

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2022

WEDNESDAY, APRIL 28, 2021

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Jeanne Shaheen (Chairwoman) presiding.

Present: Senators Shaheen, Van Hollen, Moran, Murkowski, Hagerty, Collins, and Braun.

OFFICE OF THE U.S. TRADE REPRESENTATIVE

OPENING STATEMENT OF SENATOR JEANNE SHAHEEN

Senator SHAHEEN. Good morning, everyone. Welcome to today's Commerce, Justice and Science and Related Agencies Subcommittee Hearing to review the activities and fiscal year 2022 funding priorities of the Office of the U.S. Trade Representative.

We're especially pleased today to have Ambassador Katherine Tai with us, our United States Trade Representative. I look forward to hearing what you have to say and to hearing the questions that we have. So, welcome. Congratulations on your historic nomination and unanimous confirmation. I know that I speak for everyone on the subcommittee when I say that we're excited to have you testify on the topics of importance to the country and to all of our constituents.

The Office of U.S. Trade Representative is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries. And I think it's no exaggeration to say that these responsibilities affect every American in every facet of our lives, from protecting American workers, helping American businesses thrive, and enhancing national security, to building a world with clean air and water, while preventing catastrophic climate change.

In order for USTR to succeed, Congress and, in particular, this subcommittee, must ensure it has sufficient resources to carry out its important mission. And to that end, the fiscal year 2021 Omnibus Spending Bill included \$70 million for the Office of USTR. While the President's initial fiscal year 2022 request did not include a top line proposal for USTR, we look forward to learning more today about your funding requests.

And while we consider these funding needs, it's important to consider the new administration's trade policies and strategy. In 2018 and 2019, the previous administration imposed a series of wide-ranging import tariffs the likes of which this country has not seen in years.

The repeated use of tariffs, the crudest form of trade instruments, and the predictable tit-for-tat retaliatory tariffs that followed wreaked havoc on global supply chains, and, by extension, on too many businesses and working people in my State of New Hampshire, and throughout the country.

New Hampshire's a small business State, but it's also an exporting State. And in a previous life as Governor of the Granite State, I personally led the first overseas trade mission to Europe, and that was followed by several others to bring more investment into the State and to help businesses tap into new export markets. People in my State understand what's at stake in trade negotiations.

One small business I've heard from is Walkin' Pets, a 35-person pet supply company in Amherst, New Hampshire. The company signature product, a wheelchair for dogs, is produced in China, and is subject to tariffs. Now, the company believed that the tariff was a mistake on its business, so they retained a lawyer to help navigate the Byzantine exclusion process. Unfortunately, the company wasn't able to get an exclusion because of an imprecise classification.

Now, after hiring a lawyer, and having braved the exclusion process, the company is still at square one, stuck with the tariff, and struggling to stay afloat.

So, understandably, there is still a great deal of concern about the Section 301 tariffs especially now that, as of the end of calendar year, exclusions are no longer an option. I'm eager to learn more about your plans for Section 301 tariffs, and I'm pleased that in your confirmation hearing, you committed to further engagement of reunilateral action. You also committed to using all the tools at your disposal, not just more and more tariffs, to advance USTR's critical mission.

In my view, taking a tough, but more thoughtful, approach will help level the playing field for American workers, while allowing the United States to once again set the rules of the road for global trade. Your successful negotiation of USMCA is proof positive that this is a winning playbook. Trade done right is a race to the top instead of a race to the bottom, as you know.

Finally, let me conclude my opening statement by noting that I was very pleased that you used your first major policy address to embrace USTR's critical role in protecting our environment and addressing climate change. Trade policy, in my view, can't be divorced from environmental policy as our future prosperity is tied to tackling climate change.

Ambassador Tai, we clearly have a lot to discuss this morning. I look forward to hearing your testimony, and the opportunity to engage with you and your thoughts about what we should be doing with respect to trade.

So, thank you again for being here, and now I'd like to turn it over to my Ranking Member, Senator Moran, from Kansas, for his opening remarks. Senator.

OPENING STATEMENT OF SENATOR JERRY MORAN

Senator MORAN. Senator Shaheen, thank you very much for convening this hearing. Ambassador Tai, welcome and congratulations on your unanimous confirmation. I always wondered if I was nominated for something whether I could get my colleagues in total to vote for me, and I doubt that's the case, so congratulations. It's a significant accomplishment in this environment. And I certainly appreciate you being here. Thank you for the moment that we had to visit in the hallway.

You're stepping into your role at USTR at a time in which trade policy and trade enforcement has arguably never been more important, and perhaps more challenging. The Trump administration pursued and effectuated an aggressive and sometimes untraditional trade strategy, and it now falls to you and others in the Biden administration to carry our trade policies forward.

Due to their importance to my home State of Kansas, I'm very interested in USMCA, and the Phase One China Trade Deal. I always remind myself and my constituents that Kansas is dependent upon our exports, and our economic future rests with feeding and supplying the rest of the world. Trade and exports is how many Kansans make a living, and Mexico, Canada, China, and many other countries are very important to us, but those three are consistently at the top of our list.

That's why I believe it's so important for us to ensure that these trading partners live up to their commitments codified in USMCA and in the Phase One Deal. This is the first USTR-specific hearing this subcommittee has held since these trade agreements were entered into, and I'm eager to receive an update from you about current compliance with those agreements.

Ambassador, you're also inheriting the responsibility, as Senator Shaheen said, of managing a full suite of 301—Section 301 investigations, including ongoing investigations into digital services, taxes, and overseeing active tariffs targeting billions of product. That is a significant challenge but a very important one for the outcome to our Kansas manufacturers and American manufacturers. In today's environment, a most common conversation I have with Kansans is about the expense of buying a home, and the expense of building a home, and the lack of supply chain in regard to lumber and steel.

While those trade agreements are important, and tariffs Section 301 is a huge issue for you, I remain concerned about the harm that tariffs have caused to U.S. families, to businesses, farmers, manufacturers, and workers. This concern is what caused this subcommittee on a bipartisan basis to require—we did this during fiscal year 2019 Appropriations Bill—that USTR execute an exclusion process for all rounds of Section 301 China tariffs.

I don't think that was a necessary expected outcome when the tariffs were put in place, but this subcommittee, in doing its work, insisted on an exclusion process, and we've lived with that exclusion process, its ups and downs, ever since. We continue to carry that requirement in all subsequent CGS appropriation bills, and I will continue to ensure that this direction is carried out as long as the China tariffs remain in place.

I also believe that USTR ought to begin a process to consider renewing expired exclusions and restart the process for companies to apply for those exclusions. Ambassador Tai, you've already heard from me on this matter via a letter, and I look forward to working with you to ensure that businesses have continued opportunities to petition their government for relief from tariffs.

In addition to the many legacy responsibilities that I've highlighted, I'm mindful that the Biden administration has also developed in its early stages of—and is in its early stages of pursuing its own trade strategies. As we consider USTR's funding needs for fiscal year 2022 during this hearing today, I'm looking forward to learning more about President Biden's trade strategies and priorities, and also a better understanding of what level of resources USTR requires to perform its growing responsibilities.

To this end, Ambassador, I was surprised that the administration's, quote, "skinny budget" released on April 9 contained no information about fiscal year 2022 request for USTR. I hope this omission is nothing more than a result of this year's budget development process, and not a reflection upon any suggestion that trade policy is going to take a back seat to other domestic administration priorities.

USTR's mission and its pursuit of free and fair trade opportunities for U.S. businesses is a domestic priority, and I hope that the Biden administration continues to view it as such.

Ambassador, I thank you for joining us this morning. I look forward to hearing your testimony today, and I, even more importantly, look forward to working with you in a very solid and, hopefully, valuable way for both of us for years to come. Thank you very much.

Senator SHAHEEN. Go ahead, Ambassador.

STATEMENT OF HON. KATHERINE TAI, AMBASSADOR, U.S. TRADE REPRESENTATIVE

Ms. TAI. Thank you, Chairwoman Shaheen, Ranking Member Moran, and Members of the subcommittee for inviting me to testify before you today. It is a great honor to be here, just as it is a great honor to return to USTR and lead the dedicated public servants who carry out this agency's important mission on behalf of the American people.

We are working hard to support the Biden-Harris administration's efforts to end the pandemic and recover from the economic crisis. The American Rescue Plan, passed by Congress, has already helped get shots in arms and money in the pockets of millions of Americans.

While we're seeing the economic benefits of that quick action, more needs to be done. Our goal is not a return to the economy we had before the pandemic, but to seize this opportunity to set America on a strong and clear path to a competitive future. That's why President Biden proposed the American Jobs Plan that would make bold investments and build a better foundation for decades of economic growth and good-paying jobs for this generation of Americans and future generations.

This is why USTR is developing and implementing what we are calling a worker-centered trade policy that complements and sup-

ports the domestic investments in the American Jobs Plan. The President's trade agenda will foster broad-based, equitable growth that increases innovation and enhances this country's competitive edge and—that's crafted with workers at the table.

For the first time, we committed to using trade policy to address racial equity and to support underserved communities. Through thoughtful, sustained engagement and utilizing hard data, the Biden administration will develop a better understanding of how proposed trade policies affect all Americans as people and in their communities, especially communities of color. And we will consider those impacts as we make our policy decisions.

As part of our whole of government approach, I recently outlined my vision for leveraging trade tools, and how USTR will enthusiastically embrace our responsibility to create opportunities to lead in creating new clean-energy technologies and new jobs, while averting an unfolding economic crisis and protecting our planet. We will meet this moment by working collaboratively with our trading partners, with Congress, underrepresented communities, and other key stakeholders to find creative solutions that create good-paying jobs and incentivize that race to the top.

In my first conversations with my foreign counterparts, I have made clear that the United States will rebuild our international alliances and partnerships while reengaging global institutions.

In just a few short months, USTR has already delivered results for American workers. In March, USTR announced a 4-month suspension of tariffs with both the United Kingdom and the European Union related to our long-running WTO dispute over certain large civil aircraft subsidies. This was a bold step towards finally resolving the issues that have impacted the U.S. industry and its workers.

Earlier this month, USTR helped to resolve a significant dispute between two South Korean companies that make electric vehicle batteries in America. This settlement builds confidence in these companies' reliability and responsibility as suppliers to the U.S. auto industry, and it puts our country in a stronger position to drive innovation and growth of clean energy technology envisioned in the American Jobs Plan. The settlement is the type of trade policy that I believe we need. It supports a larger strategy for creating jobs and investing in innovation and manufacturing leadership by bolstering sustainable renewable energy supply chains, levelling the playing field, and discouraging regulatory arbitrage.

As we continue to pursue the President's trade agenda, we will promote and defend our values of democracy, human rights, and economic opportunity in service of producing a more inclusive prosperity. USTR will be directly involved in assembling what the President has termed a united front of U.S. allies, and I will carry the strength and creativity of this agency into every room that I enter.

I want to close by thanking the talented public servants at USTR for their sacrifice and professionalism during this unprecedented time. They have been tested in ways that we could not have imagined, but they have continued to rise to the occasion with determination and integrity. I am so proud to represent them here today

and appreciate the robust support of this subcommittee. Thank you, and I look forward to answering your questions.

[The statement follows:]

PREPARED STATEMENT OF HON. KATHERINE TAI, AMBASSADOR, U.S. TRADE
REPRESENTATIVE

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Conclusion

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with determination and integrity. I am proud to represent them today and appreciate the robust support of this committee.

