

**NOMINATIONS OF JEFFREY GERRISH,  
GREGORY DOUD, AND JASON KEARNS**

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**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE**

**UNITED STATES SENATE**

**ONE HUNDRED FIFTEENTH CONGRESS**

FIRST SESSION

ON THE

NOMINATIONS OF

JEFFREY GERRISH, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE FOR ASIA, EUROPE, THE MIDDLE EAST, AND INDUSTRIAL COMPETITIVENESS; GREGORY DOUD, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE; AND JASON KEARNS, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION

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OCTOBER 5, 2017  
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INTERNATIONAL TRADE COMMISSION**

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**THURSDAY, OCTOBER 5, 2017**

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

The hearing was convened, pursuant to notice, at 10:38 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Roberts, Thune, Wyden, Stabenow, Cantwell, Menendez, Cardin, Bennet, and Casey.

Also present: Republican Staff: Christopher Armstrong, Chief Oversight Counsel; Rory Heslington, Professional Staff Member; Shane Warren, Chief International Trade Counsel; Nicholas Wyatt, Tax and Nominations Staff Member; and Andrew Rollo, Detailee. Democratic Staff: Joshua Sheinkman, Staff Director; Michael Evans, General Counsel; Elissa Alben, Senior Trade Counsel; Ian Nicholson, Investigator; Greta Peisch, Senior Trade Counsel; and Jayme White, Chief Advisor for International Competitiveness and Innovation.

**OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S.  
SENATOR FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The committee will come to order. I want to welcome everybody to today's hearing on pending nominations.

Today we will have the opportunity to hear testimony from nominees to three key trade policy positions. We will hear from Mr. Jef-

frey Gerrish, who has been nominated to serve as Deputy U.S. Trade Representative. We will also hear from Mr. Gregory Doud, nominated to be Chief Agricultural Negotiator at the Office of USTR. Last, but certainly not least, we will hear from Mr. Jason Kearns, who has been tapped to serve as a member of the International Trade Commission.

We welcome you, gentlemen, to the Senate Finance Committee. I am sorry we are in such a bind here. I am supposed to be down in Judiciary at the same time. There is a big uproar down there, so I will do the best I can. But congratulations on your nominations, and thank you for your willingness to serve in these capacities.

When you look over the respective resumes of each of these nominees, it is clear that the President has selected individuals who are well-qualified and well-prepared to serve in these important posts.

That is a good thing. There is quite a bit going on in the trade world at the moment. The Trump administration has a number of ambitious goals, and Congress has a key role to play with all of them. Among other things, we need to make sure that the administration is well-staffed, and I hope we will be able to take some steps toward that end with the advancement of these nominees.

I prefer to let the nominees describe their backgrounds and qualifications on their own. However, I do want to address an issue that has been raised with respect to Mr. Gerrish's nomination. Members of the committee already have all of the facts, and they are pretty straightforward.

Mr. Gerrish was a resident of Virginia until June 2016, at which time he moved to Maryland. However, in November 2016, Mr. Gerrish voted in the general election in the Commonwealth of Virginia. Mr. Gerrish voted where he should not have. It is that simple.

He has been open with the committee about this matter during the vetting process and has cooperated with the committee staff's efforts to understand exactly what happened. I am sure that Mr. Gerrish will be willing to respond to questions about this matter today.

My hope is that at the end of today's hearing, committee members will have enough information to judge each nominee on the basis of their experience, knowledge, and qualifications for the positions to which they have been nominated.

Now, with that out of the way, I want to once again thank the nominees for being here today. I look forward to hearing your statements and hopefully to working with you in the future.

I may have to leave temporarily for the Judiciary Committee as well, which is just down the hall, but we will see.

Right now, I will turn to my distinguished friend and colleague, Senator Wyden, for his opening remarks.

[The prepared statement of Chairman Hatch appears in the appendix.]

**OPENING STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you very much, Mr. Chairman. And you are right: this is going to be a very hectic morning, even by Senate standards, trying to get to everything.

The chairman has noted Mr. Jeffrey Gerrish has been nominated to be the Deputy U.S. Trade Representative; Mr. Gregory Doud to be Chief Agricultural Negotiator at the U.S. Trade Representative; and Mr. Jason Kearns to be a member of the United States International Trade Commission, a place where I am so frequently they are thinking about getting me a mail slot or something like that.

I want to start on this matter of Mr. Gerrish, because I think we really want to unpack this and understand what happened. I understand the facts. The chairman touched on this.

Mr. Gerrish moved residences from Virginia to Maryland in June of last year. Though he no longer lived in Virginia, he voted there in the 2016 general election. Virginia provides a 30-day grace period to former residents. This was way outside what the law allowed.

It is hard to understand how an attorney as accomplished and distinguished as Mr. Gerrish can walk out of his house in Maryland, travel a ways to Virginia, and cast a vote in that State without thinking there just may be an issue. You cannot flash a Maryland driver's license when a Virginia polling place worker asks you where you live. So this seems to me to be a serious error in judgment on a part of the law that is pretty unambiguous.

As of now, I think it is especially noteworthy that the Republican and the Democratic member of the Fairfax County Electoral Board have called for an investigation by the prosecutor in this case. So I think this is an important matter, and we are going to have to, even with the hectic morning, get at this.

There is another reason, frankly, why I think this issue is so important. This administration has fabricated out of thin air a crisis of widespread voter fraud in this country without one shred of evidence to back up their claims. Now, set aside the irony of someone who won the election talking about how it was tainted by fraud. Just kind of setting that one aside, because that is kind of a head-scratcher—usually, the loser says that there is a problem with voter fraud—this is a particularly troubling matter, because we now have a so-called Commission on Election Integrity, which looks more to me like an attempt to justify taking away the vote from millions of American citizens, particularly those who are black and Latino.

Bottom line: the administration makes illegal voting out to be widespread and far-reaching, without any documentation. It is, oh my goodness, this is happening in an extraordinary number of cases, almost an existential threat to the country, and here we are going to be dealing with a nomination where you have the Republican and Democratic member of the local electoral board raising questions about whether that was an illegal vote in a highly contested State.

So this is important to get at, and we are determined to do that.

Now, turning to the critical trade challenges that we face today, I think it is fair to say the administration, after all the talk, after all the ballyhoo, surely has disappointed.

In April, the President ordered the launch of investigations into steel and aluminum imports. He said it was a historic day, but so far it has been a historic blunder. Failing to follow through on this tough talk has led to steel imports jumping by 21 percent. You see the same pattern in softwood lumber after the administration delayed imposing duties on unfairly traded imports from Canada.

This is having a real impact on our country and on what I call red, white, and blue jobs. By the President's own preferred metric, the trade deficit, the U.S. is worse off this year. The deficit rose by about \$20 billion in the first 7 months of 2017.

The administration has also produced disappointing results in its engagement with China. Although administration officials touted a limited deal with China in late spring, labeling something a good deal is very different from actually securing a good deal. Our country has serious and far-reaching trade issues with China, including with respect to cloud computing, and what is needed is not more talk, but a concrete strategy.

I also have concerns about where the NAFTA negotiations are going. As I am sure Mr. Doud can attest, trade is a complicated deal. Entering into trade agreements can create winners and losers, but so does withdrawing from them or fundamentally changing their nature. There are lots of manufacturing and farm jobs that depend on existing relationships, and the goal should be to improve the relationships for everybody. And I think it would be a big mistake to leave whole sectors of the economy behind. I worry that this is a trade policy built on hostage-taking and headlines, not the hard work of getting trade done right through tough enforcement and a comprehensive strategy to open up markets for the American brand.

The chairman and I and our colleagues worked very hard in the last Congress to put together a tough trade enforcement agenda, and as he, I know, is aware, that was tough, bringing together the Senate Democrats and Republicans on it. But under your leadership, Mr. Chairman, we got it done. We had an agreement for tough enforcement and to really focus on opening up markets. The reality is that this administration really has not done what is necessary to follow up on that bipartisan work.

Finally, we are glad to see Mr. Jason Kearns, nominated to serve on the International Trade Commission, where he probably will see me several times a week at the rate things are going.

I have had the opportunity to work with Mr. Kearns on the Hill. He is very much aware of the ins and outs of trade policy. I am especially pleased because he has always looked at these issues in kind of the way the chairman and I have, and that is to be driven by the facts and to be driven by the evidence and not some pre-packaged theory of what is politically right and politically correct.

So I am glad that we are going to hear from him, and I am confident that he is committed to policies that are going to pay off for our workers.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.



[The prepared statement of Senator Wyden appears in the appendix.]

The CHAIRMAN. Let me just say that I would like to extend a warm welcome to each of our nominees today. I appreciate you all being here.

Before I introduce each of you in the order that you will provide your testimony, let me just say that I am very pleased to have you all here. Let me first recognize your friends and families in the audience. We would welcome each of you to introduce them when you open with your own testimony.

First, we will hear from Mr. Jeffrey Gerrish, who has been nominated to serve as Deputy U.S. Trade Representative for Asia, Europe, the Middle East, and for Industrial Competitiveness, with the rank of Ambassador.

Mr. Gerrish is currently working as the head of the International Trade Group at Skadden, where he started working back in 1998. Mr. Gerrish has spent much of his legal career focused on trade, practicing before the Department of Commerce, the ITC, U.S. courts, and NAFTA and WTO panels. That is a lot of experience.

Mr. Gerrish received his undergraduate degree from the State University of New York and later graduated from Duke University Law School.

Next will be Mr. Gregory Doud, who has been nominated to serve as the Chief Agricultural Negotiator in the Office of the U.S. Trade Representative, with the rank of Ambassador.

Mr. Doud will be introduced by our colleague, Senator Roberts, and we are happy to have that occur.

Finally, we will hear from Mr. Jason Kearns, who will be introduced by our good friend, colleague, and fellow committee member, Senator Bennet. We are happy to have Senator Bennet do that.

Senator Bennet, please proceed with your introduction. Is he here?

We will start with Senator Roberts then.

Senator Roberts?

Senator ROBERTS. Thank you, Mr. Chairman.

It is my understanding I have the distinct honor of introducing Mr. Greg Doud. Is that correct?

The CHAIRMAN. That is correct.

Senator ROBERTS. Thank you, sir.

Greg is the nominee to be our Chief Ag Negotiator. Greg is joined by his wife, Pennye, their two children, and his parents at this hearing today.

Mr. Chairman, I would like for them to stand and be recognized. Thank you. [Applause.]

I want this committee and everybody present to know that Greg is a Kansan, born and raised. He is tied to the land, playing a large role in operating his family farm near Mankato, KS. He understands firsthand that for any farmer or rancher to be successful in today's global economy, the United States must sell not only what we make, but what we grow.

Greg's professional background in agricultural policy has spanned over 20 years. An agriculture economist by education, Greg began his career working in agricultural commodity consulting and later working for the commodity trade associations.

During his time at the National Cattlemen's Beef Association, Greg chaired the USDA/USTR Animal and Animal Products Agricultural Trade Advisory Committee.

I want to emphasize Greg's experience as a trade policy advisor for the Senate Agriculture Committee, during my time as the ranking member. I often say, as a Senator, you are only as good as your staff. I can honestly say that, when in the middle of drafting a farm bill, I could not have asked for a smarter, more talented, and yes, even stubborn, trade advisor.

Throughout the confirmation process, Greg and I have had multiple conversations about agriculture trade. We have discussed his priorities for expanding markets for agriculture commodities, especially engaging with the Pacific Rim countries. More importantly, we share the view that the agriculture industry needs an administration that not only focuses on expanding markets, but also one that will continue to be a reliable supplier to our current trading partners.

That has been a U.S. trade policy hallmark, and I know that Greg Doud will be a strong advocate. The agriculture industry is in need of certainty, especially during the rough patch we are currently experiencing. And, Greg, I know that you will be the voice of farmers, ranchers, and growers, and I certainly look forward to working with you and taking on this challenge.

Mr. Chairman, thank you for this privilege.

The CHAIRMAN. Thank you, Senator, for your kind remarks.

Let us begin. Mr. Gerrish, we will begin with you.

**STATEMENT OF JEFFREY GERRISH, NOMINATED TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE FOR ASIA, EUROPE, THE MIDDLE EAST, AND INDUSTRIAL COMPETITIVENESS, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC**

Mr. GERRISH. Chairman Hatch, Ranking Member Wyden, and distinguished members of the Senate Finance Committee, it is a great honor for me to appear before you today.

I feel both privileged and humbled to have been recommended by Ambassador Lighthizer and nominated by President Trump to serve as Deputy United States Trade Representative.

I would like to take a moment first to thank my wife Kelly and our three children, Jacob, Kate, and Grace. They have been a constant source of inspiration, strength, and support for me throughout my career, and I would not be where I am today without them. I would also like to thank the incredible mentors and role models I have had over the years, including Ambassador Lighthizer and my friend and former partner, John Mangan, who is here with us today. I have been blessed with the opportunity to work with and learn from many immensely talented individuals and am truly grateful for that.

In addition, I would like to express my thanks to the members and staff whom I have been able to visit with over the past couple of months. If confirmed, I look forward to working with you on the critical trade issues facing our great country.

To give you a little background about me, I grew up in a city by the name of Troy in upstate New York. Troy used to be a manufac-

turing town, with steel and then textiles the primary goods produced there. The manufacturing is gone now, and the city has faced difficult times, but the people of Troy remain as fundamentally decent, down to earth, and hardworking as any you will find. I was taught the value of a strong work ethic from an early age by my parents and grandparents and others in my hometown, and that virtue has remained with me and served me well in every single thing that I have done.

For almost 20 years, I have practiced international trade law. Over that time, I have worked extensively on behalf of U.S. manufacturers in seeking to combat unfair trade in this market, the massive subsidies and trade-distorting industrial policies employed by countries around the world, and the challenge of global overcapacity facing a number of industries. I have fought for strong enforcement of our trade laws and to preserve U.S. policies at the World Trade Organization and other international bodies. My work has also entailed assisting American companies that have been improperly denied access to other markets around the world.

Through my work, I know firsthand the problems that unfair trade can cause, but also the opportunities that trade can present for U.S. companies. My experience has clearly demonstrated to me that we need a trade policy that puts America first. This does not mean closing ourselves off from the rest of the world. It simply means putting American manufacturers, workers, farmers, ranchers, and service providers first in everything we do in the trade arena.

It means negotiating stronger and more effective trade agreements and ensuring that the trade agreements we have are properly enforced and applied in the manner originally intended. We must aggressively and effectively apply our trade laws to counteract unfair trade practices and work with like-minded trading partners to defend the use of such trade laws and to address the enormous overcapacity problem plaguing our steel, aluminum, and other industries.

For our creators and innovators, it means promoting greater intellectual property protection and enforcement among our trading partners. It is absolutely critical that we protect American companies' intellectual property, which is one of our greatest assets.

If confirmed, I hope to work with this committee, others in Congress, those in the administration, and all interested parties to craft and implement a trade policy that increases trade and spurs economic growth, but does so in a way that promotes fair and reciprocal trade that benefits all segments of our economy.

The trade issues confronting the United States are numerous and daunting, and I would welcome the opportunity to work with you in tackling them. If confirmed, I promise you that I will bring my strong international trade experience to bear and will work tirelessly to achieve the best possible results for your constituents and the country.

Thank you for your consideration, and I would be happy to answer any questions.

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

Senator ROBERTS [presiding]. Thank you, Mr. Gerrish.  
Mr. Doud, please proceed.

**STATEMENT OF GREGORY DOUD, NOMINATED TO BE CHIEF  
AGRICULTURAL NEGOTIATOR, OFFICE OF THE U.S. TRADE  
REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXEC-  
UTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC**

Mr. DOUD. Thank you, Senator. Chairman Hatch, Ranking Member Wyden, members of the Senate Finance Committee, thank you for welcoming me here today. I am honored to be considered by this committee as President Trump's nominee to be the Chief Agriculture Negotiator in the Office of the United States Trade Representative.

I would first like to recognize my wife, Dr. Pennye Doud; our children, Abby and Aidan; my parents, Eldon and JoAnn Doud from Mankato, KS; and my in-laws, Major U.S. Army Retired Nelson Stammer, a Vietnam War veteran, and his wife Barbara. I am grateful for Pennye's willingness to allow me to serve our country and its farmers and ranchers in this capacity.

Growing up on the farm in Kansas, I have vivid memories of the economic difficulties that followed the decision to embargo U.S. sales of wheat to the Soviet Union. After graduate school, I jumped at the opportunity to work for U.S. Wheat Associates, which immediately exposed me to the multitude and complexity of challenges that we face in selling our wheat overseas.

As chief economist for the National Cattlemen's Beef Association, I spent each day for over 7 years coordinating industry efforts with USTR, USDA, and even our State Department as we rebuilt our beef exports virtually from scratch in the aftermath of the BSE cow that stole the Christmas of 2003.

While in that role, I also served as a cleared advisor and later chairman of the USDA/USTR Animal and Animal Products Agriculture Advisory Committee. This was during an extremely active period when we had trade agreements with Australia, Bahrain, Colombia, the CAFTA, South Korea, Morocco, Panama, and Peru.

America's farmers and ranchers understand that their future and their new wealth, as Thomas Jefferson would put it, depends on the ability to export the food and fiber they grow to the 95 percent of the world's population that does not live in the United States. They also understand, as do I, that these efforts can take years to accomplish and require a unique combination of strategy and relationship building.

I have spent the vast majority of my career involved in wheat, soybean, and beef export market development efforts, in addition to serving as senior professional staff on the Senate Agriculture Committee, responsible for trade matters. If confirmed, I would consider it an honor and privilege to join Ambassador Lighthizer and the team at USTR, which is dedicated to creating new wealth for U.S. agriculture.

As I have discussed with Ambassador Lighthizer, when it comes to trade agreements, U.S. agriculture plays offense. Our Nation's farmers and ranchers grow world-class products and should be able to export to any market in the world and be competitive. If confirmed as Chief Agricultural Negotiator, I will work to reduce bar-

riers to U.S. agriculture and secure greater market access for America's farmers and ranchers.

One area where we need work is Japan. We are at a particularly critical juncture in terms of our competitiveness for U.S. meat exports into Japan. Failure to address this situation immediately does not bode well for our fiercely competitive and rapidly expanding production of beef, pork, and poultry. In fact, this is not only true for Japan, but for all of Southeast Asia as well.

