

NOMINATION OF SUSAN C. SCHWAB

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF

SUSAN C. SCHWAB, TO BE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT

MAY 16, 2006



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**NOMINATION OF SUSAN C. SCHWAB, TO BE
U.S. TRADE REPRESENTATIVE, EXECUTIVE
OFFICE OF THE PRESIDENT**

TUESDAY, MAY 16, 2006

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

The hearing was convened, pursuant to notice, at 10:15 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Hatch, Snowe, Thomas, Crapo, Baucus, Conrad, Lincoln, Wyden, and Schumer.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S.
SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. Before we begin, let me explain why we are late getting started. I thought we were going to vote on a judge right at 10 o'clock, so it was more efficient to vote, then come over here. Then I find out there are speeches going on, and we might not vote until 10:25 or 10:30. So, I figured we had better get started. We will try to keep the hearing going while Senator Baucus and I take turns going over to vote.

Welcome, Ambassador Schwab. It is a pleasure to welcome you to the committee. It has only been 7 months to this day that the committee met to consider Ambassador Schwab's nomination to her current position as Deputy U.S. Trade Representative, so promotions happen very quickly here in Washington, DC. Congratulations for your being the lucky one for that to happen.

Since being confirmed to that position last November, Ambassador Schwab has been very busy. She has successfully concluded trade agreements with Peru and Colombia, as well as the core terms of the Softwood Lumber Accord with Canada, which I am going to mention in just a moment, separately.

Ambassador Schwab has actively engaged in the development of U.S. strategy in the ongoing negotiations of the Doha Development Round and the World Trade Organization, and of course this is a critical time for those negotiations.

We need to achieve substantial progress in a very short period of time if we are to succeed in getting an agreement before the trade promotion authority runs out next year.

As I have said so often and recently, I do not expect trade promotion authority to be renewed beyond June 30, 2007, even though I favor it and I will promote that. But there is a trend in Congress

that I would say leans toward protectionist that makes the predictability of that extension very chancy.

I have been monitoring Doha rounds very closely. I have thought long and hard about why we are not further along in those negotiations. One of my concerns is that unilateral preference programs serve as an obstacle to advancing the negotiations.

For example, Brazil and India derive great benefits under our generalized system of preference programs, or as we always refer to them, GSP. They are also two of the countries most responsible for holding up Doha negotiations.

Maybe they, and other GSP beneficiaries, feel that they do not need a Doha agreement, since the status quo serves their interests very well. Of course, this frustrates me.

As a result, I will likely oppose the extension of the GSP program, which is due to expire at the end of this year. If GSP is extended, I will work to see that the eligibility requirements are tightened, so some countries can expect to be removed from the program. I want to make clear that any extension of GSP will not be a continuation of the status quo.

I hope that with this GSP termination looming then, Brazil, India, and other beneficiary countries will work harder to see that the Doha negotiations are concluded successfully.

I previously in this statement referred to the softwood lumber agreement between Canada and the United States. I have expressed my disappointment in that accord to Ambassador Schwab. In my view, it does not do much for the American consumer.

So looking ahead, I urge you, Ambassador Schwab, to make it a priority to conclude negotiations with the Canadians on exit ramps so that the terms of the accord can be set aside as soon as possible.

Apart from Doha, this is an exciting time in American trade, and particularly in trade policy. We are about to commence negotiations with two major trading partners, South Korea and Malaysia. These negotiations will present new challenges, particularly in addressing regulatory and other non-tariff barriers to trade.

I commend the governments of each of those countries for their foresight. Robust trade agreements will bring about real market access liberalization, and that will invigorate their economies and put them on a path to greater economic prosperity.

We also need to continue to encourage meaningful regulatory reform and other major trading partners, and I particularly mentioned Japan and China. I am confident that you, Ambassador Schwab, will effectively meet each of the many challenges that you will face as our next Trade Representative.

Everybody knows about your skill, experience, and positive energy, and it makes it very evident to me that you are the right person for the job.

I look forward to working with you to advance the President's trade agenda. I hope to see Ambassador Schwab confirmed to her position as quickly as possible.

Now, Senator Baucus too thought we were going to have a vote. I am sure that is why he is not here right now. But when he does get here, I will break in to whatever we are doing so that Senator Baucus can make his statement.

I want to introduce Ambassador Schwab at this point. Most members of this committee recall earlier in her career, Ambassador Schwab worked for a former colleague, Jack Danforth. Senator Danforth had hoped to be here today to introduce Ambassador Schwab to the committee, and unfortunately he is unable to do it.

So, instead, he wrote me a letter that I am going to read into the record at this time:

“Dear Chuck: Because I am hosting a Monday evening reception in St. Louis, I cannot be present to introduce Susan Schwab to the Finance Committee at her confirmation hearing. I would appreciate your explaining my absence to the committee and conveying my enthusiastic support for her nomination.

“On the strong recommendation of former U.S. Trade Representative Robert Strauss, I hired Sue in 1981 to be my legislative assistant for trade. She was deeply involved in every trade issue before the Finance Committee, and she played a key role in drafting and passing the Trade Act of 1988.

“The quality of her mind, her grasp of the issues, and her ability to work with an array of parties, both in and out of government, persuaded me to appoint her my legislative director. In that capacity, she further displayed her skills in working with a variety of people, including others on my legislative staff.

“I have remained in contact with Susan since she left my office, as she has served as Director General of the U.S. Foreign and Commercial Service, as Dean of the School of Public Policy at the University of Maryland, and now as Deputy USTR.

“For me, it is a source of great pride that early in her career she served on my staff. I have no doubt that Susan will work well with people at the highest level of the Bush administration and that she will be an effective negotiator with our trading partners.

“Even 25 years ago, I saw her acquit herself well with then-USTR’s Bill Brock and Clayton Yeutter, and with officials of other countries. She worked closely with Josh Bolton when he served on the Finance Committee staff.

“Besides being smart, knowledgeable, and experienced, Susan has a quality that is critical for any position of public trust. She is a good person with the best of motives, and the highest ethical standards. Without reservation and with great enthusiasm, I commend her to the committee. Sincerely, Jack Danforth.”

So, as he would welcome you to the committee—and he spoke very highly of you—we are glad to read Senator Danforth’s letter.

Senator Baucus, I am going to turn to you now, if I can.

Senator BAUCUS. All right. You bet.

The CHAIRMAN. I explained that you and I thought they were going to vote at 10 o’clock.

Senator BAUCUS. We did.

The CHAIRMAN. So I wanted to get the meeting started. So you go through your statement, and then we will go to her. Then if we could do like we usually do, I will go vote, or you go vote, and vice versa, and we will keep the hearing going. Is that all right?

Senator BAUCUS. Sure. Yes.

The CHAIRMAN. Senator Baucus.

**OPENING STATEMENT OF HON. MAX BAUCUS,
A U.S. SENATOR FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman.

Ambassador Schwab, welcome back to the Finance Committee. This is your third appearance since October, when this committee held its last confirmation hearing on you. Of course, you have been at this committee in other capacities prior to that.

When the full Senate considers your nomination, it will also be the third time since October that Senators will vote on you. Indeed, we liked considering you so much last time, we voted for you twice for your current position. [Laughter.] I wonder whether the administration is trying to set a record for racking up the most confirmation votes in the shortest amount of time for a single nominee.

Ambassador Schwab, congratulations. I am sorry to see Ambassador Portman leave his job as Trade Representative, but I am pleased that the President had the wisdom to place him with you.

Many of us have known you for many years. Since the early 1980s when you worked in the Senate for our colleague Jack Danforth, I have long appreciated the skill, wisdom, and energy that you bring to the table.

You have already proved yourself an able trade negotiator by settling the longest-standing dispute with Canada over lumber imports. Man, that was a long one. We really thank you. If you can resolve that one, I am confident that you have the mettle to tackle the many difficult issues on your plate. I look forward to your speedy confirmation as the 15th U.S. Trade Representative.

Transitions at Cabinet-level agencies are often disruptive, and this transition certainly has not come at the best time, given ongoing trade negotiations in the World Trade Organization and elsewhere.

But transitions give us a momentary pause to reflect. They give us an opportunity to think about where we are and the direction we are heading. Frankly, I think we have reason to be seriously concerned. Just 13 months before the expiration of trade promotion authority, the Doha Round is sputtering.

Many of the administration's free trade agreement strategies continue to tear us apart instead of bringing us together. With our huge and growing trade deficit, more and more Americans have questions about whether America's trade policy has really served America's best interests.

The time has come to begin the conversation about how we could do a better job. You, Ambassador Schwab, will be a critical part of that conversation. This conversation may begin today, but this conversation must continue intensively through the coming months.

There are many difficult questions for which we need answers. Let me raise a few. First, what is our plan should the Doha Round fail? Should the United States explore more seriously alternatives to the WTO, such as deepened cooperation in a re-energized Asia-Pacific economic cooperation? Should we begin to contemplate free trade agreements with economic giants like Japan, India, and the European Union?

Second, how do we get beyond disagreements about handling labor issues in trade agreements? These disagreements dominate partisan debate on most free trade agreements.

With fresh reports of labor abuses in Jordan, how can we address, meaningfully, American workers' legitimate concerns about competing with other countries that maintain substandard labor practices? How do we do so in a manner acceptable to both political parties?

Third, how can we tie trade policy more closely to the goal of enhancing America's long-term competitiveness? How can we use trade agreements to help shape domestic priorities in education, in research, in innovation?

Fourth, is it not finally time to recognize, as a matter of national policy, that popular support for trade depends on whether our government is willing to commit to help workers and industries that trade leaves behind? I do not think we have done a very good job there. Should we not be doing more through programs like trade adjustment assistance?

These are not idle questions. The future of U.S. trade policy depends on how we answer them. Ambassador Schwab, the clock is ticking on the government's trade promotion authority, and it is near time for the alarm to sound.

Unless and until we do some hard thinking and get some answers—good answers—I cannot imagine how the Congress will be in a position to agree to a new grant of trade promotion authority.

So, let us start the process now. I look forward to working with you, the Chairman, members of this committee, and others in finding those right answers.

Mr. Chairman, I have another page I want to read if I can on a subsequent nominee, Mr. Basham.

The CHAIRMAN. Yes. Go ahead.

Senator BAUCUS. Mr. Chairman, I understand that as soon as we get a quorum we will vote on the nomination of Ralph Basham to be Commissioner of Customs. I want to say that I was very pleased at his efforts to work with me and my staff over the last few weeks.

In particular, he has given me assurance that everything is on track for standing up a Northern Border Air Wing branch in Great Falls, MT. I worked hard to bring that base to Montana 2 years ago, so I am obviously anxious to see this finally become a reality.

Mr. Basham has promised to work with me on the deployment of the Air Wing, and I feel confident that he understands the challenges that Montana faces to secure our border.

I support his nomination and look forward to working with him on this key Montana interest, as well as other national and economic security issues.

Thank you, Mr. Chairman.

The CHAIRMAN. All right. Why do you not go vote?

Senator BAUCUS. All right.

The CHAIRMAN. Ambassador Schwab, we will start with your statement. Before you do, we always give nominees an opportunity to introduce family and friends who have come to support them. We would ask people to make themselves known as she mentions you, if you have people here.

Ambassador SCHWAB. Yes, Mr. Chairman. Thank you very much. I am pleased to be able to introduce members of my family, Gerald and Joan Schwab, my parents, and Theresa Marshall, my sister,

and Ariel Viller, a good friend of the family. So I am delighted to be able to introduce them today.

The CHAIRMAN. Thank you. Now, proceed with your statement.

**STATEMENT OF HON. SUSAN C. SCHWAB, NOMINATED TO BE
U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE
PRESIDENT, WASHINGTON, DC**

Ambassador SCHWAB. Thank you, Chairman Grassley, Senator Baucus, and distinguished panel members. Since you will allow me to put the full text of my remarks in the record, I would like to focus my comments this morning on some thoughts that have come to me during meetings with various Senators on this committee.

I had the opportunity to introduce my family. I would also like the opportunity to thank Rob Portman for his exceptional service as U.S. Trade Representative, and for being my friend and my mentor. Finally, I need to thank the USTR staff, among the smartest, most dedicated and hardest-working individuals serving our Nation today.

President Bush made trade one of his top priorities in this administration. He entrusted this priority to two remarkable public servants, Bob Zoellick and Rob Portman. Under their leadership, the United States has returned to the negotiating table, has established U.S. leadership in multilateral trade talks, and has opened new markets for American products and services.

The President's trade agenda is a full one that, if confirmed, I would hope to work closely with you to pursue. At this critical juncture in U.S. trade policy, we have a unique opportunity to establish a trade legacy that we can be proud of as public officials and as a Nation, a trade legacy that builds on a history of prosperity through the negotiation and enforcement of trade liberalizing agreements.

First up is the Doha Development Round of multilateral trade negotiations under the WTO that you, Mr. Chairman, referred to. We are approaching some key deadlines that must be met for the U.S. Congress to approve any Doha agreement under the trade promotion authority legislation that expires next summer.

As you know, the U.S. has shown real leadership in our approach to the negotiation in an effort to build some momentum for the talks. We have shown the political will to deal, and now it is up to others to do the same.

Next on the agenda are the bilateral and regional free trade agreements that are either under negotiation or awaiting Congressional approval or implementation. In the last 5 years, Congress has approved agreements with 12 countries.

Agreements with Oman, Peru, and Colombia are pending Congressional approval, and agreements with 11 more countries, including Korea and Malaysia, are in negotiation.

Through these agreements, we are able to set positive precedents and to open new markets in concert with like-minded countries that understand the benefits of free and fair commerce.

Enforcement of existing trade agreements is always on the agenda. For the United States to maintain an ambitious roster of market-opening trade agreements, we must show that we are just as rigorous in enforcing our rights under these agreements.

U.S. trade law gives us a variety of tools to use to ensure that trade under our agreements is both fair and free, and this administration has pledged to use these tools in the manner most likely to accomplish the objective, whether with respect to China, Japan, the European Union, Mexico, or, indeed, any of our trading partners.

Finally, we have a variety of other important activities associated with our trade agenda, from WTO accession negotiations and PNTR approvals, to the question of extension and renewal of various trade preference programs, and ultimately TPA itself. It is a full agenda and one that has the promise of benefitting our workers, manufacturers, farmers and ranchers, and service providers, an agenda to further open markets to U.S. exports, generate more productive and competitive U.S. industry, raise real compensation, and build standards of living not just at home, but abroad as well.

Because happily, for those of us engaged in the trade field, trade is not a zero-sum game. That trade can be a win-win is one of the sure bets of international economics.

I believe that markets work, and open trade has a long and compelling track record of success. While the benefits of trade are not always enjoyed equally, the outcome is generally better for all concerned.

In theory, nations of the world would be better off by unilaterally opening our markets, but as a practical matter, for fair trade and free trade to be more doable and to spread the benefits more broadly, we engage in trade agreements, and we enforce them.

This does not mean that we should neglect those few who are, indeed, displaced by trade. Rather, we need to find ways to help them that do not damage the trade development and growth interests of our economy.

Mr. Chairman, I like to get things done. I am a problem solver. The most pressing problem we face in trade today has been the erosion of America's traditional bipartisan support for open trade and the pro-trade agenda that has so benefitted the United States since the Eisenhower era.

If confirmed, I promise to continue the bipartisan approach to U.S. trade policy embraced by the President and Ambassador Portman, and by the first U.S. Trade Representative I worked for, Bob Strauss. To this end, I will reach out, listen, and consult with members of Congress on both sides of the Capitol and both sides of the aisle.

In his State of the Union Address, the President warned of the risks of economic isolationism and the importance of U.S. competitiveness. If confirmed, I will work tirelessly with you to fulfill the vision of a world where the free flow of commerce gives people everywhere more choices, more opportunities, and more hope.

I look forward to hearing your thoughts and answering any questions you might have.

[The prepared statement of Ambassador Schwab appears in the appendix.]

The CHAIRMAN. Thank you very much.

Three questions that we asked you just 9 months ago, I have to ask again.

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

Ambassador SCHWAB. No, Mr. Chairman.

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

Ambassador SCHWAB. No, Mr. Chairman.

The CHAIRMAN. And, third, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Ambassador SCHWAB. I will be happy to do so, Mr. Chairman.

The CHAIRMAN. Thank you.

I will start the questioning. Then when Senator Baucus comes back, even if I am not done with asking questions, I am going to have to run and vote.

The first question is, my concern about barriers that Mexico is imposing on imports of U.S. agricultural products. For example, Mexico continues to significantly impede imports of U.S.-produced high-fructose corn syrup, despite NAFTA and WTO rulings that its policies violate its international trade agreements.

I do believe that the Congress of Mexico, one house or the other, has passed something in this area, but I do not know whether it is through completely. But in addition to that, Mexico's antidumping order on U.S. beef remains highly questionable. If confirmed, how will you ensure that Mexico's barriers to these and other agricultural products are removed?

Ambassador SCHWAB. Mr. Chairman, thank you. You ask a very important question and one that I have had the opportunity to work on in my tenure at USTR.

As you know, when I spoke of enforcement in my opening statement, we have had a lot of enforcement activities vis-à-vis Mexico, in particular in agricultural commodities. We have, as you know, taken WTO cases and won cases against Mexico on high-fructose corn syrup, their beverage tax, on rice, and on certain other commodities. Mexico has pledged to resolve those problems.

In addition, I would note that in the case of rice, the WTO panel finding is one that could have, and should have, very good implications in terms of Mexico's broader antidumping and countervailing duty law and practices, which we consider to be, and the WTO considered to be, inappropriate in certain ways.

The administration of President Fox is committed to resolving these problems, and you can be certain that, if confirmed, I will work to make sure that happens.

You mentioned beef. That is another issue. You are correct, after the sunset review, Mexico decided to maintain its antidumping duties on U.S. beef exports, and we will be working on that.

I would note that Mexico has, however, allowed the importation of beef from the United States, in spite of the BSE scare. So, we have made progress with Mexico on that front.

The CHAIRMAN. Yes. I think I am going to reserve my two minutes and twenty seconds and ask Senator Thomas to go ahead with his questions. Then when Senator Baucus comes back, he will be

next in line for questions and he will operate the committee while I am gone. But I am just going to go over and vote. So would you go ahead, please?

Senator THOMAS. So I will temporarily be in charge. Is that it?

The CHAIRMAN. Yes, I am asking you if you would be.

Senator THOMAS. Yes. Thank you.

Welcome. I am sorry. Voting interrupts our life around here. But I am glad to have you here and look forward to your confirmation.

As you know, Wyoming is involved quite a bit with soda ash trade. In Brazil, there is a high tariff or tax against imports, even though their own is very low. It seems as if this is in violation of the General Agreement on Tariffs and Trade.

What could you say or do about this Brazilian trona problem?

Ambassador SCHWAB. Senator Thomas, thank you very much. I am very much aware of the problem that Wyoming and other U.S. high-competitive soda ash producers are facing in Brazil. We are in the process of looking to see exactly what the situation is in terms of the value-added tax and tariff situation to see whether there is, in fact, a good case to go forward with.

Senator THOMAS. Good. It seems in trade, some of the smaller commodities get funny ideas going on with them. I guess people think they are not important, but they are important to the people who are impacted, of course.

Ambassador Portman testified that we are seeking real cuts in tariffs that apply to both developed and advanced developing countries. Is it still the position of the U.S. Government that we should not accept a final Doha agreement that does not result in substantial reductions in industrial tariffs?

Ambassador SCHWAB. Senator, Ambassador Portman and those of us who have been involved in our Doha strategy feel very good about the approach that we have taken up to this point. We have been very forthcoming, forward-leaning in terms of our agricultural offer that was put on the table last fall and in terms of what we have indicated we are prepared to do on industrial tariffs as well.

These two areas, plus services and a variety of other areas in the Doha Round negotiations, should be pursued for a successful conclusion that results in real new market access opportunities. I think that is the critical point here, that we are not talking about paper cuts, we are talking about new opportunities for trade.

With that, with those new opportunities for trade, the potential for adding to global economic growth and U.S. economic growth is most pronounced and, I might add, particularly important for developing countries.

Senator THOMAS. Yes. Services account for 80 percent of the U.S. economy, but only 20 percent of our global trading. I guess you have alluded to it, but what are we doing to make sure that the Doha Round reduces the barriers in other markets for our companies and our employees?

Ambassador SCHWAB. The services component of the Doha Round is a major priority for us, as you know, along with agriculture and non-agricultural market access issues. The services negotiations are on a somewhat different track.

As you know, there were collective requests put forward in February, and there are offers due at the end of July. There are clus-

ters of countries, like-minded countries, that are interested in particular sectors to see opening.

So, those negotiations are rather different from the agriculture and non-agricultural market access negotiations where you have formulas that you are dealing with, but they are no less important, and we will continue to pursue them.

Senator THOMAS. What do you see, generally, in terms of trade negotiations? Do you see us working through organizations or do you see us doing individual country-to-country negotiations?

Ambassador SCHWAB. That, Senator, is a very, very good question. I believe that the current U.S. policy, which is running the multilateral negotiations through the Doha Round parallel with our bilateral and regional negotiations, is absolutely the right formula. These multilateral trade rounds are very complicated and take many, many years to pursue. You get one a decade, one a generation, basically.

In the case of the bilateral and regional agreements, when there are like-minded countries that really want to go beyond what we are able to do in a multilateral context, we are able to set precedents, we are able to create allies for free trade in subsequent multilateral negotiations, so having those run in tandem works very, very well for us. In terms of the bilateral and regional agreements, there are obviously both economic and commercial rationales, and geopolitical reasons for pursuing those.

Senator THOMAS. That is good. It just appears sometimes that the issues become something other than trade assistance, and it seems like we ought to be trading with people who want to trade. That would be the best result.

Let me stop and pass it over to Senator Conrad.

Senator CONRAD. Thank you, Mr. Acting Chairman.

Welcome.

Ambassador SCHWAB. Thank you, Senator.

Senator CONRAD. It is good to have you here. I enjoyed our visit the other day.

Let me just use a couple of charts here to illustrate my concerns about what is happening.

First of all, this shows what happened after NAFTA. Before NAFTA, we had an almost \$2 billion trade surplus with Mexico. We now have a \$50 billion trade deficit with Mexico.

China. The pattern is much the same. In 1985, we had a \$6 million trade deficit. That is now up to over a \$200 billion trade deficit with China for 2005. It is really pretty stunning.

And this is the overall U.S. trade deficit and the pattern of it going back to 1992 when we almost were in balance, to today, where we had a trade deficit last year of \$726 billion.

Is this a successful trade policy, in your judgment?

Ambassador SCHWAB. Senator, I think that our trade policy has been successful. I think one has to be careful how we look at these numbers. Yes, we have a very large trade deficit, no question. You will note from my written statement, there are questions about sustainability.

That said, the \$726 billion trade deficit last year is juxtaposed against a 3.5 percent GDP growth rate, unemployment of 4.7 percent. In fact, during the course of the year, unemployed declined

from 5.1 to 4.7 percent. We are talking about increases in real compensation that have taken place during this period of time.

So, there are a variety of underlying economic data points that would tell you that this trade deficit, while large, can indicate something else going on in the economy. As you know, very little of our trade deficit can actually be tied to trade policy.