Thank you, and I look forward to answering your questions.

Senator SHAHEEN. Thank you very much. I just want to, at the start, remind everyone that this is a hybrid hearing and that some of our colleagues may be joining remotely. So we're going to do our best to try and keep people informed of the order of questioning, but, as we know, that doesn't always go the way we hope. So, that's just a warning that—I'm going to ask Senator Moran to go first. He has a mark-up and another committee in a few minutes, and I know he wanted to ask some questions before he has to leave. So, Senator Moran.

Senator MORAN. Ambassador—Chairman, thank you for your courtesies. And Ambassador, I will return. I hope the mark-up of two bills of mine is non-controversial, and I'll be back shortly, because I do want to hear what you say in response to other Members' questions.

Let me start with something you mentioned in your opening statement. I applaud you, Ambassador, for the goal of resolving the number of long-running trade disputes. Kansas is an aviation State. Those large aircraft—civil aircraft manufacturers call Kansas home, and we are very encouraged by the announcement that the tariffs related to WTO's dispute would be paused for a period of 4 months in order to create space for a negotiated settlement. We're about a month into that pause. Can you provide me with an update of the status of those discussions and the likelihood that an agreement would be reached during that 4-month period?

Ms. TAI. I would love to engage with you on this question, Senator Moran. We are about a month into the 4-month period. I am very serious when I say that it is time for us to resolve these disputes. They've been going on for 16 years, and as you know, these disputes aren't born on the day that we file them. They come out of a couple years of incubation, as well, so, these are 20-year-old disputes.

They're disputes between the United States and the European Union. We're both strong manufacturers in this industry, and we're both facing increasing competition from other parts of the world. We need to figure out how to resolve our differences in order for us to come together to meet the challenges that we have today, and that we will have tomorrow. And so, I am very committed, USTR is committed to making the most of this 4-month period to close out a chapter of our relationship and our tensions with the European Union.

I have been in touch with my counterparts in both the United Kingdom and the European Union. Our teams are in touch. I am, at this point, very motivated and hopeful that we will get the traction that we need with our trading partners, and very much hope that they see this opportunity as I do, as one that we really need to seize to prove to ourselves and to the rest of the world that we can move on because we have to.

Senator MORAN. I'll take that answer as you are working hard to accomplish that goal, and you are hopeful to achieve that during that 4-month period. I wish you well.

Ambassador, I don't know of any score card that's out there in regard to China's compliance with Phase One. How would you rate or grade the Phase One Agreement compliance? What has happened and what hasn't happened?

Ms. TAI. Well, that's a very important question, and one that I know there's a lot of interest up here in the Senate, in the House, on the Hill, in general with stakeholders in our entire economy, and certainly one of the questions that is at the forefront of my mind coming in as U.S. Trade Representative.

I would like to just take a step back and look at the contours of this U.S.-China trade and economic agreement. It has a number of parts. There's a lot of focus on the purchase commitments that China made as part of this agreement. There are also a set of rules related to intellectual property, financial services, services access, biotech approvals that China also committed to, and we are drilling down at USTR using the usual discipline that we have to look at the overall compliance picture, and to examine China's performance under this agreement in all of its component parts.

What I would share with you right now, Senator Moran, because we are still in the middle of this review, is that the picture is more nuanced than you might think by just looking at the trade data. And so, I look forward to coming back to you with a better picture, and with a more clear sense for where we need to drive harder with our Chinese counterpart.

Senator MORAN. I think that's a fair answer for this point in your tenure at USTR. So, thank you. At least you know the importance it has, and it's good for you to remind me of not just the agricultural commodity purchases, which are hugely important to Kansas, but also those trade and intellectual aspects of the agreement as well.

In the 30 seconds I have left, let me see if I can get an additional question in. Steel and lumber prices, they're at record highs. The Biden administration is proposing infrastructure investments. I assume that will increase the demand for those items. I'm thinking about the absence of softwood lumber agreement with Canada, and the associated tariffs, as well as the Section 232 tariffs on steel and aluminum. Where do negotiations stand with Canada on softwood lumber, and what's the administration further considering to do to increase the affordability of two very important components to infrastructure and housing?

Ms. TAI. Well, on softwood lumber, let me say this. I think that it will always be a component of the conversation between the U.S. Trade Representative and her or his Canadian counterpart. In my initial conversation with my Canadian counterpart, Minister Ng of Canada, we did raise our bilateral issues, the longstanding ones especially. They're ones that require maintenance and care and attention. So, what I would say to you, Senator Moran, is softwood lumber will always be in my sights in the conversation with Canada.

We have a lot of tools. We have traditionally used them robustly. I intend to continue to do so, and to continue to raise the concerns that we have. And try to engage our Canadian counterparts in some out-of-the-box thinking, on this issue and others, in terms of

how we manage longstanding differences that we have that really make an economic impact for our stakeholders and our economy.

The other question that you've asked is on the steel tariffs in particular. What I would say here is that we continue to have a global overcapacity problem that is distorting the international market. But what we have right now in the Biden administration is a team of people who are intent on looking for solutions that come through cooperation with our close partners and allies. So, on that, what I'd like to convey to you is I and others in the administration, including Secretary Raimondo at Commerce, are working hard on conversations with the Europeans in particular to examine how we address the problems that the 232 tariffs have raised in particular in our relationships, while keeping our eye on the overall steel and aluminum market problems that we really need others' help to address.

Senator MORAN. I wish you well, and I look forward to working with you.

Ms. TAI. Thank you.

Senator SHAHEEN. Thank you, Senator Moran. Hopefully, you'll be able to get back to join us. I should have announced when I pointed out this is a hybrid hearing that we will therefore take Members in order of seniority on the subcommittee so that—since we don't know who will have shown up first online.

I want to follow up with Senator Moran's question about the Phase One Trade Deal with China, because I understand that the deal included the creation of Bilateral Evaluation and Dispute Resolution Office. Is that office up and running, and can you describe to us how you expect that to work?

Ms. TAI. Well, thank you for the question, Senator Shaheen. I think the office is not a—it's a—I think it stands for a flow—

Senator SHAHEEN. A process, maybe?

Ms. TAI. Organization of process, thank you. Looking for that word. And so, we have had continued contact at the designated official's level to continue to push and examine performance of this agreement. Right now, we are looking at the agreement holistically through the lens of an overall China strategy.

And so, what I would say to you right now is we are looking at the tools that we have across the board, in particular in this agreement. It is a tool that looks a little bit different from our other agreements or traditional agreements, but we're interested, as I will always say, open-minded and interested in out-of-the-box and new tools.

So, I feel like the bottom line here. We are very focused on this agreement, which is the agreement that we have, and testing its utility, and maximizing our use of the tools that are included in this agreement.

Senator SHAHEEN. So, once that process is up and running, do we expect companies and individuals to be able to actually make use of that process when they have a concern or dispute that they want to get negotiated?

Ms. TAI. So, I would say that one of USTR's functions is to be open to, and we traditionally have been very open to the engagement with the public, with our stakeholders. Increasingly, we are trying to expand out the circle of stakeholders who are used to

interacting with USTR. So, absolutely, our stakeholders are part of that process.

Senator SHAHEEN. Right. And I understand that the Phase One Agreement also included a provision for USTR to meet every 6 months with the Chinese Vice Premier. Is that—that meeting's a little overdue. Has that been scheduled?

Ms. TAI. It has not yet been scheduled, Senator Shaheen. I will be having my first contact with my Chinese counterpart, which I'm looking forward to, at the right time, and I expect to be able to come back to you with an update in the near term.

Senator SHAHEEN. Great, thank you. I want to go back to the 301 tariffs on imported goods because, as I said, that has been a real concern that I've heard from New Hampshire businesses. So, can you give us any sense of how the administration is going to approach the existing section in the near term, and what your view is about how to use that authority?

Ms. TAI. Senator Shaheen, I know very directly, and I know this as a strong fact, that the tariffs and the exclusion process really do touch a very wide swath of our economy, our businesses, both large and small. So, this is very much on my mind. At my confirmation hearing, Senator Portman asked me for a commitment which I was very ready to make. To undertake a top to bottom review on China, at USTR in particular. And he recommended it as something that he had done in his time as U.S. Trade Representative.

So, the tariffs, this agreement, the exclusion process will be very critical parts of this top-to-bottom review, and I am looking forward to kicking it off and being able to come back to you with a thoughtful and strategic recommendation in terms of how we will proceed from there.

Senator SHAHEEN. Well, thank you. Do you have any sense of how long this is going to take, your review?

Ms. TAI. It is something that we are looking at in our design right now, and I do know that time is of the essence.

Senator SHAHEEN. Okay, thank you. Well, and then, just to follow up a little bit on the exclusion process, which, as you know, has been very opaque. It's been challenging for companies to figure out. How do you expect to—will the review include that exclusion process, as well?

Ms. TAI. Yes, it will.

Senator SHAHEEN. Thank you. Let me now go to Senator Murkowski.

Senator MURKOWSKI. Ambassador, thank you. Appreciate it. You need to know that you were the subject of conversation in Kodiak, Alaska, this weekend. Everyone is pinning their hopes on our trade representative when it comes to seafood issues.

So, I want to raise that with you. As you know, we've seen some good news for U.S. agriculture commodities, corn and soybeans, under the Phase One Agreement, but when it comes to seafood, the fact of the matter is China is not meeting those commitments.

In 2020, its imports of U.S. seafood were below the 2017 baseline, and yet at the same time, what we're seeing is that China is increasing their imports from other areas. Non-U.S. imports up 89

percent in 2019 compared to the 2017 baseline. Still up by 35 percent in 2020, despite the pandemic.

So, the question that the fine folks in Kodiak had is, what's going on? Basically, what is happening? Why do we continue to see this shortfall by China in terms of its seafood purchases? Does USTR recognize what this is doing to our U.S. seafood competitiveness, and more importantly, how can we hold China accountable for failing on its commitments? And so, if you can please address this for me and for all these fishermen in Kodiak that are quite anxious about what we've seen.

Ms. TAI. Senator Murkowski, thank you. I have been advised and informed of the excellence of the seafood product that is a hallmark of Alaska. I don't know that I've ever had the opportunity to experience the full aspects of what Alaska has to offer, but the reputation of Alaska's seafood precedes it, really. And——

Senator MURKOWSKI. You are invited, by the way, to come north.

Ms. TAI. Thank you very much. I was definitely maybe a little bit fishing for that invitation. But——

[Laughter.]

Senator MURKOWSKI. We will accommodate.

Ms. TAI. The seafood is certainly in our sights in terms of the commitments that the Chinese made in this agreement. They're really, really important for a number of reasons. Economically, they're important to us, but they're also important as commitments that China undertook of its own free will to make, and that we need to ensure that their promises are worth the paper that they are written on.

So, let me just assure you and the fishermen in Kodiak, I hear you loud and clear. And in our engagement with China on this particular agreement, we will need to engage with China across the board in our trade and economic relationship, but this is the agreement that we have, and this is the agreement that needs to stand up. So, please let your fishermen know that I care deeply about their livelihoods, about the integrity of this agreement, and that we will be making use of the tools that we have and really pushing the tools that we have on their—for their benefit.