Keeping in mind that the evolution to more liberalized trade in agriculture products takes a great deal of patience, we must also get started today in planting new trees in market access, even though it may be quite some time before we are able to enjoy shade from these efforts. In this category, India certainly comes to mind as a place which, before long, could grow to be the most heavily populated nation on the planet.

If confirmed, I look forward to working with Ambassador Lightizer and the stellar team of professionals at USTR to expand markets for U.S. agriculture. I look forward to working with you, Chairman Hatch, Ranking Member Wyden, and the members of this committee, to drive a strategy consistent with the objectives of Trade Promotion Authority toward reality.

Again, I thank the President for this opportunity, and the committee for considering my nomination. I am happy to answer any questions.

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

Senator WYDEN [presiding]. Thank you very much, Mr. Doud.

Mr. Kearns?

**STATEMENT OF JASON KEARNS, NOMINATED TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION, WASHINGTON, DC**

Mr. KEARNS. Thank you. Chairman Hatch, Ranking Member Wyden, members of the Finance Committee, I am honored to appear before you today as the President's nominee for the position of Commissioner on the U.S. International Trade Commission.

I would like to introduce the family members who are with me here today. I would not be here without the love and constant support of my wife, Lindy Arnof Kearns, who manages the logistical mess of our busy lives, while adding levity to our home. When I complain the glass is half empty, she always reminds me that it is half full. I am also very proud of my three children: Eleanore, who is 14; Keevan, who is 12; and Sander, who is 9. They keep things in perspective for me.

Senator WYDEN. Whenever my kids come, the question is, did they come voluntarily, or were they required to? [Laughter.] But we will get into that at another time. Mr. Kearns, go ahead.

Mr. KEARNS. I was happy this did not happen over the summer when they were at summer camp, because it would be a different answer. But now they are at school.

My mother, Betsy Starks, has taught me to stand up for my principles and to stick to them. And I am proud of my sister, Lauren Sulcove, who serves as First Assistant District Attorney in Franklin County, PA. Yesterday she accepted a new job as Deputy Attorney General for the State of Pennsylvania.

I would like to thank all of my family, those who are living and those who have passed, for all of their support over the years. I also thank my mentors, colleagues, and friends for their help.

I seek this position after serving the past 11 years as trade counsel to the House Committee on Ways and Means. I want to thank Ways and Means for that honor. I also want to express my appreciation to Representatives Levin and Rangel and Senator Wyden for first recommending my appointment as a Commissioner several years ago, and to Presidents Obama and Trump for nominating me.

I am also grateful to Senate Minority Leader Schumer for his support, as well as the support I have received from this committee, including the chairman, the ranking member, and Senator Bennet, from my great home State of Colorado.

The ITC administers the trade remedy laws or, as Senator Isakson so aptly put it in our meeting last week, it serves as an umpire, calling balls and strikes. The ITC also provides Congress and the executive branch with independent analysis and information on matters relating to tariffs and international trade; that is, the raw materials from which policymakers like you may craft and execute trade policy.

In my view, the work of the ITC may be more important today than ever before, as trade has become a much larger part of our economy and as policymakers consider and debate major trade policy reforms.

I believe my upbringing, education, and work experience have prepared me well for this role. I grew up in a farming town of 500 people in Colorado, where I learned to enjoy hard work, whether it was the midnight feedings of my 4H lambs or being the first kid at my high school in the mornings to work on my jump shot.

In small towns, you learn to do your part and you learn to try to get along, and that is where I developed a deep respect for people who work with their hands for a living. Since moving away from that small town, I have learned about trade from a wide variety of perspectives over more than 20 years. I have counseled Democratic members of Congress, as well as Republican trade officials at USTR, including my former boss, Senator Portman.

Before that, in private practice, I counseled businesses that petitioned the ITC for relief under the trade remedy laws, as well as businesses that opposed relief. I have counseled exporters, as well as importers. I have been honored to serve as an advocate for these clients.

I now look forward to serving in a different role, not as an advocate, but as an impartial, independent, and objective decision-maker and source of information and analysis.

If confirmed, I will administer the trade remedy laws fairly, objectively, and in accordance with congressional intent, and I will work with my fellow Commissioners to respond as fully and quickly as possible to congressional and administration requests, with the most reliable information and independent and insightful analysis possible.

Thank you for your consideration.

[The prepared statement of Mr. Kearns appears in the appendix.]  
Senator WYDEN. Thank you very much.

Senator Bennet would like to give you a post-statement introduction.

Senator BENNET. Thank you, Mr. Chairman. This is highly unusual, but we are in the middle of three votes, if you can be in the middle of three votes. We are among three votes.

But I really wanted to come, Mr. Chairman, to introduce, but now welcome Jason Kearns, nominee to serve as Commissioner on the U.S. International Trade Commission.

I want to thank Jason for his prior service in the House of Representatives in the previous administration, and for his continued willingness to serve. I also want to thank his family for joining us today. Jason and his family may no longer live in Colorado, but we claim them as our own, and I know they often travel back to ski and spend time outdoors. In fact, I think we may have compared notes on the hike between Crested Butte and Aspen this summer.

Few Americans know about the International Trade Commission, but it works to create fairness and a level playing field in our system of trade by enforcing our trade laws. The Commission protects our intellectual property rights and safeguards American industries from dumping and subsidies. Jason understands that well. It is not just because he studied at some of our Nation's top institutions. It is not just his extensive experience in trade enforcement and investment. It is because he understands how trade can affect small towns across America and the importance of enforcement for American workers.

He knows that because he grew up in the small farming town of Keenesburg, about 40 miles northeast of Denver, in Colorado.

Jason understands that without enforcement, rules are just words on a piece of paper. Throughout his career, Jason has demonstrated a clear commitment to enforcement and more generally to U.S. trade policies that allow American workers to compete fairly in the global economy.

I thank Jason for his willingness to serve in this important role, and I commend him to this committee.

Thank you, Mr. Chairman.

Senator WYDEN. Thank you very much, Senator Bennet.

Now, on behalf of Chairman Hatch—and as we have indicated, this is really a very frenetic day even by Senate standards. The chairman would normally do this, but we have some obligatory questions that have to be asked of all nominees. So I am asking these on behalf of the chairman.

First, to all three of you, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? We need an answer from each of you.

Mr. Gerrish?

Mr. GERRISH. No, there is not, Senator.

Senator WYDEN. Mr. Doud?

Mr. DOUD. No, Senator.

Mr. KEARNS. No, sir.

Senator WYDEN. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated? Again, each of you.

Mr. GERRISH. No, Senator.

Mr. DOUD. No, Senator.

Mr. KEARNS. No, sir.

Senator WYDEN. Very good. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if you are confirmed?

Mr. GERRISH. Yes, Senator.

Mr. DOUD. Yes, Senator.

Mr. KEARNS. Yes.

Senator WYDEN. Finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of the committee?

Mr. GERRISH. Yes, I do.

Mr. DOUD. Yes.

Mr. KEARNS. Yes, I will.

Senator WYDEN. Very good. I am going to start with some questions. As I say, we are going to have colleagues coming in.

Mr. Gerrish, I have some questions for you that I would like just a “yes” or “no” answer to, particularly since, as you heard in my opening statement, I am concerned when you have both the Republican member and the Democratic member of the local election board expressing some concern.

Did you know you were breaking the law? That is a “yes” or “no” answer.

Mr. GERRISH. No, Senator.

Senator WYDEN. How did you happen to vote in this particular election? You no longer lived in Virginia, but you voted there in the 2016 general election. Virginia provides a 30-day grace period to former residents. That is way outside the law.

So it is just kind of hard to understand how a skilled attorney could be voting in a place where he no longer lives.

Let us talk about that. How did this happen?

Mr. GERRISH. Thank you, Senator. I would be happy to answer that.

My family and I lived in Virginia for over 18 years before moving to Maryland last summer. At the time of the election, I still had my Virginia driver’s license. My car was still registered in Virginia. I was still responsible for paying personal property taxes in Virginia.

I believed that there was a grace period and that I still had time under that grace period to be able to transfer everything over to Maryland and to be able to continue to vote in Virginia, where I was registered to vote and had voted since first moving to this area over 18 years before.

Based on that understanding, I did vote in Virginia in the election. And I understood that there was a grace period and that I could continue to vote in Virginia. I had no ill intent, no wrongful intent. I did not think that I was doing anything wrong.

I believed that I was just doing what I had a right and an ability to do and, in fact, a civic duty to do, which was vote in the election.

Senator WYDEN. You had a civic duty to vote in a place you no longer lived. I just want to make sure I am not hearing it wrong.

Mr. GERRISH. Senator, I believed I had—



Senator WYDEN. That is a “yes” or “no.” You felt you had a civic duty to vote in a place you no longer lived?

Mr. GERRISH. Yes. I believed I had a civic duty to vote in the election, and I believed I still had the ability—

Senator WYDEN. That was not the question I asked. So let the record reflect that the witness did not answer the question.

Did you buy a new house and move from Virginia to Maryland in June of 2016, roughly 5 months before the 2016 election day?

Mr. GERRISH. Yes. We moved to Maryland at the end of June. So it was just over 4 months before the election.

Senator WYDEN. Did you vote in Virginia for the 2016 presidential election even though you were then a resident of Maryland?

Mr. GERRISH. Yes, I did. But I believed that I still had a grace period and had time to be able to vote in Virginia during that time. And I had been registered to vote in Virginia and had voted in Virginia for over 18 years at that point. So I really did not think that there was an issue.

I believed I was still within the grace period, and it was an honest, good faith oversight on my part. I did not look into or research what the grace period actually was, and I wish I had.

Senator WYDEN. Under Virginia election law, you were required to confirm orally or in writing to an election official or a poll worker that you still lived at your previous Virginia residence in order to vote.

Did you do that when you voted in Virginia for the 2016 presidential election?

Mr. GERRISH. I do not believe I did. My recollection is I went in, I told them my name, I gave them my driver’s license, they checked my name off a list, handed me a ballot, and told me where to go to vote.

Senator WYDEN. The Virginia election law says you are required to confirm to an election official that you still lived at your previous Virginia residence.

Are you saying the Virginia election officials messed up and did not get into it with you?

Again, for somebody like yourself, a very skilled lawyer—I am a lawyer too. I am a lawyer in name only. I do not have your skills. This is just getting a little bit implausible.

Are you saying the Virginia election officials messed up and they did not ask you to confirm in some way that you still lived at your previous residence?

Mr. GERRISH. No. I do not believe that they asked me to do that, and my recollection is that I just walked in and handed them my driver’s license, and they checked off my name on a list.

Senator WYDEN. Do you think you ought to be held to a different legal standard than any other Virginia or Maryland voter seeking to vote in the 2016 election?

Mr. GERRISH. I do not believe so. I am an attorney, you are absolutely right. I have close to 20 years of experience as an international trade lawyer. I am not an expert in election law or certainly not Virginia election law.

I believed that I had a grace period and that I was within that grace period and still had time under the grace period to vote in

Virginia, where I was registered to vote and had voted for over 18 years. And so I do not believe so.

This was truly a good faith oversight on my part and something I certainly wish I had looked into and had researched. And it is not consistent with how I normally would conduct myself.

I think people who know me would say that I am a conscientious, diligent, thorough person, and I simply did not look into this or research this.

Senator WYDEN. My time is up. This last answer is important to me.

So what you are saying is that you now realize that you made a serious mistake, (a), and (b), you should have taken the time to figure out what the rules and the laws were so that this serious mistake had not happened.

Mr. GERRISH. I do realize that I should have looked into this and I wish I had, and I simply did not look into it. I believed I was still within that grace period, and it was just simply and purely a good faith oversight on my part.

Senator WYDEN. Mr. Chairman, my time is up. We have also been joined by Senator Menendez. Can he be recognized?

The CHAIRMAN. Yes. Go ahead.

Senator WYDEN. Very good.

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Gerrish, when this committee was debating Trade Promotion Authority 2 years ago, it passed my amendment into law that barred fast-track procedures for any trade agreement with a country on Tier 3 of the State Department's Trafficking in Persons Report, a group of countries that failed to combat human trafficking. Following that amendment, we saw an unprecedented politicalization of the TIP report, where countries were upgraded based on unrelated factors, one of those being trade, in my opinion.

If confirmed, you will oversee our trading relationships with several countries that have poor records on combating human trafficking. Will you commit to us that, if confirmed, you will not take any action to attempt to influence the TIP report, the Trafficking in Persons report?

Mr. GERRISH. Yes, I will confirm that, Senator, and I will act in accordance with the requirements of TPA.

Senator MENENDEZ. Will the administration seek to negotiate, to your knowledge, any trade agreements with countries currently or recently on Tier 3 of the TIP report?

Mr. GERRISH. Senator, I, of course, am not in the administration and do not know what discussions have taken place.

Senator MENENDEZ. In preparation for this hearing, I am sure you have had some conversations. Do you have any understanding from those preparations that they intend to pursue such?

Mr. GERRISH. I have no understanding of those preparations.

Senator MENENDEZ. I hope you will be an advocate of observing the law that Congress put into effect.

Mr. GERRISH. I will, Senator, and, if confirmed, I look forward to working with you to make sure that we do that.

Senator MENENDEZ. Let me ask you: when Ambassador Lightizer was last before this committee in June, he emphasized how important it is that we obtain enforceable labor provisions in agree-

ments. Recent press reports suggest that the administration is advocating for an optional dispute settlement mechanism as it relates to NAFTA, which could be—I know you are not going to be involved in NAFTA from the position you have been nominated to, but it could be a forerunner of other agreements as we look at other countries.

That would mean that parties could choose whether or not to subject themselves to the enforcement of the deal, including labor obligations. Do you believe that an optional dispute mechanism is an effective way to make our labor obligations enforceable by other countries?

Mr. GERRISH. Senator, I do not know the exact details of what this optional dispute settlement mechanism would be and what issues it would cover and whether it would cover labor or just other types of issues.

I do think it is important for us to have strong and enforceable labor provisions in our trade agreements and certainly would work to do that and look for—

Senator MENENDEZ. So you say you do not know the specifics. Let me ask you abstractly, since you are an expert attorney.

With parties choosing whether or not to subject themselves to the enforcement of the deal, what is the value of having a deal, whether it be about labor or any other element? Where the parties can choose whether or not to subject themselves to the enforcement of the deal, how is that ultimately a truly enforceable deal?

Mr. GERRISH. I think there may be situations where it is appropriate to have optional dispute settlement as part of an agreement. However, I understand your point and I understand the concern, and certainly, if confirmed, I would want to work with you to ensure that we have strong and enforceable provisions.

Senator MENENDEZ. An optional dispute settlement would be maybe an alternative way of still submitting yourselves to the obligations of the agreement, but finding a different way; for example, arbitration. That is a little different than what is being discussed here.

Let me turn to one other question with you.

Back in April, the President said he would be willing to accommodate China in our trade disputes if they applied pressure to deal with North Korea. He then went on to say that labeling China a currency manipulator would be counterproductive to securing that cooperation. But back in June, the President conceded this strategy did not work.

So my question to you, now that the President has acknowledged that China is either unable or unwilling to put pressure on North Korea, will you recommend to Ambassador Lighthizer and the President to follow through with the trade enforcement measures that the President called for during the campaign?

Mr. GERRISH. Senator, I believe we need to take strong enforcement measures against China, where appropriate. I think there are a number of issues we have with China, and it is going to be important for us, if I am confirmed, to get in there and assess all the different issues and for us to use all the tools available to us under U.S. law and under the WTO agreements to be able to take strong action against China.

Senator MENENDEZ. I am going to follow up with you. I have some questions for the record. My time has just about expired. But I am looking forward to hearing your specifics on that.

Finally, Mr. Kearns, let me ask you: my understanding is that the antidumping and countervailing duty statute right now does not give purchasers and end users the same legal status as domestic producers, importers, or even foreign exporters or governments. They are not regarded as so-called interested parties.

I also understand that the ITC sends out questionnaires to purchasers and end users and demands that they answer, with one reason being that the information from the purchasers and end users is among the most valuable to the ITC in determining how competition is occurring in the U.S. market.

There are manufacturing jobs in New Jersey that could be impacted by the ITC's determination in this area. So I want to understand, and this is my one question, how much value and weight do you think the Commission should place on submissions from purchasers and end users?

Mr. KEARNS. Thank you, Senator. In private practice, I was very involved in reviewing those kinds of questionnaires, and I was always very impressed by the fact that both producers in the domestic industry, as well as purchasers, seemed to answer those questions very carefully, thoroughly, and without bias one way or the other.

So I do believe that their input can be very valuable to the process.

Senator MENENDEZ. I have a follow-up question, but I will yield, since my time is up.

The CHAIRMAN. Thank you, Senator.

Senator ROBERTS, are you next?

Senator ROBERTS. Yes. Thank you, Mr. Chairman.

As we progress in the renegotiation of NAFTA, pretty much the ag industry has made it clear that the number one priority is to do no harm. NAFTA has widely been viewed as successful, at least within the agriculture community and all those related, and also successful for all three countries: Canada, Mexico, and the United States.

The administration is reportedly considering proposals such as season-based trade remedies or dispute resolution mechanisms that could have a broad impact on U.S. agriculture.

All three, really quickly. What do you view as the appropriate measure of doing no harm to agriculture and NAFTA and other existing agreements, like the free trade agreement with Korea or in new agreements with the Pacific Rim countries?

Mr. Gerrish, why don't you just start off? Really quickly, please.

Mr. GERRISH. Thank you, Senator. I agree with you, we should do no harm. Where certain segments of the economy have done well under particular trade agreements, we should seek to build on that and expand our trade opportunities and knock down barriers in other markets where we can do so.

I think we should also try to fix whatever problems there are in the various agreements, and there have been a number of problems identified with NAFTA and with the Korea-U.S. free trade agreement, and those are issues we should address both in terms of im-

plementation issues, but also in terms of making modifications and amendments, where appropriate.

But I agree with your sentiment. I would take the Hippocratic oath and agree to do no harm where we have benefitted under these agreements.

Senator ROBERTS. Greg?

Mr. DOUD. Senator, it is hard to overstate the importance of NAFTA to U.S. agriculture. Those are our second and third biggest markets.

I think the number is, they account for \$38 billion of about \$138 billion in U.S. agricultural exports, just those two countries. I saw a statistic the other day—that amounts to 287,000 jobs in the U.S., just agriculture to the NAFTA countries.