So much of it has to do with broader macroeconomic factors having to do with different rates of growth between countries, having to do with different savings and investment rates.

I would note also, you mentioned NAFTA and China. In the case of NAFTA, I think it is worth noting that during the time in the last 10, 11 years since the Uruguay Round and NAFTA came into effect, that during this period of time U.S. industrial production has grown faster than the 10 years prior to NAFTA, that the unemployment rate has been less in the last 10 years prior to NAFTA.

We can talk about China at some other point as well, but I think it is worth noting that there are a lot of statistics that one can look at and think about in terms of juxtaposing the trade deficit and other things that are going on in the economy that are very strong.

Senator CONRAD. My own view is, if this is a success, I would hate to see a failure. To me, we are on a course that is utterly unsustainable. It took 42 Presidents 224 years to run up \$1 trillion of U.S. debt held by foreigners. In the last 5 years, that amount has been more than doubled. So to me, it is clear that this is an utterly unsustainable course.

When I hear you talk about unemployment and growth, and those things are all obviously goals, but when it is financed by this extraordinary borrowing, which is really unprecedented in the history of our country, it tells me we are just on the wrong course.

Let me just say this. It reminds me very much—in my previous life I was tax commissioner of my State. I had a fellow come in that owed the State a lot of money. I asked him how he was doing in his financial life, and he told me everything was going well.

As I probed a little, I found out that he had maxed out every credit card, and he had multiple credit cards. I found out he had borrowed against his home equity line the maximum amount. I found out that he had borrowed from his parents, he had even borrowed from his in-laws. And he thought everything was going well.

This kind of reminds me of where our country is. We are running massive trade deficits, massive budget deficits. We are borrowing money from every country around the world. We now owe the Japanese almost \$700 billion. We owe the Chinese more than \$250 billion. We owe the Brits \$250 billion. We owe the Caribbean banking centers almost \$100 billion. And everything is going well? I do not think so. I think this is a losing strategy.

I would just ask you this specific question. The former Director of Economics at the ITC, who is currently a professor at the University of Maryland where you used to be, recently released a paper on trade policy. He argues, “our current trade deficit taxes economic growth.”

He concludes that, “our out-of-control trade deficits over the last 10 years have cost this economy \$1.7 trillion in economic activity.” He argues, “our current approach cannot succeed in reducing the

trade deficit. Instead," he says, "negotiating international rules that prohibit countries from currency manipulation should be the primary objective of the United States."

What do you think about that question of dealing and aggressively going after those who manipulate their currencies for trade advantage?

Ambassador SCHWAB. I should begin, Senator, by noting, having spent the last 10 years of my career in academia, you will find economists who will articulate any number of data points and assertions.

I would say in this particular case, there is compelling evidence that an open trade policy and that trade liberalizing agreements really have contributed positively and profoundly to the U.S. economy.

By one estimate, I think the Institute for International Economics, the trade liberalizing agreements that we have negotiated since the second World War have added probably \$1 trillion to our economy. That is a very, very important number that translates into \$9,000 or so per family of four.

So I think that when you are talking about our trade policy, you are talking about a variety of tools and a variety of issues. You mentioned savings and consumption rates. You are absolutely right. Those are critical, and have a critical impact on our trade balances.

Senator CONRAD. How about this question of currency manipulation?

Ambassador SCHWAB. You asked about currency manipulation. Let me note that while that is in fact a key component, an influence on our trade deficit, it, in turn, is influenced by a lot of the macroeconomic factors I described, and I would defer to the Treasury Department on this issue.

Senator CONRAD. My time is up.

Senator BAUCUS. Thank you, Senator.

Ambassador, frankly, my eyebrows raised up when I heard you say that the current account trade deficit, for example, is due to larger macroeconomic issues. I inferred that to mean, more than it is due to trade laws.

That caught my attention because, clearly, your job is to address the trade barriers that do occur, and they are very significant, to address the phenomenon that Senator Conrad addressed, the very real problem.

For example, countries are not taking American beef. They are foot-dragging. Even in China. At the JCCT talks they said, yes, they will take more of it, now they are foot-dragging. Mexico has got an antidumping duty now on beef going into Mexico. Japan continues to ban U.S. beef.

So, could you tell us today what you would do, if confirmed, to get those countries to play fair, to abide by scientific standards, not political, parochial pressures in their own countries?

Ambassador SCHWAB. Senator Baucus, you have my absolute commitment to enforcing U.S. trade agreements and to pursuing the elimination of foreign barriers to our exports. As you know, my first job was at USTR as an agricultural trade negotiator.

Ironically, my first negotiation was with the Japanese, trying to open the market for U.S. beef exports. In 1977, we had less than \$77 million worth of U.S. beef being exported to Japan. That number, by the year 2003, before the first BSE cow was identified here, that number had grown to \$1.4 billion. We still have a lot of work to do. You mentioned Japan, China.

Senator BAUCUS. How about these countries who are not taking American beef today, 2006?

Ambassador SCHWAB. Absolutely. Absolutely. Korea, as well. These are countries——

Senator BAUCUS. So what are you going to do about that?

Ambassador SCHWAB. We are, as you know, in negotiations or in discussions with each of these countries. They are all at a different stage. In each case, the common denominator, as you point out, is having a scientifically based mechanism, OIE-based standard for accepting beef from the United States.

In the case of Korea, in the case of Japan, these negotiations have been going on, recognizing that each country has a right to protect the health and safety of its citizens. The Department of Agriculture has been very actively engaged in this. We have a team, I believe, in Japan this week, in Korea next week, working with their——

Senator BAUCUS. Words generally do not do it. What leverage do we have with these countries?

Ambassador SCHWAB. Well, in the case of Korea, for example, prior to the identification of a BSE cow in the United States, we had used the WTO and our rights under the WTO to get the Koreans to open their beef market. So, that is one example. The bottom line is, we need to be prepared to use all of the tools in our arsenal to get the job done.

In the case of sanitary and phytosanitary issues, we walk a very sure line in terms of making sure that scientifically based standards to determine what imports of beef can and cannot be allowed will get us to the point where the United States will be able to export beef to these markets.

Senator BAUCUS. You have a lot of experience. But as we all know, in life it is deeds, not words, that count. You will be getting the job as USTR, and the world is going to be watching you to see how successful you are. Not words, deeds. So, this is a real opportunity to address those who are watching. I just encourage you to get results right away in lots of areas.

I would also tell you that the Congress will work with you to try to help you get those results. For example, if, creatively, you see a way of working together to get these countries to legitimately, as they should, take American beef, then work with us. I am saying, be creative, now.

Say, if the president of Korea is coming over, it might make sense if we could orchestrate letters, a floor debate, or something, about Korea not taking American beef, for example. There are ways to do things here.

But my main point here is, you are starting fresh. It is a halo effect. First impressions count. You have an opportunity here to really get some results, and you will find this Congress, I am quite

certain, wanting to help you, because, after all, it is good for the country.

Ambassador SCHWAB. Senator, you have my commitment. We will take those opportunities. At the most recent JCCT meeting with the Chinese, we made some real progress with respect to beef. As it happens, Prime Minister Koizume will be coming to Washington in the not-too-distant future.

Senator BAUCUS. Good luck.

Ambassador SCHWAB. Thank you.

The CHAIRMAN. Before I call on the next participant, could I back up what Senator Baucus said and tell you what my gut feeling is? There is no doubt that everything you said, you intend to do. You will probably work very hard at doing it, and you are probably very successful at what you do.

But the frustration that Senator Baucus expresses, and I sense from my constituents, is that the message that you send to us and what you are trying to do—I should say, not you as a person, but your agency—does not come through to the American people that we are really tough.

It leads me to believe—and maybe you have to be in your business—that you are too diplomatic. People that negotiate are too diplomatic in how they approach these problems that the average working man and woman in America sees, and they see that we are not doing enough to protect our interests.

So I would urge you to be just a little more hard-nosed, not only in your negotiations, which you probably are anyway, but signal to the American people that you are hard-nosed, so the American people feel that their government is actually looking out for their interests, and they see it expressed rather than in an implied sort of way that never really comes through. I hope I am saying the same thing Senator Baucus said. I do not know whether I am or not.

Senator BAUCUS. Mr. Chairman, you are the chairman. You are saying the same things I am saying. I am just teasing you.

The CHAIRMAN. I was gone. Now, was Senator Conrad the next person?

Senator CONRAD. I am done.

The CHAIRMAN. You are done? All right.

Then Senator SNOWE.

Senator SNOWE. All right. Thank you. Thank you, Mr. Chairman.

I want to welcome you, Ambassador Schwab. I am glad we had a chance to talk the other day on a variety of issues. First and foremost, I want to applaud your efforts on what has been accomplished thus far, and keep our fingers crossed for reaching the goals on the softwood lumber agreement, hopefully solidifying a permanent resolution to what has been a 25-year endeavor.

So, I just want to express my appreciation to you for your hard work on this longstanding dispute with Canada that has ultimately resulted in the loss of thousands of jobs in my State of Maine, of course, and in so many parts of the country.

So, I just wanted to express not only my appreciation, but also to learn more from you about what you expect the time table to be, what the remaining impediments are, and what is necessary to solidify this agreement once and for all.

Ambassador SCHWAB. Senator Snowe, thank you very much for asking that question. A lot of work went into the recent agreement between the United States and Canada on softwood lumber. As you note, this is a problem that has been with us and has been litigated on and off for over 24 years.

We reached an ad referendum agreement last month, and now all the details are being worked out. We hope to get it done as soon as possible, within the next few weeks, to lock it in and have a final signed document.

There are consultations going on, obviously, on a day-to-day basis with the Canadians, and on each side with our respective industries to make sure that we put in place a workable solution.

But the agreement, as you know, is very market-based in terms of its structure and is designed to address the problems that our industry faces at the low end without disrupting and unduly burdening consumers of lumber.

Senator SNOWE. I appreciate that. I also appreciate being kept informed on its progress, because I do think it will be a milestone. It is sort of one of the little bright lights on all the trade-related issues that we have had, and disputes in this country, particularly in my State, being hard hit by imported lumber that has been subsidized by the government, and on so many fronts, too, not just in the lumber industry. So, this will be a welcome resolution after almost a quarter of a century.

As the Chairman expressed, I think that you certainly note the sense of frustration that we have with our government, the agencies, your office as well, in general, about some of the issues in enforcing our trade laws.

I know that my State has been affected and victimized by the loss of thousands of jobs by inequitable treatment, the lack of a level playing field, and unfair trade practices or barriers that affect our ability to export to particular countries.

One of the areas that is critical is the effectiveness of our trade laws that are being undermined, I think, as well by the dispute resolution mechanisms in both NAFTA and the WTO.

Do you have any thoughts on those mechanisms and what we can do to improve them, the configuration? I mean, it so often works against us. I know, the lumber dispute was a good example of that as well, and some of the issues that they handed down with respect to that conflict.

Ambassador SCHWAB. Let me begin, Senator, by addressing your broader point, which is the fundamental point of enforcement, because you made that point very eloquently, both in our meeting and just now. Just to reiterate, I believe and am committed, and this administration is committed, to enforcement of our trade laws and trade agreements.

I believe that we cannot be negotiating and expecting enactment of new trade agreements unless we are credible in terms of how we enforce them. So, you have our commitment, and we will go forward and make sure that that happens, regardless of the product, regardless of the country.

You ask about the dispute resolution mechanisms. Those dispute resolution mechanisms, as these things happen, sometimes cut for us, sometimes cut against us. If you actually look at a roster of

cases that we have brought over the last 10 years since the WTO and NAFTA came into existence, you discover that we have won, settled, or resolved more cases than we have lost.

It is important, though, that we make certain that these dispute resolution mechanisms are also credible, that they are fair and that they are credible. I would be more than happy to look to see what, if anything, should be done to make sure that they are fair and credible in terms of their execution.

Senator SNOWE. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Snowe.

Now, I have Hatch, Lincoln, and Wyden. So I am going to call on Senator Lincoln. Was Senator Wyden here first?

Senator LINCOLN. He can go first.

The CHAIRMAN. Well, you are very fair, Senator Lincoln.

Senator WYDEN. Thank you, Mr. Chairman.

Congratulations to you, Ambassador. You said to Senator Conrad that unemployment is down, productivity is up. But what we did not add is that middle-class folks are not getting ahead. Their wages are stagnant. They have not seen any progress there.

The Federal Reserve noted, for the first time in years, that middle-class families are not even increasing their net worth. A lot of those middle-class folks come to us and say that trade is a big part of the reason they are not getting ahead.

Now, I have suggested to you, both publicly and privately, some ways to expand the winner's circle so that middle-class folks see trade policy as a tool for them to get ahead. But so far, no action.

What is going to be done in your office on your watch to use trade as a tool to help those middle-class folks, who are now living paycheck to paycheck, actually enjoy some of the fruits of the economy?

Ambassador SCHWAB. Senator Wyden, you have spoken eloquently about this issue, and you know that it is a matter of concern to me, this disconnect between the successes from trade and the apparent perception that trade has hurt the economy.

I certainly am committed to doing everything that I can, whether it is through the bully pulpit or through other mechanisms that I have described to you, and will describe now, to get the word out. I think that there are some compelling statistics that can be used and some compelling messages that can be delivered.

In my first conversation with you, before the Senate Finance Committee considered me for my current position, we talked about this. You said, what are you doing? One of the things we did subsequent to that is, we sat down with the Advisory Committee for Trade Policy Negotiations (ACTPN), which, as you know, is the highest-level advisory committee that we have on trade policy and negotiations, and asked them to make sure that the companies that are engaged in the ACTPN and the other groups, whether it is the Business Roundtable, the Emergency Committee on American Trade (ECAD), or the National Association of Manufacturers, those groups, make sure that their member companies get the word out to their employees.

Senator WYDEN. Ambassador, with all due respect, because I need to get into another area, this is not a question of getting the word out. What we need to do is take concrete steps.

As you know, I suggested, for example, even on a voluntary basis, when companies get tariff reductions, which has been a key part of the trade agreements, that we urge those companies, even voluntarily, to give a portion of those tariff reductions back to the workers.

So I know we are going to talk about it privately some more. I appreciate the fact that you are all trying to get the word out. But that is not what I am looking for.

I am looking for concrete ways, such as I have suggested to you, to broaden the winner's circle so that we see the middle-class folks getting something out of trade agreements where, frankly, I take a lot of heat for voting with folks like you to put them in place.

Let me ask you about one other area, and that is ending the Arab League boycott of Israel. This has been a key issue for the entire U.S. Senate. It is a harmful trade practice. The United States ought to take every opportunity in trade agreements and bilateral negotiations to end the boycott.

During session negotiations at the World Trade Organization, the Saudi's assured the Secretary of State they would apply most favored nation status to all WTO members, including Israel.

But the fact is, we still have this problem. It seems to me that, again, you all put out these statements: "Saudi Arabia is legally obligated to provide most favored nation treatment to all WTO members; any government-sanctioned activity on the boycott would be a violation of the Saudi Arabia obligations." So you put out all these statements, but when it comes to action on the boycott issue, again, you have been all wind-up and no pitch.

So my question to you is, if you are confirmed here, what specific steps would you take to ensure that Saudi Arabia finally—finally—stops getting a free ride and meets its obligations?

Ambassador SCHWAB. Senator, the issue of the Arab League boycott of Israel is one that is very important to our office, and to our Nation. I would note that we have made a lot of progress on this in the last several months and several years.

As you mentioned, in the case of Saudi Arabia, as part of their accession to the WTO, they took on the obligation as a WTO member not to discriminate against trading partners, other members of the WTO. They have done that.

In our free trade agreements, we have also ensured that, whether we are talking about the primary, secondary, or tertiary aspects of the boycott—and we can talk about those in specific if you would like—that those are not applied.

In fact, I would suggest that there is a *Jerusalem Post* article today on this very topic, on how the boycott really is increasingly a thing of the past, because so many of the countries that we trade with are simply not applying the boycott.

In the case generally, we continue to monitor, on a regular basis, issues or potential issues related to the boycott. We have teams that go into the region. When there was the last accusation that the Saudis had not, in fact, renounced the boycott, we sent a team to Saudi Arabia. We have made sure that these issues are ad-

dressed, and, in fact, appear annually in our National Trade Estimate report.

Senator WYDEN. My time is up. I just want to be clear. My understanding is, the Saudi government has said that the kingdom intends to maintain the boycott, despite WTO membership. Is that incorrect?

Ambassador SCHWAB. That is incorrect.

Senator WYDEN. All right.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Wyden.

I have Senators Hatch, Lincoln, and Crapo left. So, Senator Lincoln?

Senator LINCOLN. Thank you, Mr. Chairman.

Ambassador Schwab, I certainly appreciate your taking time to meet with me last week. As I expressed in our meeting, I am particularly interested in the ongoing WTO Doha Round. Our hope is that, in the next several months, you will be able to heavily draw your attention to its progress.

I tried to make aware to you then, and will again now, that my constituents are very concerned about what they have to give up in hopes for their market access. They have experienced that in the past, and similar to the concerns, I think, that Senator Snowe expressed in terms of the remedies that they have.

I believe the Chairman mentioned Mexico, which we talked about at great length last week. That is probably the most recent example of access that is not materializing under previous agreements. Our growers are finding themselves, obviously, caught in this situation where two cases that have already been denied, and now a third one is being brought against rice producers.

So I hope we just have your commitment that resolving this matter will be a priority. I mean, this is a huge issue for us, as Senator Wyden and others have mentioned.

For us to be able to continue to be supportive of your efforts in opening up free trade, we have to have the support of our constituency. It is definitely waning now because people are not seeing the support that they need in the remedies, concerns, and problems that they are seeing from negotiated agreements.

Ambassador SCHWAB. Senator Lincoln, you have my commitment that this will continue to be a high priority for USTR and, if confirmed, for me as our Trade Representative.

Senator LINCOLN. We appreciate that.

The other thing that is similar in nature is, obviously, that domestic support for agricultural producers is critical, and the administration has, on multiple occasions now, indicated that it is not going to be supportive of domestic programs for our producers, whether it is emergency assistance or whether it is the programs themselves.

With that considered and thinking of the agreement that was laid on the table last summer by USTR, do you intend for the U.S. to reduce its offer to cut domestic supports in response to a less-than-acceptable market access offer?

Ambassador SCHWAB. Senator Lincoln, you ask a very important and timely question. We are, as you know, in the last several weeks, several months of the Doha negotiations, if we are to get

it done in time to see enactment of the Doha Round agreement for the United States using trade promotion authority that expires next summer.

We did, as you mentioned, put out a very ambitious, very forward-leaning agricultural proposal last fall. It was a proposal, and is a proposal, designed to prompt equally ambitious responses from our developed country trading partners, the EU, Japan, and others, as well as advanced developing countries.

As you know, agriculture, if you look at the potential benefits from trade-liberalizing agreements, so much of it goes to agriculture. The elimination of agricultural trade barriers, opening of market access, elimination of export subsidies, disciplining of domestic support really can have a fundamental impact and great benefit for our farmers and ranchers.

Senator LINCOLN. If it all happens.

Ambassador SCHWAB. Exactly. Assuming we have a robust outcome. The proposal that we put on the table was conditional on a robust outcome, an ambitious outcome to the Doha Round, and we are still in negotiations on that. It is premature to speculate what we will do, but your message is well-taken.

Senator LINCOLN. So I am to assume that perhaps if there is not a robust response from these others, then hopefully our Nation will be willing to reduce that offer, or certainly stand for our producers in whatever negotiations would be forthcoming after that.

Ambassador SCHWAB. Let me suggest, it is premature for me to answer that question. I certainly take your point. We still are seeking an ambitious and robust outcome.

Senator LINCOLN. Just a couple of other things. I know that the U.S. has consistently called for a single-undertaking approach to the Doha negotiations and no early harvest. I am hoping that we still remain strong in that.

Ambassador SCHWAB. Senator, absolutely.

Senator LINCOLN. Particularly in regard to cotton.

Ambassador SCHWAB. I was going to say, Senator, that is a very, very important point. I hope that the developing countries that gain so much—for example, in the ministerial meeting that took place in Hong Kong in December, whether it is on cotton or duty-free/quota-free—I hope that they all understand that if there is no successful Doha outcome, none of these things come to pass. The single undertaking means everything, and everything together.

Senator LINCOLN. Great. I just want to also echo Senator Snowe's comments and compliment your skills as a negotiator, and the dedication of your negotiating team that I think provided the essentials in bringing about the terms of the possible lumber agreement. I know that we still have a few miles to go on that, but I appreciate the hard work that you put into that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Lincoln.

Senator CRAPO?

Senator CRAPO. Thank you very much.

Ambassador, welcome. I was going to go into the softwood lumber agreement and congratulate you as well, so let me just add my comments to those of the Senators who have already done so.

I would like to move on to another issue that is very important to me, and that is the rules negotiations that are going on in the Doha Round.

The Senate, I think, has made it pretty clear, at least as I understand the mood around here, that we cannot sign on to an agreement that weakens the antidumping or countervailing duty laws.

But I am concerned that I am not seeing that the United States has put forward a sufficient counter-balancing proposal to strengthen those laws. I understand that the U.S. has proposed two or three changes that would strengthen the laws, and that there are something like 150 other proposals to weaken them from other countries.

It is also my understanding that the U.S. is considering tabling proposals to accomplish this strengthening, but those seem to be tied up in the inter-agency process. I am not exactly clear on just where we are in terms of the United States' strategy to maintain a strong set of rules, particularly in the antidumping or countervailing duty arena.

Could you tell me where we are and what the U.S. strategy is going to be in that regard?

Ambassador SCHWAB. Senator, in the rules negotiations in the Doha Round, those have gotten, as you know, somewhat less pressed, less focused than agriculture and the industrial negotiations, manufactured goods, and services. The rules negotiations are very, very important. We have made a point of not just having a defensive agenda, but that we needed an offensive agenda.

There are, for example, key elements of transparency that we do not find in other countries' antidumping and countervailing duty laws that we are insisting we need to find, whether it is with the EU or some advance developing countries. Where that transparency is not there, the kind of transparency that we have in our own laws, we need to see that in other countries.

So that is an example of the kind of approach that we are taking in the rules negotiations. We are well-aware of the sensitivities and the importance of maintaining the fundamentals of our antidumping and countervailing duty laws.

Senator CRAPO. Well, thank you. And you and I have talked about this before, and I am sure we will talk about it again. I just want to be sure that the U.S. has a very strong offensive position there as well, and I appreciate your attention to that.

One other area, just because our time is short, I wanted to jump into, and that is food aid. As you know, U.S. farmers and ranchers produce safe, nutritious, and abundant supplies of food. Our domestic food resources should continue to be utilized for humanitarian purposes.

As the WTO negotiations continue, I encourage you to stand strong in maintaining the U.S. in-kind food aid system and not to let it be eroded into a cash-only type system. Do you agree, and what are your plans in this regard?

Ambassador SCHWAB. Senator, food aid has come up on a number of occasions during the course of these negotiations. The United States is committed to maintaining a food aid program that includes in-kind. We need to be responsive when there are emergencies.

Examples of cash-only food aid are not examples we would emulate. In fact, where you see countries that have gone to cash-only, in many cases their contributions to food aid have gone down rather than increasing.