Senator MURKOWSKI. Well, I appreciate that, and I'm probably not going to need to report back to them because they're probably watching this hearing, even though it's just 6 o'clock in the morning. So, I appreciate that commitment, but again, you have pointed out this was part of their deal. They've seen fit to make better on their word when it comes to other products, but seafood is a glaring example of where they have failed. So, if we can just be aggressive in that area.

Another area, in addition to our seafood, that has seen impacts because of tariffs is what we have seen with regards to some of our timber products. This is a part of the State that has seen particular devastation as a result of drop-off in tourism traffic, so the economy in southeast is really depressed right now. But they're also seeing the impacts of a 25 percent tariff rate on Alaska spruce and hemlock. And under the Phase One Agreement, there was a waiver for the timber tariffs, but Alaska spruce exports to China, which is our primary buyer of spruce, flatlined over the past couple years,

and the future is not very good. So, hoping that you can help us work through these tariff issues, as well, on the timber export side.

Ms. TAI. Absolutely. I hear you loud and clear on the timber, as well.

Senator MURKOWSKI. Thank you. Thank you, Madam Chairman.

Senator SHAHEEN. Thank you. I believe we have Senator Van Hollen on the line.

Senator VAN HOLLEN. Yes, thank you, Madam Chairman, and thank you, Madam Ambassador for your leadership. I have some questions on the solar panel tariffs that were imposed by the Trump administration. Back in 2018, they imposed tariff rates on the import of solar cells and modules, under Section 201. That was in addition to the preexisting duties that applied to these products. The tariff was set at over 30 percent, and then declined by 5 percent over the years.

In 2020, so just last year, the Trump administration moved to increase the 2021 tariff from 15 percent, which it had come down to, to 18 percent. That's what it is today. These tariffs have hit workers in Maryland hard, especially in the clean energy industry, costing us many jobs. People laid off because solar panel installers were no longer able to do it at a competitive price, and nationally, according to the Solar Energy Industries Association, these Trump tariffs have cost 62,000 American job opportunities.

The Biden administration, as I understand it, you've said is going to be reviewing these tariffs. This one is scheduled to expire in February of next year, and I listened carefully to the President's statement about jobs and clean energy jobs here in the United States. Have you heard and looked at the reports of how those solar panel tariffs have hurt jobs here in the United States?

Ms. TAI. Thank you, Senator Van Hollen. The issue of the solar tariffs are very much on my mind, both in terms of the impacts and the dilemmas that they present to our economy right now, and the different stakeholders in our economy specific to the solar tariffs, the role that solar panels play in a future where we are running cleaner energy, but also for me, the story of the solar panel industry in the United States really gets at a fundamental issue that we need to confront in our competition with China.

First thing that I'd like to say is Section 201 is—and this particular Section 201 set of tariffs, were sought by an industry here in the United States, so that there are producers who petitioned for relief from the United States Government. And today, we have a sole producer left in the United States for solar panels, when 10, 12 years ago, we had quite a few in this burgeoning industry. Given the role that we think these types of products are going to play, it's actually a very sad story that we are in right now, where we are struggling with the application of these tariffs that are meant to save maybe the last producer that we have here in the United States.

And so, stepping aside a little bit, what I would say is that I recognize the nuance and the complexity that is presented by the solar tariffs question in particular. I do want to raise the profile of the overall, bigger picture so that we don't lose it, which is if we don't keep our eye on the ball, we will continue to experience these types

of fights over the last scraps of an industry that we have lost to a competitor, and in particular to the Chinese.

It is a pattern that we see over and over again. I will say that steel and aluminum are a leading contender here, solar. And we can see where this pattern will play out again and again if we are not ready to anticipate the loss of industries to anti-competitive practices and massive subsidies that are coming from our biggest competitors.

Senator VAN HOLLEN. Right. Madam Ambassador, I appreciate that, and you know, my time is running out. I—we all—I strongly support the American Jobs Bill, and we need to be investing a lot more in developing these capabilities here at home, but that should not come right now at the cost of thousands and thousands of jobs in Maryland and other places with respect to installing solar panels. We should be able to do two things at one time. You know, the president has talked about his clean energy goals. These tariffs have resulted in the equivalent of seven coal plants, or five point five million automobiles being put back on the road because of the fact that the solar panel installation industry was made less competitive here at home.

So, we have big issues that you mentioned, in terms of our own domestic capacity, but we should not do one at the cost of the other. We need to make those investments here at home, but not be harming those who are trying to make people's homes more efficient.

So, Madam Chairman, I see the time is up. I am going to submit some questions for the record with regard to the enforcement of the USMCA, and I look forward to your responses in writing. Thank you, Madam Ambassador. Thank you, Madam Chairman.

Senator SHAHEEN. Thank you, Senator Van Hollen. Senator Collins.

Senator COLLINS. Thank you, Madam Chairman. Ambassador, welcome. The Maine lobster industry has been hard hit by the 25 percent retaliatory tariff that China imposed on the U.S. lobster industry in 2018. The Phase One Trade Agreement between the U.S. and China was a first step toward regaining Chinese market share, and indeed inspected growth—expected growth in that market share. Before the tariff, China was the second largest importer of U.S. lobster, purchasing \$128 million worth in 2017. During the first month under the new tariffs, however, live lobster exports to China declined by 64 percent, and indeed, one lobster exporter in Maine saw a 90 percent decrease in exports to China.

Your predecessor made real progress by securing a commitment from the Chinese to match or exceed their pre-tariff purchase levels. And at first, there really was progress under the agreement. We saw sales to China start going up. But now that's not carried through into this year, into 2021. And currently, the totals are nowhere near the promised purchase levels or the pre-tariff levels.

What steps is the administration planning to take to ensure that China lives up to its promise and its purchase agreements that it made in the Phase One Agreement?

Ms. TAI. Senator Collins, thank you for that. The lobster exports from Maine and from the United States are very much at top of mind given the strength of our industry in our ability to supply

other markets. And I'm very aware of the story of the hit to our exports, and then the hope and the promise that the Chinese have made.

What I would say to you is that, with respect to the purchase commitments that the Chinese made in the U.S.-China Trade Agreement, we are in the process of examining their performance, and are scrutinizing all of the aspects of what they have done, and what they have yet to do, and what they have not done at the levels that they promised.

Your raising it with me here today is one of the most powerful ways of showing how much of a priority these promises and China's ability to keep them are to us in managing our relationship with China. So, I would like to assure you that this is going to be—is a priority as we are examining performance and will be a priority for us as we examine our options for engagement with China and all of our enforcement options.

Senator COLLINS. Thank you. As a result of the worldwide Section 232 steel and aluminum tariffs, which my colleagues have all mentioned today, the European Union is said to double retaliatory tariffs to 50 percent on certain imported products, including recreational boats, on June 1st. This would have an adverse impact on boat builders in the State of Maine. Is the administration working with the UE to prevent this increase from taking place?

Ms. TAI. Senator Collins, yes, across the board on Section 232, this administration is committed to working on the larger issue of the global overcapacity and glut in steel and aluminum production capacity, but with our allies, in particular, with the European Union. So, we are engaging with our European Union counterparts that is from my perspective and also, I know Secretary Raimondo at the Commerce Department. And the point, I think, is that we find ways to work together with allies like the European Union on an overall problem that we actually share. So, yes, my bottom line answer is yes, we are working on this.

Senator COLLINS. Thank you. And I only have 5 seconds left, so I will submit my rest of my questions for the record. But let me just say that I agree with my colleagues on the need for there to be a negotiation with Canada to renew the softwood lumber agreement. We've seen lumber prices go sky high. We obviously prefer domestic sources, but when domestic sources can't meet the demand, as is the case right now, and prices are so high, we desperately need a new agreement to be negotiated so that we're not involved in imposing under failing and anti-dumping duties on Canadian softwood lumber imports.

We want Canada to play by the rules, but we need a new agreement. So, I just wanted to reinforce what my colleagues have said, and I'll submit my question for the record. Thank you, Madam Chairman.

Senator SHAHEEN. Thank you very much, Senator Collins. And let me just add my voice to Senator Collins with respect to lobster. That is—we don't have as many in New Hampshire as Maine does, but it is also an issue for us, and we have seen a devastation in the market from companies that were sending lobsters to China. And that market doesn't exist anymore. So, Senator Hagerty. Oh, no. I'm sorry. Do we have anybody online? So, Senator Hagerty.

Senator HAGERTY. Well, Chairman Shaheen, thank you very much for holding this hearing. And Ambassador, I want to congratulate you. Your reputation is excellent. We've talked about that, and I look forward to working with you. I also want to thank you for the negotiations you undertook with SK and LG in electric batteries. Tennessee is an automotive-producing State. We're at the cutting edge of automotive production, and having that capacity nearby is going to be absolutely critical for us to move into the next stage of automotive excellence. So, I applaud the actions that you've taken. It's going to have a very significant impact on the supply chain that's so critical to the automotive industry in our State.

I'd like to talk about another industry, though, that's critical to our State. You know that I'm from Tennessee, and I'm sure you're not going to be surprised at this question. But as my colleague, Ranking Member Moran mentioned, there's been a 4-month hiatus that's taken place to negotiate between airlines, aircraft frames. There have also been a number of beverages included in that hiatus on those tariffs. But what's missing is American whiskey. American whiskey remains subject to a 25 percent tariff, and that tariff is going to go up to 50 percent in June if something isn't done about it.

American whiskey is critical to Tennessee's industry. More important, it's critical to our brand as a nation. I think you could go anywhere in the world, and ask people about my home State of Tennessee, and they could tell you that whiskey is a big part of our culture. People abroad aren't going to be able to buy our whiskey at a 50 percent tariff rate, so I'm interested in what you'll be able to do to take on the problems of American whiskey being taxed at 50 percent.

Ms. TAI. Senator Hagerty, you are—it's very nice to see you in person, and you're right. Whiskey, bourbon from Tennessee—Kentucky, also, I know is a big producing State—are very much on our minds, and we hear from these stakeholders directly about their concerns from these EU retaliatory tariffs.

What I would share with you is this. So, first, I want to—I want you to know I think a lot about this, and we are working on this. But let me just frame this up a little bit in terms of the tariffs that the Europeans have on our whiskey, which is they're part of the Section 232 suite of tariffs. This is where we are, and this is actually, in terms of enforcement, using tariffs for enforcement, this is actually the logic for how they're supposed to work. We impose them, our counterparts, when they have the right, will impose them back. And it's not for the sake, usually, of just hitting each other with tariffs. It's usually to motivate the two sides to get at resolving the issue.

In the case of the 232s, the issue that we need to resolve is the global overcapacity problem. And so, here I'm using a slightly different set of words and tact to convey to you, but the same message, that we really do need to work with others, especially the European Union, on the overall steel overcapacity problem. And so, what I am hoping is that they see that problem, and they see it to be as serious a challenge to our ability to produce and compete in steelmaking as we see it, and that, working together, we will be

able to resolve these sets of tariffs so that we can join forces on the bigger picture.

So, that's how I'm approaching these conversations. I know that there are others in the administration who are working on this, as well, and we will be working together to get at more effective solutions to the problems that we have.

Senator HAGERTY. As you can imagine, I don't want Tennessee whiskey or Kentucky bourbon to be a casualty of this. Certain beverages have been included. Others have not. I'm not certain the logic of how one was chosen, the other was not, but our situations are similar. In fact, maybe even more important given the identity associated with Tennessee whiskey and our brethren in other States, and it's critically important to our State. So, I appreciate your attention to that.