So there are things that we can upgrade. And with regard to Korea, that is an enormously important market for meat. That 40-percent tariff that we had in beef, bringing that down, has made that an over \$1 billion market for us now on the beef side of the equation.

There are always ways you can improve these markets, but we have to maintain them, Senator.

Senator ROBERTS. Mr. Kearns?

Mr. KEARNS. Senator, I think that question is a policy question that is best directed to USTR. I can say, if I were confirmed at the ITC, I would provide as much technical assistance as I could to USTR and to the committee about what agricultural trade looks like. But I think that is a policy question that I would not really be asked to entertain at the ITC.

Senator ROBERTS. I do not think we made a first and ten on that one.

What, in your opinion, is the nexus between trade and our national security? Mr. Gerrish?

Mr. GERRISH. Senator, my focus certainly is going to be purely on trade issues and ensuring that our companies and our farmers—

Senator ROBERTS. Okay. Fine. Greg?

Mr. DOUD. Senator, if we can keep the world fed, they are going to stay a lot calmer.

Senator ROBERTS. Mr. Kearns?

Mr. KEARNS. Again, I think that the ITC can provide a lot of technical assistance and help in understanding what impact trade can have on a variety of U.S. industries, including the ones related to national security.

Senator ROBERTS. I think if you plant the American flag on trade, you also plant the American flag where we can certainly be in a better position with regard to our national security. It sends a signal to our trading partners, but also sends a signal to our adversaries, and that was the answer I was looking for.

Mr. Chairman, I have been involved in, I think, seven different trade pacts in my career of public service, and they are all oversold and they are all over-criticized, but there is a sweet spot there that we can get to. And I know, Greg, you are going to do a good job in leading that effort.

But we also have an ideological approach, more especially in this administration, on what we think should be policy objectives to put

into trade bills. As a matter of fact, we heard from the White House Counsel on Trade who had 34 policy objectives, some of which we had already taken action on to take out of the context of public law.

I do not know if you have any comments on that. I am not going to ask you that. I am just going to make the point that if we do not do something quickly, this farm situation is going to become even more difficult, and it is difficult right now.

To use a term of my predecessor way back in the House days, you either have to sell it or smell it, and we are about right there. We have to export our products.

So I would ask you to consider—and my time has run out, and we will just toss this out as an admonition. Do what you can to get our trade policy back to being robust and a reliable supplier and quit letting countries take our markets, because that is what they are doing right now, and that is what farmers and ranchers and growers are upset about, as well as everybody within the related industries in agriculture.

Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Casey?

Senator CASEY. Thank you, Mr. Chairman. I thank the nominees for being here.

I want to say first, I know that this issue has been raised about voting, because one of the nominees has an issue there. But I will tell you, when I look at this issue from the perspective of my home State, where we take the franchise very seriously and we have had lots of elections where it was never in question whether or not the State would erect barriers to voting, unfortunately, a number of years ago, just before the 2012 election, the general assembly passed and the Governor signed a so-called voter ID law, and it was an embarrassment. It was an insult to the people.

It was ultimately struck down, but when I consider the obsession that has gripped at least one political party here in town, where we know that between 2000 and 2014, there were 31 credible instances of in-person voter fraud out of a billion votes cast, and then you have a commission and all kinds of statements about voter fraud—I mean, it is really outrageous and ridiculous.

I think the arguments that have been made in Washington on this alleged voter fraud do not pass a very serious, but important test, the hysterical laughter test, which means when you assert something and the entire world laughs at it because it is so absurd because there is no evidence to support it, it is probably not true.

I know it is not the only thing we are here to talk about, but I think it is of great concern to me, the statements that have been made about voter fraud, both within Pennsylvania and across the country. So I hope we can be serious about these issues.

Mr. Doud, I do not have a lot of time. I just wanted to ask you one question about specialty crops. A substantial part of our farm economy is specialty crops. I know you spoke to our staff about this issue.

In particular, you were learning more about the demands on our farmers who produce specialty crops. Could you tell us how you would approach trade issues related to specialty crops and how you

would balance those needs with commodity crops and how you would address the divisions between specialty producers from various parts of the country, as is being borne out in the current NAFTA negotiation?

Mr. DOUD. Senator, I think one of the things we can say about agriculture and trade agreements is, it is all for one and one for all.

Agriculture, the entire industry, does stick together on these agreements. I have not been briefed yet on the specifics of where things stand with regard to specialty crops and what the proposals are or what the plans are. But this is a very serious issue.

I look forward to working with you and seeing what can be done here to address this and making sure that, at the end of the day, we can keep agriculture together and everybody is pulling forward with regard to having an agreement that everyone can support.

Senator CASEY. Thank you. I will submit some other questions for the record, Mr. Chairman. I will yield back the time. Thank you.

The CHAIRMAN. Thank you.

Senator Cardin?

Senator CARDIN. Thank you, Mr. Chairman. I welcome all three of our nominees and thank you for your willingness to serve our country.

Mr. Gerrish, I want to talk a little bit about trade policy. The responsibility for trade policy rests with the Congress. We delegate that to the administration because it is a little cumbersome for 535 of us to negotiate. So we delegate it to the executive branch, but we provide the parameters on which those negotiations should take place.

In the most recent Trade Promotion Authority legislation, we included as the principal trade negotiating objective dealing with good governance, dealing with capacity-building, dealing with human rights, dealing with anticorruption. In TPP, we saw progress made on all of those fronts. I understand that is no longer there, but there were agreements reached at the negotiating level that included this chapter, which was novel.

I have been here long enough to know that unless it is in the core agreements and there are trade sanctions, you are not going to make the progress, and that you need to make progress prior to the implementation of the trade agreements, because after they are implemented, it is extremely difficult to get progress made.

I would just like to hear your commitment, if confirmed, to carry out this principal trade negotiating objective and how important you believe it is that our trading partners, particularly if we are dealing with countries that do not share our same democratic principles, how important it is to build up these capacities.

Mr. GERRISH. Thank you, Senator. And I do commit to abide by the requirements of the most recent Trade Promotion Authority legislation.

And I do understand and agree with your point on it being important to have everything in the actual agreement itself to make sure that there are strong and enforceable provisions. I know we have had some experiences with that, including under NAFTA, where that has not been the case.

I think it is important for us to make sure that we do, in fact, do that going forward, and I certainly commit to you to comply with the requirements of TPA.

Senator CARDIN. I appreciate that. You are good to bring up NAFTA, because NAFTA, at the time, was very forward-thinking to include environment and labor in a trade agreement. The problem was, it was not in the core agreement. It was not enforceable through trade sanctions. So it really was not able to be enforced.

The same concerns are more difficult in good governance, because even if it is in the core agreements and even if there are trade sanctions, good governance is more difficult to quantitate. So it requires a real commitment to establish the guideposts for how you are going to make those decisions.

For example, you can enact laws, but if you do not enforce the laws, then you are not doing what you said you were going to do. There is a lack of capacity. So unless we put in the trade agreements the resources to build capacity and we have ways of knowing when it is achieved, you are not going to reach where you need to be.

My point is—and I think your reference to NAFTA is very important—we are in new territory here, and if the United States does not lead on this, no other country will. And it is in the interest of our companies for the United States to lead in this area.

So I appreciate that you will follow our direction, which you would be required to do, I believe. But how important is this to you as we try to expand opportunities for American companies?

Mr. GERRISH. Senator, I think it is very important for the United States to lead the charge on these issues that you have raised, and, if confirmed, I would look forward to the opportunity to work with you and with the other members of the committee in terms of how we could, in fact, do that in a practical way.

So I hope I do have the opportunity to do that, and I do think it is important for us to lead the charge.

Senator CARDIN. Well, I will follow up on that. If you are confirmed, I really will ask that you work with this committee and work with the members of this committee who have a direct interest in it.

There are some good standards on anticorruption. There are areas where we can make specific progress. We would ask that, as you carry out that responsibility, you engage us so that, at the end of the day, we are on the same page.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Thune?

Senator THUNE. Thank you, Mr. Chairman. And thank all of you for appearing before the committee today and for your willingness to serve in the positions to which you have been nominated by the President.

Mr. Doud, given their importance to agriculture and the U.S. economy, would you describe how you would work to preserve existing trade agreements and to open up new markets?

Mr. DOUD. Well, Senator, I think the first thing we have to do is work to preserve NAFTA. There are opportunities where we can



do better with regard to—dairy in Canada, I think, is an important issue. We have recently discussed the specialty crop issue.

As I mentioned in my testimony, Senator, we also have to play offense, and I think at the top of that list is Japan. I think for agriculture, in particular on the meat side, we are growing and we are growing very, very rapidly, and that southeast Asian part of the world is the best opportunity we have to sell those products. So we have to maintain what we have, but we have to grow.

Another place where I think there is a lot of work to be done—it is going to be difficult—is China, and that is a day-to-day, week-to-week, month-to-month slog.

Senator THUNE. Well, I hope you will keep slogging it out, because those are really important markets. And in the wake of TPP being withdrawn from, I think we really have to be very aggressive in trying to enter into bilateral agreements with some of these countries that represent, I think, huge market opportunities for American agriculture, among other industry sectors.

The 2014 farm bill established the position of Under Secretary for Trade and Foreign Agricultural Affairs at USDA, but the previous administration never filled the position. The Ag Committee recently held a confirmation hearing for Mr. Ted McKinney, who was President Trump's nominee for this important position.

If confirmed, will you commit to working with the USDA Under Secretary for Trade to ensure that USDA is present during ag trade negotiations?

Mr. DOUD. Yes, Senator, I will. That provision in the farm bill, I was the senior professional staffer on the Ag Committee at the time when we did that in the farm bill, and I am very happy that that got in there.

I have known Mr. McKinney, I believe, for nearly 30 years, and we both have been members of the Farm Foundation in recent years, and I very much look forward to working with him.

Senator THUNE. Great. This I will direct not only to you, but also to Mr. Gerrish, and that is the question about the European Union using its free trade agreements to create de facto non-tariff barriers for our ag exports by misusing geographical indications.

The EU is now intent on doing that in its FTAs with Japan and Mexico, which is very concerning to me, as Japan and Mexico are two of our largest export markets. Restrictions in those markets on U.S. products would be unacceptable.

How will you work to prevent those types of unfounded barriers to trade and ensure that our trading partners know there will be consequences if they choose to block our products simply to curry favor with the European Union?

Mr. Doud and Mr. Gerrish, I would like to hear from both of you on this.

Mr. DOUD. Senator, that geographic indicator issue is a top priority. It is just not something that we could possibly ever tolerate.

The multitude of sanitary and phytosanitary issues of non-tariff trade barriers with the European Union is a very, very long list, and the ability to keep that sentiment from spreading around the world is why we have to continue to work every day to have access for our markets.

They have been doing this for a long time, and we have to put a stop to it.

Senator THUNE. Mr. Gerrish?

Mr. GERRISH. Senator, I completely agree with Mr. Doud. I think the geographical indications issue is a top priority. We have to work bilaterally with our trading partners, including Mexico and Japan, to counteract that, to work against it, to make sure that they do not adopt those barriers to our exports.

I think it is also coming up outside the agricultural area with the EU as well, with their standardization requirements that they are trying to impose through their free trade agreements.

So we need to work bilaterally with Mexico and Japan and others to ensure that those are not adopted and they do not act as barriers to our exports.

Senator THUNE. Thank you. I hope you guys are very aggressive on that front.

Thank you, Mr. Chairman. Thank you all.

The CHAIRMAN. Thank you.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman. Welcome to the witnesses, and thank you for your willingness to serve.

I think I would like to continue with my colleague's discussion on ag, just as it relates to our State and the fact that there has been a lot of discussion from the White House on renegotiating agreements.

In 1996, the export value for Washington State to Canada and Mexico was \$2.6 billion, and that has grown to about \$6.8 billion today. I think before that agreement, State apple exports were very little or nonexistent to Mexico, and now they are \$128 million worth of product.

Since those negotiations have started, there are concerns about a proposed provision for perishable and seasonal products that, if adopted, could restrict export of U.S. product to Canada and Mexico. My colleagues have sent a letter highlighting this provision and the dangers of it. We have not heard back from Ambassador Lighthizer yet on this language as it was put forth in the conversations in Ottawa. So we are very concerned about that.

We want people to understand that these are very high stakes for all of us. I think the administration is taking the attitude that there will be winners and losers, and that is not the attitude that we in Washington want to see. I am concerned that for our ag community, this could be a real loss. How will you ensure that the administration does not jeopardize the strong trading relationships that our ag community now has?

Mr. DOUD. Well, Senator, I do not like to go backwards. NAFTA and agriculture are critically important to the farm economy in this country. We had a great conversation in your office about the importance of this.

I have not been briefed on the details of perishable product issues and where we are at, but I am a strong advocate for agriculture, as Senator Roberts indicated. I look forward to working with you on this in the future.

Senator CANTWELL. And that comment means you do not think we should go backwards.

Mr. DOUD. No—we will not go backwards.

Senator CANTWELL. Thank you.

Mr. DOUD. I would have no intention of it on my watch, Senator.

Senator CANTWELL. Mr. Gerrish, do you support the Export-Import Bank?

Mr. GERRISH. I do, Senator. I believe the administration has been appointing nominees for the bank, and I do support it.

Senator CANTWELL. Well, just to be clear on that point, the administration is supporting some nominees who want to destroy the bank. So we are not for that.

But we do want a functioning bank, and we do think it is important to have them functioning at all levels of the financing that they can provide, and we think it is critical to our export strategy as a Nation, given that so many consumers live outside the United States. It is the key tool by which we can make sure that those sales win in the marketplace.

Mr. Kearns, obviously aerospace is also important to the State of Washington, and it is one of our largest exporting sectors, with \$124 billion a year in commercial aircraft.

If you are confirmed, how will you combat the unfair trade practices that we are seeing, particularly as the aerospace market is the big bonanza winner for so many manufacturing jobs around the globe and we see practices of unfairly subsidizing aerospace manufacturing?

Mr. KEARNS. Thank you, Senator. As you know, that is an issue that is pending before the ITC now, and I need to be careful in how I answer. But I think it is fair to say that the role that the ITC plays in subsidy issues is a very important one.

We are the ones who will determine whether an industry is materially injured by unfairly traded imports, and I take that role very seriously.

Senator CANTWELL. Do you think there is something that we should be doing—I am now asking you just a broader theoretical question—about expediting some of the decision-making? For example, the World Trade Organization took a very long time to finally declare that Airbus had unfairly subsidized, through launch aid, the aerospace manufacturing of planes in their country and continues to do so, and yet, to get the economic relief of that can take decades. The market changes.

Now, we believe in competition and believe in being aggressive about competition. But do you think we need to streamline or think of ways to expedite some of these decisions? Not expedite, but get a timeline where these issues are discussed in a way that reflects more about what is happening in the market.

Mr. KEARNS. Yes. Of course, in my role at the ITC, I do not think I would be involved in providing advice on WTO dispute settlements, for example, but I think there is little question that the amount of time it has taken to resolve that dispute at the WTO has been frustrating for just about everyone involved.

Senator CANTWELL. Well, Mr. Chairman, I am very convinced that these three gentlemen represent a huge opportunity for the United States of America. That is, I have every confidence that Americans are building and growing and making the best products. It is really a question about whether we are going to be well-

prepared to win the battle in trade discussions, win the battle legally, and win the battle in the world front of making sure that markets are open to our products.

So I thank them for their willingness to serve.

The CHAIRMAN. Thank you, Senator. I appreciate you and your questions.

Let me just say this. I want to thank everyone for participating here today and for your attendance. As we have discussed many times before, this is a critical time to review and confirm the President's nominees. Our country is relying on us to get qualified and capable individuals into their positions so that they can get to work and get some things done here.

With regard to written questions for the record, I ask that all members submit them by close of business next Tuesday, October 10th.

With that, I do not notice anybody else who is here to ask any questions, so we will adjourn this hearing. Thank you all for being willing to serve. We really appreciate it.

With that, we will adjourn.

[Whereupon, at 11:49 a.m., the hearing was concluded.]

## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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PREPARED STATEMENT OF GREGORY DOUD, NOMINATED TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT

Chairman Hatch, Ranking Member Wyden, members of the Senate Finance Committee, thank you for welcoming me here today. I am honored to be considered by this committee as President Trump's nominee to be Chief Agricultural Negotiator in the Office of the United States Trade Representative.

I would first like to recognize my wife, Penny, our children Abby and Aidan, and my parents, Eldon and JoAnn Doud from Mankato, Kansas. I am grateful for Penny's willingness to allow me this opportunity to serve our country and its farmers and ranchers in this capacity.

Growing up on the farm in Kansas, I have vivid memories of the economic difficulties that followed the decision to embargo U.S. sales of wheat to the Soviet Union. After graduate school, I jumped at the opportunity to work for U.S. Wheat Associates, which immediately exposed me to the multitude and complexity of challenges that we face in selling our wheat overseas.

As chief economist of the National Cattlemen's Beef Association, I spent each day for over 7 years coordinating industry efforts with USTR, USDA and even our State Department as we slowly rebuilt our beef exports, from virtually scratch, in the aftermath of the single BSE cow that stole the Christmas of 2003. While in this role, I also served as a "cleared advisor" and later chairman of the USDA/USTR Animal and Animal Products Agricultural Trade Advisory Committee (ATAC). This was during an extremely active period when trade agreements with Australia, Bahrain, Colombia, CAFTA, South Korea, Morocco, Panama and Peru were negotiated.

America's farmers and ranchers understand that their future and their new wealth, as Thomas Jefferson would put it, depends upon the ability to export the food and fiber they grow to the 95 percent of the world's population that lives outside the United States. They also understand, as do I, that these efforts can take years to accomplish and require a unique combination of strategy and relationship building.

I have spent the vast majority of my career involved in wheat, soybean and beef export market development efforts in addition to serving as Senior Professional Staff on the Senate Agriculture Committee responsible for trade matters. If confirmed, I would consider it an honor and privilege to join Ambassador Lighthizer and the team at USTR, which are dedicated to creating new opportunities for U.S. agriculture and, of course, maintain existing relationships.

As I have discussed with Ambassador Lighthizer, when it comes to trade agreements, U.S. agriculture plays offense. Our Nation's farmers and ranchers grow world class products, and should be able to export to any market in the world and be competitive. If confirmed as Chief Agriculture Negotiator, I will work to reduce barriers to U.S. agriculture and secure greater market access for American farmers and ranchers.