We are conscious that we need to avoid a food aid program that results in commercial dislocation. That is something that we are looking at in the context of the negotiation.

I will be working very, very closely with Secretary Johans and others at the Department of Agriculture to make sure that the fundamentals of our Food Aid program are intact, and that we keep the in-kind portion of that.

Senator CRAPO. Well, thank you very much.

I just would like to conclude by, again, thanking you for your excellent work on the softwood lumber agreement and in the many other areas where you are working so hard and so aggressively to maintain and protect a strong U.S. posture in these negotiations, and I look forward to working with you.

Ambassador SCHWAB. Thank you, Senator.

The CHAIRMAN. We are going to have a second round, if people want it. Senator Baucus wants it, I want it, and other people can participate if they want to. I am going to have seven minutes and twenty seconds, because I reserved two minutes and twenty seconds from the first round.

Senator CONRAD. Object. [Laughter.]

The CHAIRMAN. All right.

Senator BAUCUS. And we are going to be watching the clock very closely, Mr. Chairman, go down to the seven-twenty. [Laughter.]

The CHAIRMAN. All right.

Anyway, Ambassador Schwab, our number-one trade priority should be to complete the WTO agreement that grants meaningful market access, particularly in agriculture, but also in industrial goods and the service sector. Entrenched positions held by the EU, Brazil and India leave me very pessimistic that we will reach an agreement before trade promotion authority expires.

What is your strategy to move the negotiations forward to meet that deadline? And it is kind of a nebulous deadline, but I think I have reason to believe that if great progress is not made during June and July, it cannot be done this year. If it cannot be done this year, the Senate cannot consider it next year.

Ambassador SCHWAB. Mr. Chairman, you are absolutely right in terms of the timetable you have articulated. We are in a very sensitive period in the next several weeks and months through the end of July where we really need to have closure on the key elements of the Doha Round negotiations if we are to conclude the details, and ultimately come to the U.S. Congress with a Doha Round agreement that you can enact prior to the expiration of TPA authority.

If I am confirmed, I will continue pushing very, very hard for the kind of ambitious, robust outcome for a Doha Round agreement. We have a very forthcoming agricultural proposal on the table. We have been forward-leaning in the NAMA, Non-Agricultural Market Access, negotiations. We have ambitions, great ambitions, in terms of services and so on.

It is premature to talk about a Plan B. I would say we have not given up on Plan A and an ambitious and robust outcome. I would hope, and expect to be consulting very closely with you and your colleagues on this committee as we go forward in the coming weeks and months to ensure that we are on track and to make sure that we are in synch in terms of our thinking and approach.

The CHAIRMAN. If Plan B might be a minimalist approach, do not bother to bring a Plan B to me. This is going to be a successful round or there is not going to be any consideration by this committee.

Also, let me emphasize what I said in my opening statement, as you are talking to countries that have GSP privileges in our country, that this committee will not consider reauthorization of GSP when it runs out because everything that GSP does can be accomplished in the Doha Round for the very same countries.

If there would be reason to reauthorize some GSP, we are going to be very careful in that reauthorization that it does not include countries that ought to be graduated out anyway.

I am going to be very liberal on that graduation, because countries that are holding up Doha seem to be the very same ones that are benefitting from GSP. There is no reason why they get a free ride if they are not willing to give the United States something.

Another question. The United States currently does have a surplus in services trade, and it is important that we continue growth in that sector. If confirmed, how would you energize the service sector negotiations in Doha to get those parts of the negotiation back on track?

Ambassador SCHWAB. Mr. Chairman, services are, indeed, a critical part of the Doha Round negotiations and a very fundamental part of our exports. As you note, 8 out of 10 jobs in this country are associated with the service sector, including many high-skill, knowledge-intensive positions.

We have been working very closely with the U.S. industry, in terms of making sure that the outcome of this negotiation is as ambitious as the other parts of the negotiation. We are on a different track in terms of services negotiations.

The initial sets of requests were only issued on a collective basis in February. The end of July marks the period where the second round of offers comes back. So, so far we are on track on these negotiations, and it is very important that we continue working with the U.S. industry to make sure we stay that way.

The CHAIRMAN. I think I am going to call on Senator Baucus. I have ended my questioning. I may submit some questions in writing.

Senator BAUCUS. All right. Thank you, Mr. Chairman.

Ambassador Schwab, first, thank you for your hard work on the lumber deal. I would just urge you, as other Senators have, to just keep on it. We all know that there is many a slip between the cup and the lip. It is not over until it is over, and even then it is often not over. So, stick with it.

Ambassador SCHWAB. Senator Baucus, you are absolutely right, and we certainly will.

Senator BAUCUS. Thank you.

I am just curious if maybe there is some way we can boost our efforts with China. The JCCT was helpful, but I think most people think it was not as helpful as it could, and should, have been. I think we need to go the extra mile to try to find ways to be more helpful in those kinds of talks.

I also think that the more we talk with China on lots of different levels, many different levels, the more likely it is that the two countries will have a strong, sustained relationship. There will be little spats, probably, now and then, but basically strong.

I am thinking of a similar relationship we have with Japan. In the JCCT, which was just a couple of weeks ago, when Madam Wu was here, it was basically trade issues. But in Japan, there is a much broader framework on a similar kind of negotiation.

With Japan, we talk about trade, but also currency and energy investment, in one broad framework. Our framework with Japan covers more than narrow issues that were discussed in the JCCT. I just urge you to think about how to expand the JCCT to a much broader—not too broad; you cannot solve all of the world's problems—framework than the current one so it is more meaningful.

I say that is extremely important because, frankly, when I talk to friends of mine in China whom I trust and know, they tell me that President Hu's visit here did not work out well. That is, not only did the fellow at the White House call out the wrong national anthem for China, or a demonstrator, and so forth, but also, President Hu was not given a state dinner. It was not a state visit.

I, for the life of me, cannot understand why in the world the President of China was not given a state dinner, particularly to the Chinese, because they value face more than a lot of people.

I am picking up that the Chinese are starting to think that Americans are arrogant toward China, look down their noses at China, are above China, have no sufficient respect of China. Respect goes so much farther than any other dynamic.

As long as there is mutual respect, you can generally get something done. So, I would just mention to you that that would be helpful, if you could pursue something along those lines. I would just like your thoughts on that, please.

Ambassador SCHWAB. Senator, before I came to the University of Maryland, I had the opportunity to spend a couple of years working for Motorola in Schaumburg, Illinois. Most of the work I did for Motorola involved China: Asia strategy and a lot of work in China. You are absolutely right.

There is nothing that beats mutual respect in terms of interacting with anyone, interacting with a trading partner, interacting with China, interacting with colleagues. That is critical. It is also critical to be honest and forthright and not to pull punches. I call it like it is.

In the case of China, we have a lot of issues, a lot of trade issues, as you know, ranging from market access issues to intellectual property rights issues that really need to be addressed to build a healthier set of relationships with China. I will be certain, if confirmed, to make this a priority.

The JCCT meeting, as you noted, was quite successful on a variety of fronts. There are a lot of other avenues of dialogue going on between the United States and China, as you know, but the U.S.-

China relationship is a very, very important one for both countries, and I will certainly make this a priority.

Senator BAUCUS. Well, yes. I am just trying to give you some ideas of how to do it. For example, Deputy Secretary Zoellick, who was one of your predecessors, has an ongoing, established relationship with either the Premier of China or his counterpart over in the Foreign Ministry in China. That is locked in.

They do that, I think, twice a year to talk about issues, to get things done. I encourage you to set up something very similar, to minimize misunderstandings. That is what the Chairman and I do. I take great pride in this. We meet every Tuesday at 5 o'clock. Every Tuesday, for about an hour to go over issues, legislation that is coming up, how to work things out. Our staffs are there.

It is one team, how to work all this out together. It is locked in. Even if we just have our kids to talk about because there is nothing on the agenda, we still meet and we talk about our kids.

I encourage you very strongly to set up something very similar with China, and with other countries in other ways, so you are talking to people, so they understand you better and you understand them better. So much of this is understanding. It is trust. You have to work extremely hard on a personal level to develop that trust.

Eighty percent of life is showing up, just being there. You get on that airplane and you go see them personally and talk to them, have them come see you personally. Get out of your office. Do not spend too much time listening to your staff. Trust your own instincts. You will pick up an awful lot by talking to a lot of people on the outside.

Ambassador SCHWAB. Thank you, Senator. I have had the opportunity to meet with Minister Bo, who would be my counterpart if I were confirmed.

Senator BAUCUS. Minister Bo is a good man, but he has interests, too. You just keep meeting with Minister Bo constantly and honestly. After a while, trust is going to build up.

Ambassador SCHWAB. Thank you.

The CHAIRMAN. Thank you, Senator Baucus.

I am going to call on Senator Hatch and Senator Schumer before I go to a second round for Senator Conrad and Senator Lincoln.

Senator HATCH. Well, thank you, Mr. Chairman.

Madam Ambassador, since your nomination I have been dismayed by the opinions of some who state that your nomination is an indication that the administration is de-emphasizing trade policy. Obviously these individuals do not know you.

I, on the other hand, have had the privilege of working with you, and join my colleagues in stating that you are a tenacious, forceful, yet thoughtful advocate of our Nation's trade agenda.

We have a vital work that has to be accomplished: first ensuring that the Doha Round lives up to its potential; second, moving expeditiously in negotiations between the United States and Korea, that will result in an agreement that provides unfettered access to the Korean market, a market that is notorious for its non-tariff barriers to American products, especially automobiles and automobile parts. These are vital objectives. I cannot think of anyone better suited to lead our Nation's policy and negotiations than you.

So I am here basically just to let you know that I strongly support you, and I expect you to be a great representative of our country, as you have been in the various positions you have filled in the past.

So, Mr. Chairman, that is all I have to say.

Ambassador SCHWAB. Thank you, Senator.

The CHAIRMAN. All right.

The Senator from New York. Thank you.

Senator SCHUMER. Thank you, Mr. Chairman.

And thank you for coming. I would just like to go back to the currency issue. It walks like a duck and it quacks like a duck, and it lays eggs like a duck, and you say it is not a duck.

Yesterday, the Chinese Government said they were going to fix the value of the yuan to below eight. Today, they fixed it above eight. That is not market forces. How could you say it is not manipulation? How could our government, the Secretary of Treasury, say that? It is clearly manipulation.

Explain to me. I know Senator Conrad asked a general question about this. What is it if it is not manipulation?

Ambassador SCHWAB. Senator Schumer, we have had a couple of conversations about China and U.S.-China trade issues. As you know, currency is but one component of the issues that we face in terms of U.S.-China trade. In terms of the report, I think you are referring to the Department of Treasury report.

Senator SCHUMER. Yes.

Ambassador SCHWAB. I believe that the Secretary of Treasury will be up here tomorrow.

Senator SCHUMER. Oh, I will be here.

Ambassador SCHWAB. He will be here tomorrow to testify about the report. I would defer, obviously, to him and to Treasury on that question.

Senator SCHUMER. All right.

Ambassador SCHWAB. I would note that both the United States and China have made the point, and the United States has made it most forcefully, that flexible exchange rates, floating exchange rates are far preferable.

Senator SCHUMER. All right. Let me ask you this. Do you think the currency issue is an important issue in terms of our trade relationship with China?

Ambassador SCHWAB. I do.

Senator SCHUMER. All right. So I presume that in the next USTR top-to-bottom review of China, currency would not be just a footnote, which is what it was in the last one.

Ambassador SCHWAB. The top-to-bottom review addressed currency, as you noted.

Senator SCHUMER. In a footnote, right?

Ambassador SCHWAB. The top-to-bottom review addressed those issues over which the U.S. Trade Representative's office and the broader trade policy apparatus in the administration, the inter-agency process, addresses. Currency was in there. But you are right, we really did focus more on issues where we have tools in terms of trade barriers, intellectual property, and so on. Enforcement issues.

Senator SCHUMER. Do you think the law ought to be changed in regards to currency and what manipulation is and what intent is?

Ambassador SCHWAB. I think I will defer to the Treasury Department on that.

Senator SCHUMER. All right.

Then let me go to another area, another place where China, again, is not playing by the rules. This, as a New Yorker, I care about in particular, but also as an American—barriers to American companies operating freely in China. This occurs day in, day out in terms of financial services.

First, were you disappointed that China did not allow Citigroup to gain 40 percent ownership in that ailing Chinese bank? I forget the name of it. They just rejected that, as you probably know. Or the word is they are about to reject it. I guess they have not officially rejected it yet, but they have unofficially rejected it.

Ambassador SCHWAB. I think, Senator, you will find this administration fully committed to opening market access in China, and that is whether we are talking about agriculture, whether we are talking about industrial goods, or whether we are talking about services. That includes financial services.

Senator SCHUMER. Right. This was the Guangdong Development Bank that Citigroup wanted to take over, not with the usual 9 percent or 20 percent, but really with a controlling interest.

Ambassador SCHWAB. Senator, I have not read anything about the disposition of that case, but I would be happy to look into it and come back to you.

Senator SCHUMER. Do you think an American bank should be able to take over an ailing Chinese bank and operate in China?

Ambassador SCHWAB. I believe it is important that we have fair access in terms of financial services in any country with which we are doing business. Those are areas that are negotiated through trade agreements.

Senator SCHUMER. Are you happy with the progress so far in terms of financial services?

Ambassador SCHWAB. I am not sure the United States will ever be happy with the progress that we have made.

Senator SCHUMER. Are you? You are going to be the Trade Representative, if you are confirmed. Are you happy with the progress we have made in financial services?

Ambassador SCHWAB. I believe there is always more progress to be made.

Senator SCHUMER. Are you happy with what has been made so far?

Ambassador SCHWAB. I believe there is always more progress to be made.

Senator SCHUMER. All right. If you cannot answer “no” where there has been virtually no progress, I am very disappointed, I have to tell you. I mean, this is why we do not get anywhere in China, because we never take a stand. Then people like myself and Senator Graham, Senator Grassley, and Senator Baucus are forced to do things.

But if you cannot say out and out that you are not happy with the progress that has been made in terms of financial services—the

Chinese have a savings rate of 45 percent. They have rudimentary financial institutions.

This is not like textiles. This is one of the areas where we have a huge comparative advantage, and we are not allowed in. You want us—the administration—to be for free trade, but you only seem to want us to be for free trade in areas where China wins and we do not.

Yes, I know Caterpillar is doing well, and one or two other companies. But in financial services, if we were allowed freely into China, it would be a huge boon for U.S. companies and U.S. markets.

I have to tell you, I do not see us making a big issue of this. I think this administration's policy on trade, and I say this as somebody who basically wants to see a good, open relationship where they prevail in some areas and we prevail in other areas, succeed.

When I hear the remarks that are so couched in diplomacy, if you will, that you cannot say something that everyone knows to be true—I am sure in every private conversation you have had, with insurance companies, securities companies, banks, they will tell you that they are not happy with the progress, that they are blocked at every step of the way.

And you cannot say more than, well, more progress should be made? I am disappointed. I am very disappointed. As I recall, when your predecessor came, he was not that cautious about this. Financial services barriers are supposed to be phased out at the end of 2006. We are not even close.

Let me ask you, what are you doing to ensure that that happens?

The CHAIRMAN. That will have to be your last question.

Senator SCHUMER. Thank you. I apologize, Mr. Chairman.

The CHAIRMAN. Would you answer?

Ambassador SCHWAB. Absolutely. Senator, as you probably know, there is a constant stream of negotiations, consultations going on with China. The United States has a variety of tools at our disposal to ensure that trade agreements are enforced and implemented as they were designed.

We use, and, if I am confirmed, I am committed to use, all of this arsenal of tools to make sure that we accomplish our objectives. You mentioned the importance to the U.S. financial services sector of access to the Chinese markets. It is also in the interests, quite frankly, of the Chinese banking sector.

So if you look at the top-to-bottom review that was just recently issued by the U.S. Trade Representative's office and by Ambassador Portman, you will see that this notion of enforcement and using the tools is front and center, and that includes financial services, it includes services.

Senator SCHUMER. Could I just ask one quick question? Can you name for me one thing you are proud of in terms of financial services and the progress we made in China in the last year?

Ambassador SCHWAB. Senator, when I used to do business in China for Motorola, we had no access whatsoever in terms of financial services. These changes are slow. They are frustratingly slow, and I will acknowledge that. You have my commitment to do whatever we can to make sure that we get to the point where we have free and fair access.

The CHAIRMAN. All right.

Senator Conrad, did you want a second round?

Senator CONRAD. Please.

The CHAIRMAN. Go ahead.

Senator CONRAD. Ambassador, when I pointed out, this is the record on trade deficits, your answer was, well, you have to look at the economic statistics, because there are some positive economic statistics. Let me just give you an alternative view on economic statistics that is not so positive.

Here is what has happened to real median household income: it has declined 4 years in a row. That is not positive. Here is what has happened to business investment compared to the nine previous recoveries since World War II. Something is going on here. Something is amiss. This dotted red line shows what happened in the nine previous recoveries since World War II. The black line is this recovery. We are 45 percent less on business growth at this stage of the recovery than the average of the nine previous recoveries. This is job creation. The dotted red line is the nine previous recoveries since World War II. This recovery is the black line.

At this stage of the recovery, we are 6.5 million private sector jobs short of the average of the nine recoveries since World War II. Something is not going well, and I have an increasing suspicion of what it is. I think it is our trade policy. I think it is our budget policy.

As I referenced, Peter Morici, the former Director of Economics at the ITC, has said "these out-of-control trade deficits have cost us \$1.7 trillion in economic activity."

Now, I heard you say on agriculture, where I have a special interest, that you all have made a robust proposal. Let me just say to you, I deeply believe the proposal you made is a disaster, a disaster for my farmers, a disaster for our country's agriculture. Let me say why.

You all proposed 60 percent reductions in our support levels, but you did it without getting anything from the other side. You said this only holds if you get something from the other side.

Let me just say, I have done a lot of negotiating in my life. I have never seen anybody succeed in negotiating by going to the negotiating table and saying, we are willing to give up A, B, or C, without a concession from the other side. That is backward negotiating. It just makes no sense.

Have you ever seen anybody go to a car dealership and say, we will pay the sticker price? That is kind of what you guys are doing.

The idea is, you are going to make these big concessions, and then you are going to get concessions in return. We have already seen what the Europeans said. They said, forget it, we are not making the concessions.

So the idea that somehow we are going to get more access, I do not think we are going to get more access from Europe. I do not think that is real. Then you have the developing countries, which in agriculture really are not developing. But they have all kinds of special treatment in the agreements.

Like Brazil. Brazil is number one in commodity after commodity, and they are just licking their chops, just licking their chops. Why? Because if there is any more access that is forthcoming, who is

going to get the advantage of it? Brazil has a crop base of about 325 million acres. They have the potential to expand on another 350 million acres. They have roughly the same crop base we do now, but they have enormous potential to expand.

I would just tell you, in agriculture I think the proposal you have laid down—not you, but the office laid down—is a huge mistake, and it is a negotiating strategy that I have never seen work for anybody else. I am happy to hear your response.

Ambassador SCHWAB. Senator, as I commented earlier on the agricultural proposal, the agricultural proposal that we put down is, as you say, very forward-leaning, very forthcoming, and very conditional.

Senator CONRAD. But why make it conditional? That is what I do not get. I have never seen anybody succeed in a negotiation by making a conditional offer. Why do you not have a bargained-for conclusion in which we give up something only if the other guys give up something?

This idea of going out and saying we are going to give up a bunch of stuff and we hope the rest of you do it, it just seems to me, is a losing way to negotiate.

Ambassador SCHWAB. Senator, as you know, the Doha Round negotiations were stuck and the question is, would we do something to unstick them? The effort was to get some momentum in the negotiations. In terms of negotiating technique, while I was not in this job when this was put forward, this is a negotiating technique that is fully consistent.

If you read the writings of John Nash and Tom Shelling, both Nobel laureates in economics on game theory, some of the iterative models of negotiating would have one being forthcoming at the front end. In many, many cases—prisoners dilemma type cases, iterative negotiating model cases—you discover that those really come out with the best outcomes.

But your fundamental point, which is that other countries have not come to the table, that the EU is not there in terms of market access, that the advanced developing countries are not there yet, is absolutely right, and that is why we are pressing ahead. We will not bring back to this Congress or this committee an agreement that does not result in real market access and have a good, balanced outcome.

The CHAIRMAN. Before I call on Senator Lincoln, I have come to the conclusion, partly because of time, but also because we do not have a quorum, that we are going to have to reschedule the Oman Free Trade Agreement and the Basham nomination for later this week.

So would staff of members work with our schedulers to see what we can get scheduled? We need to move ahead on Oman because the House has already done that, and I promised Mr. Basham we would do his nomination today, and obviously we cannot do it.

Senator Lincoln?

Senator LINCOLN. Thank you, Mr. Chairman. I will just submit the rest of my questions for the record to be answered. Thank you.

The CHAIRMAN. All right. Thank you, Senator.

Senator Schumer?

Senator SCHUMER. Thank you, Mr. Chairman. I would just like to continue to follow up again on the area of financial services, which really does bother me.

The CHAIRMAN. I am going to step out for a minute. I will not leave you alone; I will be right back. [Laughter.]

Senator SCHUMER. I think she can handle herself just fine, Mr. Chairman.

Can you again point to me something that happened in 2006 where we made progress? I mean, I am for reciprocity. Chinese companies can buy majority shares here. I did not even oppose the CNOOC deal. We cannot, there. It seems only in the key industries where we have major technological and other advantages.

If we keep playing by the slow pace that we are doing now, China will learn how to do all these things, continue to keep American firms out, and any hope of comparative advantage will not occur. I look high and low. I do not think financial services is as much a priority to this administration in terms of opening up China as it should be. I think there are other things that come in more quickly.

But again, I would like to ask you, give me a little solace here. What is one specific thing in 2006 or 2005, in the last year and a half, that has happened in financial services that have given American firms a greater opportunity to operate in China, to own companies in China, to buy other Chinese companies and have some degree of say?

Ambassador SCHWAB. Senator, as you know, financial services is an area where the USTR works very closely with Treasury and other agencies. We tend to have the lead on insurance in the services area; in financial services, Treasury tends to have the lead.

You raise the question of ownership. A lot of progress has been made in terms of ownership in China. There was a point where wholly owned facilities were not possible in China. I am talking, for example, in manufacturing. That has changed. Initially, all requirements were for joint ventures.

I think what you are addressing in terms of the importance of pushing ahead and making sure that the U.S. benefits from the comparative advantage that we have and the economies of scale—I mean, why do companies want to go into China? It is the economies of scale—that is front and center in terms of the agenda.

It is a matter of pushing forward through the JCCT and other forums. It is a matter of pushing forward in terms of trade remedies and trade remedy laws that we have. And intellectual property rights being another area where obviously your State has a significant amount.

Senator SCHUMER. It does. But I just got back from China. It was an eye-opener to me. I care a lot about intellectual property, but the central government cannot do as much there.

If the Governor of Hubei Province wants to counterfeit things, there is not much they can do. I have tried to focus on areas where the central government can, should they want to, change. Currency is one of those.