I'd like to turn, if I could, to the role that you play with the World Trade Organization and talk about something that has deeply concerned me and I'm sure many Members of the subcommittee. And that's the way China is treated at the WTO. They enjoy preferential treatment. They take on weaker commitments, and they've done a very good job of doing this in a number of multilateral organizations. I'm sure you're aware of the disparate treatment that they receive, and I would be very interested in hearing your thoughts on that, and what we might be able to do about rectifying the situation.

Ms. TAI. Senator Hagerty, I know I'm running out of your time, so let me try to be succinct here. It is very concerning, the rules at the WTO that allow for countries to designate themselves as developing and to allow them to have dispensations from the rules, and this is something that we will continue to work on at the WTO, and work with others on. We are making some progress, and I am hopeful that we will be able to make a difference at the WTO.

Senator HAGERTY. If I can help in any way, I know some other nations that I think feel the same way we do, and I'd be happy to work with you on that.

Ms. TAI. Thank you.

Senator HAGERTY. Thank you. Thank you, Ms. Chairman.

Senator SHAHEEN. Thank you, Senator Hagerty. And I just want to clarify something. The Ambassador is not suggesting that there is an oversupply of whiskey in the world, are you?

[Laughter.]

Ms. TAI. I'm sorry if I—that wasn't clear. Okay.

Senator HAGERTY. I got it.

Senator SHAHEEN. Just wanted to clarify that.

Senator BRAUN. Nobody would complain.

[Laughter.]

Senator SHAHEEN. Senator Braun.

Senator BRAUN. Thank you, Madam Chair. Good to be talking with you. Indiana is a top steel-producing State in the U.S. As a result of repeated surges in steel imports, the Trump administration implemented Section 232 tariffs, which helped kind of stabilize the domestic steel industry, allowed steel makers to invest billions of dollars in new facilities and upgrades to existing mills. I think nearly half of the world's excess steel capacity is housed within China. These efforts saved thousands of jobs.

As you know, the tariffs are designed to protect against that global overcapacity, and you've got some anti-market policies that go along with the glut, so it really creates a condition to where you can get predatory actions that don't play by the rules necessarily.

I know that a number of foreign governments are pressing to have the tariffs lifted, but I remain concerned, because I don't know that any of the underlying practices are going to change, and I think certainly that capacity's going to be there. Very tempting to try to use it. What assurances can you provide that the Biden administration will preserve the steel tariffs program to prevent a new surge of imports, and to use it as a tool until you see real change happening within the way the Chinese handle this excess capacity?

Ms. TAI. Senator Braun, that is a really critical question because the 232 tariffs are very much on everyone's minds, because of the tariffs themselves, and also because of retaliatory actions that our trading partners have taken, including on Tennessee whiskey, as we just heard from Senator Hagerty.

I want to assure you that I understand, see and fully accept that there is a global overcapacity problem with the steel market, and that the tools that have been used, the 232 tariffs, have had an impact on steel production here in the United States, a positive one. But they have also carried with them costs. And so, for the Biden administration, as the U.S. Trade Representative, my focus is to figure out how we improve and the effectiveness of the tools that we use in support of American steelmaking, but to try to address some of the unintended consequences, I think, in terms of the frictions that this has generated with our trading partners.

And so, solutions that we come to with our trading partners, I believe, in my core, really have to address the larger issue around the overcapacity in the market.

Senator BRAUN. In your conversation with Senator Van Hollen, you said keep your eye on the ball. Be watchful. Cited maybe other industries. Steel is so important to Indiana. What would be the top two or three, in order of concern, other industries that you think we can have similar issues dealing with the Chinese?

Ms. TAI. Senator Braun, I want to be careful here in terms of prioritizing because all of our industries, they're like our children. They're important. They're important to all of us. But let me say this. I think that if you look at trend lines in industrial sectors, and you also look at the ambitions and the policies that China has put forward in its plans, made in China 2025, its 13th 5-year plan, 14th 5-year plan, you can mark and see where trends are going to go. And so, some of them are because of overcapacity. Some—

Senator BRAUN. Could you name a few, not necessarily putting them in order that you might be concerned with?

Ms. TAI. I can provide a couple examples. I think that we also see with cement, for example, that there is domination by China in the global market. Vitamin C, actually, had been a subject of an international antitrust case here in the United States, getting at the Chinese market dominance in this area. So, those are a couple examples that have been around, and if there are others, and this is of interest to you, I'd be very happy to continue this conversation with you.

Senator BRAUN. Thank you.

Senator SHAHEEN. Thank you very much, Senator Braun. Ambassador, we don't have anyone currently on the line or any other people in the queue, but I have some more questions, so, I'm going to do a second, maybe a third round here.

I want to go back to climate change, and to your remarks. I mentioned this in my opening statement. I was very encouraged by the—your comments around climate change in your Earth Day policy speech, and one of the things you talked about, you said—and I think I'm quoting you accurately—is that, “Our trade system itself creates an incentive to compete by maintaining lower environmental standards, or worse yet, by lowering those standards even further.”

Given the President's recent announcement about further slashing our greenhouse gas emissions by 2030, and the commitment of the Biden administration to climate change, can you talk a little bit about how you see trade policy helping us to address climate change?

Ms. TAI. I would be delighted to, Senator Shaheen. As I discussed some in those remarks, we have wanted to expand out the disciplines in our trade agreements, in our trade policies, in our trade conversations beyond tariffs and these border rules. And we have done so very successfully in a number of areas. If you look at the WTO agreements, it evolved from the general agreement on tariffs on trade to get at other types of issues that impact trade.

But even in the WTO agreements, despite a very bold and really poetically written preamble that talks about standards of living, full employment, and the preservation of our natural resources for a sustainable economic future, there aren't any disciplines there. And I think that what is really important about the moment that we are in right now is here in the United States, we have made tremendous progress from 25 years ago, where our trade agreements, as a matter of course now, on a bipartisan accepted and supported basis, include labor and environment provisions. Full chapters that indicate that the terms of worker protections and environmental protections, these are economic issues. They impact the terms of trade. They impact how our economy is run.

And we've made a lot of progress just in the last 4 years, in terms of building out enhanced rules, enhanced enforcement mechanisms, to ensure better terms of competition in terms of worker protections and labor as an input into our economy.

Now is really the time to focus on increasing and improving, building out these environmental provisions, because it is very clear to the world right now that climate and the environment are not just policies in and of themselves for their own goods, but they're also public health policies, and then more fundamentally, they are economic policies. They are going to be critical to our ability to be the strong economic power that we are so used to, and so lucky to have been. And they're going to be critical to our ability to compete and lead as we go into the next decades of our future.

Senator SHAHEEN. Well, I think one place where the importance of trade agreements in addressing that was USMCA, and your involvement in, I think, and Democrats' involvement in trying to improve that agreement were significant. It's something that we pay

a lot of attention to in New Hampshire, because we do a lot of trade with China and with Mexico. And one of the real concerns as the first phase of—the first draft of that agreement was rolled out was the lack of those environmental policies that meant that we were not competing on a level playing field.

So, can you talk about how you see USMCA now actually implementing some of the climate opportunities that we have as we're looking at trade?

Ms. TAI. Well, I really appreciate this question. USMCA does actually have, and I think it does set the bar right now for the environmental provisions in our trade agreements. And while there isn't explicitly built out climate provisions, there are a lot of provisions in here that do impact the climate, chief among them, conservation provisions, enforcement provisions that are intended to enhance our enforcement and our coordinated enforcement against trade in illegally harvested timber, illegally taken wildlife, and all of these do impact the climate.

So, I think that USMCA is an important base to build off of, but we shouldn't be afraid to be more bold, and to demand more from our trading partners, given that environmental issues, like our health issues, are ones where we are actually need to be working with others in order to make a difference for ourselves and for the world.

Senator SHAHEEN. And so, are you feeling pretty confident if there are disputes that exist that the mechanisms that are there to try and resolve those will be able to work?

Ms. TAI. That's a great question. I so appreciate that you've asked me this question. My view is that we did our very best to put in the most effective tools for enforcement that we know how. And they may not be perfect, but we're not going to know how effective they're going to be if we don't use them.

And so, I am very committed. I am not afraid to use the enforcement tools. Some of them are cooperative, some of them are more confrontational, some are a mix, but I really think that in order to do the USMCA justice, and in order to do the partnership that we've renewed with Mexico and Canada, give them the respect that they deserve, we need to use all of these tools to see if they work. And then improve them, and improve our use of them, because that is the point of doing a trade agreement. It's not to put it on the shelf and look at it. It's to make sure that it works.

Senator SHAHEEN. So, we don't have any examples yet of using the dispute resolution mechanisms to see how companies are responding to that?

Ms. TAI. We do have one example. Actually, there are two examples of where USTR has initiated the first steps in an enforcement tool. So, the first one was done under the Trump administration by Ambassador Lighthizer. He requested consultations with Canada on dairy.

And the other initiation we undertook earlier in, I think it was late March or early April, we activated a customs verification cooperation agreement that we have with Mexico, seeking information from Mexico, Mexican customs, on leads that we have that there is illegal wildlife or timber traffic that is happening through

the Mexican ports, and we are expecting to hear back from Mexico on that soon.

But absolutely we have taken the first steps, and we will continue to make sure that we've used every one of the tools that we have.

Senator SHAHEEN. That's good to hear. I look forward to hearing more about how those mechanisms are used, and how, I don't think pleased is the right word, but how companies feel after they've had a chance to use those.

The other concern that I've heard from New Hampshire companies about with respect to USMCA, and again, they were very pleased when it got done, but one issue has been the de minimis thresholds, which of course, those are very important for small businesses that export. In New Hampshire, most of our businesses are small, so they are paying real attention to what's happening there.

Can you talk about what USTR is doing to ensure that Mexico is following the agreement when it comes to de minimis thresholds?

Ms. TAI. Absolutely. I was going to say that I would be happy to remind my Mexican and Canadian counterparts how disappointed stakeholders are in the United States with where they were willing to commit themselves on, their de minimis thresholds. But with respect to Mexico, let me say this. There are a number of concerns that we have with Mexico's performance of its commitments under USMCA.

I want to recognize here, maybe a little belatedly, and this probably applies to our review of our own performance, but also the performance of our trading partners under our agreements. The last year has not been a normal year, and I do want to recognize that COVID-19 has impacted all of us in lots of different ways.

So, my conversations with Mexico. I am very cognizant of the challenges that they are facing, just as we are facing challenges. But that doesn't stop us from wanting to make sure that trade is still happening and that promises are being fulfilled. So, I have raised bilateral issues that we have with Mexico. My counterpart in Mexico, Secretary Clouthier, she was not shy about raising Mexico's concerns about what we are doing here in the United States.

On USMCA, I am looking forward to a free trade commission. This is sort of the annual get-together to review performance and to take care of the agreement. We will be setting that up in the coming weeks, and I will be happy to report back to you after that takes place.

Senator SHAHEEN. Well, thank you, and thank you for adding Canada to that, because obviously Canada is also an issue. I had the opportunity several years ago to raise the—our concerns about their de minimis thresholds with the foreign minister, and he was very responsive. I think when he got back to the government, they were less so. So, I do recognize that this is an issue in both participants with USMCA.