One area where work is needed is Japan. We are at a particularly critical juncture in terms of our competitiveness for U.S. meat exports into Japan. Failure to address this situation immediately does not bode well for our fiercely competitive and rapidly expanding production of beef, pork and poultry. In fact, this is not only true for Japan but for all Southeast Asia as well.

Keeping in mind that the evolution of more liberalized trade in agricultural products takes a great deal of patience, we must also get started today in planting new trees of market access even though it may take time before we're able to enjoy some shade from such efforts. In this category, India certainly comes to mind as a place, which, before long, could grow to be the most heavily populated nation on the planet.

If confirmed, I look forward to working with Ambassador Lighthizer, and the stellar team of professionals at USTR to expand markets for U.S. agriculture. I also look forward to working closely with USDA's new Undersecretary for Trade to make sure that agriculture always has a voice when it comes to the nearly \$140 billion portfolio that is U.S. agricultural exports.

I look forward to working with you, Chairman Hatch, Ranking Member Wyden, and the members of this committee to drive a strategy consistent with the objectives of Trade Promotion Authority toward reality.

Most importantly, I thank the President for this opportunity and the committee for considering my nomination. I am happy to answer any questions.

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## SENATE FINANCE COMMITTEE

### STATEMENT OF INFORMATION REQUESTED OF NOMINEE

#### A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Gregory Fay Doud (Gregg).
2. Position to which nominated: Chief Agricultural Negotiator, Office of the United States Trade Representative.
3. Date of nomination: June 19, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: May 6, 1967, Smith Center, KS.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list secondary and higher education institutions, dates attended, degree received, and date degree granted):  
 Mankato High School, Mankato, KS, 1981–1985, graduated May 1985.  
 Kansas State University 1985–1989, BS Agriculture (animal science/pre-vet) received May 1989.  
 Kansas State University 1989–1991, MS agricultural economics received July 1991.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment):  
 U.S. WHEAT ASSOCIATES, INC., Washington, DC 1991–1997 (export development organization representing U.S. wheat producers in markets worldwide).  
 Assistant director, west coast office, Portland, Oregon (1991 to 1992). Recruited to newly created position to manage commodity trading programs for visiting foreign trade delegations throughout the region. Planned schedules, agendas, meetings, and conferences to promote the sale of hundreds of millions of dollars in annual purchases from leading wheat producers.  
 Research and market analyst, DC Headquarters (1992 to 1997). High-profile position working closely with U.S. Wheat Associates' president across a broad range of disciplines to advance the U.S. wheat industry's profitable presence worldwide. Excelled in the areas of policy development, market analysis, buyer and producer relations, program/project management, and senior-level liaison affairs.

WORLD PERSPECTIVES, INC., Washington, DC 1997–2000 (international trade policy and commodity market intelligence wire service for global trading firms).

Vice president, information services—Member of an exclusive agricultural market intelligence firm well-known and well-respected as a leader in industry, economic policy, and trend analysis. Created, marketed, and led a series of sophisticated market intelligence and research programs to produce premier industry publications and data resources. Key industry liaison to worldwide subscriber base including the U.S. Department of Agriculture, Senators, Congressman, foreign dignitaries, international trade organizations, and major U.S. and foreign multinational corporations.

ARCHER DANIELS MIDLAND–AGRI, LLC, Washington, DC 2000–2001 (joint venture between ADM and USAgri to develop African agricultural commodity trading and infrastructure).

Vice president—Responsible for developing methods to use U.S. Government food aid progress as a base for increased U.S. commodity exports and subsequent investments in agribusiness in Africa and other developing regions.

AMERICAN SOYBEAN ASSOCIATION, Washington, DC January–September 2002 (St Louis, Missouri-based export market development organization representing U.S. soybean producers in markets worldwide).

Director of trade analysis/international marketing—Provided leadership in the identification, quantification, and communication of international trade and market barriers that negatively affect U.S. soybean and product sales and utilization.

MUD SPRINGS GEOGRAPHERS, Washington, DC September–December 2002 (Texas-based agriculture GIS firm).

Consultant—Consulted in business development capacity helping Mud Springs with introductions and contacts into the agricultural industry.

NATIONAL CATTLEMEN’S BEEF ASSOCIATION, Washington, DC 2003–2011 (the trade association of America’s cattle farmers and ranchers).

Chief economist—NCBA’s key liaison across a broad spectrum of audiences regarding financial conditions, industry economics, marketing, and international trade policy for the beef industry.

UNITED STATES SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, Washington, DC 2011–2013 (Ranking Member Roberts, Republican–Kansas; Ranking Member Thad Cochran, Republican–Mississippi).

Senior professional staff—Managed the livestock, international trade, food aid, and U.S. Commodity Futures Trading Commission (CFTC) portfolios as member of the minority staff.

COMMODITY MARKETS COUNCIL, Washington, DC 2013–present (the leading trade association for commodity futures exchanges and their industry counterparts).

President—Responsible for leading the advocacy efforts of an association whose members include some of world’s largest agricultural and energy trading firms regarding regulatory initiatives of the Commodity Futures Trading Commission.

10. Government experience (list any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above):

None.

11. Business relationships (list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

Partnership in a commercial cow-calf operation with a non-family member located in Beloit, Kansas.

12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations):

Member—National Cattlemen’s Beef Association/Kansas Livestock Association.

Member—Farm Foundation Roundtable.  
 Member—Kansas State University Alumni Association.

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

None.

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

None.

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Senator Pat Roberts campaign (\$300—February 2015).

Senator Pat Roberts campaign (\$500—April 2017).

Steve Schuh campaign—Anne Arundel County (MD) County Executive (\$150—June 2017).

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement):

Kansas State University College of Agriculture, Outstanding Young Alumni—2012; Brothers of the Century—Alpha Gamma Rho fraternity.

15. Published writings (list the titles, publishers, and dates of all books, articles, reports, or other published materials you have written):

None.

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

In 2013, I spoke at the Range Beef Cow Symposium in Rapid City, SD. I do not have a copy of my remarks that focused on my perspective on how export markets for U.S. beef had evolved.

I have also spoken to the Arizona Cattle Growers' Association in 2015 and 2016. I do not have a copy of my remarks that provided a general overview of cattle market fundamentals (supply/demand), trade issues, and Washington, DC ag policy issues.

17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):

With the exception of the past 4 years, I have spent essentially my entire career working on international trade policy and market access issues involving a number of different agricultural commodities across a multitude of countries. I have visited approximately 40 countries in my life, including I would estimate about 20 trips to Mexico. The vast majority of my travels has related to working on behalf of U.S. wheat and soybean farmers as well as U.S. beef producers to increase U.S. exports.

I served on the USDA/USTR Animal and Animal Products Ag Trade Advisory Committee during my tenure as chief economist of the National Cattlemen's Beef Association, including a stint as chairman of this group. This experience provided a deeper understanding of a significant number of trade issues across the entirety of animal agriculture. During this period, the United States negotiated the Australia, CAFTA, Colombia, Morocco, Panama, Peru, and South Korean Free Trade Agreements.

It was an honor to work as a senior professional staff member on the Senate Agriculture Committee on all matters related to U.S. exports of agricultural products. During my tenure on the Senate Agriculture Committee staff I maintained a top secret security clearance, which allowed be the opportunity to work closely with our agriculture trade negotiators at USTR and the Trans-Pacific Partnership in particular.

I believe my experience, both in the private sector and in government, and across the grains, oilseeds, and livestock sectors as well as my education in ani-



mal sciences and agricultural economics makes me uniquely qualified for this important position.

### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Connection/employment with my current employer, the Commodity Markets Council, will be severed upon confirmation.

I will maintain ownership in the commercial cow-calf (silent) partnership per the agreement outlined by the White House ethics office (retaining passive income on a per/head of cattle marketed annually basis only.)

I would like to maintain my membership in the Kansas State University Alumni Association if possible.

Per Farm Foundation Roundtable member requirements, upon confirmation, my membership in the Farm Foundation Roundtable will be suspended until I am no longer employed by the U.S. Government.

All other memberships will end upon expiration.

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

No.

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

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

Yes.

### C. POTENTIAL CONFLICTS OF INTEREST

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

I have none.

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

None of my personal business dealings or business relationships have had anything to do with the U.S. Government.

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

—Indirectly involved in the Country-of-Origin Labeling (COOL) debate 2007–2011.

—Indirectly involved in the USDA “GIPSA Rule” debate 2009–2011.

—Indirectly involved in passage of free trade agreements 2007–2011.

—Indirectly involved in CFTC-related issues including the CFTC reauthorization bill and issues covering deliverable supply estimates and swap dealer *de minimis* and position limits for commodity derivatives trading 2013–present.

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

I have not been a registered lobbyist during any time in the past 10 years. During the vast majority of my career in Washington, DC my role has been as an

economist and commodity analyst with a global scope. The livestock-related matters listed above are settled and also outside the scope of the Chief Agricultural Negotiator position. My role as Chief Agricultural Negotiator at USTR will have no application to issues related to commodity derivatives market regulation or law. I do not see any current or potential conflict of interest with anything I have done over the course of my career.

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

Submitted to USTR.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (*e.g.*, March to December 1995), and the number of hours spent on the representation.

No.

#### **D. LEGAL AND OTHER MATTERS**

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

No.

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

No.

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

No.

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

No.

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

I am thankful to have received significant support from the Washington, DC agricultural (trade association) community in favor of my nomination.

#### **E. TESTIFYING BEFORE CONGRESS**

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

Yes.

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

Yes.

## QUESTIONS SUBMITTED FOR THE RECORD TO GREGORY DOUD

## QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

*Question.* Canada and Mexico are our first and third largest agricultural export markets, and American farmers have proven to be highly successful in competing in those marketplaces.

Do you agree that the Canadian and Mexican markets are critical for supporting the livelihoods of millions of farmers and related workers, and if so, how important is the North American Free Trade Agreement to preserving those farm jobs?

*Answer.* Canada and Mexico are very important markets for U.S. agriculture, and the access we have to those markets under the NAFTA is a key reason we are by far the largest supplier of agricultural products to each, but we can do better under a new NAFTA. If confirmed, I am committed to working to further expand agricultural exports to Canada and Mexico, including through NAFTA renegotiation.

*Question.* As in other areas of innovation, the United States leads the world in developing and utilizing agricultural technology. This helps U.S. farmers and farmers around the globe increase yield and feed a growing world. Unfortunately, U.S. agricultural products are often blocked by other countries, not for scientific reasons, but rather to restrict trade from American farmers.

How do you plan to prevent our trading partners from blocking American agriculture exports as U.S. technology continues to advance?

*Answer.* Ensuring that American farmers have access to innovative agricultural technologies to address pest, disease, and other production challenges is critically important to feeding a growing world. Unjustified regulatory burdens and needless delays imposed by authorities in our key markets, such as China and the EU, have prevented the commercialization and use of certain innovative technologies, particularly biotechnology, in the last two decades. Currently, many countries are considering policy approaches to new innovative breeding tools, such as gene editing. If confirmed, I will use all tools at my disposal, including enforcement tools, to address not only the current regulatory barriers preventing the commercialization of biotech products, but also work to ensure that American farmers have access to innovative new breeding tools in the future.

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 QUESTIONS SUBMITTED BY HON. PAT ROBERTS

*Question.* Our farmers and ranchers depend on strong trade relationships around the world. Expanding market access and ensuring that our producers remain competitive is critical to our economy. USTR and USDA have a history of working hand in hand to make sure that U.S. agriculture has a seat at the trade table.

As the Chief Agricultural Negotiator for the United States, how will you work with other agencies, specifically USDA, to make sure that agriculture is a top priority?

*Answer.* Food and agricultural exports provide critical support to farm income, and the food processing and beverage manufacturing industries are a top source for manufacturing jobs in the United States. USTR works closely with trade and technical experts at USDA, and other agencies, to resolve the full range of agricultural trade issues. If confirmed, I intend to maintain and strengthen that relationship and will work closely with USDA to expand agricultural exports as a top priority for the United States.

*Question.* The administration has placed much of the focus on international trade on non-agricultural products like steel. Agricultural exports generated an export value of \$133 billion in 2015. Export markets are critical to the agriculture industry.

How will you ensure that the value of agricultural trade is understood and prioritized by the administration?

*Answer.* I agree that agriculture is a critically important part of our trade agenda, and I believe that the President agrees, even if there is a large and justified emphasis on manufacturing trade. If confirmed, I will work to make sure an ambitious outcome for agriculture will be a central objective in any negotiation we undertake. I am committed to consulting closely with U.S. agricultural stakeholders and members of Congress to ensure that the interests of farmers and ranchers are fully considered in our decisions on international trade issues.

*Question.* In addition, as the administration pursues potential trade remedies, how will you work with other agencies and the White House to make sure that consequences that could negatively impact agriculture, such as retaliation, are strongly considered?

*Answer.* If confirmed, I will work closely with USDA and other agencies to ensure that U.S. trade policy decisions give full consideration to the implications for agricultural exports.

*Question.* China is one of the United States' top agricultural markets. However, Kansas wheat farmers championed the recent cases announced by USTR on Chinese subsidies and tariff rate quotas (TRQs), as wheat growers are especially impacted by the seeming failure of China to adhere to their commitments in the WTO. Kansas ranks as the third highest U.S. State exporter of beef to the global market. Since 2003, the U.S. beef industry had tried to regain access into China, and I was very pleased that China recently lifted its ban on U.S. beef. However, there is still work needed in monitoring this agreement and working to promote and grow this complex and sensitive trading relationship. This access to the Chinese market is critical for my cattlemen back home.

These are just two of the challenges we face in one of our most important export markets. A strong trade policy is clearly about more than free trade agreements. How will you work with other countries to ensure that barriers to trade are reduced and eliminated?

*Answer.* I fully understand the importance of enhancing market access around the world for farmers and ranchers in Kansas and all other States. U.S. food and agricultural exports face a number of unwarranted barriers and trade distortive policies in other countries, including China. Ensuring that our trading partners meet their international trade obligations, especially those of the World Trade Organization, is a core foundation for fairer and freer trade. If confirmed, I will work with Ambassador Lighthizer for the expansion of U.S. agricultural exports through negotiations that create enhanced export opportunities for our farmers and ranchers. Where countries fail to do so, we will work with the administration and congressional colleagues to aggressively utilize all available tools in the WTO, options under U.S. law, bilateral engagement, and other mechanisms.

*Question.* Agricultural trade is essential to American farmers and ranchers, but expanding market access for our products through new trade agreements is just one piece of the puzzle. The enforcement of existing agreements will ensure that our trading partners are playing by the rules they have agreed to, and that our producers have a level playing field.

Whether dealing with steel in China, dairy products in Canada, or other products, if confirmed, how will you approach enforcement of our agreements with other countries?

*Answer.* If confirmed, I am committed to supporting the Trump administration's strong enforcement focus and using the full range of U.S. trade policy and enforcement tools, including WTO dispute settlement, and U.S. legal options to benefit U.S. agriculture. USTR and USDA work hard every day to resolve unfair trade barriers to U.S. agricultural exports, and many of those barriers are resolved because of those efforts. USTR is also currently pursuing multiple WTO disputes challenging agricultural trade barriers. For example, the administration has pushed forward with a WTO panel to examine the first-ever challenge to China's agricultural domestic support. USTR has also successfully established a WTO panel to examine China's TRQ administration for corn, wheat and rice. These enforcement efforts are a critical mechanism to ensure that our trading partners respect WTO rules and U.S. farmers and ranchers are able to compete on a level playing field with all WTO member countries.

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QUESTION SUBMITTED BY HON. JOHNNY ISAKSON

*Question.* Agriculture exports are critically important to our economy and China represents an important market for many U.S. agricultural products. Cotton is a commodity that is dependent on exports, and over 90 percent of U.S. cotton is ultimately exported as either raw cotton, yarn, fabric, or apparel.

I am sure you are aware of the ongoing relationship between the U.S. cotton industry and China. Over the last 13 years, U.S. cotton exports to China have averaged 4.6 million bales, which represents over 30 percent of U.S. exports and 42 per-

cent of China's cotton imports. China's cotton imports can vary greatly due to their domestic policies and import controls. In many years, China's WTO required tariff rate quota has been insufficient relative to their domestic cotton production and demand in their textile industry.

As you know, our cotton producers are struggling financially due to high production costs and low prices for both cotton lint and seed. Growing demand for U.S. cotton and addressing the policy limitations on exports can help address some of these challenging economic conditions.

Can I have your commitment to work with Ambassador Lighthizer and others in the administration to pursue an increase in China's cotton imports by adjusting the tariff rate quota level?

Answer. I understand the importance of this issue to U.S. cotton producers. I am aware that, in past years, U.S. producers exported large amounts of cotton to China at a low duty rate, and that more recently China's imports have been limited to the amount in its WTO tariff-rate quota. If confirmed, I will undertake efforts, along with Ambassador Lighthizer and others in the administration, to pursue an increase in China's cotton imports at low tariff levels.

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QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

*Question.* As you know, the U.S. Commerce Department announced new suspension agreements earlier this year to further restrict the amount of sugar imported from Mexico. These agreements are a terrible deal for American consumers and food manufacturers and only benefit several hand-picked sugar companies. Despite higher prices for Mexican sugar, the United States continues to be a net importer of sugar because domestic growers and refiners cannot produce enough sugar to satisfy demand. Although the United States imports roughly 1.5 million tons of sugar each year, a shortfall still exists, and our country must increase the amount of sugar imported from other countries.

Do you acknowledge that the United States must increase sugar imports from other countries to meet the demands of American consumers and food manufacturers? If confirmed, will you seek provisions in NAFTA to ensure that American food manufacturers have adequate access to foreign sugar? Will you consider increasing Canada's tariff-rate quota for sugar, which is similar to a proposal that was included in the Trans-Pacific Partnership?

Answer. I understand your concerns about access to adequate sugar supplies in the American market. As you are aware, authority over sugar imports is divided between USTR and the U.S. Department of Agriculture (USDA). If confirmed, I commit to work closely with you, other members of Congress, USDA, and stakeholders—including sugar growers, refiners and confectionary producers—to ensure that any concerns about the availability of sugar are addressed in the best way possible.