But a second is allowing American firms, financial firms, to operate freely in China. That is not a local government control issue,

that is a central government control issue. We basically have been stonewalled.

Let me ask you. Will removing financial service barriers be on the agenda for the Doha discussions in July?

Ambassador SCHWAB. If I might answer an earlier comment about intellectual property.

Senator SCHUMER. Yes.

Ambassador SCHWAB. One of the points that I think you are aware of is, in the most recent Special 301 report that we put out, we are doing a provincial-level assessment of intellectual property.

Senator SCHUMER. I know. And by the way, one thing you can do in intellectual property, the fines are basically a slap on the wrist. Even when somebody is found to violate, the fines are so little, they are a cost of doing business. That is an indication of the Chinese Government's enthusiasm, or lack thereof.

Ambassador SCHWAB. Fines and prosecution obviously are critical.

Senator SCHUMER. Yes. Which they could do more of. But it is sort of like pushing on a wet noodle. Whereas, this stuff is not. This, they could do if they wanted to. I know the Chinese, particularly the political. They love control. Letting go of control in financial services is letting go control of an important part of their economy.

But enough already. Enough already. They cannot just have the advantages of free trade and not the obligations or responsibilities. Every one of us, every day, has to tell people who lose jobs in manufacturing that that is just how the world is. But we really cannot say, except in isolated instances, that in the areas where we have comparative advantage we are gaining jobs.

And to me, again, New York-oriented, financial services is at the top of the list. I have not seen this administration make it as high a priority as it should, both in terms of relative to other things, but also in terms of really forward action.

Ambassador SCHWAB. And, Senator, I can tell you it has been, and will continue to be, a priority. I would look forward to working with you if there are specific areas we can be working on with respect to China, and, quite frankly, other countries.

Senator SCHUMER. All right. Well, I would like, if you could—I do not know when we are going to vote—to get me some reaction on this Citigroup thing. All right?

Ambassador SCHWAB. Certainly.

Senator SCHUMER. That was supposed to be a breakthrough. When we went there, everyone was optimistic. Now it is not going to happen, it looks like. It is very disappointing.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Just a reminder, there were not very many members present today because of votes and other committee meetings, so you may get a lot of questions for response in writing. So I would ask any members who have questions, to have them submitted no later than next Tuesday, May 23. No. That is when we would like to have you respond to them. That is with the hopes we can get your nomination through next week.

Ambassador SCHWAB. Thank you, Senator.

The CHAIRMAN. But anyway, get the questions submitted to the committee today. Thank you very much.

Ambassador SCHWAB. Thank you, Senator. Thank you, Mr. Chairman.

The CHAIRMAN. Hearing adjourned. Thank you.

[Whereupon, at 12:02 p.m., the hearing was concluded.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD



Committee On Finance

Max Baucus, Ranking Member

NEWS RELEASE

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**Opening Statement of U.S. Senator Max Baucus (D-Mont.)
on the Nomination of Ambassador Susan Schwab
to be United States Trade Representative
Senate Finance Committee Hearing**

Ambassador Schwab, welcome back to the Finance Committee.

This is your third appearance here since October, when this Committee held its last confirmation hearing on you. And when the full Senate considers your nomination, it will also be the third time since October that Senators will vote on you. Indeed, we liked considering you so much the last time that we voted on you twice for your current position. I wonder whether the administration is trying to set a record for racking up the most confirmation votes in the shortest amount of time for a single nominee.

Ambassador Schwab, congratulations on your nomination. Although I am sorry to see Ambassador Portman leave his job as Trade Representative, I am pleased that the President had the wisdom to replace him with you. Many of us have known you for many years — since the early 1980s when you worked in the Senate for our Colleague Jack Danforth. I have long appreciated the skill, wisdom, and energy that you bring to the table.

You have already proved yourself an able trade negotiator by settling the longstanding dispute with Canada over lumber imports. If you can resolve that difficult issue, then I am confident that you have the mettle to tackle the many difficult issues on your plate. I look forward to your speedy confirmation as the 15th United States Trade Representative.

Transitions at Cabinet level agencies are often disruptive. And this transition certainly has not come at the best time, given ongoing trade negotiations in the World Trade Organization and elsewhere. But transitions give us a momentary pause to reflect. They give us an opportunity to think about where we are, and the direction we are heading.

Frankly, I think we have reason to be seriously concerned. Just 13 months before the expiration of Trade Promotion Authority, the Doha Round is sputtering. Much of the administration's free trade agreement strategy continues to tear us apart instead of bring us together. And with our huge and growing trade deficit, more and more Americans have questions about whether America's trade policy has really served America's best interest.

The time has come to begin the conversation about how we can do a better job. You, Ambassador Schwab, will be a critical part of that conversation. This conversation may begin today. But this conversation must continue intensively through the coming months.

There are many difficult questions for which we need to find answers. Let me raise a few.

First, what is our plan should the Doha Round fail? Should the United States explore more seriously alternatives to the WTO, such as deepened cooperation in a re-energized Asia-Pacific Economic Cooperation? Should we begin to contemplate free trade agreements with economic giants like Japan, India, and the European Union?

Second, how do we get beyond disagreements about handling labor issues in trade agreements? These disagreements dominate partisan debate on most free trade agreements. With fresh reports of labor abuses in Jordan, how can we address meaningfully American workers' legitimate concerns about competing with countries that maintain substandard labor practices? And how can we do so in a manner acceptable to members of both parties?

Third, how can we tie trade policy more closely to the goal of enhancing America's long-term competitiveness? How can we use trade agreements to help shape domestic priorities in education, research, and innovation?

And fourth, isn't it finally time to recognize, as a matter of national policy, that popular support for trade depends on whether our government is willing to commit to help workers and industries that trade leaves behind? Shouldn't we be doing more through programs like Trade Adjustment Assistance?

These are not just idle questions. The future of U.S. trade policy depends on how we answer them.

Ambassador Schwab, the clock is ticking on the government's Trade Promotion Authority. And it is near time for the alarm to sound. Unless and until we do some hard thinking, I cannot imagine how the Congress will be in a position to agree to a new grant of Trade Promotion Authority.

Let's start this process now. I look forward to working with you, Chairman Grassley, and Members of this committee in finding the right answers.

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U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

Opening Statement of Senator Chuck Grassley
Senate Finance Committee
Hearing on the Nomination of Susan C. Schwab
to be United States Trade Representative
Tuesday, May 16, 2006

It's my pleasure to welcome Ambassador Schwab to the Committee today. It's almost seven months to the day that the Committee met to consider Ambassador Schwab's nomination to her current position of Deputy United States Trade Representative. Since being confirmed to that position last November, she's been very busy indeed. Ambassador Schwab has successfully concluded trade agreements with Peru and Colombia, as well as the core terms of a softwood lumber accord with Canada which I will turn to in a moment. Separately, Ambassador Schwab has actively engaged in the development of U.S. strategy in the ongoing negotiations of the Doha Development Round in the World Trade Organization. This is a critical time in those negotiations. We need to achieve substantial progress in a very short period of time if we're to succeed in getting an agreement before Trade Promotion Authority expires next year. As I've said recently, I do not expect Trade Promotion Authority to be renewed beyond June 30, 2007.

I've been monitoring the Doha negotiations closely. I've thought long and hard about why we aren't further along in the negotiations. One of my concerns is that unilateral preference programs serve as an obstacle to advancing the negotiations. For example, Brazil and India derive great benefits under our Generalized System of Preferences program, or GSP. And they're also two of the countries most responsible for holding up the Doha negotiations. Maybe they and other GSP beneficiaries feel they don't need a Doha agreement since the status quo serves their interests. This leaves me frustrated. As a result, I'll likely oppose the extension of the GSP program, which is due to expire at the end of this year. If GSP is extended, I'll work to see that the eligibility requirements are tightened, so some countries can expect to be removed from the program. I want to make it clear that any extension of GSP will not be a continuation of the status quo. I hope that with GSP termination looming, Brazil, India, and other beneficiary countries will work harder to see that the Doha negotiations are concluded successfully.

I also referred to the softwood lumber accord recently concluded between the United States and Canada. I've expressed my disappointment in that accord to Ambassador Schwab. In my view, it doesn't do much for the American consumer. So, looking ahead, I urge Ambassador Schwab to make it a priority to conclude negotiations with the Canadians on "exit ramps," so that the terms of the accord can be set aside as soon as possible.

Apart from Doha, this is an exciting time in American trade policy. We're about to commence negotiations with two major trading partners – South Korea and Malaysia. These negotiations will present new challenges, particularly in addressing regulatory and other non-tariff

barriers to trade. I commend the governments of each of those countries for their foresight. Robust trade agreements that bring about real market access liberalization will invigorate their economies and put them on a path of greater economic prosperity. We also need to continue to encourage meaningful regulatory reform in other major trading partners such as Japan and China. I'm confident that Ambassador Schwab will effectively meet each of the many challenges she'll face as our next Trade Representative. Her skills, experience, and positive energy make it evident that she's the right person for the job. I look forward to working with her to advance the President's trade agenda, and I hope to see Ambassador Schwab confirmed to her new position as quickly as possible.

Opening Statement of Deputy U.S. Trade Representative Susan C. Schwab
U.S. Trade Representative-Designate

U.S. Senate Committee on Finance

May 16, 2006

Thank you Chairman Grassley, Senator Baucus and distinguished panel members.

I appear before you today as the President's nominee for United States Trade Representative; grateful, honored, and excited about our trade agenda. If confirmed, I will have the great fortune to lead an agency that can boast one of the most talented teams of professionals I have ever met.

First, I would like to introduce my parents Gerald and Joan Schwab and my sister Teresa Marshall and to thank them.

I had the opportunity to meet with many of you in the last few weeks to discuss your hopes for, as well as your concerns about, international trade. I appreciate the time you have spent with me and have found our discussions very constructive and informative. They have also reinforced in my mind the Senate Finance Committee's proud tradition of crafting sound public policy through the thoughtful bipartisan exchange of views. President Bush has made trade one of the top priorities of his administration. He has entrusted this priority to two remarkable public servants - Bob Zoellick and Rob Portman. Under their leadership, the United States has returned to the negotiating table, has established U.S. leadership in multilateral trade talks, has opened new markets for American products and services and has pointed the way toward a better future for all nations. I have been particularly grateful for the opportunity to be part of Rob Portman's team over the last six months and to participate in the development and execution of our trade agenda.

As we reach a critical juncture in the effort to build on this administration's trade success, I am honored to have the President's trust. If confirmed, I look forward to a seamless transition in the pursuit of his trade agenda.

Guiding Principles

Today, I would like to lay out some of the broad principles that will guide me in working with you to pursue the President's agenda and to establish a trade legacy that we can share as public officials and as a nation. First, when it comes to international trade, I believe markets work.

While the benefits of trade are not always enjoyed equally, the outcome is generally better for all concerned than the alternative namely, governments trying to micro-manage through protectionist solutions. In theory, nations of the world would all be better off by unilaterally opening our markets. However, as a practical matter, it is better for us to negotiate and enforce good bilateral,

regional and multilateral deals to achieve market-based global trade outcomes. These agreements make free and fair trade more doable and spread the benefits even more broadly.

So I guess I consider myself a free trade activist and a free trade pragmatist.

Second, I like to get things done. I am a problem solver. And the most pressing problem we face in trade today has been the erosion of America's traditional bipartisan support for open trade and the pro-trade agenda that has so benefited the United States since the Eisenhower era.

If confirmed, I promise to continue the bipartisan approach to U.S. trade policy embraced by the President and Ambassador Portman - and by the first U.S. Trade Representative I worked for, Bob Strauss. I will reach out, listen and consult with members of Congress on both sides of the Capitol and both sides of aisle as well as with your constituents and interested groups across the country.

Third, I intend to work with you and your colleagues, as partners, on our pro-growth agenda; to bring the Doha Round of the World Trade Organization (WTO) to a successful conclusion, to broaden and deepen our trade relationships on a bilateral and regional level, and to rigorously enforce existing trade agreements and the rules of trade.

Why do I believe in free and fair trade? Simply stated, seeing is believing. Open trade has a long and compelling track record of success.

Since the nations of the world moved away from the disastrous protectionism of the early 1930s, we have seen prosperity and freedom take hold on a global scale. Even as other nations have industrialized, innovated and grown more prosperous through trade, the United States continues to lead the world across so many dimensions of economic health. Trade is not a zero sum game. That trade can be a win-win is one of the sure bets of international economics.

Here are a few statistics to illustrate:

Today, U.S. annual income is \$1 trillion higher - or \$9,000 on a per household basis - due to increased trade liberalization since 1945, according to the Institute for International Economics.

We remain a manufacturing powerhouse. The United States is still the largest producer of manufactured goods in the world. One in five manufacturing jobs is linked to exports. And, jobs tied to exports of goods pay 13-18 percent more than jobs not supported by exports.

In the farm sector over 900,000 jobs are tied to exports. One out of three acres in this country is planted for export, and exports account for 27 percent of all farm receipts.

In the rapidly-growing and innovative service sector - where Americans have a particular edge - exports have almost doubled in the last ten years and are now approaching \$400 billion a year.

Of course, exports are only half the story. Imports also contribute to our prosperity and high standard of living. Tariff cuts and income gains connected to the WTO's Uruguay Round and the North American Free Trade Agreement have provided annual savings for an average family of four

of \$1300 to \$2000. Thanks to reasonably priced consumer goods, American families - even those with moderate or low incomes - are able to obtain the basic goods for comfort and security. Thanks to trade, a young couple can keep shoes on quickly-growing feet, furnish a home with linens and furniture and make it a place of comfort and fun with electronic goods, toys and appliances.

True, we have large trade deficit. This raises legitimate concerns about its future sustainability. However, we know that the trade deficit is caused primarily by a variety of macroeconomic factors not directly related to trade, such as the relative rates of growth, and savings and investment levels among trading nations.

But even with concerns about the trade deficit, last year the U.S. enjoyed a GDP growth rate of 3.5%. And in the first quarter of this year, the economy grew at an astonishing 4.8% annual rate. Unemployment is at a very modest 4.7%. The productivity of American workers has increased at an annual average rate of 3.5 percent, while real compensation (wages plus benefits) of manufacturing workers has grown at a very respectable 3.6 percent annual rate. Overall, the performance of the U.S. economy is the envy of much of the rest of the world.

And yet, we find ourselves today in an odd circumstance in U.S. trade politics. We see the clear and very real benefits of trade on the one hand and rising public anxiety and polarizing debates about trade-liberalizing agreements on the other.

What does all of this tell us? Why does there appear to be a disconnect between the economics and the politics of trade and what can we do about it?

Unfortunately, there are those who use anecdotes and data selectively or out of context to stoke uncertainty and fear among people and trepidation among their elected officials when it comes to trade. The link these critics make between trade and unemployment, for example, is belied by the fact that trade accounts for the loss of fewer than 3 out of every 100 jobs lost in the United States.

Over the last decade, the U.S. economy, has, on average, created roughly 17 million jobs a year but lost roughly 15 million to productivity enhancement, changing consumer tastes and other factors, of which trade is but a minor one. That is a net gain of roughly two million jobs. The challenge is to have workers and jobs match up and to prepare workers for the jobs that are being created. Education and training are keys to preparing workers for the high-paying, knowledge- and skill-intensive jobs of the future. And to ensure that these jobs continue to be created, we need to make sure the United States remains a hospitable place for doing business through good tax, regulatory and trade policies as well as through the quality of our education and learning.

I do not want to discount the two to three percent of those who may lose their jobs because of the trade. The lives and livelihoods of these individuals and the communities in which they live should be and are a concern to all of us. But as we look for ways to help them, we should not jeopardize our nation's future economic growth.

Historically, organized labor in the United States has been smarter and more farsighted than their foreign counterparts. We can make sure trade continues to create opportunities for workers, and workers help create opportunities to trade.

As public officials, we must resist feeding apprehension and fear. We can and should work together to craft policy solutions and alternatives based on reality not perceptions.

One of the most important contributions I would hope to make as U.S. Trade Representative, if confirmed, is to help close that disconnect and to demonstrate that trade represents a new opportunity to not merely sustain the American dream but to improve upon it. To this end, I make a pledge to you here today that, if confirmed, I will be an honest partner in the effort to create a strong, unified national voice on trade.

Experience and Agenda

In the six months I have served as Deputy U.S. Trade Representative, I led efforts to close free trade agreements with Peru and Colombia. I have worked diligently with our trade partners in Central America to resolve sensitive and difficult issues in order to ensure successful implementation of our trade agreements. I have been engaged in our WTO Doha Round strategy and participated in the December Ministerial meeting in Hong Kong. Most recently, I worked to resolve a dispute with our friends in Canada over softwood lumber that had been bitterly litigated for over 20 years.

None of these breakthroughs would have been possible without an honest, sometimes blunt, but always respectful exchange of views - along with the willingness to compromise when possible and the strength to stand firm when necessary.

Negotiating and making policy this way should not be stunning rarity but the norm. The Senate Finance Committee has always conducted itself in this manner, as I recall from the eight years I spent with Sen. Jack Danforth as he chaired the Trade Subcommittee. I was molded by this tradition and, if confirmed, you can be sure I will work every day to honor Congress, the President and the American people by living up to that tradition.

Of course, it will take more than a willing spirit to forge good trade policy in the next few years. It will require us to keep the multilateral process on track in the WTO, to negotiate commercially significant free trade agreements, and to enforce vigorously the terms of those agreements and to uphold the rules of trade.

A top priority is the successful conclusion of the Doha Development Round. No country has done more than the United States to launch and sustain efforts for a comprehensive and ambitious multilateral agreement. The United States remains committed to its success. Just two weeks ago I was in Geneva with Ambassador Portman to continue the push for an agreement in the coming weeks and months that will be ready for congressional consideration before Trade Promotion Authority expires at the end of June, 2007.

The United States has put a lot of emphasis on agriculture in this round and put forward an ambitious and forward-looking proposal last fall in an effort to jump start the talks. Why? Because agriculture is where we find many of the world's highest barriers and, therefore, where we find a

potential source of major benefits. The average U.S. tariff level in agriculture is 12 percent, compared to a 62 percent global average tariff.

Doha represents an historic opportunity for economic growth and increased living standards for all countries – but especially developing countries. According to the World Bank, 63 percent of the gains to developing countries from full global trade liberalization would flow from agricultural liberalization. And, nearly all these gains from agriculture would come from improved market access. Indeed, half of the gains the developing world can expect to enjoy from fully open trade in agriculture would stem from liberalization by the developing countries themselves.

Of course, the United States is also determined to open new markets for industrial goods and services. These are categories where developed and developing countries alike also stand to gain – whether as exporters or importers.

Simultaneously, we have an equally ambitious agenda for bilateral and regional agreements that will broaden and deepen trade relations with key, like-minded countries. This parallel effort will also help to establish the breadth and scope of potential multilateral agreements in years to come by setting precedents and by demonstrating the real benefits of free and fair trade.

You have before you the Oman FTA, the Peru Trade Promotion Agreement, and will shortly see us notify the Colombia Trade Promotion Agreement. Negotiations with Korea, Malaysia, and several other trading partners also hold the promise of opening up more opportunities for American workers, farmers, manufacturers, and consumers with expanded markets and growing purchasing power around the world.

The Administration has already made historic progress in opening markets and increasing both the quantity and quality of trade between the United States and other nations. In the last five years, Congress has approved free trade agreements with 12 countries – for a total of 15. Agreements with Oman, Peru and Colombia are pending, and agreements with 11 more countries are in negotiation.

Thanks to lower tariffs and the removal of other barriers, 52 percent of our total exports go to our free trade partners. What is more, our exports to the four free trade agreement partners implemented under this Administration with a track record long enough to measure are growing twice as fast as our trade with countries with which we do not have free trade agreements.

Of course, these free trade agreements go beyond merely cutting tariffs. They also protect intellectual property rights and remove non-tariff barriers, such as arcane procurement policies or non-scientific sanitary guidelines in agriculture, to make sure American producers will fully benefit from more open trade.

However, negotiating new agreements must be accompanied by the active enforcement of existing ones. This is a fundamental matter of credibility. We are willing to use all the tools we have – either in U.S. law or in the WTO or in bilateral dispute procedures – to make sure American employers, workers and farmers are treated fairly. The Bush Administration's track record on this is strong:

For example, we successfully challenged Mexico's unfair tax on beverages sweetened with high fructose corn syrup. We stood firm for years over Canada's subsidized lumber exports. We insisted on science-based policy by Europe on biotech foods. And, we continue to show resolve in the dispute with the European Union over Airbus.

Demonstrating our commitment to ensure trade rules are fully enforced is particularly important with regard to China. This was one of the key outcomes of USTR's recent Top-to-Bottom of China Trade Policy. It also influenced our approach to the most recent meeting of the Joint Commission on Commerce and Trade (JCCT). Actions the United States has taken to reinforce this message include the auto parts case we took to the WTO in March, the earlier semiconductor and Kraft linerboard cases that were resolved, and the Special 301 action we announced late last month to conduct a provincial level review of China's intellectual property rights policies. Judging from the deliverables from the most recent JCCT meeting, the Chinese are beginning to understand that we expect China to conduct itself as a mature trading partner that has benefits greatly from the rules-based trading system and should, therefore, reinforce that system by abiding by it.

If confirmed, I pledge to continue to rigorously enforce existing trade agreements and to speak credibly about honoring the rules-based trading system both at the bilateral and multilateral level. In this regard, I must commend and thank this Committee, the Ways and Means Committee and the Congressional leadership for your work in recent years to bring U.S. law and practice into compliance with our own obligations under trade agreements. This includes, most recently, elimination of the grandfather clause under FSC/ETI, along with previous action on FSC, the repeal of the Byrd amendment, of the 1916 dumping act, and of the Step 2 program for cotton. These actions make it much easier for the U.S. to stand up at the WTO and lead by example.

Since last fall, President Bush has used two high-profile speeches to bolster the case for free and fair trade. One was his speech before the United Nations last September in which he emphasized the importance of the Doha Development Round. The other was his State of the Union address in which he warned that against the danger of isolationism, especially economic isolationism, and extolled the importance of U.S. competitiveness to our long-term economic security and prosperity.

Anyone who has traveled around the world has seen the alternative to open commerce – low productivity, stifled entrepreneurs, low levels of innovation, double-digit unemployment, declining living standards and rising fears among people and employers about the future.

Since the end of the Cold War, more and more people are able to pursue new economic opportunities. Ninety-five percent of the world's population lives outside our borders. We should welcome the growing numbers of people who want to emulate U.S. democratic and economic traditions, consume our products and services, and join us as stakeholders in a world where free and fair trade means an ever-growing pie.

It is my firm hope that we can work together as public servants to stir the confidence of the American people that we will not merely endure the historic transformation we are living through but lead it, shape it and reach new heights because of it.

If confirmed, I will work tirelessly toward fulfilling the President's vision of a world where the free flow of commerce gives people everywhere more choices, more opportunities and more hope. I am eager to work with you on this important mission.

Thank you for your attention. I look forward to answering your questions and hearing your thoughts.