Finally, I just want to ask how the pandemic has affected your agency's operations. I know it's really been hard on everyone. And are there costs that the agency has incurred that we should be paying attention to as we're looking at the budget that's presented

both by the administration and as we're thinking about what we need to do for the next year?

Ms. TAI. I so appreciate that question, because, being a returnee to USTR, and having spent some very formative years there, I care very much about the people who make USTR work, and what I would say in terms of the costs of the pandemic, I would say that the costs are probably more to morale and more personal, in terms of the uncertainty and in terms of the difficulties that it has imposed on people.

And, you know, workers at USTR are not alone. I know that for families with children, especially young children, for colleagues who are single, that they are some of the ones who have been hit the hardest by the reality of needing to work through the pandemic. So, what is interesting is as we look at the USTR as an agency, and the impact of the pandemic, what I would say is mostly it's that we have not spent our funds at the rate that we expected because of pandemic restrictions, and because we are placing the health and safety of our colleagues and those of our counterparts really at the priority of what we are doing.

So, that's probably my message to you in terms of the pandemic's impact on USTR, which is most of our budget is dedicated to travel and to personnel. We are a small but mighty machine, and in a pandemic, it is hard to travel, and unsafe. And it is also hard to replace personnel and recruit personnel. So, those are probably the largest impacts of the pandemic that I have to share with you.

Senator SHAHEEN. Well, I hope you will stay in touch with this subcommittee as you're continuing to work on your budget, because the more information we have, the better job we can do in trying to address what your needs are.

Ms. TAI. Understood.

Senator SHAHEEN. Senator Moran.

Senator MORAN. Chairman, I know you're disappointed that I made it back, but—

Senator SHAHEEN. Oh, I'm so glad. I was out of questions.

Senator MORAN. Thank you very much for—again for conducting this hearing. Ambassador, thank you for being here. Let me go back to a topic that I raised with you in my earlier questions and in my opening statement.

I mentioned to you that I have joined 39 of my Senate colleagues, so 40 of us have written to you urging that you restart the exclusion process for imports from China, subject to tariffs under Section 301. Again, this subcommittee on a bipartisan basis led the effort to persuade the prior administration to set up exclusion process. I'm not sure that was their intention when we started that effort, and I remain in my strong belief that Americans ought to continue to have that opportunity to petition their government for relief from tariffs. The question is more specific. Do you agree with that sentiment? Do you agree with me that Americans should continue to have that opportunity to find exclusions under Section 301?

Ms. TAI. Senator Moran, I would say that in general, yes, I do agree. And I don't want to raise any consternation here, I just want to be—have the opportunity to fill in a little bit. At my confirmation hearing, Senator Portman, who I believe is also on that letter, had asked me to commit to a top-to-bottom review at USTR, and

he really recommended it to me as something that he had done when he was USTR. And this is a top-to-bottom review specifically on China.

And at the time when Senator Portman was U.S. Trade Representative was 2005, 2006, China had been in the WTO for about four or 5 years, and it was actually I think a really excellent idea to do that top-to-bottom review and to think strategically about that particular relationship.

Well, it's 2021 now, and we are in a different place in our own economic history and in our relationship with China. And certainly, China has changed a lot since that last review was done. So, I very readily committed to Senator Portman to undertaking a top-to-bottom China review at USTR, and we will be looking at the full picture, but the tariffs themselves we will be looking at, as well as the exclusion process.

And part of that will also be reviewing how the exclusions were done before, the logic behind the tariffs, the logic behind the exclusions, and so, my answer to you is I am very interested in this. I'm very interested in how we make our trade policies across the board more effective and more strategic. I think that every challenge is also an opportunity, that Ambassador Lighthizer has presented me with many opportunities, which I am embracing, and I would like to build on the gains that we have made over the past many years and make our trade policy work better.

So, this question about the tariffs and the exclusions I know are on the minds of many, and are very consequential to stakeholders large and small, and we will be undertaking this responsibility with that sense of gravity.

Senator MORAN. Do you think you can complete that review and make a decision, and if it is to have an exclusion process, that that exclusion process can be in place before circumstances are such that the damage is being done to—particularly to American manufacturers?

Ms. TAI. I want to convey to you that I am keenly aware of how much time is of the essence, in particular in this current economic environment.

Senator MORAN. We're delighted to have you here so early in the appropriations process, but it gives you the opportunity to defer to a point in time in which you have the opportunity to have reviewed, which is not what I'm really complaining about, only smiling about. So, we'll be back in touch.

Let me ask one more question. This was in regard to Mexico and USMCA. The president of Mexico recently issued a decree that would ban glyphosate and biotech corn in Mexican diets by 2024. This announcement comes on the heels of Mexico also imposing certain regulatory barriers to agricultural imports, their approval. These actions threaten to cause significant trade disruption, undercut the commitments our nations just agreed to in USMCA. My question is, are you aware of these issues, and can you—if so, can you provide me with an overview what USTR intends to do or plans to do in addressing them?

Ms. TAI. I'm very aware of these issues, and I have raised them with my Mexican counterpart, just as I raised our Canadian issues with my Canadian counterpart. I just conveyed to Chair Shaheen

that there will be a Free Trade Commission convening under the USMCA in the next few weeks, and that will give us an opportunity to—at my level, to again raise concerns. But I want to let you know that I am committed to using all the tools that we have in the USMCA toolbox, and there are a lot. And there are some of them that are new, and these issues are absolutely on a fairly full radar of areas and concerns that we are hearing from Senators, from the stakeholders themselves about how the agreement is not operating the way that we would like it to.

So, we have our teams that work on this day in and day out. We are looking at it in terms of what our options are to resolve these issues soon, and also what other options are if we're not able to resolve them in the near term.

Senator MORAN. Ambassador, thank you for your answers. I've been impressed by you and the answers as well as the future answers I expect to get. So, thank you, thank you very much for your leadership.

Ms. TAI. Thank you.

Senator SHAHEEN. Thank you, Senator Moran, and we can always invite Ambassador Tai back, so, I think we should assume that.

Senator MORAN. I appreciate you saying that, and welcome that opportunity.

Senator SHAHEEN. Thank you. Well, I also want to thank you very much, Ambassador, for your appearance here, for your testimony, and for your willingness to work with the subcommittee, and Members of Congress on the challenges that we face going forward with trade.

ADDITIONAL COMMITTEE QUESTIONS

If there are no further questions this afternoon, Senators may submit additional questions for the subcommittee's official hearing record. We ask that USTR respond within 30 days of receiving those questions, and the subcommittee will stand in recess. Thank you.

[The following questions were not asked at the hearing, but were submitted to the U.S. Trade Representative for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO AMBASSADOR KATHERINE TAI

QUESTIONS SUBMITTED BY SENATOR PATRICK LEAHY

A REVIEW OF THE ACTIVITIES AND FISCAL YEAR 2022 FUNDING PRIORITIES OF THE OFFICE OF THE U.S. TRADE REPRESENTATIVE

Question 1. On March 30, I sent a letter to the President, with Senator Tillis, requesting that the administration prioritize the appointment of critical intellectual property officials, including the Chief Innovation and Intellectual Property Negotiator at USTR. As noted in that letter, IP-intensive industries are poised to continue to be an engine for growth during this time of economic recovery, which is why focusing on promoting and protecting IP-related jobs and economic output must be a key priority. Unfortunately, this position at USTR has not been filled since its creation in 2016.

- 1a. Do you agree that filling the position of Chief Innovation and Intellectual Property Negotiator at USTR must be a priority for the Administration?
- 1b. Does the administration intend to put forward a nominee for this position? If so, when do you expect the nomination will be sent to the Senate?

Answer. As you note, the Chief Innovation and IP Negotiator position has not been filled since it was created by Congress. The issue of intellectual property is one where there are strong views on both sides, and I will keep that in mind as we consider the path forward for filling it.

QUESTIONS SUBMITTED BY SENATOR JOE MANCHIN, III

Question 1. For decades, the world's biggest companies have flocked to the United States, attracted by our skilled workforce, expansive consumers and legal protections. These companies have created millions of good American jobs and revitalized many communities, especially in rural States like West Virginia. According to the recent government data, international companies created 80 percent of all new U.S. manufacturing jobs from 2013 to 2018. The Toyota plant in Buffalo, West Virginia employs over 2,000 West Virginians in Putnam County. There, Toyota continues to provide the economic engine for the area. Nonetheless, the United States runs a trillion-dollar annual trade deficit because it has lost most of its manufacturing industries. Although we created all the industries of the digital age, they have predominately migrated overseas.

- 1a.* What opportunities do you see for new manufacturing jobs in the United States?
- 1b.* How do we ensure that our trade policies benefit economically depressed and rural areas?
- 1c.* How can we ensure that manufacturing jobs do not get offshored?

Answer. The Biden-Harris Administration believes a strong U.S. manufacturing base is critical both for U.S. national security and a strong recovery from the COVID-19 shock. The new investments in both U.S. infrastructure and the U.S. industrial base will be critical to creating the new manufacturing jobs the United States needs.

The American worker is at the center of the Biden Administration's trade agenda. President Biden has made it clear that his first priority is new domestic investments, not new trade deals. Those investments, including in infrastructure, are needed to enable American workers to compete effectively for the jobs of the future. The President has made his commitment to "Buy American" clear, including through the creation of a Made in America director within the Office of Management and Budget to link Federal procurement with domestic manufacturing. The American Jobs Plan recognizes the importance of creating good-paying jobs in rural America. Further, the work that emerges from the Biden Administration's Executive Order 14017 on America's Supply Chains will generate additional recommendations for how to strengthen the resilience of U.S. supply chains in four vital product areas—critical materials, advanced batteries, active pharmaceutical ingredients and semiconductors—as well as key sectors in the U.S. industrial base. The Biden Administration's foreign economic policy for the middle class recognizes that trade policy must support domestic economic efforts.

The Biden Administration is also committed to ending the incentives in the U.S. tax code that have encouraged the offshoring of U.S. manufacturing jobs. The Treasury Department is actively working with a number of our key trading partners in the G-20 and the OECD on a multilateral agreement to end a race to the bottom on tax rates.

At USTR, we are reviewing our trade commitments to identify ways in which trade agreements can do more to help strengthen U.S. manufacturing. We will continue to work to ensure that American workers can compete on a level playing field, not one where our trading partners gain false competitive advantages through lax labor and environmental standards.

Question 2. It is no secret that the Biden Administration is looking to transition our Nation's fleet of gas vehicles to primarily electric vehicles. In the Administration's infrastructure plan, it was made very clear when they sought \$174 billion to support electric vehicle manufacturing. I am very concerned about some of the questionable mining practices, both on the humanitarian and environmental side, in places like the Democratic Republic of the Congo, which holds 50 percent of the world's reserves of cobalt, which has also been developed in large part by China. I am also concerned about our reliance on a small list of countries to provide the materials we need to manufacture lithium-ion batteries. If those supply chains were interrupted or cut-off entirely, we wouldn't have any alternatives at this point. If we are going to build up the EV market in the United States, I believe we need to make sure we are sourcing these battery materials responsibly and domestically wherever possible or looking for sustainable alternatives.

2a. As U.S. Trade Representative, how do you plan on shoring up domestic supply chains and reducing reliance on foreign materials for production of goods, especially in EV production?