*Question.* The U.S.-Korea Free Trade Agreement (KORUS) has opened new export opportunities for farmers and food processors in Pennsylvania. South Korea is the sixth largest agricultural market for Pennsylvania, purchasing \$57 million in agriculture exports in 2016, including chocolate and cocoa products, dairy, and pork to name just a few. KORUS also received wide bipartisan support when Congress approved the agreement in 2012.

I have heard from many Pennsylvania farmers, who are concerned about the United States withdrawing from KORUS and losing market opportunities to sell their products abroad.

If confirmed, what steps will you take to ensure that the United States does not withdraw from KORUS? What modifications to the agreement do you see as realistic to ensure that withdrawal does not occur?

Answer. I know that South Korea is a very important market for U.S. farmers and ranchers. I understand that USTR has held two special sessions of the Joint Committee under KORUS to try to address outstanding implementation-related concerns, to consider possible amendments and modifications, and to address the trade imbalance. If confirmed, I look forward to consulting and working with you and your colleagues on future engagement with Korea and to bring quick resolution to these areas.

## QUESTIONS SUBMITTED BY HON. RON WYDEN

*Question.* This administration, including the Office of the U.S. Trade Representative, has fallen short on transparency and consultations with Congress, stakeholders, and the public. Getting more transparency in our trade policy has been a top priority for me. We won't end up with trade deals that benefit all Americans if we can't talk about proposals at town halls. That is why I insisted on new requirements to raise the bar when it comes to transparency.

If confirmed, do you commit to consulting closely with Congress and follow the letter and spirit of all transparency and consultations requirements established by the Trade Promotion Authority bill Congress passed in 2015 (including the Guidelines on Transparency and Public Engagement issued by USTR in October 2015) and the enforcement bill passed in 2016?

*Answer.* If confirmed, I commit to following the consultation requirements required by law and to follow the Guidelines on Transparency and Public Engagement issued by USTR in October 2015.

*Question.* The European Union has aggressively pursued the misuse of geographical indications for food products in third countries to block competition from the United States. This policy inappropriately covers generic terms for products that the United States would otherwise competitively export to those products. Currently, discussions between the EU and Mexico and Japan pose a significant threat to U.S. producers.

What will you do to counter EU efforts in those countries, as well as other international markets?

*Answer.* I understand that the United States and the EU have long-standing differences over policies regarding geographical indications (GIs). I understand that these long-standing differences include what bearing an international standard has on a determination of whether a food name is a common name and thus not protectable as a GI. If confirmed, I will continue to raise strong concerns regarding the impact of the EU's GI policies on market access for U.S. owners of trademarks and U.S. producers and traders using common food names.

*Question.* The President has suggested from time to time that the United States should withdraw from NAFTA and, more recently, the U.S.-Korea trade agreement. Talks are underway with respect to both agreements, but have not concluded.

What impact would withdrawal from these trade agreements have on American exporters of agricultural products?

*Answer.* NAFTA and the U.S.-Korea trade agreement remain important to American agriculture. The impact of withdrawing from these agreements is difficult to ascertain. If confirmed, I commit to work closely with Congress and stakeholders, including agriculture stakeholders to improve upon these agreements and open new markets for American agriculture.

*Question.* Several of Canada's provinces maintain an array of discriminatory restrictions on the sale and distribution of imported wine, which directly impact producers in Oregon. The last administration requested consultations at the World Trade Organization related to some of those restrictions, and USTR recently updated that request. I have been disappointed in the delay in moving this dispute forward.

If confirmed, do you commit to aggressively pursuing these practices, both through dispute settlement, as well as in the NAFTA renegotiation discussions?

*Answer.* I understand the U.S. wine industry has serious concerns with policies restricting sales of U.S. wine in Canada. The Trump administration recently requested WTO dispute consultations on British Columbia's revised regulations on retail sale of wine in grocery stores. If confirmed, I will work to determine the most effective path forward to address any regulations that may be harming our wine exports.

*Question.* How important in your view is it to U.S. farmers that WTO members comply with their obligations under the agreements and how does the current system of dispute settlement contribute to compliance?

*Answer.* The Trump administration is committed to focusing on strong enforcement and using the full range of U.S. trade policy and enforcement tools, including WTO dispute settlement, to benefit U.S. agriculture. If confirmed, I will fully support that enforcement focus. USTR and USDA work hard every day to resolve unfair

trade barriers to U.S. agricultural exports, and many of those barriers are resolved because of those efforts. USTR is also currently pursuing multiple WTO disputes challenging agricultural trade barriers. These enforcement efforts are to ensure that our trading partners respect WTO rules and U.S. farmers and ranchers are able to compete on a level playing field with all WTO member countries.

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QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

*Question.* Michigan is the second most agriculturally diverse State, producing over 300 different kinds of commodities. In negotiations with our trading partners, it's often the case that the interests of one agricultural commodity are pitted against the needs of another.

If you are confirmed, how will you balance the interests of all crops, including specialty crops? How will you prioritize the trade interests of different commodities?

*Answer.* If confirmed, I will work to expand exports of all types of agricultural products from all regions of the United States.

*Question.* In May, Chairman Roberts and I wrote a letter to Secretary Perdue and Ambassador Lighthizer urging them to engage with their counterparts in Canada about Canada's National Ingredient Strategy for dairy, which is displacing U.S. exports of ultra-filtered milk. I remain concerned about this policy change and the further impact it could have on world prices and U.S. producers.

If you are confirmed, will you commit to work with USDA to resolve these concerns about Canada's changes to their dairy pricing policies? Will you commit to keeping my staff updated about the actions USTR is taking to address this issue?

*Answer.* I know these are critical issues for our dairy farmers and I will work with members of Congress, USDA, and the U.S. dairy industry to address these issues if confirmed.

*Question.* As we discussed previously, the United States was a net exporter of cherries until 2002, but a flood of cheap imports from Turkey, Poland, and Hungary in recent years is now threatening to put U.S. producers out of business.

If confirmed, will you commit to working with me and meeting with representatives of Michigan's cherry industry to examine all options to address these issues?

*Answer.* If confirmed, I look forward to working with you, cherry producers, and industry representatives on this issue.

*Question.* Michigan asparagus growers have been struggling with dumping from Mexico and Peru for several years. Michigan ranks #2 in asparagus production, but imports of fresh asparagus tripled between 1990 and 2010, while acres of asparagus planted in Michigan shrank by more than half over the same period.

If confirmed, will you commit to working with me and meeting with representatives of Michigan's asparagus industry to examine all options to address this issue?

*Answer.* If confirmed, I will look into this matter and I look forward to working with you to ensure that asparagus producers in Michigan have the ability to compete on a level playing field in both the domestic and international marketplace.

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QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

*Question.* In Washington State, the dairy industry contributes more than \$5 billion a year in combined total economic activity and is responsible for more than 18,000 jobs. Our largest cooperative in the State has almost 500 farmer member owners and is the 2nd largest private employer in my State.

They understand—like so many Washington companies do—the importance of global markets since more than 40 percent of their farmers' milk is exported to over 20 countries around the world. Those sales are now being put at risk by those Canadian pricing regulations—called Class 7—that were implemented earlier this year.

Washington's dairy farmers and the manufacturing workers that turn their milk into finished products exported around the world compete on a commercial basis on global markets; they cannot risk having that upended by this new Canadian government policy that allows its high-price and highly sheltered industry to offload commodity products onto those markets at fire-sale prices.

This program adds insult to injury since our highly competitive dairy sector can't ship its products north of the border due to Canada's 200–300% tariffs on most dairy products.

What steps will the administration take to deal with both the tariff barriers and nontariff problems distorting the U.S./Canadian dairy trade?

Answer. I understand Canada maintains strict limits on imports of dairy products and know it is important to obtain new access to the Canadian market through NAFTA renegotiation. Additionally, I understand that Class 7 pricing is a critical issue for our dairy farmers and, if confirmed, I will work to address this issue. If confirmed, I will consult with U.S. industry representatives and members of Congress, consistent with Trade Promotion Authority, on the United States' approach to the ongoing NAFTA negotiations.

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QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY

*Question.* Mr. Doud, I am very concerned about potential changes to how anti-dumping and countervailing duties are assessed which could have a significant impact on Pennsylvania producers. Further I am troubled there was not significant consultation with congressional stakeholders prior to proposing this change.

Will you commit to thorough consultation with Congress prior to tabling and closing measures pertaining to agriculture in any trade negotiation?

Answer. If confirmed, I will comply with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (TPA) to consult with Congress on all trade negotiations pertaining to agriculture.

*Question.* Mr. Doud, Please discuss how you will engage outside stakeholders, Federal agencies and Congress should an issue arise in a trade negotiation, bilateral or multilateral engagement that may benefit some commodity stakeholders but harm others.

Answer. To negotiate any agreement one has to have a full and detailed understanding of the issue and the interests of all stakeholders—outside stakeholders, U.S. Federal agencies and of course Congress. As a former cleared advisor and Senior Professional Staff Member in the Senate, I have seen firsthand the importance of consultations with Congress and stakeholders. I fully intend to have robust consultations with all stakeholders, including USTR's trade advisors, other agencies and Congress, in developing positions for trade negotiations. My job is to expand exports for all food and agricultural products.

*Question.* Mr. Doud, trade is critically important to the agricultural economy. Canada and Mexico are major export markets for the U.S. dairy sector, which is a significant industry in my State. I am concerned changes in Canadian policies are displacing U.S. exports. I am equally concerned about maintaining U.S. market access to Mexico.

How will you ensure that Canada abides by the terms of NAFTA with respect to dairy trade?

What will you do to ensure that U.S. dairy producers continue to have strong access to the Mexican market?

Do you view expanded dairy access as a priority in the NAFTA renegotiation?

Please discuss how you intend to engage with the Canadians on expanded dairy access?

Answer. I understand Canada maintains strict limits on imports of dairy products and know it is important to obtain new access to the Canadian market through NAFTA renegotiation. The administration is committed to maintaining the markets that our agricultural sectors have, including to Mexico, and creating opportunities to expand exports. If confirmed, I will consult with U.S. industry and members of Congress, consistent with Trade Promotion Authority, on the United States' approach to the on-going NAFTA negotiations.



PREPARED STATEMENT OF JEFFREY GERRISH, NOMINATED TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE FOR ASIA, EUROPE, THE MIDDLE EAST, AND INDUSTRIAL COMPETITIVENESS, WITH THE RANK OF AMBASSADOR, EXECUTIVE OFFICE OF THE PRESIDENT

Chairman Hatch, Ranking Member Wyden, and distinguished members of the Senate Finance Committee, it is a great honor for me to appear before you today. I feel both privileged and humbled to have been recommended by Ambassador Lighthizer and nominated by President Trump to serve as Deputy United States Trade Representative.

I would like to take a moment first to thank my wife Kelly and our three children Jacob, Kate, and Grace. They have been a constant source of inspiration, strength, and support for me throughout my career, and I would not be where I am today without them. I would also like to thank the incredible mentors and role models I have had over the years, including Ambassador Lighthizer and my friend and former partner, John Mangan, who is here with us today. I have been blessed with the opportunity to work with and learn from many immensely talented individuals, and I am truly grateful for that.

In addition, I would like to express my thanks to the members and staff that I have been able to visit with over the past couple of months. If confirmed, I look forward to working with you on the critical trade issues facing our great country.

To give you a little background about me, I grew up in a city by the name of Troy in upstate New York. Troy used to be a manufacturing town, with steel and then textiles the primary goods produced there. The manufacturing is gone now and the city has faced difficult times, but the people of Troy remain as fundamentally decent, down-to-earth, and hard working as any you will find. I was taught the value of a strong work ethic from an early age by my parents and grandparents and others in my hometown, and that virtue has remained with me and served me well in every single thing I have done.

For almost 20 years, I have practiced international trade law. Over that time, I have worked extensively on behalf of U.S. manufacturers in seeking to combat unfair trade in this market, the massive subsidies and trade distorting industrial policies employed by countries around the world, and the challenge of global overcapacity facing a number of industries. I have fought for strong enforcement of our trade laws and to preserve U.S. policies at the World Trade Organization and other international bodies. My work has also entailed assisting American companies that have been improperly denied access to other markets around the world. Through my work, I know first-hand the problems that unfair trade can cause but also the opportunities that trade can present for U.S. companies.

My experience has clearly demonstrated to me that we need a trade policy that puts America first. This does not mean closing ourselves off from the rest of the world. It simply means putting American manufacturers, workers, farmers, ranchers, and service providers first in everything we do in the trade arena. It means negotiating stronger and more effective trade agreements and ensuring that the trade agreements we have are properly enforced and applied in the manner originally intended. We must aggressively and effectively apply our trade laws to counteract unfair trade practices and work with like-minded trading partners to defend the use of such trade laws and to address the enormous overcapacity problem plaguing our steel, aluminum, and other industries. For our creators and innovators, it means promoting greater intellectual property protection and enforcement among our trading partners. It is absolutely critical that we protect American companies' intellectual property, which is one of our greatest assets.

If confirmed, I hope to work with this committee, others in Congress, those in the administration, and all interested parties to craft and implement a trade policy that increases trade and spurs economic growth but does so in a way that promotes fair and reciprocal trade that benefits all segments of our economy. The trade issues confronting the United States are numerous and daunting, and I would welcome the opportunity to work with you in tackling them. If confirmed, I promise you that I will bring my strong international trade experience to bear and will work tirelessly to achieve the best possible results for your constituents and the country.

Thank you for your consideration, and I would be happy to answer any questions.

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

**A. BIOGRAPHICAL INFORMATION**

1. Name (include any former names used): Jeffrey David Gerrish.
2. Position to which nominated: Deputy United States Trade Representative.
3. Date of nomination: June 15, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: June 4, 1969 in Troy, New York.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list secondary and higher education institutions, dates attended, degree received, and date degree granted):  
 Boston University, September 1987 to May 1989.  
 State University of New York at Albany, September 1989 to May 1991, BA (May 1991).  
 Duke University School of Law, August 1991 to May 1994, JD (May 1994).
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment):  
 Maynard, O'Connor, and Smith, scheduling assistant, Albany, NY, Summer 1991.  
 Law Office of Marie Sykes, summer associate, Durham, NC, Summer 1992.  
 U.S. Small Business Administration, legal intern, Washington, DC, Summer 1993.  
 Law Office of Robert Seidel, associate, Durham, NC, July 1994 to January 1995.  
 Tobin and Dempf, associate, Albany, NY, January 1995 to March 1998.  
 Skadden, Arps, Slate, Meagher, and Flom LLP, associate, March 1998 to August 1999.  
 Arnold and Porter, associate, August 1999 to April 2000.  
 Skadden, Arps, Slate, Meagher, and Flom LLP, associate, April 2000 to May 2004.  
 Skadden, Arps, Slate, Meagher, and Flom LLP, counsel, May 2004 to April 2007.  
 Skadden, Arps, Slate, Meagher, and Flom LLP, partner, April 2007 to present.
10. Government experience (list any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above):  
 Member of the Rules Advisory Committee for the U.S. Court of International Trade, 2008 to present.
11. Business relationships (list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):  
 Partner, Skadden, Arps, Slate, Meagher, and Flom LLP.
12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations):  
 Member of Mount Vernon Country Club.

Member of the Rules Advisory Committee for the U.S. Court of International Trade.

Board member and co-chair of the International Trade Committee for the Customs and International Trade Bar Association.

Member of the District of Columbia, New York, and North Carolina bars.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

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

None.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

None.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement):

Phi Beta Kappa.

United States Law Week Award.

Repeatedly selected for inclusion in *The Best Lawyers in America*.

15. Published writings (list the titles, publishers, and dates of all books, articles, reports, or other published materials you have written):

“U.S. Court of International Trade Overview: Non-Market Economy Cases in 2012,” *Georgetown Journal of International Law*, vol. 45, no. 1, 2013.

“Protecting the Right to Judicial Review in Trade Remedy Cases: Preliminary Injunctions and the Impact of Recent Court Decisions,” *Tulane Journal of International and Comparative Law*, vol. 19, no. 2, 2011.

“International Trade,” *The International Lawyer*, vol. 38, no. 2, 2004.

“OFAC and BIS Implement Additional Amendments in Support of Cuba Policy Shift,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, October 28, 2016.

“U.S. Implements Regulation Changes for Encryption Products, Software, and Technology,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, September 29, 2016.

“Interim Regulations Issued on Investigations of Evasion of Anti-Dumping and Countervailing Duties,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, September 21, 2016.

“*Insights Conversations: Developments in U.S. Export Controls*,” *Westlaw Journal Government Contract*, May 23, 2016.

“U.S. Further Eases Sanctions Ahead of President’s Historic Trip to Cuba,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, March 17, 2016.

“OFAC and BIS Ease Cuba Restrictions With New Amendments,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, February 5, 2016.

“Implementation Day: Key Aspects of U.S. and EU Implementation of Iran Sanctions Relief,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, January 28, 2016.

“*Insights Conversations: Developments in U.S. Export Controls*,” *Skadden’s 2016 Insights—Regulatory Developments*, January 2016.

“Key Takeaways: The Latest Developments in U.S. Export Controls—Export Control Reform and Compliance Strategies,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, November 11, 2015.

“OFAC and BIS Further Ease Cuba Restrictions,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, September 29, 2015.

"Agencies Propose Expanding U.S. Export Controls on Cameras, Night Vision Equipment, and Sensing Technology," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, May 21, 2015.

"What Every General Counsel Needs to Know to Comply With New BEA Reporting Requirements," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, April 13, 2015.

"Department of Energy Announces Significant Changes to the U.S. Controls on Exports of Unclassified Nuclear Technology and Assistance," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, March 17, 2015.

"New Reporting Requirements Planned for U.S. Financial Services Providers Doing Business With Non-U.S. Persons," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, March 2, 2015.

"OFAC and BIS Implement Changes in Cuba Policy," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, January 20, 2015.

"Important but Frequently Overlooked Reporting Requirements for Inbound and Outbound Direct Investment Involving U.S. Entities," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, January 16, 2015.

"Expansion of Military End-Use Controls Creates Potential Pitfalls for Exporters," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, November 13, 2014.

"Federal Circuit Decision Underscores the Importance of Customs Compliance for All Parties to an Import Transaction," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, September 23, 2014.

"U.S. Imposes New Licensing Requirements on Exports to Russia of Oil and Gas Equipment and 'Dual-Use' Items," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, August 15, 2014.