Susan Carroll Schwab
Senate Finance Committee Questionnaire

A. BIOGRAPHICAL INFORMATION

1. Name: Susan Carroll Schwab (previously Susan Carol Schwab)
2. Position to which nominated: United States Trade Representative
3. Date of Nomination: _____
4.
Address(es):

Residence: 4 Market Quay, Annapolis, MD 21401

Office: Office of the U.S. Trade Representative
Executive Office of the President
600 17th Street, N.W.
Washington, D.C. 20508
5. Date/place of birth: March 23, 1955; Washington, D.C.
6. Marital Status: Married to Curtis Alexander Carroll
7. Names and ages of children: No children
8. Education (secondary and higher education institutions, dates attended, degree received, and date degree granted)

1969-70 Aiglon College, Villars, Switzerland (high school)
1970-72 International School of Bangkok, Bangkok, Thailand (1972); High School Diploma
1972-76 Williams College, Williamstown, Mass. (1976); B.A. in Political Economy
1976-77 Stanford University, Stanford, CA. (1977); Food Research Institute; M.A. in Development Policy

1986-93 George Washington University, Washington, D.C. (1993); School of Business and Public Management; Ph.D. in Public Administration and International Business
9. Employment Record (all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment):

November 2005 – Present
Deputy U.S. Trade Representative
Office of the U.S. Trade Representative
Executive Office of the President

2004 – 2005 UNIVERSITY SYSTEM OF MARYLAND FOUNDATION AND
UNIVERSITY SYSTEM OF MARYLAND, Adelphi, Maryland
President/CEO (USM Foundation), Vice Chancellor (USM)

2003 Consultant (part time), U.S. Department of Treasury (3 months)

2003 – present UNIVERSITY OF MARYLAND, College Park, Maryland
Professor, School of Public Policy (on leave of absence since 2004)

1995-2003 UNIVERSITY OF MARYLAND, College Park, Maryland
Dean, School of Public Affairs (now School of Public Policy)

1993-1995 MOTOROLA INC., Schaumburg, Illinois
Director, Corporate Business Development

1989-1993 U.S. DEPARTMENT OF COMMERCE, Washington, D.C.
Assistant Secretary of Commerce and Director General,
U.S. & Foreign Commercial Service (US&FCS)

1986-1989 OFFICE OF SEN. JOHN C. DANFORTH (R-Mo), Washington, D.C.
Legislative Director

1981-1986 OFFICE OF SEN. JOHN C. DANFORTH (R-Mo), Washington, D.C.
Chief Economist and Legislative Assistant for International Trade

1979-1981 AMERICAN EMBASSY, Tokyo, Japan
Trade Policy Officer, U.S. Foreign Service

1977-1979 OFC. OF THE U.S. TRADE REPRESENTATIVE, Washington, D.C.
U.S. Trade Negotiator (Agriculture), Executive Office of the President

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

- U.S. Air Force Academy Board of Visitors (2004 – 2005)
- U.S. General Accounting Office (GAO) Comptroller General's Educators' Advisory Panel (2001-2003)
- Member, Executive Council, Maryland Governor-elect Robert Ehrlich transition team (November 2002 – January 2003)
- Member, Transition Committee for Maryland Comptroller William Donald Schaefer (1998)
- National Academy of Sciences (National Research Council) Committees on Japan

(1994-99) and Standards/Certification (1993-95)

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

- President & CEO, University System of Maryland Foundation, Adelphi, MD. A 501(c)(3). Also, Director, Board of the USM Foundation. (2004 – 2005)
- Director, Vice President, and Assistant Secretary, Class Act Cabaret, Inc. A small business (S Corp) established in Florida by my husband. CAC, Inc. was shut down in late 2005 with the demise of the Magic & Mischief Theatre he opened in Orlando, Florida in March 2004. Business address was our home at 4 Market Quay, Annapolis, Maryland. (2004-2005)
- U.S. Air Force Academy Board of Visitors, Colorado Springs, CO. (2004 – 2005)
- Director, Board of Governors, Lee Kuan Yew School of Public Policy, National University of Singapore. A graduate school of public policy and international affairs. (2005 – 2005)
- Director, Board of Directors, Calpine Corporation, San Jose, CA. Chair, Nominating & Governance Committee (2002 – 2005); former Chair and current member, Compensation Committee (1997 – 2005). (1997 – 2005)
- Director, Board of Directors, Adams Express Company and Petroleum & Resources Corporation, Baltimore, MD. Member, Retirement Benefits and Audit Committees (2004 – 2005). Former member, Compensation and Executive Committees (2000-2004). (2000 – 2005)
- Trustee, Board of Trustees, Council for Excellence in Government. (1996 – 2005)
- Chairman, Board of Directors, Public Policy and International Affairs (PPIA) Program (a 501-c-3). (2001 – 2003)
- President, Association of Professional Schools of International Affairs (APSIA). (2002 – 2003)
- Member, National Selection Committee, Innovations in American Government Awards Program, Kennedy School of Government, Harvard. (1998 – 2005)

- Panel member; Panel on Off-Shoring Project, National Academy for Public Administration. Congressionally chartered organization; study is congressionally mandated; panel advises NAPA staff. (2005)
- Institute for International Public Policy (IIPP) Program; advisory board member. IIPP is affiliated with the United Negro College Fund. (2003 – 2004)
- Consultant/Instructor, Robert H. Smith School of Business, University of Maryland. (1996 – 2002)
- Consultant, Mathematica Public Policy Research (2000-2002)

12.

Memberships (all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations). In addition to those noted above:

- Council on Foreign Relations
- National Academy of Public Administration
- Women's Forum of Washington, D.C. (until 2005)
- Trade Policy Forum
- Terrapin Club
- Cosmos Club

13. Political affiliations and activities:

- a. Public offices for which you have been a candidate: none
- b. Memberships and offices held in and services rendered to all political parties or election committees during the last 10 years: none
- c. All political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years. (Please note that the list below reflects the information currently available in my files; it may not be complete.)

1993

Bobbie Kilberg 50

Kay Bailey Hutchison 50

RNC 50

1994

William Weld 50

George Ryan 50

Alliance for American Leadership 100

Bill Brock 250

Jim Kolbe 50
RENEW 1000
RNC 750
1995
Robert Dole 1000
Rudy Boshwitz 200
RNC 100 or 200
1996
Victory '96 (Robert Dole) 250
Barbara Hoffman 100
William Weld 50
Steny Hoyer 100
RNC 250
1997
Howard Rawlings 60
Rob Mosbacher. 250
George W. Bush 50
Steny Hoyer 100
1998
Christie Todd Whitman 50
William Donald Schaefer 300
Maryland Republican Party 100
Governor Bush Committee 75
Richard D'Amato 100
Howard Rawlings 100
Steny Hoyer 100
WISH 50
1999
George W. Bush 1000
Christie Todd Whitman 50
WISH 100
2000
Olympia Snowe 100
Connie Morella 100
Victory 2000 (RNC) 1000
Paul Sarbanes 100
2001
Williams Donald Schaefer 250
Connie Morella 100
Barbara Hoffman 250
Kathleen Kennedy Townsend 500
2002
William Donald Schaefer 1000
Ira Shapiro 200
Robert Ehrlich 250
Susan Collins 100
Connie Morella 100
Bush/Brogan 500
2003
2004

WISH List 500
 William Donald Schaefer 1000
 Bush Cheney '04 1000
 Bush Cheney 100
 Steny Hoyer 300
2005
 William Donald Schaefer 1000

14.

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

- Public Policy and International Affairs (PPIA) Leadership Award (2005)
- Elected Fellow, National Academy of Public Administration (1998)
- Elected to Omicron Delta Kappa National Leadership Honor Society (1998)
- National Association of Professional Schools of Public Affairs and Administration (NASPAA) Dissertation Award (1994)
- Mead Government Internship Award, Williams College (1974)

15.

Published writings (all titles, publishers, and dates of all books, articles, reports, or other published materials):

"In Praise of Public Policy/International Affairs Education," Carnegie Reporter, Carnegie Corporation of New York, forthcoming

Trade-Offs: Negotiating the Omnibus Trade and Competitiveness Act. Harvard Business School Press, Boston, Massachusetts, 1994.

"Korea: A Congressional Commentary" (with Ira Wolff), Korea-U.S. Relations: Changing Political, Strategic and Economic Factors, East Asian Institute, University of California, Berkeley, 1988.

"The Last U.S. Trade Bill?" The International Economy, Fall 1987.

"Politics, Economics and U.S. Trade Policy," Stanford Journal of International Law, Stanford University, Spring 1987.

"Japan and the U.S. Congress," Journal of International Affairs, Columbia University, June 1983.

16.

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

To the extent I am able to recall speeches I have given since 1999, I am unable to recall any formal speeches using a written text other than recent congressional testimony. In addition, since beginning work at USTR, I have periodically used outlines and staff prepared remarks to guide my remarks. These are attached, however, it should be noted they do not represent transcripts and the degree to which they track what I actually said varies from speech to speech. In no case did I use the outlines in their entirety. Other speeches, lectures or panel presentations that I recall giving during this time frame of potential relevance to the position for which I have been nominated include:

- Luncheon speeches or lectures approximately once a year since 1996 to the Maryland Government Executive Institute, a training program for state government executives, on professional development, ethics, managing complex organizations, differences between the public and private sectors, etc.
- Occasional (three or four since 2003) lectures for U.S. Department of Commerce senior executives and emerging leaders. Management and leadership topics similar to those noted above.
- Seminar/lectures once or twice a year until 2003 to Northrup Grumman Corporation employees about exporting and government assistance available to U.S. exporters.
- Washington Institute of Foreign Affairs speech on 12/14/99 on U.S. trade policy.

17.

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

- Experience as Deputy USTR since November 2005. Responsible for trade issues involving The Americas, Europe, Eurasia and Middle East; WTO and multilateral affairs, services and investment, intellectual property rights, industry, market access and telecommunications, intergovernmental affairs and public liaison. Engaged in Doha round strategy development and implementation; closed FTAs with Peru and Colombia; involved in efforts to resolve various bilateral disputes.
- Professional experience in the public and private sectors; prior to returning to USTR, leading one of the nation's top graduate programs of public policy, management and international affairs.
- Policy and management experience at senior levels of government and the private sector involving a range of fields, including international trade and commerce, corporate business development, international economic

development, the congressional budget process, U.S.-Japan and U.S.-China relations.

- Experience working both in and with Congress, including several Senate and House committees involved in U.S. economic policymaking and oversight.
- Experience in multiple federal agencies, including USTR early in my career, involved in U.S. international economic and trade interests; extensive experience in interagency cooperation and processes.
- Direct experience in the executive branch of government in both political and career capacities; participation in recent years in multiple study groups addressing the future of public service (sponsored by Harvard, Brookings, the GAO, Partnership for Public Service, etc.)
- Demonstrated leadership and management qualities at a senior level in a university setting and in a large, complex U.S. government agency (Commerce/US & FCS experience involved U.S. and international employees, close to 200 field offices in the U.S. and abroad, and, at the time, severe challenges related to mission and focus, budget, performance measurement, computer & communications systems.)
- International negotiation and management experience on behalf of U.S. agriculture and business interests.
- Educational background in public management, international business, international trade and development, political economy.
- Corporate and organizational governance expertise gained through the negotiation and establishment of joint ventures and through both non-profit and corporate board experiences.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

If confirmed, I would still retain my tenure as a faculty member at the University of Maryland, College Park, until such time as they or I choose to terminate this status. If I were to return after employment in government, it would be as a professor at the School of Public Policy.

In connection with confirmation as Deputy USTR, I resigned from all of my for-profit and not-for profit boards in the fall of 2005. I plan to remain a member of several professional associations, including the Council on Foreign Relations, the National Academy of Public Administration, the Cosmos Club.

2. Do you have plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? See #1 above.

4. If you are confirmed by the Senate, do you expect to serve out your full term of until the next Presidential election. Yes.

C. POTENTIAL CONFLICTS OF INTEREST.

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None to my knowledge.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement, which is attached to my financial public financial disclosure form (see question 4). I will continue to be on an unpaid leave of absence, renewable annually, from my position as a professor at the University of Maryland, College Park.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. None, other than indirectly affecting the administration and execution of law or public policy through curriculum development for students who are current or future government employees.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. Upon confirmation as Deputy United States Trade Representative in November of 2005, I resigned my positions as President and CEO of the University System of Maryland Foundation, Vice Chancellor of the University System of Maryland, Director of Calpine Corporation, Director of the Adams Express Company, and Director of Petroleum & Resources Corporation. I also resigned from my positions with the following organizations: the Council for Excellence in Government, the Lee Kuan Yew School of Public Policy, the National Academy of Public Administration Off-Shoring Project, and the Innovations in American Government Awards Program. Although none of these organizations are likely to be or represent parties in matters before USTR, pursuant to 5 C.F.R. § 2635.502, for a period of one year after my resignations from these organizations, I will not participate in any particular matter involving specific parties in which any one of these organizations is a party or represents a party, unless I am authorized to participate. Additionally, unless I first obtain a waiver pursuant to 18 U.S.C. 208(b), I will not personally and substantially participate in any particular matters which would have a direct and predictable effect on the University of Maryland, College Park.

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

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:
Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter?
Not to my knowledge.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? Not to my knowledge.
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? No.
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? Yes.

Public Record Civil Court Actions: As a director on the Board of Calpine Corporation of San Jose, California, I was of defendant in two shareholder derivative complaints. One was in California State Court (Johnson v. Cartwright, et.al., Santa Clara Superior Court, No. 803872). One was in federal district court in the Northern District of California (Gordon v. Cartwright, et.al., U.S. District Court for the Northern District of California, No. C-02-3832 SBA). I was dismissed as a defendant without prejudice in both actions.

In addition, I was named as one of various defendants in three class action complaints (1) filed 03/11/2003 (Hawaii Structural Ironworkers Pension Trust Fund vs. Calpine Corporation, et.al., Superior Court of the State of California, San Diego County, Case # GIC 806973 ("HSI v. Calpine"); (2) filed 04/17/03 ("Class Action Complaint for Violations of the Employee Retirement Income Security Act," filed in U.S. District Court in the Northern District of California); and (3) filed 05/19/03 ("Class Action Complaint for Violations of the Employee Retirement Income Security Act," filed in U.S. District Court in the Northern District of California." On November 18, 2003, I was dismissed as a defendant from the HSI v. Calpine action. The two ERISA class action complaints were consolidated into a single action, In re Calpine Corporation ERISA Action, No. 03-CV-1685 (SBA). On March 30, 2005, I was dismissed as a defendant from the consolidated In re Calpine Corporation ERISA action with prejudice.

I am not currently a defendant in any Calpine action.

For further information on any of these cases, please contact the EVP and General Counsel of Calpine, Corporation, Lisa Bodensteiner, at 408-792-1226 (direct); 408-995-5115 (main).

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? No.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None that I can think of.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly

constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

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

**Written Responses to Senate Finance Committee Questions for the Record
The Honorable Susan Schwab
May 17, 2006**

SENATOR HATCH:

1) Last week, Senator Bayh and I sent a letter to the President regarding our opposition to Russian WTO accession until the Russian Government makes tangible progress on the theft of intellectual property as well as dismantling a number of barriers with respect to imports, including tariffs and tariff rate quotas; discriminatory and prohibitive charges and fees; and discriminatory licensing registration, and certification regimes. The President received a similar letter from Chairman Grassley and Senator Baucus. What do you believe? Should the United States adopt the policy we suggested?

Answer: We believe that continuing to engage Russia on these and other issues in the WTO accession negotiations is the best means of achieving the objectives we all share. Importantly, joining the WTO will lock Russia into a rules based system where we and others can tackle trade issue more effectively, and we have made it very clear to Russia that any bilateral market access agreement that we conclude has to be on commercial terms.

We are committed to ensuring that Russia makes meaningful progress on protection and enforcement of intellectual property rights (IPR) and are closely engaged with the Russian government in the context of both WTO accession negotiations and our bilateral working group on IPR. We continually emphasize that stronger IP protection is a top priority of our economic relationship.

We have seen some progress over the last year in steps that Russia has taken to improve its intellectual property enforcement efforts, but want to see much more. For example, in recent months, we have seen an increase in the number of raids and inspections of pirate optical disc plants and seizures of pirated goods, including some unannounced inspections of optical media plants on government-controlled property. We were pleased to see President Putin's recent statements about the seriousness of counterfeiting and piracy. Notwithstanding these steps, we are pressing Russia for sustained enforcement efforts that will reduce levels of IP piracy and counterfeiting and have a real deterrent effect.

The United States is also working in the context of the bilateral WTO market access negotiations and the multilateral Working Party negotiations with other WTO Members to address a number of other issues, including those mentioned in the National Trade Estimate Report. In the agriculture sector, we are working to reduce and bind agriculture tariff rates overall and to secure favorable terms for our exporters. We are seeking commitments to ensure that Russia implements sanitary and phytosanitary (SPS) requirements of the WTO and abides by international standards in its treatment of imports of beef, pork, poultry and biotech products. We are working to secure a reduction of export duties on steel and other scrap metals. Finally, as part of the WTO

negotiations, Russia is making important changes to streamline its licensing, certification, and other procedures. We will continue to work with other WTO Members to urge Russia to make further progress on these “non-tariff barriers.”

2) I was pleased to learn about the recent tentative settlement of the long-running softwood lumber dispute with Canada. I understand that USTR is hoping to conclude the final agreement on an expedited basis. However, I am concerned about the inclusion in the agreement of an exception for Canadian re-manufactured products, which could result in a loss of jobs by U.S. re-manufacturing companies. I am certain that putting the U.S. re-manufacturing industry at a competitive disadvantage with its Canadian competitors was not the intent of the provision, although it could have that effect. May I have your commitment to do your best to ensure that this provision does not harm U.S. re-manufacturing companies and the workers that they employ?

Answer: USTR officials have met with our lumber remanufacturers on several occasions both before and after we announced the terms of an agreement with Canada. We believe the agreement treats remanufacturers fairly. The core terms provide that lumber remanufacturers on both sides of the border that buy low-quality lumber in Canada are treated the same. That is, when a border tax is being charged, a U.S. remanufacturer buying low value lumber from Canada would pay a price that includes the applicable tax (for instance, under Option A, the tax would be either 5, 10, or 15 percent). A Canadian firm which buys the same grade of lumber and remanufactures it in Canada for export would also pay a tax only on the low grade input. We need to make sure that only lumber which is in fact remanufactured is assessed the tax on the lower value. Remanufactured lumber will also be included in all volume restraints, to the extent such restraints apply. We are continuing to work actively with the U.S. industry to ensure that the final agreement has provisions that are clear to administer and straightforward to enforce.

3) I was also disappointed by the lack of progress that was made during the Chinese official visits that were made recently. I understand that the Chinese government has taken action against 14 factories producing illegal optical disks. Is this not just a small drop in a big bucket? Is this really going to help when 9 out of 10 optical discs sold in China are pirated? The Congressional Research Service estimates that counterfeits constitute between 15 to 20 percent of all products made in China and this sum amounts to 8 percent of China’s gross domestic product.” What impact will this really have?

Answer: I agree with your assessment that more needs to be done to help U.S. manufacturers and businesses fight intellectual property theft. China’s IPR enforcement regime remains inadequate, and we will continue to press China for concrete results.

Protection of intellectual property topped the list of issues that we raised with Vice Premier Wu on April 11 at the meeting of the U.S.-China Joint Commission on Commerce and Trade. The elevated JCCT has become an important platform to identify and resolve problems so that the United States and China can expand trade on a more open and fair basis. Our meeting was frank, and we made measured progress on stepping up intellectual property rights (IPR) enforcement efforts in China.

On optical disk piracy, in addition to the actions China announced it has taken against fourteen optical disk (OD) plants, China also agreed to discuss a proposal the United States made in advance of the JCCT to cooperate on specific OD enforcement steps. We are sending a joint USTR and Department of Commerce team to Beijing next week, and our proposal is among the items they will discuss with their Chinese counterparts. In addition, China committed to continue investigating and taking further actions against other OD plants as warranted under Chinese law. Ambassador Portman and Secretary Gutierrez wrote a detailed letter to Chinese Ambassador Zhou late last year emphasizing the priority we place on the issue and requesting China to take concrete actions to stop OD piracy, and, if confirmed, I will continue to press my Chinese counterparts to meet this clear objective that we have set for them.

In addition to tackling the issue of OD piracy in China, we made progress on other IPR issues at the JCCT. Key areas include new rules requiring that computers be pre-installed with legal operating system software before they are sold or imported into China and requiring that government agencies only purchase such computers; an agreement to work on cooperation to combat pirated goods displayed at trade fairs in China; a commitment to intensify efforts to eliminate infringing products at major consumer markets in China, such as Silk Alley in Beijing, and an agreement to work to address industry concerns about bulk production of active pharmaceutical ingredients. We also agreed to step up cooperation on IPR law enforcement efforts and increase customs cooperation.

USTR released its 2006 Special 301 Report on April 28. We announced that China would stay on the Priority Watch List, and that we will step up consideration of our WTO dispute settlement options. We also noted the acute need for authorities at the sub-national level in China to more effectively establish and sustain proactive, deterrent IPR enforcement. To address these challenges, USTR announced that will scrutinize IPR protection and enforcement at China's provincial level through an unprecedented special provincial review to be conducted in the coming year.

Notwithstanding all of our efforts, we have much work to do on IPR enforcement in China, and I will not waver in my determination to achieve significant reductions in IPR infringement activities in China.

4) Manufacturers in Utah continue to be concerned that the trade remedy laws they rely on to combat unfair foreign trade practices will be weakened in the current round of WTO negotiations. These trade remedies are under strong attack by many of our trading partners, who have proposed a host of changes that would largely undermine our rules against dumping and subsidies. My constituents are concerned that the United States has done little to counter these proposals, even though the Trade Promotion Authority legislation specifies that a major goal of the United States in these negotiations must be to fully preserve U.S. fair trade laws. If you are confirmed, will you put forth proposals that are in keeping with the Congressional mandate to preserve and improve these rules?

Answer: I share your concern about the need to preserve the strength and effectiveness of U.S. trade laws. I believe that strong and effective remedies against unfair trade practices, including those against dumping and unfair subsidies, are critical for maintaining support for trade liberalization, and are essential to ensure that the benefits gained from trade liberalization are not undermined. If confirmed, I will work with Congress to ensure that the TPA mandate to preserve the ability of the United States to enforce rigorously its trade laws is fulfilled.

In the WTO Rules talks, the United States has emphasized the necessity for strict adherence to the Rules negotiating mandate that U.S. negotiators insisted upon and obtained at the Doha Ministerial Conference in 2001, which requires that the effectiveness and basic principles of the WTO Antidumping and Subsidies Agreements must be preserved. Given the increasing number of WTO Members using the trade remedy rules, including many developing countries, a number of additional Members have joined us in insisting that the effectiveness of the rules must be preserved. When other Members have raised proposals with the potential to undermine our trade laws, we have put them on the defensive by vigorously attacking the technical merits of the proposals.

We have also countered those proposals with our own proposals on key U.S. priorities, including eleven new Rules proposals since March 2006. For example, we have recently tabled proposals on prohibited subsidies, circumvention, new shipper reviews, transparency and due process, WTO dispute settlement, and perishable and seasonal agriculture.