Answer. I share your concerns about the supply chain for the critical materials needed for electric vehicle (EV) battery production. The full supply chain for advanced batteries is being examined as a result of President's Executive Order (EO) on America's Supply Chains. The recently released 100-Day reviews, "Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth," pursuant to that EO examine this issue in further detail. Those reviews assert, in part, that "the United States should take a mineral-by-mineral approach to look for opportunities to sustainably produce and refine domestic minerals for key battery materials. For battery materials where the United States does not have strong deposits suited for economic extraction, the best pathway to getting a stable material supply in the near-term is through allies and trading partners with responsible environmental and labor standards, and in the long-term by capturing and recycling the supply of materials in end-of-life batteries from EVs and storage. Both extracted and recycled materials and minerals will require refining and processing, and refining and processing capacity should be scaled up domestically to utilize this supply, capture an important stage of the supply chain that fuels downstream battery manufacturing, and avoid the need to export raw materials and re-import processed components." I will work to ensure America's trade policies support the recommendations that emerge from these supply chain reviews.

Question 3. In 2017, the Office of the United States Trade Representative initiated an investigation to determine whether certain Chinese "laws, policies, practices or actions are unreasonable or discriminatory and may be harming American intellectual property rights, innovation or technology development." Because of this investigation, USTR imposed tariffs under Section 301 of the Trade Act of 1974. However, in doing so, they also created an exclusion process in which certain businesses and entities could request an exclusion from the tariffs for certain goods that were not readily available in the United States. Unfortunately, many of these exemptions expired on December 31, 2020, and there has yet to be a process for Section 301 tariff exemptions put back in its place.

3a. Does USTR plan to reinstate an exclusion process for these tariffs and if so, when can we expect to see that process start?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process. Our plan to re-examine the tariffs provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question 4. As I have stated numerous times, I have been supportive of the efforts to expand steel and aluminum tariffs under Section 232 of the Trade Expansion Act of 1962. In my State of West Virginia, steel and aluminum producers are still struggling to survive because of foreign traders who circumvent our trade laws and evade duty payments by transshipping products through third party countries. While I appreciate the Biden Administration's commitment to review the effectiveness of existing tariffs, many of my constituents and businesses are asking when a decision will be made on the tariffs put in place by the prior administration.

4a. Given your examination of current trade policies, do you believe that the current tariffs on steel and aluminum are effective?

4b. When can we expect an announcement on the future of section 232 steel and aluminum tariffs?

Answer. With respect to the section 232 tariffs on steel and aluminum, we have a very significant problem in the global steel and aluminum markets that is driven primarily by overcapacity in China and other countries, particularly in Southeast Asia and the Middle East. The Administration is working to address the market distorting measures in economies that have led to overcapacity in the global steel and aluminum industries and the resulting national security threats.

In addition to the thorough review of the section 232 measures and product and country exclusions that is currently underway by the Department of Commerce, the Administration is also consulting closely with various domestic stakeholders and like-minded partners around the world sharing similar national security interests to address market distorting measures in non-market economies that pose a serious threat to the market-oriented U.S. steel and aluminum industries and the workers in those industries. On May 17, 2021, the United States and the European Union

(EU) announced the start of discussions to address global steel and aluminum excess capacity and the market distortions that result from this excess capacity. The Administration is committed to working with the EU and other like-minded partners to address excess capacity, ensure the long-term viability of our steel and aluminum industries, and strengthen our democratic alliance.

QUESTIONS SUBMITTED BY SENATOR CHRIS VAN HOLLEN

Question 1. The USMCA implementing legislation established the Independent Mexico Labor Expert Board (IMLEB) for the purpose of monitoring and evaluating the implementation of Mexico's labor reform and compliance with its labor obligations. The Board also advises the Interagency Labor Committee (co-chaired by the USTR) with respect to capacity building activities needed to support such implementation and compliance.

On December 15, 2020, the Board submitted an interim report to assist the Interagency Labor Committee and the Congress in their assessment of the efforts of Mexico to implement Mexico's labor reform, and the manner and extent to which labor laws are generally enforced in Mexico. While the first phase of implementation of the new labor institutions established under the 2019 reform was delayed until November 18, 2020 (due to the Covid-19 pandemic), the Board identified a number of serious concerns with Mexico's labor law enforcement process that it believed must be addressed promptly. In addition, the Board identified issues affecting capacity building activities needed to support the implementation of Mexico's labor reform and compliance with its labor obligations that also require immediate attention.

Ambassador Tai, the USMCA imposed new stringent labor standards that we hope will become the model for future trade agreements. But without effective monitoring and enforcement mechanisms, these labor provisions will be toothless.

1a. Based on this report from the Independent Mexico Labor Expert Board (IMLEB), can you tell us what concrete actions the USTR will be prepared to take to address their recommendations, either alone or in conjunction with other agencies such as the Department of Labor?

Answer. USTR has carefully considered the information and recommendations included in the IMLEB report, including by integrating that information into our monitoring. We are engaging with the Government of Mexico on a regular basis to press for progress and support their efforts to implement the reforms required by the USMCA, including on issues raised by the IMLEB. USTR hosted the first Free Trade Commission meeting under the USMCA on May 17 and 18, and plans to hold a Labor Council meeting soon. On May 12, USTR submitted the first ever USMCA Rapid Response Labor Mechanism (RRM) request for review to Mexico. The request asked Mexico to review whether workers at a General Motors (GM) facility are being denied the right of free association and collective bargaining. This self-initiated action shows the Biden-Harris Administration's serious commitment to workers and a worker-centered trade policy. In addition, the Department of Labor has launched several significant technical assistance projects to support the Government of Mexico in its labor reform and to strengthen workers' ability to exercise their labor rights. USTR collaborates closely with the Department of Labor. We look forward to continued reporting from the IMLEB.

1b. Do you anticipate that an increase in funding will be needed to adequately carry out these activities?

1c. Or does the funding provided under the USMCA implementing legislation provide sufficient funding?

Answer. USTR is using the funding provided under the USMCA implementing legislation, which runs through 2023, to dedicate current staff and hire additional staff to support the monitor and enforcement activities under USMCA. I look forward to working with members of this subcommittee to ensure that USTR has adequate resources to fully implement and enforce USMCA.

Question 2. The Rapid Response Mechanism was a novel innovation of the USMCA, which ensured that workers could receive relief through facility-level enforcement of USMCA labor violations. The USTR's 2021 policy agenda notes that the Biden Administration is committed to self-initiating and advancing petitions under this mechanism.

2a. Ambassador Tai, could you tell us a little bit more about what the USTR has (or intends to do) on this front to initiate petitions?

Answer. On May 12, USTR submitted the first ever USMCA Rapid Response Labor Mechanism (RRM) request for review to Mexico. The request asked Mexico to review whether workers at a General Motors (GM) facility are being denied the right of free association and collective bargaining. This self-initiated action shows the Biden-Harris Administration's serious commitment to workers and a worker-centered trade policy. Working with the Department of Labor, USTR engages in monitoring efforts, and we will not hesitate to self-initiate additional matters when we become aware of facts that warrant such action. Additionally, the Interagency Labor Committee for Monitoring and Enforcement (ILC), which I co-chair with the Secretary of Labor, receives and reviews USMCA labor petitions from the public. If the ILC determines, in response to an RRM petition, that there is sufficient, credible evidence of a denial of rights enabling the good-faith invocation of enforcement mechanisms, I will submit a request for review to Mexico.

2b. How are you monitoring individual facilities, and do you believe you have the resources that you need to fully carry this out?

2c. If not, what additional funding, resources, or authority would be needed to successfully undertake these activities?

Answer. USTR is using the funding provided under the USMCA implementing legislation, which runs through 2023, to dedicate current staff and hire additional staff to support the monitor and enforcement activities under USMCA. I look forward to working with members of this subcommittee to ensure that USTR has adequate resources to fully implement and enforce USMCA, including the labor chapter.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

Question 1. Ambassador Tai, as we discussed during the April 28 hearing, China continues to fall short of its seafood purchase commitments as outlined in Chapter Six of Phase One of the Economic and Trade Agreement between the U.S. and China. This is in spite of the fact that China has purchased increasing quantities of U.S. livestock and other agricultural exports under the Phase One agreement. This seafood-specific failure has resulted in significant economic losses for certain fisheries in Alaska and across the Nation, and I urge you to take action to alleviate these losses and push China to honor its seafood purchase promises. One potential strategy is to secure a commitment from China to apply a blanket tariff exclusion on U.S. seafood imports. This option would eliminate any difficulties around obtaining individual temporary tariff waivers.

1a. Will USTR consider pursuing a blanket tariff exclusion to restore the Chinese market for American seafood companies?

Answer. During meetings held under the Phase One Agreement to review China's implementation progress, the U.S. side has frequently raised concerns about the slow pace of China's purchases of U.S. goods, including seafood. While China has established a tariff exclusion process that makes tariff exclusions available for U.S. goods like seafood that are covered by Chapter Six of the Phase One Agreement, we understand from U.S. industry that this tariff exclusion process has not been working well for goods in certain industries where the practice is to enter into long-term contracts or where importers tend to be small, private companies reluctant to make use of the available tariff exclusion process as opposed to large State-owned enterprises. We have been raising this issue with the Chinese side, and we agree with you that a blanket tariff exclusion for these types of goods would help to promote increased purchases by Chinese companies.

Question 2. Ambassador Tai, on top of the devastation that Southeast Alaska is seeing from a lost tourism season, we also continue to suffer from the impacts of a 25 percent tariff rate on Alaska spruce and hemlock. Although the Phase One agreement signed by the Trump Administration created a waiver for timber tariffs, Alaska spruce exports to China—our primary buyer of spruce—flatlined the last 2 years, and the future remains uncertain.

2a. What specific actions are you taking to help us work through this tariff?

2b. Is there anything that you need from Congress to help on this front?

Answer. During meetings held under the Phase One Agreement to review China's implementation progress, the U.S. side has addressed China's tariff exclusion process, and specifically Alaska spruce and hemlock, with the Chinese side. We understand that China's tariff exclusion process has been regularly used to secure tariff exclusions for goods that are covered by Chapter Six of the Phase One Agreement.

In addition, for Alaska spruce and hemlock, we have clarified that China makes tariff exclusions available for these products for 1 year from the date that a tariff exclusion has been granted, subject to periodic updates on the purchases being made. We have also communicated this information to U.S. industry.

QUESTIONS SUBMITTED BY SENATOR SUSAN COLLINS

Question 1. In February, Sen. Sinema, Sen. Kelley, and I led several of our colleagues in writing to President Biden to urge him to remove the Section 301 tariffs that had been levied on food and beverage imported from the EU since October 2019 due to the large civil aircraft subsidies dispute. A few weeks later, on March 5, the White House announced that these tariffs would be suspended for an initial 4 months. I greatly appreciate that the Administration heeded our call since these tariffs have been extremely detrimental to small businesses in Maine. Is the Administration working with the E.U. to make this suspension permanent?

Answer. USTR is engaging intensively with the EU and the UK in an attempt to reach a balanced settlement to the large civil aircraft disputes that will ensure a level playing field and address the harms to our workers and businesses. We are also seeking a joint vision with the EU and the UK to address the challenges posed by non-market economic practices of China and other new entrants to the large civil aircraft market.