"Latest U.S. Export Control Reforms Impact Companies in the Military Electronics Industry," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, July 10, 2014.

"U.S. Government Announces Reforms to Space and Satellite Systems Export Controls," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, May 13, 2014.

"An Update on Economic Sanctions Related to Events in Ukraine," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, May 7, 2014.

"U.S. Government Announces Ban on High-Technology Exports to Russia and Crimea," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, May 2, 2014.

"U.S. Government Halts Licensing for Key Exports to Russia in Response to Events in Ukraine," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, April 4, 2014.

"Negotiations for New International Services Trade Agreement Offer Business Opportunities," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, February 4, 2013.

"U.S. Challenges China's Automobile and Auto Parts Export Policies at the WTO," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, October 23, 2012.

"How H.R. 1905 Further Hobbles Business With Iran," *Law360*, August 15, 2012.

"New Sanctions Against Iran: President Obama Signs the Iran Threat Reduction and Syria Human Rights Act of 2012," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, August 14, 2012.

"U.S. Conditionally Suspends Two Key Economic Sanctions Against Burma," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, July 17, 2012.

"Takeaways From United Technologies' \$75M Settlement," *Law360*, July 10, 2012.

"United Technologies Corporation and Subsidiaries Agree to a \$75 Million-Plus Settlement of Export Control Violations," Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, July 5, 2012.

“Export Control Reform Initiative: Transition Rules,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, June 28, 2012.

“New Sanctions Against Iran: President Obama Signs the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, and the United Nations and the European Union Announce New Sanctions Against Iran,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, July 8, 2010.

“Proposed Rule to Establish Export License Exception for Intra-Company Transfers,” Skadden, Arps, Slate, Meagher, and Flom LLP client mailing, October 10, 2008.

16. Speeches (list all formal speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

None.

17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):

I have practiced international trade law for approximately 19 years and have extensive experience in and knowledge of many of the areas within the responsibility of the U.S. Trade Representative's Office.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes.

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

No.

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

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

Yes.

#### **C. POTENTIAL CONFLICTS OF INTEREST**

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

None.

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

Any such potential conflict of interest is addressed in and resolved by my ethics agreement with the Office of the United States Trade Representative.

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

I was registered as a lobbyist for United States Steel Corporation (“U.S. Steel”) from the 4th quarter of 2007 to the 1st quarter of 2009 and from the 4th quarter of 2014 to the 2nd quarter of 2016. On behalf of U.S. Steel, I performed legal research, drafted memoranda, and met with congressional staff and other U.S. Government officials in an effort to maintain and strengthen U.S. trade laws.

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

I am entering into an ethics agreement with the Office of the United States Trade Representative.

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

Submitted.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative.

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

In February and March 2003, I performed research and prepared a memo for the Government of Bermuda regarding the application of the World Trade Organization agreements to Bermuda. I billed 70.5 hours to this matter.

#### D. LEGAL AND OTHER MATTERS

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

No.

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

In approximately October 1988 (when I was 19 years old), I was arrested in Weston, MA for the offense of transportation of alcohol by a minor. Three friends and I were driving around looking for a party. We were pulled over by the police after we became lost and inadvertently turned down a private road. After we were pulled over, we were all arrested for transportation of alcohol by a minor because we had either a 6-pack or 12-pack of beer in the car. The 6-pack or 12-pack of beer was not opened. I was not driving the car, and none of us had been drinking. I appeared before the court (which I believe was the Waltham District Court in Waltham, MA) on one occasion, and my understanding is that the charge was dropped as long as I did not have any additional problems for a 6-month period. I did not have any additional problems.

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

No.

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

No.

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

None.

#### E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

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QUESTIONS SUBMITTED FOR THE RECORD TO JEFFREY GERRISH

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

*Question.* I am growing increasingly concerned that several proposals the administration may be considering for NAFTA will undermine the certainty U.S. businesses, investors, and exporters need to take advantage of the agreement.

Do you agree that trade agreements will only benefit American businesses, investors, farmers, and ranchers if they provide certainty and stability?

*Answer.* There are many factors that determine whether a trade agreement benefits America. If confirmed, I will work with you and other members of Congress to ensure that our workers and producers continue to benefit from our trade policy.

*Question.* Intellectual property and innovation drive productivity, employment, and economic growth in the United States. The United States Patent and Trademark Office reports that IP-intensive industries are responsible for 45.5 million American jobs, nearly 30 percent of the American workforce, and that wages in the sector are 46 percent higher than outside the sector. If the Trump administration wants trade deals that create high-paying jobs at home, then U.S. FTAs must provide an environment that supports intellectual property rights and innovation.

How will you ensure that any U.S. free trade agreements provide strong protection for IP-intensive industries, as required by TPA?

*Answer.* I believe that innovation is key to our comparative advantage in many sectors. If confirmed, I will work to ensure that free trade agreements provide for U.S. rights holders to have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

*Question.* We are doing far too little to address one of President Trump's highest priorities: combating the predatory treatment U.S. businesses and workers receive at the hands of China.

In your view, which country's trade practices are doing the most harm to U.S. businesses and workers, and if confirmed, how do you plan to address those practices?

*Answer.* The President has made clear that we need to restore balance to the U.S.-China trade relationship, and that means reducing our very large bilateral trade deficit and ensuring that trade is freer, fairer, and balanced for America. China, by far, poses the greatest risk to our economy due to its unfair trade practices and distortive economic policy. If I am confirmed, I will look at how I can best work to ensure that our engagement with China is effective and results-oriented.

QUESTION SUBMITTED BY HON. MICHAEL B. ENZI

*Question.* The U.S. soda ash industry is a shining example of U.S. competitiveness in manufacturing. The U.S. industry is the most environmentally friendly of its kind in the world due to our unique natural deposits of trona in Wyoming. The industry exports over \$1 billion annually, over half its total output. The U.S. soda ash industry, however, faces stiff barriers in the global marketplace.

For example, U.S. soda ash exports face tariffs that range from 3.3 percent to 11 percent in key growth markets, as well as several non-tariff barriers.

As the Deputy USTR whose portfolio includes industrial competitiveness, will you commit to strengthening the competitiveness of the U.S. soda ash industry by lowering tariff and non-tariff barriers in foreign markets?

*Answer.* U.S. soda ash exporters are among the most competitive in the world, and export markets are essential to the health of the industry. Most other countries competing for soda ash markets have much more environmentally harmful production methods. If confirmed, I will work to remove barriers to U.S. soda ash exports, particularly unfair and distortive non-tariff barriers, but also tariffs.

## QUESTIONS SUBMITTED BY HON. JOHN CORNYN

*Question.* Following up on a letter I co-signed with 15 other Senators last month, I am concerned that American financial services providers still face significant market access barriers and level playing field issues in China. For example, insurance and pension providers face a situation where Chinese insurance firms are actively expanding into foreign markets, including the United States, where they face no equity caps, for example; where by contrast, China maintains a specific 50% equity cap for this sector, but is home to the world's largest insurer and where 95 percent of market share belongs to domestic providers. A similar picture exists, with corresponding equity caps, with respect to China's banking and securities sectors. Removal of the equity caps and other restrictions on foreign ownership of most Chinese financial services companies will build more confidence in the investment climate in China, and greater market access for U.S. insurers and reinsurers will lead to increased financial stability and diversification of local risks to the global economy.

Do you see this issue as a key priority for USTR and the United States moving forward as part of the U.S.-China Comprehensive Economic Dialogue?

*Answer.* I recognize the importance of removing China's foreign equity cap for life and pensions insurance and foreign equity caps for other financial services, such as securities services, for U.S. companies that wish to provide financial services in China. If confirmed, I will work to use all possible avenues, including high-level discussions, to raise U.S. concerns with China and to endeavor to fully open China's market for financial services.

*Question.* I firmly believe that a modernized NAFTA agreement must be negotiated in a manner that will grow America's competitiveness and sustain and grow American jobs. Congress has laid out detailed objectives to achieve those outcomes in TPA. Thus far, I am concerned, and have heard increasing concerns across every sector of the economy—from energy and manufacturing to agriculture and services—that the administration is developing and putting forward proposals, in a number of key areas, such as investor-state dispute settlement, rules of origin and government procurement, which may undermine U.S. competitiveness.

If confirmed, do you intend to continue consulting with the relevant committees of jurisdiction on these issues and propose items that are fully consistent with Congress's direction?

*Answer.* If confirmed, I intend to consult with the relevant committees of jurisdiction on issues that fall under my purview to ensure all views are both heard and considered as the negotiation continues to move forward.

*Question.* NAFTA modernization presents a real opportunity for companies whose business models had not been invented or had fully evolved when the original agreement was negotiated. There is some concern that the administration will not fight for their digital priorities in the negotiations, including provisions to facilitate e-commerce shipments, protect against data flow restrictions and data localization requirements, and require liability protections consistent with U.S. law.

Can you please elaborate on your stance on these important issues and will you commit to pushing for the inclusion of these provisions in a final agreement?

*Answer.* I can assure you that I recognize the importance of the digital economy to American jobs, prosperity and security, as well as U.S. companies' unique competitive advantages in this area. Addressing the specific issues that you have identified, including restrictions on cross-border data flows and data localization measures, in all sectors of the economy, will be important to preserve U.S. firms' international competitiveness. If confirmed, I will work both with my colleagues at USTR, as well as across agencies, to ensure the U.S. companies maintain their advantage.

## QUESTIONS SUBMITTED BY HON. PATRICK J. TOOMEY

*Question.* Canada and Mexico represent the two largest foreign markets for Pennsylvania-made products, accounting for \$13.6 billion in exported goods during 2016. In light of the ongoing NAFTA negotiations, I am hopeful that Ambassador Lighthizer will reach a deal that will allow the United States to continue the free trade of goods and services throughout North America. However, I am concerned about a recent proposal to include a sunset clause in NAFTA—in which the agree-



ment would terminate after 5 years unless all three parties agree it should continue. Certainty and stability are vital to our trade relationships in order to create a pro-investment environment that fosters economic growth and job creation. A sunset clause would achieve neither.

Do you believe that a sunset clause in NAFTA will promote economic growth and create the business confidence needed to foster investment in job-creating industries? What economic benefits do you see from a sunset provision? If confirmed, will you oppose the inclusion of such a mechanism in NAFTA?

Answer. I have not been involved in NAFTA negotiations and have not reviewed the text. If confirmed, I will work with and advise Ambassador Lighthizer as he sees fit regarding these issues, and I will work with you and other members of Congress to ensure that our workers and producers continue to benefit from our trade policy.

*Question.* I have heard from businesses across Pennsylvania about the importance of maintaining strong investor-state dispute settlement (ISDS) provisions in NAFTA. ISDS procedures ensure that other countries treat U.S. investors fairly, do not seize their property without compensation, and do not impose forced localization requirements that compel jobs to be shipped overseas. In a recent letter to several Cabinet-level officials, the U.S. Chamber of Commerce, National Association of Manufacturers, and Business Roundtable wrote that “attempts to eliminate or weaken ISDS will harm American businesses and workers and, as a consequence, will serve to undermine business community support for the NAFTA modernization negotiations.” ISDS provisions are necessary to ensure that U.S. businesses and their employees are protected from unpredictable action overseas.

The administration is said to be proposing an opt-in clause that would allow the United States to avoid being subject to ISDS while Mexico and Canada may still be motivated to accept it.

Do you support the inclusion of an opt-in clause in NAFTA? If yes, how will this benefit U.S. firms operating in other countries, especially when a significant portion of the business community opposes this proposal? If no, how will you advocate for strong ISDS provisions when discussing the issue with other administration officials?

Answer. I have not been involved in NAFTA negotiations and have not reviewed the text. If confirmed, I will work with and advise Ambassador Lighthizer as he sees fit regarding these issues.

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QUESTIONS SUBMITTED BY HON. RON WYDEN

*Question.* Mr. Gerrish, you have worked on trade enforcement for the steel industry for years and will be responsible for industry-related issues in your capacity as Deputy USTR, including talks at the OECD designed to address steel overcapacity. Recently, Secretary Ross said that the decision had been made to delay the section 232 investigation into whether steel imports are threatening our national security until after tax reform. USTR is part of the interagency group that advises the President on the section 232 proceeding, and you have been nominated to advise on U.S. trade policies related to industrial competitiveness, including with respect to steel.

Do you agree with the Secretary that the section 232 investigation should be delayed?

What impact does delay have on U.S. 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 over-supply and excess capacity in these and other sectors.

Regarding Commerce’s investigation on steel imports under section 232 of the Trade Expansion Act of 1962, I understand that Commerce has 270 days to deliver its report and any recommendations to the President. I cannot engage in speculation about the potential impact that timing of results in this investigation may have on the U.S. domestic stakeholders, as Commerce has not yet concluded its investigation and I have not been included in these discussions.

*Question.* The President has suggested from time to time that the United States should withdraw from NAFTA and, more recently, the U.S.-Korea trade agreement. Talks are underway with respect to both agreements, but have not concluded.

What impact would withdrawal from these trade agreements have on American exporters of manufactured goods?

*Answer.* Our free trade agreement with Korea has been a disappointment. By the end of 2016 our deficit in goods with Korea had more than doubled since the agreement went into effect. And, our combined goods and services deficit with Korea had nearly tripled. Our large autos trade imbalance with Korea is a particular concern and requires a comprehensive approach to resolve. If confirmed, I will make this a top priority in our bilateral engagement and I will fight to correct this long-term imbalance—starting with making sure all barriers are removed for U.S. manufacturing exports to Korea.

*Question.* This administration, including the Office of the U.S. Trade Representative, has fallen short on transparency and consultations with Congress, stakeholders and the public. Getting more transparency in our trade policy has been a top priority for me. We won't end up with trade deals that benefit all Americans if we can't talk about proposals at town halls. That is why I insisted on new requirements to raise the bar when it comes to transparency.

If confirmed, do you commit to consulting closely with Congress and follow the letter and spirit of all transparency and consultations requirements established by the Trade Promotion Authority bill Congress passed in 2015 (including the Guidelines on Transparency and Public Engagement issued by USTR in October 2015) and the enforcement bill passed in 2016?

*Answer.* If confirmed, I commit to following the consultation requirements required by law and to follow the Guidelines on Transparency and Public Engagement issued by USTR in October 2015.

*Question.* The Generalized System of Preferences (GSP) program is scheduled to expire at the end of this year. I have long supported a robust GSP program as both an essential tool to lower cost for American manufacturing, as well as a key development tool for future trading partners.

Do you support the extension of the GSP program through calendar year 2021?

*Answer.* Yes, I support GSP reauthorization, although I believe there needs to be robust enforcement of the eligibility criteria, which is something that I understand the administration has indicated it committed to doing. I defer to Congress on the length of time of the renewal.

*Question.* U.S. businesses face a host of barriers to trade and investment in China. In April, leadership of the Ways and Means and Senate Finance Committees highlighted some key priorities with respect to China in a bipartisan letter to the President in advance of his meeting with President Xi. Since that letter was sent, little progress has been made on the issues it identified, including: (1) policies that contribute to market distorting overcapacity; (2) discriminatory and distortive technology policies, such as data localization requirements and restrictions on cloud services providers; (3) weak IP protection, including economically motivated cyberattacks and lax protections against counterfeiting; (4) barriers to U.S. agriculture exports; (5) currency policies that are not based on market-determined exchange rates; and (6) retaliation against U.S. companies and general lack of transparency in China's legal regimes.

Which of the above issues do you intend, if confirmed, to prioritize in discussions with China during the next 6 to 12 months, including as part of the Comprehensive Economic Dialogue?

For each issue, please identify the specific tools that in your view are available to the administration to ensure progress with China and how you would, if confirmed, use those tools to address the concerns raised?

*Answer.* We have numerous trade issues with China, including those you identified. In particular, with respect to excess capacity, China has expanded capacity in sectors like steel, aluminum and solar panels well beyond what market signals would have generated, and the resulting over-production has been causing serious harm to our industries and workers.

China also has begun to pursue a range of problematic industrial policies, such as Made in China 2025, designed to create or accelerate artificially China's ability to become a manufacturing leader in several high technology, high value-added industries, like information technology, aviation, electric vehicles, and medical devices. China's policies provide preferences to Chinese technology and products and seek to acquire advanced technologies from other countries, often through unfair means. We

need to protect our technology and ensure a level playing field and an open market in China. Intellectual property rights protection in China, of course, is another area of serious concern, as is agricultural market access.

I am committed to the appropriate use of the full range of U.S. trade policy and enforcement tools to ensure progress in all of these areas. If confirmed, I look forward to working with you on these matters.

*Question.* The European Union is one of the most important export markets for the United States. But, in too many areas, U.S. businesses and farmers face significant barriers to the EU market. The Obama administration had launched Transatlantic Trade and Investment Partnership negotiations with the EU to address those barriers.

Do you support restarting those discussions, and how would you improve our trade relationship with the EU?

*Answer.* The U.S.-EU economic relationship is a critical pillar of mutual prosperity and I believe it can become even stronger. I understand the administration is thinking carefully about T-TIP and on the question of whether, when, and how to move these trade negotiations forward. However, before a decision is made on whether to resume negotiations on a comprehensive trade agreement, we will want to be confident that there are promising paths to resolution of the most sensitive issues. For example, with a significant trade deficit in food and agriculture, the United States needs to substantially improve exports of U.S. food and agriculture to the EU. If confirmed, I look forward to consulting with Congress on these questions.

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QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

*Question.* If confirmed, you will be leading USTR's efforts in the Asia-Pacific region? What are your main priorities with respect to U.S.-China trade relations? Please be specific.

How do you plan to counter China's unfair and harmful trade practices, particularly on intellectual property theft, subsidization of its domestic industries, and market access restrictions?

How do you plan to address the issue of Chinese steel overcapacity and how will you work with our allies to combat this global issue?

How do you plan to address Japan's significantly closed market for U.S. automakers?

With respect to the recent announcement that the United States and South Korea will amend the 2012 U.S.-Korea Free Trade Agreement, how will you work to secure policy reforms that open South Korea's market to U.S. automakers, and what are your main priorities for amending this agreement?

