership demonstrates, while technology used to be an industry, it is now the underpinning of every industry. Whereas floppy disks were the preferred mode of sharing information in 1994, data can now be stored, shared, and analyzed instantly through cloud computing platforms.

The ubiquity of the internet has opened markets once out of reach to the local entrepreneur; torn down barriers to entry that prevented small businesses from growing past their communities; and facilitated the transfer of goods and services at speeds once unimaginable. For example, 79 percent of small businesses that use PayPal are exporters; female Airbnb hosts have earned more than \$10 billion since the company's founding; and Facebook provides a platform for more than 70 million businesses. Simply put, digital trade has exploded in the quarter-century since the U.S. entered into NAFTA.

While American innovators and entrepreneurs have adapted to these new circumstances and capitalized, our trade policies have been slow to respond. We recognize the American economy cannot grow at its full potential without a thriving technology sector, just as the technology sector cannot succeed without the right federal policies in place. Chief among these federal policies are NAFTA and other trade agreements the U.S. negotiates and enters into, as well as proper enforcement of existing agreements.

More specifically, we believe a thriving 21st century American technology sector requires the following trade policies:

- Reductions in tariff and non-tariff barriers to information and communications technology products, services, and investments.
- Protections for the free flow of data across borders, strong protections for intellectual property, and safe harbors against intermediary liability.
- Greater expansion of market access for trade in services, including those that are digitally delivered.
- Heightened attention to the need for global supply and value chains — particularly important to global innovation — which often are disrupted by government imposition of localization requirements, including forced technology and investment conditions that discriminate against U.S. interests.
- Customs relief and open payment systems that support digital trade flows, particularly by Small and Medium Enterprises (SMEs).
- Given the importance of modernizing the information technology systems used by governments at all levels, it is important to preserve, if not strengthen, the strong provisions currently in NAFTA related to government procurement, which have enabled U.S. companies to gain nondiscriminatory access to Mexican and Canadian markets on a reciprocal basis.

Between 2005 and 2014, cross-border data flows grew by 45 times, generating \$2.8 trillion in economic value in 2014 — a greater impact on the world's GDP than the global trade in goods.

As more people come online and look to American companies for our goods and services, it is imperative that the U.S. sets clear and enforceable rules to oversee digital trade. This requires improving existing agreements, including NAFTA, and negotiating new agreements with the strong digital trade policies noted above as guideposts. Failing to do so would prevent American workers, innovators, and

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businesses of all sizes from fully benefitting from this new era of digital trade and risk America's global economic leadership.

At TechNet, we represent a diverse group of 72 technology companies. They range in size from small or medium, to large and multinational; they operate across various sectors of the innovation economy; and they include young startups as well as iconic and more established American tech innovators. As you examine America's trade agenda and the ways it can be improved, we look forward to working with you to pursue policies that grow our nation's economy, create jobs and higher paychecks here at home, and bolster America's tech leadership in the world.

Sincerely,



Linda Moore
President & CEO