QUESTIONS SUBMITTED BY SENATOR LINDSEY GRAHAM

Question 1. What will be the impact on small and medium sized domestic remodeling/renovation businesses if tariffs are imposed on building materials such as flooring and countertops as a response to Turkey's Digital Services Tax (DST)?

Answer. USTR recently requested public comments and held a hearing on a proposed Section 301 action arising from the investigation of Turkey's Digital Services Tax on May 7, 2021. In determining what action, if any, to take, USTR will carefully consider the potential impact on small and medium sized businesses.

QUESTIONS SUBMITTED BY SENATOR JOHN BOOZMAN

Question 1. I have always been supportive of holding our trading partners accountable, especially in the agriculture sector. As you know, India is often at the top of the list of employing tariff and non-tariff trade barriers as well as providing their domestic agriculture producers with support that far exceeds their WTO commitments.

Arkansas grows over half of the U.S. rice crop, and in the past decade, rice imports from India have soared, displacing U.S. production that simply cannot compete with the generously subsidized Indian rice.

In late March, USTR announced proposed action against India, among other countries, for an investigation into digital services taxes imposed by those countries. Part of the list of proposed retaliatory duties to be imposed is a 25 percent duty on brown Basmati imports. However, rice producers would like to see USTR expand the proposed retaliatory duties to all other rice and rice products imported from India.

USTR is currently taking comments on this issue, and I know there are plans to hold hearings in May to determine final retaliatory duties later this year.

I cannot stress enough the importance of expanding the proposed retaliatory duties to apply to all rice and rice products imported from India.

Ambassador Tai, I appreciate you taking into consideration my comments and those of the U.S. rice industry. Can I count on you to give this matter your full consideration and support?

Answer. USTR recently requested public comments and held a hearing on a proposed Section 301 action arising from the investigation of India's Digital Services Tax on May 10, 2021. In determining what action, if any, to take, USTR will carefully consider your comments regarding the inclusion of rice and rice products on the final product list.

Question 2. Since the United Kingdom (UK) formally left the European Union (EU), the UK offers a significant market for our farmers and ranchers. In particular, two of the top ag products from my home state—poultry and rice—have significant potential to gain market access through a UK Free Trade Agreement.

Before Brexit, the UK was tied to the EU's practices of employing tariff and non-tariff trade barriers. For poultry, it is an unscientific ban on products treated with certain pathogen reduction treatments, and for rice, it was protectionist tariffs meant to prop up EU rice farmers elsewhere in the EU. Now that the UK is free to make their own trade deals, I have been supportive of a Free Trade Agreement with the UK that is rules-based, mutually beneficial, with standards rooted in science.

What are your plans for a Free Trade Agreement with the UK that includes more market access for U.S. farmers and ranchers?

Answer. As part of the Biden-Harris Administration's focus on the Build Back Better agenda and supporting a worker-centric trade policy, it is currently reviewing the objectives of the negotiations with the United Kingdom that were begun under the prior Administration. Agricultural exports, including poultry and rice, are important U.S. exports and potential access to the UK and other markets will factor into decisions on how best to deepen our trade relationships with key partners.

Question 3. Historically, the European Union (EU) has been an important market for U.S. peanut production.

Unfortunately, since 2018 the US peanut industry has lost approximately \$160 million in the EU market due to non-tariff trade barriers regarding additional aflatoxin testing protocols above and beyond the testing done in the US.

The U.S. peanut industry has engaged with both USTR and USDA and is eager to find a solution to this issue. What further steps need to be taken to remedy this situation?

Answer. We recognize the importance of the European market for U.S. peanut production, and the challenges that concern the industry. We will continue to work closely with USDA and the industry to address this issue, including pursuing a solution with the Europeans.

QUESTIONS SUBMITTED BY SENATOR SHELLEY MOORE CAPITO

Question 1. Last week, I joined Senator Portman and a group of 38 bipartisan Senators to echo support for the Administration to continue efforts to address unfair Chinese trade practices while also restarting the Section 301 Tariff Exclusion Process. Doing so would provide domestic manufacturers with much needed relief.

- 1a. Can you provide and update on where things stand on this matter at USTR?
- 1b. When can manufacturers expect this process to be up and running?

Answer. At the request and recommendation of Senator Portman, I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process. Our plan to re-examine the tariffs provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

Question 2. Last summer, it was brought to my attention that Jingye Group, a Chinese steel and iron manufacturer, had purchased British Steel—a steel manufacturer with facilities across the UK and Europe. As we continue to place focus on China's trade practices, I worry that acquisitions such as these could lead to the circumvention of U.S. trade law.

- 2a. Are you aware of this matter or similar instances?

Answer. USTR is aware of the acquisition of British Steel by Jingye Group and is monitoring this development closely. We will continue to raise concerns about the foreign investment activities of Chinese steel producers in fora such as the OECD Steel Committee and the Global Forum on Steel Excess Capacity, and bilaterally with those countries affected. In addition to this acquisition, we are also aware of recent cross-border and joint venture investments by Chinese steel enterprises in the UK and in countries such as Indonesia, Malaysia, the Philippines, Cambodia, and others. USTR will continue to consult with domestic stakeholders and work closely with like-minded partners, such as the UK and the EU, to find creative and effective responses to prevent further job and technology losses in sectors China is targeting.

- 2b. Can you commit to addressing these concerns during your continued negotiations with the United Kingdom?

Answer. The Administration is currently reviewing the objectives of the negotiations with the United Kingdom. We intend to work closely with the UK and other

like-minded partners to address excess capacity and market distortive measures through all the appropriate mechanisms and engagements we have with these partners.

Question 3. As a result of the pandemic and indefinite work from home policies, many Americans are considering the option to move to rural areas, like my State of West Virginia. However, lumber prices have more than tripled since last spring and are further increased by tariffs on Canadian softwood lumber.

3a. Is your team working on a new softwood lumber agreement with Canada?

3b. Will you make this a priority?

Answer. I discussed softwood lumber with my Canadian counterpart in our first USMCA FTC meeting and we agreed to keep in touch on the issue. The United States is open to resolving our differences with Canada over softwood lumber, but it would require addressing Canadian policies that create an uneven playing field for the U.S. industry. Unfortunately, to date, Canada has not been willing to address these concerns adequately.

Question 4. The Phase One Agreement with China addressed key trade imbalances between our two nations, such as forced tech transfer, IP theft, and currency manipulation.

4a. Do you intend to continue to build upon the framework of the Phase One deal to further solidify China's commitment to uphold the changes agreed upon?

Answer. With regard to the Phase One Agreement, we are committed to ensuring China's implementation of its obligations under the Agreement. We will continue to make use of and push the tools that we have for the benefit of U.S. farmers, ranchers, manufacturers, service suppliers, and small businesses.

The Administration is currently engaged in a comprehensive and coordinated review of U.S. strategy for addressing the many challenges that China poses, both for the United States and the world. USTR is actively participating in the development of this strategy, which will encompass all policy areas, including trade policy.

4b. What additional areas do you believe should be addressed/targeted?

Answer. With regard to the Administration's trade policy toward China, USTR is currently conducting a top-to-bottom review of the U.S.-China trade relationship, with a view toward ensuring that our trade policy supports and complements the Administration's broader China strategy. A key focus of this effort is on China's non-market and unfair policies and practices that are inadequately disciplined by the WTO or the Phase One Agreement, such as industrial subsidies, excess capacity, forced technology transfer, and State-owned enterprises. The results of this review, as well as our ongoing engagement with allies and like-minded partners, with whom we share values and interests, will inform our thinking of how we proceed.

QUESTIONS SUBMITTED BY SENATOR JOHN KENNEDY

Question 1. As you know we are still under a declared national public health emergency and we continue to have supply chain challenges particularly related to Personal Protective Equipment (PPE). Recently United States Customs and Border Protection seized imports from the world's largest rubber glove manufacturer, Top Glove in Malaysia, for sufficient evidence of its use of forced labor. This underscores the need for domestically manufactured PPE. We need to stand up and support US-based PPE manufacturing and as part of that provide Section 301 exclusions for essential manufacturing equipment and raw materials needed to establish and support domestic PPE production.

1a. Given the ongoing public health emergency and resulting need for PPE, would you consider having a separate fast-track Section 301 exclusion process for essential manufacturing equipment and raw materials needed to establish and support domestic PPE production?"

Answer. In March 2020, USTR established a process in which U.S. stakeholders could provide comments on possible modifications to remove the additional 301 duties from medical-care products. Medical-care products included products directly used to treat COVID-19 or to limit the outbreak and products used in the production of needed medical-care products. Based on the comments received, in December 2020, USTR published a list of exclusions for products to combat COVID-19. Currently, these exclusions are scheduled to remain in effect until September 30, 2021.

As you are aware, I have committed to doing a top-to-bottom review of our China Trade policy. As part of that review, we are reviewing the China 301 tariffs and the exclusions process, including the exclusions for products to combat COVID-19.

Question 2. Do you believe China is a “developing country?”

Answer. In the World Trade Organization, Members are currently permitted to self-declare as “developing countries” to take advantage of certain flexibilities in WTO rules. However, WTO Members recognized at the time of China’s accession to the WTO that China should not be able to avail itself of flexibilities afforded to other developing countries. China was permitted to negotiate only a limited set of flexibilities at the time of its accession. The United States believes that China is an advanced, wealthy and influential Member of the WTO that can negotiate the flexibilities it may need in any future WTO negotiation, and that China should not be able to avail itself of any blanket flexibilities reserved for developing countries.

Question 3. Do you believe, like the last administration declared, that China is committing crimes against humanity towards the Muslim Uyghur population?

Answer. Secretary of State Blinken has made clear that China is committing genocide and crimes against humanity. In the 2020 Country Reports on Human Rights Practices, issued on March 30, 2021, the State Department declared that “[g]enocide and crimes against humanity occurred during the year against the predominantly Muslim Uyghurs and other ethnic and religious minority groups in Xinjiang.” I agree with this assessment. China should immediately end these atrocities and respect the human rights of Uyghurs and all others across China.

Question 4. How do you intend on preventing the import of goods made with forced labor and the export of technologies used for repression?

Answer. I commit to utilizing the full range of trade tools at my disposal to combat forced labor and the export of technologies used for repression. This includes ensuring President Biden’s Build Back Better agenda promotes a trade agenda that respects the dignity of work and pursues a fair, rules-based international trading system and does not undermine our core values. A fair international trading system is one in which individuals are not forced to work against their will, and products made out of forced labor do not enter the global trading system. I will champion trade policies that support good jobs that are protected by robust and enforced labor laws, including laws that prohibit forced labor in traded goods.

One recent example of our commitment is that in the first Free Trade Commission of the United States-Mexico-Canada Agreement (USMCA), held just this month, the United States, Mexico, and Canada discussed our shared obligation to ensure the Agreement’s forced labor import prohibition and continued our collaboration to bolster each other’s efforts in this regard. The USMCA includes a ground-breaking forced labor provision that obligates all Parties to “prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.”

In addition, USTR uses the worker rights eligibility criteria of its trade preference programs to address labor issues, including the elimination of forced labor. For example, we recently closed a review of Uzbekistan’s GSP eligibility after trade engagement on this issue encouraged the Uzbek government to eliminate the systematic use of forced labor in its annual cotton harvest. Utilizing our trade tools to combat forced labor is also a part of the White House’s National Action Plan to Combat Human Trafficking. Our agency is an active member of the President’s Interagency Task Force on Trafficking and the Forced Labor Enforcement Task Force, as well as various other interagency committees to coordinate efforts to combat forced labor.