*Answer.* With regard to your questions about China, we have numerous trade issues with China, but there are some issues that stand out, including all of those you identified. China has begun to pursue a range of industrial policies, such as Made in China 2025, designed to create or accelerate artificially China's ability to become a manufacturing leader in several high technology, high value-added industries, like information technology, aviation, electric vehicles, and medical devices. China's policies provide preferences to Chinese technology and products and seek to acquire advanced technologies from other countries, often through unfair means. We need to protect our technology and ensure a level playing field and an open market in China. Intellectual property rights protection in China, of course, is another area of serious concern. I am committed to the appropriate use of the full range of U.S. trade policy and enforcement tools to ensure progress in all of these areas. If confirmed, I look forward to working with you on these matters.

With regard to the issue of steel, China needs to fix its unfair trade practices and its vast excess capacity problem. I understand that USTR is currently conducting a review of all the available tools to address the serious overcapacity problems in steel and other products. At the same time, we need to address the root causes of those problems, and as part of that effort I understand that USTR is continuing to work closely with other leading steel producing countries in the Global Forum on Steel Excess Capacity and other contexts. The goal of the Global Forum is to work with other governments to take effective steps to address excess steel capacity in

China and elsewhere by addressing the underlying causes such as government subsidies and other government assistance.

I believe USTR is also working with the Department of Commerce, Customs and Border Protection, and other agencies to ensure that we enforce our trade remedy laws and measures effectively at the U.S. border. In addition, as you know, the Department of Commerce is conducting an investigation of steel trade pursuant to section 232 of the Trade Expansion Act of 1962.

*Question.* I have serious concerns about China's effort to attain market economy status at the WTO. The European Union recently announced that unless there are "significant market distortions" they will treat all WTO members the same with regard to dumping determinations.

How do you see this policy change affecting the debate on China's market economy status within the WTO?

How will you work to ensure that China continues to be treated as a non-market economy?

*Answer.* In my view, China is not a market economy and is not entitled to market economy status. It would make no sense to treat such a distorted economy the same as a market economy. Ambassador Lighthizer has been clear that USTR will vigorously defend our right under WTO rules to use a non-market economy methodology for antidumping investigations. If confirmed, I will support those efforts to work together with our partners and allies around the globe to defend our rights under the WTO.

*Question.* Currency manipulation is one of the most egregious 21st-century trade barriers and has led to the loss of millions of jobs in our country, including in Michigan.

Do you support including strong, enforceable currency provisions in future trade agreements?

Do you support including currency provisions in NAFTA?

How will you respond when countries like China and Japan are found to manipulate their currencies?

*Answer.* Currency manipulation is an issue on which the administration is focused. The Trump administration is examining the full array of policy tools available to combat currency manipulation, including enforceable trade commitments. If confirmed, I will work with you and other members of Congress, as well as with other administration officials, to develop an effective approach for addressing this problem.

*Question.* Geographical indication (GI) restrictions for food names have been a persistent challenge with the EU. Just this week, the EU approved a Geographical Indication for a term that has long had a Codex product standard.

Do you agree that Codex product standards represent common names? If you are confirmed, will you prioritize addressing the EU's attempts to restrict U.S. exports through the use of GIs?

*Answer.* I recognize that geographical indications (GIs) reduce market access for many U.S. food exports. If confirmed, I will raise strong concerns regarding the impact of the EU's GI policies on market access for U.S. owners of trademarks and U.S. producers and traders using common food names.

*Question.* Will you take action to defend U.S. products against non-tariff trade barriers that conflict with science-based standards?

*Answer.* If confirmed, I will use all tools available to reduce and prevent barriers to U.S. exports arising from regulations of our trading partners that are insufficiently grounded in science and risk. Often such regulations harm agricultural production, food security, and trade without providing meaningful benefits to public health or the environment.

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QUESTION SUBMITTED BY HON. MARIA CANTWELL

*Question.* According to media reports, President Trump is conducting a comprehensive review of U.S. policy toward China. One issue I'd like to highlight is cloud computing. China has placed many limits on cloud computing services in

China. It has made it very difficult for U.S. companies to operate and put them at a clear competitive disadvantage to local Chinese companies. This is unfortunate because China is a tremendous market and should present great opportunities for U.S. companies. The Chinese market for cloud services may reach \$20 billion by 2020 according to some estimates.

What will the administration do to address this problem?

Answer. I recognize that U.S. leadership in the technology sector, including in the area of cloud computing, is one of our great national strengths and a source of our international competitiveness. I agree that our trade policy should work to ensure that U.S. companies in this sector can thrive globally, including in China, where I recognize that barriers have been severe and contrast sharply with the open market in the United States. If confirmed, I will make seeking progress in reducing barriers to U.S. companies in this sector—including in the China market—a priority.

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QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

*Question.* We've heard from the President and others that one of the administration's main goals in trade negotiations should be to reduce our bilateral trade deficit.

Do you agree that this should be USTR's main priority?

What do you think has been the administration's biggest accomplishment in reducing our trade deficit with China, and what impact, in dollar terms, have those actions had on our trade deficit with China?

What future action can we expect from the administration to address our trade deficit with China?

Answer. The President's and USTR's main priority is to implement a trade policy that benefits America's workers, farmers, ranchers, and businessmen. The trade deficit is indeed a concern in that it represents structural problems in global trade. USTR believes that as markets become fairer and trade becomes freer, U.S. companies and workers will be more competitive and our trade deficits will decline.

Concerning China, the administration has been working on a number of fronts—pushing China to open markets and increasing U.S. exports, as well as initiating enforcement actions, including a Section 301 investigation on forced tech transfer, to make sure that China plays by the rules.

The President has made clear that we need to restore balance to the U.S.-China trade relationship, and that means reducing our very large bilateral trade deficit and ensuring that trade is freer, fairer, and balanced for America. At nearly \$350 billion last year, it is by far the largest trade deficit that we have with any country. We are focusing our efforts on removing trade barriers and eliminating unfair trade practices that contribute to the trade deficit.

*Question.* China has had a decades-long pattern of manipulating their currency, stealing our intellectual property, dumping products onto world markets, and systematically skirting their trade obligations. Leveling the playing field for American workers by taking aggressive action to stop China from gaming the international trading regime was a key theme of the President's campaign, and I hope the administration will follow through on that promise.

Do you believe that China is a currency manipulator?

If confirmed, what are you going to do to ensure that countries stop manipulating their currency?

Is the administration going to continue the bilateral investment treaty negotiations with China? Will you pursue another type of trade agreement with China?

Answer. With regard to your questions about currency, currency manipulation is an issue on which President Trump campaigned, and he and his administration remain focused on. It is my understanding that the administration is examining the full array of policy tools available to combat currency manipulation, including trade commitments.

With regard to your question about bilateral investment treaties and other agreements, it is my understanding that the administration is reviewing trade agreements and negotiations to determine where U.S. interests can be advanced.

*Question.* We have seen a disturbing trend in recent years whereby some of our trading partners have ignored their international commitments, particularly with respect to intellectual property protection, either by failing to fully implement agreements or by flouting the rules in order to give their businesses an unfair advantage. These decisions are short-sighted and ultimately discourage innovation, investment and job growth.

What do you believe USTR should be doing to ensure our trading partners are enforcing existing commitments and deter countries from weakening such standards in their own IP regimes?

*Answer.* I agree that we need to do more to enforce the IPR provisions of our trade agreements. If confirmed, I will seek to use all appropriate trade tools to ensure that U.S. rights holders have a full and fair opportunity to use and profit from their intellectual property rights. Ensuring strong intellectual property protection and enforcement by our trading partners will be a top trade priority.

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QUESTIONS SUBMITTED BY HON. SHERROD BROWN

*Question.* Will you commit to making trade enforcement against China's unfair trade practices a top priority of your tenure at USTR? If so, what specific enforcement efforts against China will you commit to considering if confirmed?

*Answer.* I intend to focus my efforts on removing trade barriers and eliminating unfair trade practices that contribute to the trade deficit. If I am confirmed, I will look at how I can best work to ensure that our engagement with China is effective and results-oriented, which will include robust enforcement. I am committed to the appropriate use of the full range of U.S. trade policy and enforcement tools including WTO dispute settlement and U.S. law to ensure progress across the range of China's unfair trade practices. If confirmed, I look forward to working with you on this issue.

*Question.* If confirmed, what steps would you take to increase China's compliance with its WTO obligations?

*Answer.* If I am confirmed, I will look at how I can best work to ensure China's compliance with its WTO obligations. I am committed to the appropriate use of the full range of U.S. trade policy and enforcement tools, including WTO dispute settlement, to ensure progress across the range of China's unfair trade practices. If confirmed, I look forward to working with you on this issue.

*Question.* Do you agree that we should place a permanent freeze on the Bilateral Investment Treaty talks with China until they fully comply with all of their existing trade obligations with the United States?

*Answer.* If confirmed, I would place a high priority on utilizing a broad range of tools to ensure that China treats the United States, U.S. exports and U.S. companies fairly with respect to trade and investment. As far as the BIT, I understand that it is not under active negotiation right now, and I would take Chinese practices into account before making any recommendation to move forward.

*Question.* Do you believe the Trans-Pacific Partnership text should be used as the basis for future U.S. trade agreements, including the NAFTA renegotiation?

*Answer.* It is my understanding that, in formulating trade policy, the administration is looking at all precedents and seeking improvements that best serve the interests of American workers, manufacturers, farmers and ranchers. With respect to the NAFTA specifically, I understand USTR is guided by the objectives included in TPA, as well as its extensive consultations with the Congress, and industry and civil society stakeholders. While, if confirmed, my portfolio would not include geographic responsibility for the Western Hemisphere and NAFTA, I will continue to work with you and other members of Congress to ensure that future trade agreements meet TPA objectives.

*Question.* Do you agree that our trading partners' weaker environmental and labor standards undermine U.S. industrial competitiveness? If so, what steps will you take to strengthen our trading partners' environmental and labor standards, and, therefore, U.S. industrial competitiveness, if confirmed?

*Answer.* Labor and Environment protections are important negotiating objectives that Congress has set out in TPA. If confirmed, I look forward to consulting closely with you and other members of Congress with an interest in using our trade agree-

ments and enforcement efforts to promote high-standard protections for workers and the environment to ensure a level playing field for American workers and businesses consistent with TPA objectives.

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QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

*Question.* Mr. Gerrish, did you look into registering to vote in Maryland, or was it always your intention to vote in the State of the Virginia for the general election?

*Answer.* I did not look into registering to vote in Maryland. I believed that I still had more time under the grace period to vote in Virginia and voted there pursuant to that belief.

*Question.* Mr. Gerrish, did you hold a valid Maryland ID at the time of the 2016 election?

*Answer.* I did not hold a valid Maryland ID at the time of the 2016 election.

*Question.* Mr. Gerrish, you mentioned in your testimony you had paid property taxes in Virginia. In which State were you paying property taxes in November 2016?

*Answer.* As I mentioned in my testimony, I was responsible for paying personal property taxes in Virginia in November 2016. The personal property taxes were owed on my vehicle. I also was paying property taxes on my home in Maryland in November 2016.

*Question.* Mr. Gerrish, is the address on your Virginia driver's license, which you presented to election officials for the November 2016 election, the same as your residence in Virginia under which you were registered?

*Answer.* The address on my Virginia driver's license was the same as the address under which I was registered.

*Question.* Mr. Gerrish, do you agree that adopting or maintaining lax labor and environmental standards is not a legitimate way for governments to manufacture a competitive advantage for their exporters?

*Answer.* Labor and Environment protections are important negotiating objectives that Congress has set out in TPA. If confirmed, I look forward to consulting closely with you and other members of Congress with an interest in using our trade agreements and enforcement efforts to promote high-standard protections for workers and the environment to ensure a level playing field for American workers and businesses consistent with TPA objectives.

*Question.* Mr. Gerrish, please discuss your experience as it relates to intellectual property rights and intellectual property theft. How will that experience inform your work in ensuring U.S. IP is protected and what you will prioritize in this space? Please discuss what steps do you intend to build on, and initiate, to protect U.S. intellectual property from both coercive appropriation, and conventional and cyber-enabled economic espionage?

*Answer.* As a member of the private bar, I've been fortunate to provide legal advice on a wide-range of trade matters and disputes, in domestic and international forums. As a result, I am under no illusions as to the challenges confronting U.S. companies in protecting themselves from coercive and otherwise unfair practices, including as to their critical investments in intellectual property. Drawing on this experience, I share the administration's intention to use all possible sources of leverage to encourage trading partners to open their markets to U.S. exports of goods and services and provide adequate and effective protection of U.S. intellectual property rights. If confirmed, I look forward to working with you in pursuit of these important objectives.

*Question.* According to the American Iron and Steel Institute, the steel industry employs about 19,000 people in Pennsylvania, and is one of Pennsylvania's biggest economic drivers.<sup>1</sup> The steel and aluminum industries are facing a crisis because of global overcapacity, stemming from China. This issue is exacerbated by the administration's failure to act on its Section 232 steel investigation. Delay has resulted in a sustained increase in imports of steel to the United States compared to last year.

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<sup>1</sup> <https://www.steel.org/~media/Files/AISI/Public%20Policy/Member%20Map/2016/Pennsylvania.pdf?la=en>.

Can you share what actions you intend to take to press China and other countries on overcapacity?

Please discuss how you will work with our allies, including the EU, on taking collective action on this issue.

*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, I understand that the administration is working to address both the root causes and manifestations of the problem and is evaluating every appropriate tool in our arsenal. I would want to work closely with other countries in the Global Steel Forum and other fora. If confirmed, I would also look to WTO enforcement mechanisms and U.S. law as avenues to address unfair advantages arising from this situation.

Regarding Commerce's investigations on steel and aluminum imports under section 232 of the Trade Expansion Act of 1962, I understand that Commerce has 270 days to deliver its report and any recommendations to the President. I cannot engage in speculation about the potential impact that decisions on timing of these investigations may have on U.S. domestic stakeholders, as Commerce has not yet concluded its investigations.

*Question.* With respect to uncompetitive market concentration of products or production, please discuss how you hope to work with the Department of Justice's anti-trust division to evaluate the impact on prices in the United States, and where appropriate, develop remedies.

*Answer.* USTR and the U.S. Department of Justice work closely across a broad array of areas related to competition law and the anti-competitive effects in the U.S. market. If confirmed, I will examine this issue closely and advise the Ambassador on potential relevant next steps.

*Question.* Do you intend to recommend the USTR self-initiate trade cases when the situation calls for it? If so, do you believe the current funding and staffing levels at USTR are sufficient to execute this agenda?

*Answer.* I believe it is appropriate to self-initiate cases. We will use all of the resources at our disposal to do this when there is a suitable case.

*Question.* Do you support the inclusion of Investor State Dispute Settlement (ISDS) in its current form in future trade agreements?

*Answer.* The United States has an open and fair judicial system, and we should be skeptical about subjecting U.S. laws and regulations to private arbitration. Moreover, I believe that our trade agreements should be drafted to avoid off-shoring U.S. jobs. Any provisions on ISDS should take those considerations into full account.

*Question.* How would you amend ISDS to ensure no special legal protection is afforded to offshoring jobs?

*Answer.* The United States has an open and fair judicial system, and we should be skeptical about subjecting U.S. laws and regulations to private arbitration. Moreover, I believe that our trade agreements should be drafted to avoid off-shoring U.S. jobs. Any provisions on ISDS should take those considerations into full account.

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PREPARED STATEMENT OF HON. ORRIN G. HATCH,  
A U.S. SENATOR FROM UTAH

WASHINGTON—Senate Finance Committee Chairman Orrin Hatch (R-Utah) today delivered the following opening statement at a hearing to consider the nominations of Jeffery Gerrish to serve as Deputy United States Trade Representative, Gregory Doud to serve as Chief Agricultural Negotiator at the Office of the U.S. Trade Representative, and Jason Kearns to serve as a member of the International Trade Commission (ITC).

When you look over the respective resumes of each of these nominees, it's clear that the President has selected individuals who are well-qualified and well-prepared to serve in these important posts. That's a good thing.

There's quite a bit going on in the trade world at the moment. The Trump administration has a number of ambitious goals and Congress has a key role to play with



all of them. Among other things, we need to make sure the administration is well-staffed, and I hope we'll be able to take some steps toward that end with the advancement of these nominees.

I'd prefer to let the nominees describe their backgrounds and qualifications on their own. However, I do want to address an issue that has been raised with respect to Mr. Gerrish's nomination.

Members of the committee already have all of the facts, and they are pretty straightforward.

Mr. Gerrish was a resident of Virginia until June 2016, at which time he moved to Maryland. However, in November 2016, Mr. Gerrish voted in the general election in the Commonwealth of Virginia.

Mr. Gerrish voted where he shouldn't have. It's that simple.

He has been open with the committee about this matter during the vetting process and has cooperated with committee staff's efforts to understand exactly what happened. I am sure that Mr. Gerrish will be willing to respond to questions about this matter today.

My hope is that, at the end of today's hearing, committee members will have enough information to judge each nominee on the basis of their experience, knowledge, and qualifications for the position to which they have been nominated.

With that out of the way, I want to once again thank the nominees for being here today. I look forward to hearing your statements and, hopefully, to working with you in the future.

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PREPARED STATEMENT OF JASON KEARNS, NOMINATED TO BE A MEMBER OF THE  
UNITED STATES INTERNATIONAL TRADE COMMISSION

Chairman Hatch, Ranking Member Wyden, members of the Finance Committee, I am honored to appear before you today as the President's nominee for the position of Commissioner on the U.S. International Trade Commission.

I would like to introduce the members of my family who are with me here today. I wouldn't be here without the love and constant support of my wife, Lindy Arnof Kearns, who manages the logistical mess of our busy lives while adding levity to our home. I am also very proud of my three children, Eleanore (14), Keevan (12), and Sander (9), who help me keep things in perspective. My mother, Betsy Starks, has taught me to stand up for my principles and to stick to them. And I'm proud of my sister, Lauren Sulcove, who serves as First Assistant District Attorney in Franklin County, PA.

I would like to thank all of my family, those who are living and those who have passed, for all of their support over the years. I also thank my mentors, colleagues, and friends for their help.

I seek this position after serving the past 11 years as trade counsel to the House Committee on Ways and Means. I want to thank Ways and Means for that honor. I also want to express my appreciation to Representatives Levin and Rangel, and Senator Wyden, for first recommending my appointment as a Commissioner several years ago, and to Presidents Obama and Trump for nominating me.