If confirmed, I look forward to working with you to advance our Rules proposals, and to ensure that U.S. trade laws remain strong and effective.

SENATOR SANTORUM:

Question 1:

The U.S. coffee industry contributes in important ways to U.S. export growth. U.S. companies and workers roast and process over 1.1 million metric tons of green coffee annually, and export more than 57,000 metric tons of green, roasted and instant coffee per year. There are more than 1,000 U.S. roasters, processors, and importers, supporting more than 150,000 jobs--including many jobs in Pennsylvania.

Unfortunately, coffee is one of the most protected commodities in the world. In light of this, I joined 29 of my colleagues from both sides of the aisle in writing to USTR last year urging that market access for U.S. coffee exports be made a priority. I know USTR heard this message and has been working hard to reduce coffee tariffs--particularly through bilateral free trade agreement negotiations.

However, high coffee tariffs also exist in countries with which the U.S. is not negotiating such agreements. For example, India's bound tariff on roasted coffee is an astonishing 150%. If the U.S. coffee industry is to remain competitive and continue to support coffee manufacturing jobs, we have to eliminate the high tariffs we are facing in India and other countries.

The U.S. and India have launched a renewed Commercial Dialogue to address bilateral trade matters and President Bush visited India in February to promote this and other trade and business initiatives. I am interested in knowing if USTR plans to use these initiatives with India to address this high tariff on coffee. More generally, please also update me on how USTR is working to eliminate high coffee tariffs in other countries and as part of the WTO Doha Round trade talks.

Answer: In addition to your co-sponsored letter, this issue was brought to USTR's attention by an American firm interested possibly in investing in India. On a bilateral basis, we intend to take this issue up in our upcoming Trade Policy Forum meetings in New Delhi in late May and follow up from there. We have also put that company in touch with the Indian embassy in Washington to sensitize the Indian government here to the potential benefits to lower coffee tariffs. We recognize, however, that with the Doha round underway, it is unlikely that India would entertain lowering coffee tariffs on the basis of a bilateral request while those same tariffs are on the table in multilateral tariff negotiations.

On the multilateral front, the United States is calling for substantial reductions in all agricultural tariffs in the Doha Development Agenda negotiations, including for coffee exported to India and all other WTO Members. We will continue to press in these negotiations for the deepest possible tariff cuts.

We are also seeking increased market access for roasted coffee in our free trade agreements (FTAs). Our Peru and Colombian FTAs will provide for duty-free access for a certain amount of roasted coffee under a tariff-rate quota and rule of origin system that confers origin on coffee that is roasted in the United States. We will also address coffee tariffs in the upcoming FTA negotiations with Korea and Malaysia.

The U.S. coffee industry is an important export-related success story. If confirmed, I look forward to working with you to support the continued success of the industry by providing additional market access opportunities abroad.

Question 2:

Criticism has been voiced by many in the U.S. manufacturing sector of the economy that USTR is not doing enough at the WTO Doha Round negotiations to maintain and defend U.S. trade remedy laws. Particular concern has been raised that the U.S. is not pushing

back on the “Friends of Antidumping” during the Rules portion of the WTO negotiations.

I am hopeful that the U.S. will not weaken or trade away current trade laws that are effective tools to address unfair trade practices. Let me say that I am philosophically a supporter of free trade. However, I recognize that not all nations have the discipline and commitment to play by the rules. My constituents in Pennsylvania who work in the steel, pipe and tube fittings, and tool and die industries know this fact first hand. I believe the U.S. must have the ability to respond effectively when American industries are hurt by subsidized and/or dumped products. When participating in Doha Development negotiations, please remember that U.S. trade remedy laws are a key component of America’s free trade agenda.

How do you respond to criticisms that the U.S. is not doing enough to defend our trade remedy laws at the WTO Doha Round negotiations? What specific proposals has the U.S. put forth that strengthen or re-affirm our trade remedy laws?

Answer: I share your concern about the need to preserve the strength and effectiveness of U.S. trade laws. I believe that strong and effective remedies against unfair trade practices, including those against dumping and unfair subsidies, are critical for maintaining support for trade liberalization, and are essential to ensure that the benefits gained from trade liberalization are not undermined. If confirmed, I will work with Congress to ensure that the TPA mandate to preserve the ability of the United States to enforce rigorously its trade laws is fulfilled.

In the WTO Rules talks, the United States has emphasized the necessity for strict adherence to the Rules negotiating mandate that U.S. negotiators insisted upon and obtained at the Doha Ministerial Conference in 2001, which requires that the effectiveness and basic principles of the WTO Antidumping and Subsidies Agreements must be preserved. Given the increasing number of WTO Members using the trade remedy rules, including many developing countries, a number of additional Members have joined us in insisting that the effectiveness of the rules must be preserved. When other Members have raised proposals with the potential to undermine our trade laws, we have put them on the defensive by vigorously attacking the technical merits of the proposals.

We have also countered those proposals with our own proposals on key U.S. priorities, including eleven new Rules proposals since March 2006. For example, we have recently tabled proposals on prohibited subsidies, circumvention, new shipper reviews, transparency and due process, WTO dispute settlement, and perishable and seasonal agriculture.

If confirmed, I look forward to working with you to advance our Rules proposals, and to ensure that U.S. trade laws remain strong and effective.

Question 3:

The Medicare Modernization Act calls for USTR to develop a trade strategy, including bilateral or multilateral negotiations, to address price controls and related policies on pharmaceuticals in other countries. What has USTR specifically done to implement this provision, including countries and time lines for action?

Answer: USTR has worked closely with economic and health policy agencies to address price controls and related policies in other countries. We are actively seeking to address these issues both in Free Trade Agreement (FTA) negotiations and through the establishment of dialogues with priority OECD countries.

The United States-Australia FTA, which went into effect in 2005, was the first FTA to address pricing and related issues. We are vigorously monitoring the Australian Government's implementation of the FTA, in particular this aspect of the agreement. In March, we held the first annual review of the FTA and confirmed that Australia has followed through on the pharmaceutical-related commitments it made, including establishing an appeal process to enhance accountability of its pharmaceutical reimbursement system. We also held a meeting of the Medicines Working Group, established under the FTA, to address ongoing issues of concern related to health care.

In June, we will hold the first round of FTA negotiations with Korea. Pharmaceutical issues will be a significant aspect of these negotiations as well.

In addition to FTA negotiations, USTR and the interagency team have sought to establish dialogues on pharmaceutical issues with Germany, Poland, Italy, France and Canada, all countries that U.S. industry has identified as priority markets. We have held numerous meetings with officials at all levels of government to discuss specific concerns about elements of these countries' pharmaceutical reimbursement and pricing systems, and broader health policy issues. Just in the last several months, Commerce Secretary Gutierrez, Deputy Health and Human Services Secretary Azar, and I have each traveled to Germany to meet with our counterparts, and have raised these issues. As Germany considers broader health care reform this year, we will continue to press the government to address our concerns related to regulatory, transparency, and pricing issues. In June, we will intensify our work with Poland and Italy. We plan to begin work with France and Canada later this year.

Question 4:

With regard to the WTO Doha negotiations, I am particularly interested in the Non-Agricultural Market Access (NAMA) negotiations where 75% of global trade is being addressed. Many of our trading partners are unwilling to cut the tariff rates that they apply to manufactured goods imports.

Your predecessor Ambassador Rob Portman testified before this committee that the U.S. is “seeking real cuts in the tariffs that are applied in both developed and advanced developing markets.”

Is it still the position of the U.S. Government that the U.S. should not accept a final Doha agreement that does not result in substantial reductions in the industrial tariffs applied to manufactured goods exports?

Answer: Absolutely. Since we developed and tabled the initial U.S. proposal on NAMA in 2002, our position in NAMA negotiations has been consistent. We must achieve a strong result for U.S. industry aimed at delivering new, real market access for our products worldwide. We continue to pursue this goal on three fronts: a robust tariff-cutting formula that cuts into applied rates, deeper liberalization on a sector-specific basis, and a pragmatic approach to removing non-tariff barriers. But we can’t achieve this alone. We must have greater support for an ambitious result from advanced developing countries such as Brazil, India and others.

SENATOR SMITH:

1. Ending the Arab League Boycott of Israel is of key importance to this Committee and to the Senate as a whole. Leading up to its WTO accession, Saudi Arabia repeatedly pledged to end its boycott of Israel but so far there have conflicting reports as to whether the Saudi government is truly honoring its commitment. If you are confirmed, what specific steps will you take to ensure that Saudi Arabia meets its legal obligations? What will the USTR do if Saudi Arabia fails to meet these obligations?

Answer: The Administration and USTR have been consistently firm and aggressive in opposing the boycott in all its forms. We have used all of our trade tools, including FTA negotiations, TIFAs, WTO accessions and high level advocacy with partners around the region, including Saudi Arabia to end the boycott. I assure you that USTR considers this a top priority, and if I am confirmed, I will continue to push aggressively along these same lines.

We have seen occasional press reports quoting unnamed Saudi officials saying that WTO membership does not mean an end to the boycott of Israel. We have raised these issues directly with senior Saudi officials on several occasions, both in Riyadh and in Washington. In all cases, we have received assurances that Saudi Arabia fully understands and remains committed to its WTO obligations, including the obligation to treat all WTO Members according to WTO rules.

If I am confirmed, I will ensure that USTR continues to insist that Saudi Arabia live up to its WTO accession commitments. If we learn that U.S. firms continue to face application

of the secondary and tertiary aspects of the boycott, we will immediately bring this practice to the attention of Saudi officials and request government action to stop and reverse the illegal action, as required by their WTO commitments. If appropriate, we could raise these practices in the WTO. If the Saudi government continues to apply the primary boycott, and the Israeli government believes that Saudi Arabia is not treating goods and services of Israel according to WTO rules, it could pursue WTO dispute settlement. The United States would be in position to support Israel in such a case

2. I would like to thank you for your leadership and hard work in coming to closure with the Canadian government on the basic terms for a possible settlement in the cross-border lumber dispute. This great step forward could not have been possible without your personal involvement and the admirable efforts of the entire U.S. negotiating team. I am hopeful that Canada will use this agreement as an opportunity to move to open and competitive timber and log markets, thereby permanently solving this dispute.

I am concerned, however, about efforts in Canada to derail the delicate balance you have achieved in these complex negotiations. Can you tell me what the timeline is for finalizing the agreement and what steps the United States is taking to ensure an expeditious process?

Answer: We are confident that the Canadian federal government is committed to finalizing the agreement. It is our understanding that the majority of the Canadian industry, as well as the provincial governments, also support the agreement. While there is a vocal minority within the Canadian industry that opposes the settlement, the Canadian government assures us it is working hard to ensure that the negotiations remain on track.

We are in constant contact with the Canadian negotiators as well as the U.S. industry to finalize the agreement as quickly as possible. There is, however, an enormous amount of work that needs to be done, including, for example, drafting the final text of the agreement, finalizing the details for the distribution of the cash deposits collected under the antidumping and countervailing duty orders, and obtaining approval of the agreement and implementing legislation by the Canadian Parliament. This will take some time, but we hope to complete our work in the next few weeks.

3. According to the U.S. Census Bureau, the services sector employs 74% of Oregon's workforce, accounts for 70% of the state's \$40 billion payroll, and represents 68% of the \$198 billion in sales from the state's business establishment. The Bureau of Labor Statistics projects that virtually all new job creation in the United States over the next several years will be in the service sector, where we clearly have a competitive advantage. How do we ensure that the Doha Round gives maximum scope to this competitive advantage? What is your assessment of the services negotiations? What stands in the way of greater progress?

Answer: I agree absolutely with your assessment of how important the WTO services negotiations are for the United States in general and Oregon in particular.

To obtain the maximum benefits for our services companies and workers we will continue to insist on the greatest possible market-opening commitments, particularly from key target countries and in important infrastructure sectors. Target markets include the large developing countries, such as Brazil, India, and ASEAN members. Key sectors include telecommunications, computers, financial, energy, express delivery, and distribution services.

To date, progress in the services negotiations has been hindered by linkage to the agriculture talks, as well as lack of demonstrated progress on services issues of importance to developing countries, such as temporary entry of service suppliers. These are real issues, but it is also possible that some WTO members have asserted these positions to justify their reluctance to make politically difficult commitments in the services sphere.

To make greater progress, we will continue to ratchet up pressure on our trading partners and will reiterate our determination to reject any deal that does not include a solid outcome for services, especially with respect to key sectors of interest to our services companies and employees.

To achieve a strong result, we also need the greatest possible degree of domestic support for our efforts. Recently Governor Kulongoski wrote to Ambassador Portman requesting to have Oregon excused from certain existing WTO services commitments and excluded entirely from the current negotiations. I hope you will work with Governor Kulongoski and other state officials to explain just how important the services negotiations are for working people and services companies in Oregon as well as the rest of the United States. Given the important benefits Oregon derives from trade in services, it would be damaging for the state to imply it is not open for international business.

4. Over the past few years, South Korea has been threatening to impose punitive and unfair taxes on foreign investment funds and their U.S. investors. For example, Lone Star Funds, which includes the Oregon Public Employees Retirement Fund, has been the focus of hostile actions by Korean government tax authorities. As the United States and South Korea begin formal negotiations on a free trade agreement next month, the transparent, fair and non-discriminatory treatment of U.S.-based investors is of paramount importance. What steps will you take to ensure that Korea respects the rights of foreign investors as a condition of the free trade agreement?

Answer: We are aware of the issues that some U.S. investors have been encountering in the Korean market. Both USTR and U.S. Embassy Seoul staff have raised concerns at high levels of the Korean government, including on the lack of due process and respect for confidentiality in its tax investigations.

In addition, we believe that a successful conclusion of an FTA with Korea will go a long way towards improving the investment climate in that market.

The U.S. proposed investment chapter will require Korea to adopt and maintain very high standards with respect to its investment regime through seven core provisions:

- First, it would require Korea to treat investors and their investments as favorably as Korea treats its own investors and investments or investors and investments from any third country.
- Second, the text would establish a “minimum standard of treatment” based on standards found in customary international law, including “fair and equitable treatment” (the obligation not to deny justice) and “full protection and security” (the obligation to provide the level of police protection required under customary international law).
- Third, consistent with customary international law, the text would require payment of prompt, adequate, and effective compensation when direct or indirect expropriation takes place.
- Fourth, the text would provide for the movement of funds and other transfers relating to investments into and out of a host country without delay and using a market rate of exchange.
- Fifth, the text would prohibit the imposition of certain performance requirements – such as local content, trade balancing, or technology transfer requirements – as a condition for the establishment or operation of an investment. Certain performance requirements would also be prohibited even if imposed in exchange for an advantage, such as a tax holiday.
- Sixth, the text would prohibit nationality-based restrictions on the hiring of senior managers.
- Finally, the text would allow U.S. investors to submit investment disputes with Korea to binding international arbitration. There would be no requirement to file a case in Korea’s domestic courts before proceeding to international arbitration or to otherwise exhaust domestic legal remedies.

Obviously, the proposed investment chapter is subject to FTA negotiating outcomes, but given the importance of this issue, we have very little room to be flexible.

SENATOR BUNNING:

1. Regarding the softwood lumber dispute, how will the settlement with Canada ensure that there are meaningful and workable policy exits that allow Canadian

provinces to eliminate taxes and quotas by removing trade distortions from their forestry policies?

Answer: The United States and U.S. industry remain deeply concerned about Canada's subsidization of its lumber industry. The basic difficulty arises from the fact that most timber in Canada is harvested from public lands at artificially low prices. This contrasts with the situation in the United States, where most timber is harvested off of private lands at market prices. The result is that U.S. producers are placed at a competitive disadvantage.

Over the past several years, the Administration has urged Canada to reform its federal and provincial systems to allow market forces to set timber prices in Canada. Once adopted, these reforms or "policy exits" would *potentially* eliminate the need for further trade action to level the playing field for U.S. producers. The details of such policy exits have been the subject of intense discussions with Canada over the past several years.

While the two sides were not able to reach agreement, much constructive work has been done.

The settlement terms call for the establishment of a binational committee to discuss and agree upon policy exits within 18 months is a critical part of the agreement. This is a critical part of the agreement, and necessary if we are going to put this dispute behind us once and for all. We would hope that this work will become easier once it is removed from the contentious environment created by the litigation surrounding the antidumping and countervailing duty measures.

2. A great many of us recognize that the Doha negotiations involve a single undertaking. That being said, we are also concerned that in the promising area of services negotiations, where there has been much progress to date, there is now virtual stalemate due to negotiating difficulties in other areas. How do you ensure that all sectors get equal attention, effort and produce commercially meaningful results in this round?

Answer: Each of the negotiating groups has its own pace and set of issues. We have maintained momentum in the services negotiations in recent months and there is still sufficient time to achieve a meaningful result.

We have always placed a high priority on services, and have steadfastly reminded our trading partners that we will not be able to accept an agreement that does not reflect significant progress in services market access.

3. Several months ago, the EC installed a banana regime that reintroduces the same violations that the United States already successfully challenged before the WTO. Could you share with us what the USTR is currently doing to encourage EU compliance on the banana issue?

Answer: We have been closely monitoring the banana import regime that the EU implemented on January 1. We have some serious concerns about it and, together with Latin American bananas exporting countries, have expressed these concerns at the Hong Kong WTO Ministerial in December, as well as at the numerous meetings in recent months of the WTO Dispute Settlement Body and WTO Council for Trade in Goods in which the bananas issue was raised.

We find particularly troubling the fact that the EU has retained a special zero-duty TRQ for bananas that it allocates to some, but not all, suppliers – this despite the EU’s commitments in 2001 to move to a tariff-only regime. A number of Latin American banana exporting countries believe that the new regime also does not live up to the EU’s commitment to maintain market access for countries supplying bananas on a most-favored-nation basis. We have strongly urged the EU to work with interested WTO Members to reach an expeditious and mutually satisfactory resolution of the dispute. At the same time, we have been in close contact with U.S. companies and interested Latin American countries affected by the new regime to try to identify all existing options to address the concerns about the regime and to develop the most appropriate approach.

SENATOR CRAPO:

1. Will USTR require Russia to implement data exclusivity legislation prior to its accession to the World Trade Organization that is at least as strong as the data exclusivity legislation that Ukraine enacted prior to its accession?

Answer: As part of the bilateral WTO market access agreement that the United States concluded with Ukraine on March 6th, the United States secured a commitment that the Government of Ukraine would amend its Law on Medicines to provide for the protection of confidential test data (data exclusivity) in compliance with TRIPs 39.3. Under the terms of the bilateral agreement, Ukraine committed to work with its parliament to enact these changes from the date of its accession to the WTO. Ukraine is still working on that legislation.

As with Ukraine, we are working with the Russian Federation to ensure that Russia provides strong data protection by amending its Law on Medicines to provide for the protection of confidential test and other data in accordance with TRIPs 39.3. We are seeking a similar commitment from Russia and work on legislation and implementing regulations is ongoing. Russia has agreed that it will fully implement the TRIPs Agreement upon accession to the WTO.

2. As USTR moves forward with new FTAs in Korea, Malaysia and other countries, a look at the implementation of recently negotiated FTAs is critical. A FTA is only as good as the partner's adherence to its obligations. I understand that both Chile and Australia have a negative track record with respect to pharmaceutical intellectual property (IP) protection -- despite strong FTA commitments. I am concerned with reports that Chile has not only failed to adequately implement its intellectual property obligations, it has approved copies of patented pharmaceutical products. Australia has enacted legislation that restricts companies' ability to enforce patent rights through the legal system. Is it USTR's position to strongly enforce the correct implementation and application of FTAs, and in this case take the necessary steps to ensure that no copies of patented medicines are approved by the government of Chile?

Answer: USTR is committed to ensuring proper implementation of the FTA provisions. We remain very concerned about implementation of the intellectual property chapter of the FTA with Chile. In this year's Special 301 Report, we announced that we will conduct an out-of-cycle review of Chile's intellectual property rights (IPR) regime, including the drug approval process for patented medicines, as a result of increased concern over Chile's protection of IPR. Additionally, over the last several months, I have personally raised this issue with high level officials of the Chilean government, including in recent discussions with the Bachellet Administration. In fact, USTR has a meeting scheduled to discuss IPR implementation issues with senior officials in the Bachellet Administration in early June. We will consider all appropriate options to ensure that the obligations in our FTA with Chile are respected.

With respect to Australia, we continue to urge Australia -- most recently in a meeting between Ambassador Portman and Deputy Prime Minister and Trade Minister Vaile -- to repeal the so-called Labor Amendment, which discriminates against pharmaceutical patent holders and raises concerns with respect to Australia's WTO TRIPS commitments. Australia has indicated its intention to wait for evidence of the Amendment's detrimental impact on industry before making its decision. We continue to press Australia on this issue.

3. Ending the Arab League Boycott of Israel is of key importance. Eliminating this harmful trade practice is an imperative, and the United States must take every opportunity, whether in free trade or bilateral negotiations, to end the boycott.

I am concerned by reports that Saudi Arabia has failed to follow through on its commitments despite repeatedly pledging to end its boycott and recent press reports that quote Bahrain's Foreign Minister saying that the boycott of Israel would remain in place despite the terms of the recent U.S.—Bahrain Free Trade Agreement.

What is the USTR doing to ensure that Saudi Arabia and Bahrain meet their obligations to end the boycott?

Answer: The Administration and USTR have been consistently firm and aggressive in opposing the boycott in all its forms. We have used all of our trade tools, including FTA negotiations, TIFAs, WTO accessions and high level advocacy with partners around the region, including Bahrain and Saudi Arabia to end the boycott. I assure you that USTR considers this a top priority, and if I am confirmed we will continue to push aggressively along these same lines.

We have seen occasional press reports quoting unnamed Saudi officials saying that WTO membership does not mean an end to the boycott of Israel. We have raised these issues directly with senior Saudi officials on several occasions, both in Riyadh and in Washington. In all cases, we have received assurances that that Saudi Arabia fully understands and remains committed to its WTO obligations, including the obligation to treat all WTO Members according to WTO rules.

We have every indication that Bahrain is living up to its commitment to cease application of the Arab League boycott of Israel. Comments attributed to Bahrain's Foreign Minister suggesting that Bahrain would still adhere to the boycott were recently erroneously reported in an English language newspaper in Bahrain. When advised of the misquote, the Foreign Minister immediately issued a correction to the Bahraini press, reaffirming that the boycott office in Bahrain is closed – this statement was published in all Bahraini newspapers, and confirmed by the U.S. Embassy on the ground.

SENATOR BAUCUS:

Question 1

The WTO dispute settlement system was one of the hallmarks of the Uruguay Round. The U.S. wins many of these cases, like beef hormones, but years later, we're still arguing about whether or not we have a right to sell our beef in the EU. It's hard to convince our constituents that they should support new Trade Rounds when it's not clear we're getting the benefits of the old ones. The U.S. has now won a case against the EU because of their ban on agricultural biotechnology. What is USTR going to do to ensure that the EU abides by this decision and allows us to sell our corn and soybeans and other GMO crops into that market without restriction?