USTR is also engaged with other agencies to ensure that the U.S. technology is not exported for use in repression overseas. We are active participants in discussions over the full range of existing tools, including investment screening and export controls such as the Entity List and the Military End-User (MEU) List maintained by the Department of Commerce.

Question 5. China’s fallen back on its word to purchase \$468 billion worth of U.S. goods, as they agreed to during the “Phase One” agreement. How do you intend on holding them to their word?

Answer. China’s purchases shortfall is certainly in our sights. These commitments are important to the United States economically, but they are also important as commitments that China undertook of its own free will to make. We will work to ensure that these commitments are implemented, and where they are not, we will utilize the tools available, including those under the Phase One Agreement, to stand

up for U.S. farmers, ranchers, manufacturers, service suppliers, and small businesses.

Question 6. Prior to the lack of quorum under the Trump Administration the World Trade Organization faced significant criticism because of its sluggish dispute settlement process.

6a. Is the administration committed to maintaining an active role in reforming and upgrading the World Trade Organization, or does it intend to allow for the revival of the dysfunctional appellate body?

Answer. The Biden Administration shares longstanding bipartisan, bicameral concerns about the WTO's dispute settlement system. Dispute settlement overreaching, including by the Appellate Body, undermines support in the U.S. for the international trading system. The Administration will actively engage in efforts to reform the WTO, including dispute settlement, in order to build a more fair trading system and support the WTO as a forum for discussion and negotiations where countries come together to find joint solutions to common problems.

Question 7. Do you intend to pursue Free Trade Agreement talks with Iceland?

Answer. The Biden Administration highly values our economic and security relationship with Iceland. However, as the President has made clear, we will not be engaging in new trade agreements before we make the necessary investments at home.

Question 8. Do you believe China is actively trying to build a presence in the Arctic?

Answer. Yes. China is actively trying to build a presence in the Arctic and has publicly announced its intent to increase its investments there, including through the development of research and observation platforms, Arctic shipping routes, and enhanced operational capabilities, such as icebreakers. In addition, China has sought to create economic leverage and gain a foothold in the region through direct investments in land and infrastructure. Beijing includes the Arctic region in its "Polar Silk Road," as part of President Xi's signature Belt and Road Initiative.

Question 9. Is it a priority of the administration to enhance security cooperation in the Arctic to combat increased Chinese and Russian influence?

Answer. Yes. We are working with and through our allies and partners to enhance U.S. presence and influence in the Arctic. The United States continues to participate in Arctic exercises and training to deepen military interoperability with allies and partners. The Administration currently discusses security and defense challenges in the High North through NATO, bilateral dialogues, and regional consultations with like-minded Arctic states. We intend to work with Arctic states to uphold international law and standards in the long-standing spirit of cooperation among Arctic nations in the region. We will not hesitate to hold any state accountable for actions that run counter to these commitments, or the interests of the United States, its allies and partners.

Question 10. Do you intend to pursue Free Trade Agreement talks with New Zealand?

Answer. The Biden Administration highly values our economic and security relationship with New Zealand. We are working in close connection with New Zealand on trade issues as it hosts and chairs APEC (Asia Pacific Economic Cooperation). However, as the President has made clear, we will not be engaging in new trade agreements before we make the necessary investments at home.

Question 11. Will you prioritize our expanding trade relations with both countries?

Answer. Yes, our trade relations with both countries are important priorities. We regularly engage Iceland and New Zealand bilaterally, including through our Trade and Investment Framework Agreements (TIFA), to explore ways to expand and enhance our trade ties.

Question 12. Given recent claims by the Mexican government that Mexico's hydrocarbons resources are not covered under USMCA, can you state your position regarding how hydrocarbons should be treated with regard to USMCA?

Answer. Our view is that the USMCA applies to Mexico's energy sector; this is very clear in the USMCA text.

Question 13. The natural gas and oil industry has experienced significant regulatory challenges in Mexico by Mexican regulators attempting to complicate and delay investor operations in Mexico to the advantage of PEMEX, Mexico's state-owned oil company.

13a. Can you detail how you and USTR would ensure that American and other foreign investors in Mexico are treated fairly and ensure the USMCA provisions on fair treatment will be enforced?

Answer. We have raised our concerns with Mexico's treatment of U.S. energy investors frequently, including during bilateral meetings with Mexico on May 17 and during the inaugural meeting of the USMCA Free Trade Commission on May 18.

Question 14. Investor State Dispute Settlements or ISDS, is an integral part of USMCA and many other FTA's that the U.S. has around the world.

14a. Can you please state how you and USTR would prioritize the enforcement of ISDS under USMCA and the inclusion of strong ISDS provisions in other FTA's the U.S. may pursue?

Answer. I am committed to enforcing the USMCA agreement, including the provisions in the Investment Chapter. Regarding other FTAs, President Biden has stated that he does not believe corporations should get special tribunals in trade agreements that are not available to other organizations and that he opposes the ability of private corporations to attack labor, health, and environmental policies through the investor-state dispute settlement.

Question 15. Can you please state your view on how the current Sec. 301 tariffs on imported goods from Mexico and Sec. 232 tariffs on steel and aluminum will be handled under your leadership at USTR?

Answer. I have committed to doing a top-to-bottom review of our China trade policy, with the goal of making our trade policies more effective and more strategic. As part of that review, we are looking at the China 301 tariffs and the exclusions process. Our plan to re-examine the tariffs provides us with important opportunities to craft thoughtful and effective responses to China's unfair trade practices.

With respect to the section 232 tariffs on steel and aluminum, we have a very significant problem in the global steel and aluminum markets that is driven primarily by overcapacity in China and other countries, particularly in Southeast Asia and the Middle East. The Administration is working to address the market distorting measures in economies that have led to overcapacity in the global steel and aluminum industries and the resulting national security threats.

In addition to the thorough review of the section 232 measures and product and country exclusions that is currently underway by the Department of Commerce, the Administration is also consulting closely with various domestic stakeholders and like-minded partners around the world sharing similar national security interests to address market distorting measures in non-market economies that pose a serious threat to the market-oriented U.S. steel and aluminum industries and the workers in those industries. On May 17, 2021, the United States and the European Union (EU) announced the start of discussions to address global steel and aluminum excess capacity and the market distortions that result from this excess capacity. The Administration is committed to working with the EU and other like-minded partners to address excess capacity, ensure the long-term viability of our steel and aluminum industries, and strengthen our democratic alliance.

Question 16. Natural gas and LNG have been instrumental in reducing GHG emissions around the world and have served as a strong enticement to help the U.S. achieve policy goals and partnerships with other countries. That leverage should only be strengthened and improved in coming years to maintain and grow U.S. leadership abroad.

16a. Can you please elaborate on how USTR under your leadership will support and encourage growing US energy exports, particularly that of LNG around the world?

Answer. USTR is committed to the Biden-Harris Administration's whole-of-government approach to reduce GHG emissions and reach our net zero economy objectives. USTR will work hard to ensure all U.S. exports are competing on a level playing field in the global market.

QUESTIONS SUBMITTED BY SENATOR BILL HAGERTY

Question 1. The price of building or renovating a home has recently sky-rocketed, and demand for lumber has reached record highs. Lumber futures for delivery in May 2021 are at an all-time high and roughly four times the typical price for this time of year.¹ Forestry in Tennessee provides more than 98,000 jobs and has an annual economic impact of more than \$24 billion.² Most of Tennessee's lumber production has been hardwood lumber.³ The U.S. hardwood lumber industry relies heavily on exports; over the last decade, China has imported about a quarter of all boards produced by U.S. hardwood sawmills.⁴ These exports of U.S. hardwood have an effect on reducing the massive trade deficit with China. China has extended the exclusion of tariffs on U.S. hardwood, but that exclusion is set to expire on September 16, 2021.

1a. What is USTR doing to ensure our continued ability to export Tennessee lumber to countries like China?

Answer. During meetings held under the Phase One Agreement to review China's implementation progress, the U.S. side has frequently pressed China to increase the pace of its purchases of U.S. goods. At times, the U.S. side has also raised concerns related to China's tariff exclusion process. With regard to hardwood lumber, as you have noted, the blanket exclusion for this product expires on September 16, 2021. Given China's past practice regarding extensions of existing exclusions, we do not expect China to extend the blanket exclusion for hardwood lumber until shortly before its expiration.

Question 2. I am very concerned about threats that Americans faces from the Chinese Communist Party (CCP) and their persistent attempts to steal American business secrets and proprietary information. Far too many nations and international organizations refuse to hold the CCP accountable.

- 2a.* Does the Biden Administration and USTR have an overall strategy to challenge China's aggressive and unfair trade efforts around the world?
- 2b.* What role will your office play in the Administration's broader strategy toward China?
- 2c.* Are you confident that other countries will join our efforts? What will it cost the United States to get other countries onboard?
- 2d.* How is USTR approaching China's compliance with the U.S.-China Phase One Agreement?

Answer. The Administration is engaged in a comprehensive and coordinated review of U.S. strategy for addressing the many challenges that China poses, both for the United States and the world. USTR is actively participating in the development of this strategy, which will encompass all policy areas, including trade policy.

With regard to the Administration's trade policy toward China, USTR is currently conducting a top-to-bottom review of the U.S.-China trade relationship, with a view toward ensuring that our trade policy supports and complements the Administration's broader China strategy. A key focus of this effort is on the many harmful and unfair trade policies and practices pursued by China that currently evade discipline by WTO rules.

The United States has shared values and interests with like-minded partners across the world. Addressing China's non-market and unfair practices is critical for U.S. and our partners' workers and citizens, and for the world trading system. We need to be creative and find effective responses, to prevent further job and technology losses in sectors China is targeting.

The Phase One Agreement is the agreement that we have, and we are committed to ensuring China's full implementation of its obligations under the Agreement. We will continue to make use of and push the tools that we have for the benefit of U.S. farmers, ranchers, manufacturers, service suppliers, and small businesses.

¹Ryan Dezemmer, *Lumber Prices Break New Records, Adding Heat to Home Prices*, WALL ST. J. (May 3, 2021), <https://www.wsj.com/articles/record-lumber-prices-lift-sawmills-while-home-owners-do-it-yourselfers-pay-up-11620034201>.

²Andrew Muhammad & Adam Taylor, *Implications of COVID-19 on Tennessee Exports of Forest Products*, UT EXTENSION INST. OF AGRICULTURE, at 3, <https://extension.tennessee.edu/publications/Documents/W913.pdf>.

³See, e.g., Rhonda M. Mathison & Doug Schnabel, *Tennessee's Timber Industry—An Assessment of Timber Product Output and Use*, 2007, USDA—FOREST SERVICE, https://www.srs.fs.usda.gov/pubs/rb/rb_srs152.pdf.

⁴Peter Buxbaum, *China Trade and COVID-19*, AM. J. OF TRANSPORTATION (May 26, 2020), <https://ajot.com/premium/ajot-china-trade-and-covid-19-a-one-two-punch-hitting-us-hardwood-producers>.

SUBCOMMITTEE RECESS

[Whereupon, at 10:48 a.m., Wednesday, April 28, the subcommittee was recessed, to reconvene subject to the call of the Chair.]