I am also grateful to Senate Minority Leader Schumer for his support, as well as the support I have received from this committee, including the chairman, the ranking member, and Senator Bennet from my great home State of Colorado.

The ITC administers the trade remedy laws—or, as Senator Isakson so aptly put it in our meeting last week, it serves as an “umpire,” calling balls and strikes. The ITC also provides Congress and the executive branch with independent analysis and information on matters relating to tariffs and international trade, that is, raw materials from which policy makers may craft and execute trade policy.

In my view, the work of the ITC may be more important today than ever before, as trade has become a much larger part of our economy, and as policymakers consider and debate trade policy reforms.

I believe my upbringing, education, and work experience have prepared me well for this role. I grew up in a farming town of 500 people in Colorado, where I learned to enjoy hard work, whether it was the midnight feedings of my 4-H lambs or being the first kid at my high school in the morning to work on my jump shot. In small

towns, you learn to do your part, and you learn to try to get along. And that's where I developed a deep respect for people who work with their hands for a living.

Since moving away from that small town, I have learned about trade from a wide variety of perspectives, over more than 20 years. I have counseled Democratic members of Congress, as well as Republican trade officials at USTR, including my former boss, Senator Portman. Before that, in private practice, I counseled businesses that petitioned the ITC for relief under the trade remedy laws, as well as businesses that opposed relief. I have counseled exporters as well as importers.

I have been honored to serve as an advocate for these clients. I now look forward to serving in a different role—not as an advocate, but as an impartial, independent, and objective decision maker and source of information and analysis.

If confirmed, I will administer the trade remedy laws fairly, objectively, and in accordance with congressional intent. And I will work with my fellow Commissioners to respond as fully and quickly as possible to congressional and administration requests with the most reliable information and independent and insightful analysis possible.

Thank you for your consideration.

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## SENATE FINANCE COMMITTEE

### STATEMENT OF INFORMATION REQUESTED OF NOMINEE

#### A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Jason Edward Kearns.
2. Position to which nominated: Commissioner, U.S. International Trade Commission.
3. Date of nomination: January 17, 2017.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: March 19, 1971; Denver, CO.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list secondary and higher education institutions, dates attended, degree received, and date degree granted):  
 Weld Central High School (Keenesburg, CO), 1985–1989; high school diploma 1989.  
 University of Pennsylvania, 1989; no degree—transferred.  
 University of Denver, 1990–1993; BA 1993.  
 University of Pennsylvania, 1993–96; JD 1996.  
 Harvard University, Kennedy School of Government (Harvard Kennedy School), 1998–2000; MPP 2000.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment):  
 Chief International Trade Counsel (2012–Present) and International Trade Counsel (2006–2012); Democratic Staff, Committee on Ways and Means, U.S. House of Representatives, Washington, DC 2006–2012.  
 Associate/Assistant General Counsel, Office of the U.S. Trade Representative, Executive Office of the President, Washington, DC 2003–2006.  
 Associate/Counsel, WilmerHale (formerly Wilmer, Cutler, and Pickering), Washington, DC 2000–2003.

Intern, Appellate Body, World Trade Organization, Geneva, Switzerland, summer 2000.

Intern, Office of the U.S. Trade Representative, Washington, DC, summer 1999.

Associate, Mayer Brown, Chicago, IL and Bishkek, Kyrgyz Republic, 1996–98.

Summer Associate, Mayer Brown, Chicago, IL, summer 1995.

Intern, U.S. District Court, Denver, CO, summer 1994.

10. Government experience (list any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local government, other than those listed above):

None, other than those listed above.

11. Business relationships (list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, farm, partnership, other business enterprise, or educational or other institution):

At law firms (WilmerHale and Mayer Brown), I served as attorney (agent/consultant) to many client businesses. I do not have a record of the clients I served.

12. Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations):

Advisory board member, University of Denver, division of Arts, Humanities, and Social Sciences.

Member of the District of Columbia bar.

Former member of the Illinois bar.

Member of the Chi Phi fraternity (University of Denver, Mu Zeta chapter).

Member of the Phi Beta Kappa society.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

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

Volunteer, Barack Obama presidential campaign, 2008.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Obama for America, June 2008, \$1,000.

Obama for America, September 2008, \$500.

Obama for America, October 2008, \$250.

DCCC, October 2010, \$200.

Obama Victory Fund, June 2012, \$500.

Hillary for America, September 2015, \$100.

Hillary for America, November 2015, \$500.

Hillary Victory Fund, August 2016, \$500.

ActBlue, DCCC-House Dems, August 2016, \$300.

Hillary Victory Fund, September 2016, \$200.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement):

2013, University of Denver masters program scholar award, arts, humanities, and social sciences.

Graduated University of Pennsylvania law school, *cum laude*, 1996.

Graduated University of Denver, BA, *summa cum laude*, 1993.

University of Denver honors scholarship, 1990–1993.

Phi Beta Kappa honorary society, 1992.

Dobro Slovo, Russian honorary society, 1993.

University of Denver, economics department student of the year, 1993.

15. Published writings (list the titles, publishers, and dates of all books, articles, reports, or other published materials you have written):

“The United States–Morocco Free Trade Agreement,” in *Bilateral and Regional Free Trade Agreements*, Vol. 2, pp. 144–191, S. Lester and B. Mercurio, eds., Cambridge University Press, 2009.

“Moving Forward: A New, Bipartisan Trade Policy That Reflect American Values,” on behalf of Charles B. Rangel, chairman of the Committee on Ways and Means, 45(2) *Harvard Journal on Legislation* 377 (2008).

“Adjudicating Compliance in the WTO: A Review of DSU Article 21.5,” with Steve Charnovitz, 5(2) *Journal of International Economic Law* 331 (2002), Oxford University Press.

“International Competition Policy and the GATS: A Proposal to Address Market Access Limitations in the Distribution Services Sector,” 22 *University of Pennsylvania Journal of International Economic Law* 285 (2001).

16. Speeches (list all former speeches you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated):

I regularly meet with groups to discuss international trade issues in my current job. But I have not delivered or prepared formal speeches. When I speak to groups, my comments are almost always off the record. The only exception I can think of is when I spoke at the Cato Institute. There is no written record of that discussion. The video is here:

<http://www.cato.org/events/trans-pacific-partnership-race-finish-or-long-slog-ahead>.

17. Qualifications (state what, in your opinion, qualifies you to serve in the position to which you have been nominated):

I believe my education and experience in international trade law and policy (particularly as an attorney in trade remedy proceedings before the ITC and other agencies and courts, as an attorney in the Office of the General Counsel within the Office of USTR, and as Chief International Trade Counsel to the Committee on Ways and Means) qualify me to serve as a Commissioner on the U.S. International Trade Commission.

## B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes, I will sever all connections with my present employer, and any other significant connections that would create a conflict of interest or an appearance of one.

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

No. I have committed to serve on the University of Denver advisory board for Arts, Humanities, and Social Sciences. My work with that board is not compensated and, in my view, creates no conflict with my work as an ITC Commissioner. But, if deemed necessary by the Senate Finance Committee, I would sever that relationship.

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

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

Yes.

### C. POTENTIAL CONFLICTS OF INTEREST

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

The Office of Government Ethics and the International Trade Commission have identified a number of assets (Qualcomm, Cisco Systems, Intel Corp., Apple, Inc., Alphabet Inc., Nucor Corp., Baxter International, General Electric, Home Depot, Oracle, NXP Semiconductors, Precision Castparts, Nike, Exxon Mobil, and Berkshire Hathaway) that create potential conflicts of interest. I have agreed in writing that, within 3 months of my confirmation, I will divest my interests in those entities.

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

None. For the past 10 years, I have worked in the House of Representatives, which ITC staff sometimes refers to as a "customer" or "client" of the ITC.

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

None.

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

I would either sever my relationship or investment interest that creates the conflict, or would recuse myself from any matter involving the conflict.

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

### D. LEGAL AND OTHER MATTERS

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

No.

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

No.

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

No.

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

No.

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

I have no further information.

### E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes, I am willing to comply with any reasonable request by any committee.

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#### QUESTIONS SUBMITTED FOR THE RECORD TO JASON KEARNS

##### QUESTION SUBMITTED BY HON. RON WYDEN

*Question.* In 2015, Congress amended the definition of material injury and the factors the ITC examines in evaluating injury to prohibit the ITC from finding that there has been no injury “merely because that industry is profitable or because the performance of that industry has recently improved.” For a range of industries—including softwood lumber, solar, and steel producers—profitability or other positive performance indicators may mask harms from unfair trade that have profound consequences for companies’ ability to compete. For example, a company that is unable to make long-term capital improvements due to unfairly priced imports should not be denied relief merely because it is profitable.

Do you agree that a domestic industry may suffer material injury from dumped and subsidized imports even though it manages to remain profitable or its performance has improved? Do you agree that there are circumstances in which the Commission could find material injury where an industry would have done better, but for dumped and subsidized imports?

*Answer.* I am aware that 19 U.S.C. 1677(7)(J), which was added to the statute in 2015, states that the Commission may not make a negative determination merely because the domestic industry is profitable or because its performance has recently improved. If confirmed, I commit to strictly enforcing the statute and to consider all the relevant statutory factors when making determinations in antidumping and countervailing duty investigations.

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#### QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

*Question.* Michigan is home to the cherry capital of the world, but a flood of cheap imports of tart cherry juice concentrate from Turkey, Poland, and Hungary is threatening to put U.S. cherry producers out of business.

If confirmed, will you look into this matter and consider self-initiating a section 332 investigation into market conditions for U.S. tart cherry juice concentrate and imports from Turkey, Poland, and Hungary?

Similarly, Michigan asparagus growers have been struggling with dumping from Mexico and Peru for several years.

If confirmed, will you look into this matter and consider self-initiating a section 332 investigation into market conditions for U.S. asparagus and imports from Mexico and Peru?

*Answer.* I have discussed with Commission staff your concerns with imports of tart cherry juice concentrate and asparagus, and the impact those imports have on U.S. cherry and asparagus producers. Your concerns, and the recent growth of imports of these products, are known to analysts at the Commission. And, in the past, the Commission has provided trade data to members of Congress upon request. If confirmed, I will work to ensure that Commission staff continue to respond to requests for trade data from Congress.

In addition to such assistance, section 332 of the Tariff Act of 1930 requires the Commission to initiate investigations and issue reports when requested to do so by the President of the United States, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, or by either branch of the Congress. Recent examples of investigations covering global agricultural competitiveness include, “Rice: Global Competitiveness of the U.S. Industry, Investiga-

tion No. 332–549, USITC Publication 4530, April 2015,” and “Olive Oil: Conditions of Competition between U.S. and Major Foreign Supplier Industries Investigation No. 332–537, USITC Publication 4419, August 2013.” The House Committee on Ways and Means requested both of these investigations. Were the Commission to receive such a request regarding cherries or asparagus, if confirmed as a Commissioner, I would work with my fellow Commissioners and USITC staff to ensure that the Commission provides a thoughtful and robust report that is timely and responsive.

Finally, as you know, the Commission also has the authority to self-initiate investigations under section 332. Given its budget and resource constraints, and the fact that the Committees and USTR are in the best position to determine the information and advice that they need to develop policy, the Commission has rarely exercised this authority. If confirmed, I will work with my fellow Commissioners and USITC staff to ensure that the Commission exercises this authority appropriately.

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QUESTION SUBMITTED BY HON. ROBERT MENENDEZ

*Question.* Thank you for your answer to my question at the hearing regarding ITC consideration of end user submissions.

To follow up on that discussion, if purchasers and end users tell the ITC that the U.S.-produced product is very different than the imported product, but U.S. producers argue that they are the same, how does the Commission reconcile those two views?

*Answer.* This is one of several issues on which the Commission collects information during the course of an antidumping or countervailing duty investigation. The record that the Commission will compile includes questionnaire responses from marketplace participants such as U.S. producers, importers, and purchasers; written submissions by parties, which will typically include U.S. producers, importers, purchasers, and exporters; and hearing and conference testimony. As a Commissioner, I will carefully consider all information in the record before making any factual findings on disputed issues.

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QUESTIONS SUBMITTED BY HON. SHERROD BROWN

*Question.* My legislation, the Leveling the Playing Field Act, became law in 2015—thanks to the support of Ranking Member Wyden, Chairman Hatch, Senator Portman, and many others on the Senate Finance Committee. Congress passed the Leveling the Playing Field Act to make sure U.S. trade remedy laws continue to provide meaningful relief for U.S. companies and workers that are injured by unfair trade practices. Oftentimes our trade remedy laws are the *only* way American companies and workers can get any relief from trade cheats. As a Commissioner on the ITC, you will be responsible for implementing the Leveling the Playing Field Act.

Will you commit, if confirmed, to fully enforcing that law, and all of title 7, as Congress intended?

*Answer.* Yes. If confirmed, I commit to strictly and fully enforcing all provisions of title VII, including the Leveling the Playing Field Act, consistent with the statutory language and expressed congressional intent. These laws provide a vital tool for U.S. companies that are faced with unfair import competition, and the ITC’s decisions can impact the livelihoods of workers, farmers, and businesses across America. The ITC is charged with the responsibility of conducting trade remedy investigations and making determinations based on the facts in the record of the investigation and the law as enacted by Congress. In making determinations under these laws, I can assure you that I will make my determinations independently and objectively based on the facts in the record and the applicable law.

*Question.* Specifically, do you agree that it is possible for a domestic industry to suffer material injury from dumped or subsidized imports even if its profits have grown or its market performance has improved?

*Answer.* Yes. I am aware that 19 U.S.C. 1677(7)(J), which was added to the statute by the Leveling the Playing Field Act, states that the Commission may not make a negative determination merely because the domestic industry is profitable or because its performance has recently improved. If confirmed, I commit to strictly

enforcing the statute and consider all the relevant statutory factors when making determinations in antidumping and countervailing duty investigations.

*Question.* Foreign producers can undermine the effectiveness of U.S. trade remedy laws by exporting large volumes of product into the U.S. before a preliminary determination in a trade remedy case is issued. Do you believe existing U.S. trade remedy laws and ITC methodologies adequately address these duty evasion tactics?

*Answer.* I am aware that the statute provides a mechanism permitting the Department of Commerce to issue retroactive antidumping or countervailing duties when there have been massive imports of merchandise over a relatively short period, such as prior to issuance of its preliminary determination, and the Commission makes a finding that these imports are likely to undermine seriously the remedial effect of any antidumping or countervailing duty order. If confirmed, I commit to fully enforce these provisions on critical circumstances, as well as all provisions of title VII.

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PREPARED STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON

Today, the committee is considering the nominations of three nominees for critical trade positions: Mr. Jeffrey Gerrish to be deputy United States trade representative, Mr. Gregory Doud to be chief agricultural negotiator at USTR, and Mr. Jason Kearns to be a member of the United States International Trade Commission.

I want to start with a serious matter with respect to Mr. Gerrish's nomination. As I understand the facts, Mr. Gerrish moved residences from Virginia to Maryland in June of last year. Though he no longer lived in Virginia, he voted there in the 2016 general election. Virginia provides a 30-day grace period for former residents. This was way outside what the law allows. Now, I have a hard time understanding how an attorney as accomplished as Mr. Gerrish can walk out of his house in Maryland, travel all the way to Virginia and cast his vote in that State without thinking there may be an issue. You obviously can't flash a Maryland driver's license when a Virginia polling place worker asks where you live. This seems to me to be a serious error in judgement on a part of the law that's pretty unambiguous. As of now, it's especially noteworthy that the Republican and the Democratic member of the Fairfax County Electoral Board have called for an investigation by the prosecutor in this case. The issues a deputy USTR has to deal with on a daily basis are a lot more complicated than voting.

And there's another reason why this issue just takes my breath away. This administration has fabricated out of thin air a crisis of widespread voter fraud in this country without one shred of evidence to back up their claims. They've launched a so-called Commission on Election Integrity, which looks a lot to me like an attempt to justify taking the vote away from millions of American citizens, particularly black and Latino citizens. Bottom line, the administration makes illegal voting out to be widespread and far reaching, almost an existential threat to the country, and here they are nominating someone who appears to have cast an illegal vote in a highly contested State.

I would say it boggles the mind, but the fact is, there's hypocrisy as far as the eye can see in this administration. They're all about belt tightening and budget cuts, but every day there's a new story about a cabinet official or aide jetting around the country in a cushy private plane. Senior White House officials have reportedly used private emails hosted on private servers for official business. It sounds like the head of the EPA doesn't eat a meal or take a meeting unless it's with some industry insider right out of the swamp. With all that, perhaps it should be no surprise that the Trump team is willing to look the other way on illegal voting when it comes to their own nominee.

Turning to the critical trade challenges that are facing us today, after hearing a lot of tough talk on trade, the administration has disappointed. In April the President ordered the launch of investigations into steel and aluminum imports. He called it an historic day, but so far, it's been an historic blunder.

Failing to follow through on this tough talk has led to steel imports jumping by 21 percent. You're seeing the same pattern in softwood lumber after the administration delayed imposing duties on unfairly traded imports from Canada. This is having a real impact on the United States and red-white-and-blue jobs. By the Presi-



dent's own preferred metric—the trade deficit—the United States is worse off this year. The deficit rose by about 28 billion dollars in the first 7 months of 2017.

This administration has also produced disappointing results in its engagement with China. Although administration officials touted a limited deal with China in late spring, labeling something a good deal is very different from actually getting a good deal. The United States has serious and far-reaching trade issues with China, including with respect to cloud computing, and again, what's needed isn't more talk. What's needed is a concrete strategy.

I also have concerns about where the NAFTA renegotiations are heading. As I'm sure Mr. Doud can attest, trade is complicated. Entering into trade agreements may create winners and losers, but so does withdrawing from them, or fundamentally changing their nature. There are lots of farm and manufacturing jobs that depend on existing relationships, and the goal should be to improve those relationships for everyone. It'd be a big mistake to leave whole sectors of our economy behind.

I worry that this is a trade policy built on hostage-taking and headlines, not the hard work of getting trade done right through tough enforcement and a comprehensive strategy to open up markets for the American-made brand.

Finally, Mr. Jason Kearns has been nominated to serve on the International Trade Commission. Those of us who've had the opportunity to work with Mr. Kearns here on Capitol Hill know that he understands the ins and outs of this country's trade policy as well as anybody. I'm confident that he's committed to policies that pay off for American workers and communities, so I look forward to supporting his nomination.