Answer: When the United States prevails in WTO disputes, the overall record of compliance by our trading partners has been very good. To date, the United States has prevailed on the core issues in 26 completed WTO disputes. Of those disputes, in only two has the United States had to resort to the suspension of trade concessions in order to

encourage compliance by the defending party. The EU *Beef Hormones* dispute (cited in the question) is the only case in which we are currently maintaining trade sanctions.

As you know, in the EC Biotech dispute the United States has argued that the EC's moratorium on biotech approvals, as well as nine product bans adopted by six EC member States, are inconsistent with the EC's WTO obligations. The confidential final report was issued to the disputing parties on May 10. The report will be distributed to all WTO Members and publicly released after it is translated into all official WTO languages. The public release is currently scheduled for September 2006. After the public release, there will be the possibility for an appeal. In the event that the dispute results in a final finding that the EC is out of compliance with its WTO obligations, we would expect the EC to proceed to comply with those obligations. If confirmed, I assure you that the United States will consider all available tools to encourage the EC to comply.

Question 2

I have read reports that Airbus is considering a redesign of the A350 that would cost somewhere in excess of \$10 billion and that they intend to seek some \$3-4 billion in launch aid to develop that plane. As you know, the Senate last year passed a Resolution 96-0 calling for an end to launch aid, and I know you have been working hard on this issue. I am very serious about ensuring that no launch aid is provided ever again. I also understand that Mr. Mandelson commented that the repeal of the FSC/ETI create a "warm atmosphere".

What are you doing to ensure this does not occur and do we need to consider additional tools to impress upon Europe how serious we are about this?

Answer: The Administration has made it clear to the EC and the Airbus Member States that launch aid for the A350 would be unacceptable and that it is time for the practice to end. We would prefer to eliminate launch aid through negotiations, but we will pursue our WTO case through to completion if negotiations are unavailing.

Question 3

The Medicare Modernization Act calls for USTR to develop a trade strategy, including bilateral or multilateral negotiations, to address price controls and related policies on pharmaceuticals in other countries. Please tell us what USTR has done to implement this provision, including countries and timelines for action.

Answer: USTR has worked closely with economic and health policy agencies to address price controls and related policies in other countries. We are actively seeking to address these issues both in Free Trade Agreement (FTA) negotiations and through the establishment of dialogues with priority OECD countries.

The United States-Australia FTA, which went into effect in 2005, was the first FTA to address pricing and related issues. We are vigorously monitoring the Australian Government's implementation of the FTA, in particular this aspect of the agreement. In March, we held the first annual review of the FTA and confirmed that Australia has followed through on the pharmaceutical-related commitments it made, including establishing an appeal process to enhance accountability of its pharmaceutical reimbursement system. We also held a meeting of the Medicines Working Group, established under the FTA, to address ongoing issues of concern related to health care.

In addition to the Australia FTA, in June, we will hold the first round of FTA negotiations with Korea. Pharmaceutical issues will be a significant aspect of these negotiations as well.

In addition to FTA negotiations, USTR and the interagency team have sought to establish dialogues on pharmaceutical issues with Germany, Poland, Italy, France and Canada, countries the U.S. industry has identified as priority markets. We have held numerous meetings with officials at all levels of government to discuss specific concerns about elements of these countries' pharmaceutical reimbursement and pricing systems, and broader health policy issues. Just in the last several months, Commerce Secretary Gutierrez, Deputy Health and Human Services Secretary Azar, and I have each traveled to Germany to meet with our counterparts and raised these issues. As Germany considers broader health care reform this year, we will continue to press the government to address our concerns related to regulatory, transparency, and pricing issues. In June, we will intensify our work with Poland and Italy. We plan to begin work with France and Canada later this year.

Question 4

Reimbursement and related market access issues in the pharmaceutical industry have been a long-standing bilateral trade irritants the U.S.-Korean trade relationship. Does USTR plan to resolve these issues in the Korean FTA?

Answer: U.S. pharmaceutical companies continue to face a number of impediments in the Korean market, including those related to reimbursement, transparency, and enforcement. Addressing these issues is a high priority for the U.S.-Korea FTA negotiations, and we have established a pharmaceutical/medical device working group in the FTA negotiations for this purpose. We look forward to continuing to work with you and U.S. industry and other stakeholders to develop an appropriate strategy to achieve improved market access for U.S. pharmaceutical manufacturers operating in Korea.

Question 5

I am concerned that WTO trade facilitation talks do not necessarily take into account the new burden that customs administrations the world over must now face- how to ensure

the efficient *and* safe flow of international commerce. The intersection of trade and security is a critical challenge of our time. How can trading nations today apply reliable security strategies, like non-intrusive inspection equipment, that won't hamper the flow of trade?

APEC has done a lot of work, as has the World Customs Organization, trying to build consensus on trade security in Customs. The United States should actively engage in these fora. But the WTO has binding, authority among nations. Are we discussing these issues in the WTO? If not, why not?

Answer: As you note, there is a great deal of work being done internationally pertaining to customs and border regimes across a broad array of international fora, including with regard to security measures. Wherever such work is taking place the United States is active and playing a leadership role. In the context of the WTO negotiations on Trade Facilitation, many of the measures being considered as potential new multilateral commitments because they improve transparency and efficiency (e.g., measures that allow greater processing of goods before they arrive at the border) also serve as important tools for ensuring a more secure border environment.

Question 6

As part of its Container Security Initiative, Customs has worked with the State Department to negotiate bilateral agreements with more than 40 foreign Customs administrations. Has USTR been involved in these negotiations? Do such agreements—or any Customs commitments that affect the flow of trade—have a place in future FTAs?

Answer: While not directly involved in negotiations pertaining to the CSI, USTR is kept apprised by CBP as the work on CSI advances. Each of our recent FTAs have included a specific chapter on Customs commitments aimed at ensuring that rules-based border regimes are transparent and efficient. The Customs chapters in the FTAs have also included provisions that enhance customs cooperation and coordination.

Question 7

The President has promised to level the playing field with our trading partners, but provides no specific action as to how he plans to do that for our manufacturers, in particular our domestic automotive manufacturers. Michigan Governor Jennifer Granholm and others have expressed to Ambassador Portman their desire to see the President make good on his promise by negotiating FTAs, and specifically the Korea FTA, that advance and defend U.S. manufacturing interests. How will the Administration stand up for U.S. manufacturers during upcoming negotiations with Korea, and what, specifically can our auto sector expect to get out of an agreement with Korea?

Answer: Achieving increased market access for U.S. manufacturers in the Korean market is a priority for the Administration. The upcoming FTA negotiations present an opportunity to address a range of tariff and non-tariff measures impeding access to Korea's market. We will seek to eliminate Korea's industrial tariffs on U.S. products which are currently about two times higher than equivalent U.S. rates. Further, we will seek to increase transparency in the development and application of standards and regulations, and eliminate non-tariff barriers that U.S. manufacturers have identified in the Korean market.

Regarding the U.S. automotive sector, we are working closely with the U.S. automotive industry to address its concerns in Korea. To this end, we have established a separate automotive working group with Korea. In particular, we will seek to eliminate Korea's tariffs on automotive products, eliminate its discriminatory taxes on engine displacement, and improve transparency and ensure greater accountability in the development and application of standards and regulations in the automotive sector.

Question 8

Government policy-makers and businesses at all levels require accurate information about the nature and quality of U.S. trade with specific nations and regions to make informed decisions about where to commit their resources and to take advantage of foreign market opportunities.

While the federal government has developed the means to track federal and state merchandise exports, significant gaps remain. Little progress has been made in collecting state-level import data. More importantly, almost no data exists that tracks America's services exports or imports at the state level. This is quite problematic, given that services are an increasing portion of the U.S. economy.

Would you support proposals to devote additional funds to develop more accurate state-level services export data, and more accurate state-level import data for both goods and services?

Answer: We agree that having more and better data on the over \$3 trillion in U.S. goods and services trade would be desirable for government and private sector use. The collection of these data, however, is primarily a function of the U.S. Department of Commerce. We would therefore recommend consulting with Commerce on the feasibility, cost, and likely reliability of estimates of state exports of services and state imports of goods and services. Such expert information from those with the responsibility for statistics on U.S. international transactions would likely be of value to Congress in considering the matter of committing additional resources to these currently uncovered areas of state-level involvement in international trade. If confirmed, my staff and I would be happy to work with you to coordinate these consultations with Commerce.

Question 9

I understand that a bloc of about 15 large developing countries led by India are unwilling to make better offers to liberalize financial and other services in the Doha Round, unless the United States is willing to discuss the temporary entry of business travelers. How do you intend to find a solution to this problem, if we are to realize our goals for the Doha Round?

Answer: A number of large and small developing countries have indicated that they see new commitments by the United States for the temporary entry of service suppliers as the principal trade-off to be made in exchange for granting market access for key sectors of U.S. interest (*e.g.*, financial, telecommunications, computer, express delivery, energy, distribution, audiovisual services).

We continue to point out that existing U.S. commitments in this area equal or exceed those of many other WTO members and that meaningful gains could be achieved if more WTO members would simply match the commitments we already have in place. We also point out that these negotiations are multidimensional, covering all services as well as goods and agriculture. So reaching a successful outcome does not necessarily depend upon one specific issue.

Despite these factors, temporary entry is one of a relatively few services areas where the United States has received a significant number of requests from other countries. So rejecting this request will undoubtedly have some impact on the willingness of our trading partners to accept our own requests.

Question 10

Over the years, the U.S. government has worked hard to improve competitiveness and fairness in the Japanese life insurance market as that country moves to privatize Japan Post's KAMPO, the world's largest, but government-sponsored, life insurance company. U.S. life insurers operating in Japan face massive unfair competition from this entity that may still be quite favored with advantages even after privatization legislation passes. While the Japanese Diet has passed legislation affirming that privatization is going ahead, the question now is how that privatization will be orchestrated and what devils lie in the details.

What will USTR do to ensure that there is an actual level playing field as we go forward?

How will you ensure that that U.S. and other private life insurers have the opportunity to participate meaningfully in this process?

Answer: The Administration has carefully followed developments in Japan's effort to reform and privatize Japan Post, and has consistently called on Japan to create a fully level playing field in Japan's insurance market. While Japan appears on track to

eliminate some of the key tax and regulatory advantages that Japan Post has enjoyed over private companies, it remains unclear that all advantages will ultimately be eliminated. I therefore recognize that a sustained effort is necessary to address remaining concerns, and if confirmed I will ensure that we will continue to work with Japan until we see a level playing field in this important market for U.S. insurance companies.

I also recognize that decisions and recommendations made to implement these reforms will have a profound impact on this market, and so if confirmed I will continue to urge Japan to take into account the views of interested parties as it proceeds. While progress has been made with Japan on these issues, continued vigilance will remain necessary.

Question 11

Over the last several years, many members from farm states have noticed an increasing level of skepticism from their farmer constituents about the value of free trade agreements. Much of this skepticism stems from what farmers perceive as a dearth of benefits delivered from past agreements, in part because of unfair sanitary and phytosanitary barriers these trading partners have erected against U.S. agricultural products. As U.S. Trade Representative, what steps do you plan to take to address both the perception in the countryside that FTAs are not helpful to U.S. agriculture and the actual proliferation of SPS barriers faced by U.S. agricultural products?

Answer: It is clear that the prosperity of American farmers, ranchers and agricultural businesses is tied to trade. One out of three acres in the United States is planted for export. Our producers sent roughly \$62 billion worth of agricultural goods overseas last year. And 27 percent of U.S. agricultural cash receipts are generated from exports every year. With 95 percent of the world's population living outside our borders, our challenge is to seek new opportunities to open markets and reduce and eliminate barriers. FTAs only help to reduce barriers and create new export opportunities. Many of our trade agreements are still young and not fully implemented, so in some cases the rewards are not yet realized.

We are also mindful that as tariffs come down, countries may use SPS and other measures to try to protect their domestic industries. If confirmed, I will place a high priority on the elimination of unfair and unjustified barriers to U.S. food and agriculture exports and will work with USDA in this regard. The USTR team will continue to be particularly aggressive in negotiating strong SPS provisions in our FTAs to ensure the benefits of these negotiations are not at risk. Enforcement of these provisions will be extremely important in ensuring the success of these FTAs. Moreover, we will continue to press our trading partners to fulfill their obligations as signatories to the WTO SPS Agreement. When those barriers are potential violations of the WTO or other trade agreements, we will vigorously exercise our rights under dispute settlement procedures. To this end, the United States prevailed in the EC - Beef Hormones and Japan - Apples disputes.

Question 12

In the last few years, many of the countries with whom we have negotiated free trade agreements have not been particularly large markets for U.S. agricultural products. As a result, there has been some frustration in Congress and among U.S. farm groups about not being given a chance to provide input into the decision-making process the Administration uses to select future FTA partners. In the future, will you pledge to consult with farm groups through the APAC/ATAC process, and with Congressional committees of jurisdiction (House Ways and Means Committee, Senate Finance Committee, and House and Senate Agriculture Committee) in advance of making decisions about which countries are appropriate FTA partners?

Answer: Close consultation with the Congress is not only good policy; it is a fundamental element of the partnership that the Congress established when it passed the bipartisan Trade Promotion Authority Act of 2002.

The statutory provisions of TPA provide for extensive consultations with Congressional committees of jurisdiction before and during multilateral and bilateral trade agreement negotiations. If confirmed, I will consult closely with Congressional committees of jurisdiction when identifying appropriate FTA partners, and through every step of FTA negotiations.

The Agricultural Policy Advisory Committee (APAC) for Trade and the Agricultural Technical Advisory Committees (ATACs) are key advisors and we welcome their input on all aspects of the agenda regarding agriculture trade, including WTO negotiations and identifying potential FTA partners.

The cleared agricultural advisors have access to FTA negotiating texts and provide input to USTR on an ongoing basis – through our regularly scheduled meetings, like the upcoming meetings on May 18-19, and in ad-hoc consultations throughout our negotiations.

Since 2001, the Administration has launched FTA negotiations with both large and small trading partners. Each of these FTAs should be judged on its own merits. Although the markets in some FTA partner countries may not be as large as others, cumulatively, they are substantial, and we realize significant gains when we can achieve market access precedents that later serve as models for FTAs in other countries that have greater market potential.

Agricultural groups have broadly supported the CAFTA-DR, Peru, and Colombia trade agreements, and they are excited about our upcoming negotiations with Korea. Korea is our 6th largest agricultural export market (\$2.2 billion in 2005), and it has significant growth potential for a broad range of agricultural products.

Seeking meaningful market access for agriculture in our FTAs is a top priority for the Administration and, if confirmed, I look forward to working closely with the APAC and ATAC advisors to create new export opportunities for American farmers and ranchers.

Question 13

Ambassador Schwab, without question, an ambitious agreement on agriculture is a critical step to securing a comprehensive and successful outcome of the Doha Round. However, I would like to raise another important area of the talks, the so-called Non-Agricultural Market Access (NAMA) negotiations. My colleague from the State of Indiana, Senator Even Bayh, recently introduced a Sense of the Senate resolution calling for the World Trade Organization (WTO) to lower trade barriers on manufactured goods. This resolution essentially states that the U.S. should not be a signatory to a final Doha agreement that does not yield significant cuts in the applied tariff rates facing U.S. manufactured goods exports. Is this consistent with the position of USTR and the U.S. Government?

Answer: Absolutely. Since we developed and tabled the initial U.S. proposal on NAMA in 2002, our position in NAMA negotiations has been consistent. We must achieve a strong result for U.S. industry aimed at delivering new, real market access for our products worldwide. We continue to pursue this goal on three fronts: a robust tariff-cutting formula that cuts into applied rates, deeper liberalization on a sector-specific basis, and a pragmatic approach to removing non-tariff barriers. But we can't achieve this alone. We must have greater support for an ambitious result from advanced developing countries such as Brazil, India and others.

SENATOR ROCKEFELLER:

- 1) I would like to turn to the WTO Rules negotiations, and to once again express my dismay at the Administration's handling of this issue. I believe it is fair to say that Congress has made its views crystal clear on this issue. *Any* weakening of U.S. or international disciplines on dumping or subsidies will not be acceptable as part of a new WTO agreement. Given the other challenges facing trade agreements in this country, it seems quite possible that the mishandling of the Rules talks could put the entire Round at risk in terms of acceptance in this country.

The Administration continues to claim that it is committed to preserving the trade laws. All the available evidence, however, suggests that opponents of trade remedy disciplines have hijacked the negotiations and have managed to position their proposals as the focus of the talks – including the so-called "lesser duty rule" proposal, the public interest test, and a whole host of methodological changes that would severely weaken our laws. To be clear, these proposals are not acceptable

individually or in any combination. Each one of them is flatly inconsistent with the TPA mandate and the overall Doha mandate as well.

The Administration has touted the list of proposals it has put forward, but under scrutiny, these dissolve into mere efforts to codify U.S. law or to require greater transparency in foreign AD/CVD systems. In general, they would not strengthen the laws or provide any counterbalance to the harmful proposals asserted by trade law opponents. Given the late hour of the talks, the United States appears to have boxed itself into a no win situation.

Given what is on the table, I would like to ask how you intend to manage the Rules talks to reach an acceptable conclusion. Do you think a substantive result can be reached in this area that would not weaken the trade laws? Do you intend to adjust the U.S. negotiating strategy in any way going forward?

Answer: I share your concern about the need to preserve the strength and effectiveness of U.S. trade laws. I believe that strong and effective remedies against unfair trade practices, including those against dumping and unfair subsidies, are critical for maintaining support for trade liberalization, and are essential to ensure that the benefits gained from trade liberalization are not undermined. If confirmed, I will work with Congress to ensure that the TPA mandate to preserve the ability of the United States to enforce rigorously its trade laws is fulfilled.

In the WTO Rules talks, the United States has emphasized the necessity for strict adherence to the Rules negotiating mandate that U.S. negotiators insisted upon and obtained at the Doha Ministerial Conference in 2001, which requires that the effectiveness and basic principles of the WTO Antidumping and Subsidies Agreements must be preserved. Given the increasing number of WTO Members using the trade remedy rules, including many developing countries, a number of additional Members have joined us in insisting that the effectiveness of the rules must be preserved. When other Members have raised proposals with the potential to undermine our trade laws, we have put them on the defensive by vigorously attacking the technical merits of the proposals.

We have also countered those proposals with our own proposals on key U.S. priorities, including eleven new Rules proposals since March 2006. For example, we have recently tabled proposals on prohibited subsidies, circumvention, new shipper reviews, transparency and due process, WTO dispute settlement, and perishable and seasonal agriculture.

I would add that our proposals on transparency and due process will not only benefit U.S. exporters, but are also important, in conjunction with our other proposals, to push back against the proposals made by other WTO Members that could affect U.S. trade laws. Our proposals have put critics of U.S. practice on the defensive for the major problems we have identified with respect to their own practices. Moreover, transparency and due

process are essential in ensuring that other WTO Members can be held accountable for their own compliance with the rules.

Thus, while there are still a number of difficult issues in the Rules negotiations that we will need to address, the many proposals we have put on the table leave us well-positioned to achieve a positive result in the negotiations, both in terms of preserving our ability to enforce rigorously our trade laws, and in terms of addressing our priority issues.

If confirmed, I look forward to working with you to advance our Rules proposals, and to ensure that U.S. trade laws remain strong and effective.

2. As you know, one of the principal negotiating objectives set out in the TPA legislation is to obtain a "revision of the WTO rules with respect to the treatment of border adjustments to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes." This is one of the truly "big ticket" competitive disadvantages faced by American producers in international trade – and existing WTO rules have absolutely no legitimate economic basis or rationale.

Please provide a detailed description of the proposals the United States has made to date to advance this negotiating objective, and the other steps our negotiators have taken to pursue the issue. Please describe the strategy you intend to follow to ensure that this longstanding disparity in the treatment of direct and indirect taxes – one of great disadvantage to the United States – is finally ended.

Answer: Pursuant to the Trade Promotion Authority negotiating objective to address this issue, in March 2003, the United States submitted a paper to the Rules Negotiating Group identifying the differing treatment of direct and indirect taxes under the WTO Subsidies Agreement rules. While recognizing that this distinction has existed in the GATT/WTO subsidy rules for some time, the United States stated its position that an essential part of the work of the Rules Group should be to work toward greater equalization in the treatment of various tax systems and noted that the current distinction risks ignoring the potential trade-distorting effect that certain practices involving indirect taxes may have on trade, and may unfairly disadvantage competitors operating under a direct taxation system. This proposal received no support. Nonetheless, we have continued to examine the issue within the government and have continued to consult with U.S. industry and staff of the relevant Congressional committees.

In this regard, while it is often asserted that the current rules favor countries with VAT regimes, economists seem to be of differing opinions. One study, for example, concluded that there was a negative relationship between VAT systems and exports (see, M.A. Desai, and J.R. Hines, *Value-Added Taxes and International Trade: The Evidence*, November 2002, University of Michigan).

3. As you know, the WTO Appellate Body has recently issued decisions finding that the practice of "zeroing" in antidumping investigations and reviews is incompatible with the WTO agreements. These decisions reflect only a few recent examples of a major ongoing problem with the WTO dispute settlement system – namely, that WTO panelists are simply making up new rules that have no basis in the agreements, and that were never accepted by the United States or others in past negotiations.

Given the critical importance of zeroing to ensure that our trade remedy laws function effectively, I would like to ask what you intend to do to ensure that these wholly unjustified decisions do not stand. Do you intend to continue to vigorously litigate ongoing cases that involve zeroing? Has the Administration made proposals in the WTO Rules talks to explicitly allow the practice of zeroing? Please describe any such proposals in detail, and the status of U.S. efforts on this issue in the Rules talks.

Answer: Let me assure you that we have identified zeroing as an important issue in the Rules negotiations of the Doha Round, and that we intend to pursue it further in the negotiations. Early in the Rules negotiations, the United States submitted a proposal identifying zeroing as a key issue for which clearer rules are needed. Together with a number of proposals dealing with zeroing that have been submitted by other countries, it is clear that this issue will be a subject of the negotiations.

As for ongoing disputes, we will continue to be aggressive in pointing out the flaws in the arguments of those Members that attack zeroing. In this regard, as you no doubt know, on April 18, the WTO Appellate Body issued its report in a challenge to the use of zeroing brought by the European Communities ("EC"). Reversing the panel, the Appellate Body found that zeroing is prohibited in assessment proceedings. In response to this report, we took the unusual step of submitting a written communication to the WTO Dispute Settlement Body in which we identified critical errors in the Appellate Body's reasoning.

In addition, in the ongoing panel proceeding involving Japan's challenge to the use of zeroing, we have continued to maintain that zeroing is permitted and have provided the panel with our critique of the Appellate Body's reasoning. It is our hope that the panel will decline to follow the Appellate Body report in the EC case.

Finally, on May 17, in the so-called *Lumber 21.5* dispute, Canada appealed the finding of the panel that zeroing is permitted in an antidumping investigation where the so-called transaction-to-transaction method is used. We intend vigorously to defend against Canada's appeal.

In summary, we are pursuing the issue of zeroing on both the negotiation and litigation fronts. Several WTO Members have indicated that zeroing is an issue that ultimately will have to be resolved through negotiation, and we believe that this is a sign of progress.

4. Can you please tell me what we should take from our experience with the China bilateral and PNTR agreement, especially regarding intellectual property and piracy violations, as we consider a bilateral agreement with Russia? Shouldn't we require Russia to take some concrete steps to demonstrate that it has both the will and the ability to effectively protect intellectual property?

Answer: We have made clear to Russia that demonstrated improvement to its laws and enforcement of intellectual property rights is critical to its WTO accession.

As you know, WTO accession is a two-step process: bilateral negotiations on market access, followed by multilateral negotiations on WTO rules, such as implementation of the TRIPS Agreement.

For Russia, because of the significant concerns we have with Russia's enforcement of intellectual property rights, we have made this issue part of our bilateral negotiations. We have proposed to Russia several concrete steps that will demonstrate the will and ability to provide effective protection of intellectual property. We believe that Russia understands the importance of improving its laws and enforcement efforts. President Putin recently made public statements on the seriousness of the piracy and counterfeiting in Russia. Russian enforcement agencies have increased enforcement actions against optical disk plants in recent months. However, we have made clear to Russia that we need to see continued concrete action on enforcement.

After bilateral negotiations are completed, we will work in the multilateral negotiations with other WTO members, such as the EU, Canada, Switzerland and others, who have voiced concerns about Russia's protection and enforcement of intellectual property, to ensure that Russia undertakes necessary commitments and understands that this is a global concern.

SENATOR BINGAMAN:

1. At the Finance Committee hearing with Ambassador Portman on February 16, 2006, I asked:

"Back in 2003, Mexico closed its border to the importation of live cattle from the United States, and I've got ranchers in New Mexico who would like to sell live cattle into Mexico. About every week, we buy about 20,000 live cattle from Mexico, and that's been going on for a very long period now, but we are barred from sending any to them. I've spoken to Secretary Johanns about this. I've spoken to Secretary Mayorga in Mexico City about this, and I was assured by Secretary Mayorga that this is something the Mexicans were going to fix. I think he told me in early January that within a couple of weeks they would open their border to imports of live cattle from the U.S., and that hasn't happened. Why can't we just give them a date and say, 'O.K., on the 1st of March, if your border is not open to our exports to you, then our border is no longer open

to your exports to us in this field'? Is there something wrong with us using a little bit of leverage to get this issue fixed? Again, I feel very much as though we are being played for a sucker here. Week after week, month after month, year after year, our ranchers are being denied the right to sell to them. They are selling to us in very large quantities."

Now here it is May, and since the first of the year over 500,000 live Mexican cattle have been exported to the U.S. but not one live animal has been imported from the U.S. I know of no internationally recognized scientific guideline for Mexico to continue to bar imports of live U.S. cattle.

Can you assure me that reopening the border with Mexico to exports of live cattle will be a priority for you as USTR? Can you please tell me what positive actions you will take to assure the Mexican border is promptly reopened?

Answer: USTR spends a great deal of time on cattle and beef issues with Mexico, and this will certainly continue should I be confirmed. Regarding sanitary approvals for the export of U.S. cattle, I understand that Secretary of Agriculture Johanns is close to reaching an agreement with his Mexican counterpart that would allow entry into Mexico of dairy heifers from the United States. At a meeting in late April between agricultural regulators (USDA/APHIS for the U.S. and SENASICA for Mexico), both sides agreed to terms for a protocol for trade in live dairy replacement heifers. APHIS on May 8 confirmed that it approved of SENASICA's latest text. The final step is for SENASICA to respond. APHIS proposed that fourteen days after SENASICA confirms the agreement, it will start issuing certificates for live cattle. USDA hopes this will occur by the end of May/early June. USTR raised this issue with Mexican trade officials this week and made clear the importance of accepting U.S. live cattle.

2. There is growing concern about illegal and unsustainable logging of South American mahogany in Peru and the affects that harvesting has on native peoples. Will the Peru FTA restrict the ability of the United States to carry out the goals of the President's Initiative Against Illegal Logging or to enforce the provisions of CITES? Would the Peru FTA in any way restrict the United States' ability to prevent the importation of illegally and unsustainably harvested mahogany from Peru?

Answer: No. In fact, since the PIAIL was launched, we have used our bilateral and regional FTAs to support the objectives of the initiative and we have done that in the U.S.-Peru Trade Promotion Agreement (TPA). In addition, the TPA will support CITES implementation and the Environmental Cooperation Agreement (ECA) will provide a means of enhancing our existing efforts to assist Peru in meeting their obligations under CITES. The TPA will not in any way alter or restrict the ability of the United States to implement CITES with respect to trade with Peru, including in CITES-listed mahogany.

The United States has been a leader in drawing international attention to the economic and environmental consequences of illegal logging. During the course of the

negotiations for the TPA, illegal logging was one of a number of issues we raised with Peru. We discussed ways to address it in a constructive and collaborative manner.

The trade agreement's commitments on transparency, rule of law, customs cooperation, and rules of origin should also contribute to efforts to combat illegal logging. In addition, the TPA Environment Chapter obligations to "effectively enforce environmental laws" include effective enforcement of Peru's laws that implement CITES.

The ECA with Peru has been concluded and we will soon negotiate a work plan to implement that agreement. Improved CITES compliance will be an important element of that work plan. Therefore, the TPA and the ECA provide both incentives as well as support for Peru to find long-term solutions to this very important issue.

We have long-standing efforts to assist Peru in combating illegal logging. These efforts have included USAID-funded work as well as capacity building projects that the United States has funded through the International Tropical Timber Organization (ITTO). These efforts will continue under the framework of the President's Initiative to Address Illegal Logging (PIAIL).

SENATOR KERRY:

WTO and Dispute Settlement

1. Over the years, our trading partners have used the WTO dispute settlement system to progressively erode the effectiveness of our trade remedy laws. The United States has been on the receiving end of more GATT and WTO challenges than any other Member. Since 2004, roughly half of all WTO decisions issued involved challenges of U.S. measures, and over three-quarters of those decisions addressed the administration of our trade remedy laws. How do you intend to combat what some observers call a blatant prejudice against the United States? How are you planning to reverse this pattern of WTO decisions that are adverse to our trade remedy laws? What is your strategy to prevent overreach by WTO panel and appellate bodies?

Answer: Given the size and importance of the U.S. economy, it is not surprising that the United States is a frequent participant in WTO dispute settlement. This is true both with respect to the cases we bring and the cases we defend; in both situations, the United States is involved in more cases than any other Member, with the European Union not far behind.

I have not always agreed with WTO dispute settlement findings. On the whole, however, the process has been working well and to the benefit of the United States, as demonstrated by recent findings supporting the United States against Mexico on its rice antidumping duties and its tax on soft drinks containing high fructose corn syrup. It has also been widely reported that the United States prevailed against the European Union on

its moratorium on approvals of biotechnology products. These findings will be of enormous importance to U.S. companies, farmers and workers seeking to export U.S. goods and services. Likewise, the United States is now pursuing cases against the European Union on its aircraft subsidies and against China on its auto parts tax.

Regarding trade remedy disputes, our involvement in the WTO has not prevented us, nor will it prevent us, from vigorously enforcing our trade remedy laws. While it is disappointing any time we lose an issue, it is important to evaluate the U.S. record not simply based on whether we lost on minor issues in a dispute, but on how we fared on the core issues. Our defensive record is better than that of most countries at the WTO, since complaining parties tend not to take bad cases. While some of the losses involved significant changes to U.S. laws, many others did not. The United States often was able to implement without affecting the underlying law, regulation or order.

For example, we won a major victory in the DRAMS dispute with Korea; the Appellate Body rejected Korea's challenge to Commerce's CVD investigation, and also emphasized that panels must apply the correct standard of review in trade remedy disputes. Likewise, in the Lumber cases with Canada, the WTO concluded in all three cases that we had not breached WTO rules. In the CVD case, we won big victories on the main issues involving whether Canada was providing subsidies and how Commerce should calculate the subsidies. We also won across the board in Japan's challenge to Commerce's antidumping sunset rules. In the EC's challenge to our countervailing duty sunset review on German steel, we won every issue but one – and we had already lost that issue in domestic courts.

At the same time, I recognize that WTO dispute results have not been perfect. I believe we should work both within the current dispute settlement system and through the dispute settlement negotiations to improve the process and ensure that panels and the Appellate Body stick to the deal agreed to by WTO Members.

For example, at WTO meetings at which reports have been adopted, the United States should continue to criticize aspects of those reports with which we disagree. Past criticisms have been accepted by later panels. In addition, the United States should continue to pursue its proposals in the Special Session of the Dispute Settlement Body that would modify dispute settlement rules to improve Member control over the dispute settlement process and provide Members with greater flexibility to settle disputes.

Likewise, in the WTO Rules negotiations, the United States has tabled a series of proposals to address issues arising out of adverse WTO Dispute settlement findings, including recent proposals to address issues such as the injury causation standard applied by investigating authorities, and authorities' use of facts available.

We will continue to pursue proposals in the negotiations.

WTO and Effective Trade Remedies

2. Over the years, Congress has repeatedly stressed the need to ensure any further trade liberalization is accompanied by the availability of strong trade remedies. It is clear that U.S. trade laws are under attack in the Doha Round. Well over 180 submissions have been made by foreign negotiators at the WTO to undermine U.S. trade remedy laws. If confirmed, what specific actions would you take to ensure that U.S. trade remedy laws are preserved and enhanced in the Doha Round? What proposals in what timeline do you plan to put on the table to strengthen these laws to combat the scores of proposals from other nations to weaken these laws? What steps will you take to show the American people that our companies and workers will continue to have full recourse against unfair foreign trade practices?

Answer: I share your concern about the need to preserve the strength and effectiveness of U.S. trade laws. I believe that strong and effective remedies against unfair trade practices, including those against dumping and unfair subsidies, are critical for maintaining support for trade liberalization, and are essential to ensure that the benefits gained from trade liberalization are not undermined. If confirmed, I will work with Congress to ensure that the TPA mandate to preserve the ability of the United States to enforce rigorously its trade laws is fulfilled.

In the WTO Rules talks, the United States has emphasized the necessity for strict adherence to the Rules negotiating mandate that U.S. negotiators insisted upon and obtained at the Doha Ministerial Conference in 2001, which requires that the effectiveness and basic principles of the WTO Antidumping and Subsidies Agreements must be preserved. Given the increasing number of WTO Members using the trade remedy rules, including many developing countries, a number of additional Members have joined us in insisting that the effectiveness of the rules must be preserved. When other Members have raised proposals with the potential to undermine our trade laws, we have put them on the defensive by vigorously attacking the technical merits of the proposals.

We have also countered those proposals with our own proposals on key U.S. priorities, including eleven new Rules proposals since March 2006. For example, we have recently tabled proposals on prohibited subsidies, circumvention, new shipper reviews, transparency and due process, WTO dispute settlement, and perishable and seasonal agriculture.

If confirmed, I look forward to working with you to advance our Rules proposals, and to ensure that U.S. trade laws remain strong and effective.

WTO and NAMA

3. I remain concerned about progress in the Doha Round generally, but in the Non-Agricultural Market Access (NAMA) talks specifically. It seems that delays in Doha

discussions have allowed NAMA sectoral initiatives to languish. Yet, NAMA sectors such as IT and electronics offer some of the greatest opportunities for giving developing countries the tools needed to advance economically. Do you support an electronics sectoral initiative and what do you think needs to be done in order to get other countries to support such an effort? Do you support efforts outside of the Doha Round to advance trade liberalization in certain sectors where there is international industry support?

Answer: The Non-Agricultural Market Access (NAMA) sectoral initiatives are important to the United States because they guarantee real market access improvements and will provide important stimulus to global economic growth and development.

The United States strongly supports sectoral initiatives as part of our broader effort to increase real market access for U.S. industry, whether through the Doha Round or in other fora. The United States has led the effort on a wide range of sectorals of interest to U.S. industry, including IT/electronics and electrical equipment.

These and other sectoral initiatives have generated greater interest over the last several months. Increasing numbers of developing countries have been participating in discussions, although only a few have formally supported sectoral initiatives to date. This is a result, in part, of strong U.S.-led outreach and educational efforts.

We do have challenges, however. Key traders such as China, India and Brazil have not committed to support initiatives in any particular sector at this juncture and the EU has not assumed a leadership role in the sectoral initiatives. We need these Members to step forward to make the contribution necessary to further advance the sector-specific liberalization initiative.

Thailand

4. Under current trade agreements, imports of pouch tuna from Thailand are at a competitive disadvantage compared to tuna from other nations that enjoy duty free treatment. If the FTA negotiations resume with Thailand, will you work to level the playing field and seek to reduce tariffs on tuna imported from Thailand? If the FTA is delayed, will you ensure that the USTR seeks parity between tuna imported from Thailand and tuna imported from ANDEAN countries – which currently enjoy a zero duty on imports of pouch tuna?

Answer: Currently our FTA negotiations with Thailand are on hold, pending new elections and the formation of a new Thai government, that we understand may not occur until late fall. Once a new government is in place, the United States and Thailand will jointly determine how best to proceed. When our negotiations resume, our goal will be to address the full range of commercial opportunities resulting from a U.S.-Thailand FTA, including in the tuna sector.

Foreign Investment -- Dispute Settlement

5. State officials have been required to spend considerable funds helping USTR to defend various WTO and investment cases, and there is a likelihood that additional cases may be brought in the future. Can you summarize applicable rules and regulations that govern how these cases are to be litigated, and who is to finance them? Given that state governments have incurred significant costs helping USTR to defend WTO and investor-state disputes – and in some instances, I understand, have not been reimbursed for their costs -- will you commit to seek appropriate reimbursement to state and local entities when they expend resources in defending claims against the U.S.?

Answer: The U.S. Government is the sole respondent in any WTO dispute or NAFTA chapter 11 investment dispute involving a challenge to a measure taken by a sub-federal government in the United States. The U.S. Government is responsible for vigorously defending any state laws – USTR is the lead in WTO cases, and the State Department is the lead in investor-state cases arising under bilateral investment treaties and investment chapters of our FTAs. In keeping with longstanding USTR policy, reflected in the Uruguay Round Agreements Act and the NAFTA Implementation Act, the U.S. Government works closely with a state to defend its laws. The U.S. Government provides all necessary legal services and pays the litigation fees and related costs. It is up to the state if it wishes to incur additional costs to hire legal consultants, for example. In our view, however, where a state considers it necessary to incur additional costs, those costs generally represent a very small portion of the total costs of the defense because the U.S. Government is responsible for all aspects of defending the actions of a state under an international agreement.

For example, in the *Methanex* case, a NAFTA investor-state dispute in which a Canadian investor challenged California's ban on the sale and use of a gasoline additive, the U.S. Government paid for all out-of-pocket expenses, including arbitrator fees, fees paid to experts, travel costs for fact witnesses, and administrative costs, which were incurred in the defense. To my knowledge, California did not incur any costs in that dispute other than the time California government employees spent assisting in the dispute. U.S. Government lawyers drafted all of the submissions and defended California's actions during the hearings. The U.S. Government successfully defended California's actions in that dispute.

Foreign Investment – No Greater Rights

6. The takings clause of the Fifth Amendment to the Constitution protects private property from being taken by the government without just compensation. It is my understanding that U.S. courts have been reluctant to expand this principle to “regulatory takings” or “indirect expropriations.” These concepts would require compensation to be paid if government regulations have an adverse economic effect on the value of property or an investment. Despite this, the investment provisions in recent FTAs give foreign investors expanded opportunities to challenge government regulatory action by claiming

that the government action is “tantamount to expropriation,” thereby giving foreign investors greater rights than Americans are due under U.S. law.

Amb. Schwab, given that the Trade Act of 2002 makes “ensuring that foreign investors . . . are not accorded greater substantive rights” than U.S. citizens a principle trade policy negotiating objective, would you be willing to direct USTR’s negotiators to incorporate language in future FTAs that clarifies that foreign investors will only have the same rights as U.S. citizens when lodging takings challenges against governmental regulations?

Answer: After Congress passed TPA, we consulted extensively with Congress, our statutory advisory committees, and domestic stakeholders, including the business and NGO communities and state and local governments, to develop new investment provisions and to ensure that those provisions fully satisfied TPA’s guidance.

These provisions ultimately were incorporated into the FTAs with Chile, Singapore, Australia, Morocco, and Central America that Congress recently approved and have also been incorporated into the text that we have tabled in all of our pending negotiations. These provisions fully ensure that foreign investors are not accorded greater substantive rights than U.S. investors.

With respect to the expropriation obligation in particular, our investment text now includes an expropriation annex that draws heavily from principles developed under U.S. takings law. Among other things, the annex:

- directly incorporates tests used in U.S. Supreme Court rulings to determine whether a regulatory taking has occurred;
- clarifies, consistent with U.S. law, that there are only two types of expropriation – direct and indirect. None of our post-TPA FTAs includes the “tantamount to expropriation” language referenced in your question;
- states that, except in rare circumstances, non-discriminatory regulatory actions designed and applied to protect the public welfare are not indirect expropriations. The same is true under U.S. law; and
- clarifies, consistent with U.S. takings and due process jurisprudence, that only property rights or property interests in an investment are entitled to expropriation protection.

We believe that these provisions improve the implementation of investment provisions while supplying critical protections for U.S. investors abroad.

Security

7. It has been brought to my attention that current law does not require a systematic review of the homeland security implications raised by free trade agreements. Could you give USTR's impression of legislation introduced by Congressman Brown that would require homeland security concerns to be a part of the negotiating and congressional implementation processes for new FTAs? Does it make sense to require trade agreements to undergo a systematic homeland security review?

Answer: We take great care to ensure our free trade agreements fully comport with U.S. national security interests. First, the trade and investment obligations we include in our FTAs are based on longstanding U.S. trade policies and practice. So our agreements do not require us to take actions, or refrain from taking actions, that are likely to raise significant national security concerns.

Just to be safe, however, we invariably include an exception in our FTAs that allows us (and our FTA partners) to set aside our obligations in any instance in which we decide we need to do so to protect our essential security interests. This exception is entirely self-judging. This means we decide when to invoke it and on the action we need to take to satisfy our security concerns. An FTA trade or investment panel cannot second-guess our decision or the reasons for it.

In this light, I do not believe we would enhance our security interests by requiring our FTAs to undergo reviews of the kind you mention. Moreover, any use of the essential security exclusion should be undertaken only when legitimate security concerns are involved because to do otherwise would be to encourage other countries to use their exclusion as a smokescreen for protectionism.

SENATOR LINCOLN:

1) Amb. Schwab, farmers in my state are concerned that the gains in market access in a potential Doha agreement will not be enough to offset the loss in domestic support. What does the Administration's analysis indicate are the gains in market access if the U.S. proposal were adopted? Which commodities stand to see the largest increases? Will the U.S. reduce its offer to cut domestic supports in response to a less than acceptable market access offer?

Answer: American farmers and ranchers are among the most competitive producers in the world. When WTO members reduce tariffs, trade-distorting domestic support, and eliminate export subsidies, U.S. agriculture will have new opportunities. In particular, products where the United States is already export-dependent, such as wheat, corn, soybeans, rice, cotton, and certain specialty crops, stand to gain from reduced market access barriers. Importantly, these sectors will also benefit from expanded growth spurred by foreign reforms and increased trade, a critical need for U.S. producers given

the fact that our production already exceeds domestic demand. In addition, the U.S. livestock sector, including beef, pork, poultry and dairy producers, is globally competitive and increasing exports every year. Access to new markets will provide more customers for U.S. livestock producers and more demand for livestock feed producers. Similarly, U.S. food processors are world leaders and in many cases face market access barriers; tariff reductions will open markets for U.S. exporters of these products as well. If the U.S. proposal were adopted, gains would accrue to each of these sectors as U.S. tariffs are generally relatively lower than tariffs imposed by other countries. While the U.S. proposal also calls for reforms in domestic support programs, including our own, there would still be ample room for U.S. farm programs to channel support to producers through non-trade-distorting means, should that be necessary.

The U.S. proposal last October was explicitly conditioned on all three pillars moving together. We will continue to press for ambitious results on market access because WTO members have committed to an ambitious reform result in all areas. The United States will not agree to a deal with deep cuts in domestic support that are not reciprocated with meaningful market access and reforms abroad. If necessary, that may require recalibrating the domestic support element of our proposal.

2) As you know, the so-called Peace Clause, included in the Uruguay Round agreement, has expired. I'd like to commend the Administration for including the concept of litigation protection in our Doha proposal. What type of feedback have we had from other countries on this aspect of the U.S. proposal? Is the Administration committed to insist on the inclusion of a "compliance assurance" provision in the final agreement?

Answer: The United States has made a proposal that would help to clarify the relationship between the *WTO Agreement on Agriculture* and the *Agreement on Subsidies and Countervailing Measures* ("*SCM Agreement*"); in particular, it would continue the approach that a Member's compliance with the commitments under the *WTO Agreement on Agriculture* would suffice for *SCM Agreement* purposes. We believe that such a provision would be of great value because it would provide greater clarity and certainty to WTO Members. No Member has yet indicated its support for the U.S. proposal. However, the United States will continue to push for its October proposal in the negotiations.

3) The U.S. has consistently called for a single undertaking approach to the Doha negotiations and no "early harvest." I strongly support this position, and I will have strong reservations for any agreement that unfairly targets individual commodities. I understand that the Hong Kong Ministerial included language specific to cotton, specifically commitments to provide duty free, quota free access to cotton from least developed countries and more ambitious and expeditious reductions in cotton supports than for other commodities. Are you still committed to a single undertaking approach and are you prepared to resist further separate concessions on cotton?

Answer: The United States is firmly committed to a single undertaking: unless a complete package is agreed there will be no new commitments on particular sectors or elements. The United States will resist unreasonable commitments on cotton.

4) Your skills as a negotiator and the dedication of your negotiating team proved essential in bringing about a set of terms for a possible Lumber Agreement with Canada. Finalizing this important Agreement will benefit companies, their workers and thousands of communities on both sides of the border. However, much work remains before this Agreement can be finalized, and many obstacles must be overcome.

Can you provide me with a status of, and timeframe for, finalizing this Agreement? What are some of the biggest obstacles? Do you agree that the terms of a possible Agreement announced by the governments of the United States and Canada on April 27th must be honored in order to finalize this Agreement?

Answer: We are in constant contact with the Canadian negotiators as well as the U.S. industry to finalize the agreement as quickly as possible. There is, however, an enormous amount of work that needs to be done, including, for example, drafting the final text of the agreement, finalizing the details for the distribution of the cash deposits collected under the antidumping and countervailing duty orders, and obtaining approval of the agreement and implementing legislation by the Canadian Parliament. This will take some time, but we hope to complete our work in the coming weeks.

The settlement terms announced on April 27 must be honored to finalize the agreement. Re-opening these terms risks a collapse of the process and a return to the contentious litigation that has plagued this dispute over the past several years and failed to produce a viable long term outcome.

We are confident that the Canadian federal government is committed to finalizing the agreement. It is our understanding that the majority of the Canadian industry, as well as the provincial governments, also support the agreement. While there is a vocal minority within the Canadian industry that opposes the settlement, the Canadian government is working hard to ensure that the negotiations remain on track.

5) Ambassador Schwab, manufacturers in my state continue to be concerned that the trade remedy laws they rely on to combat unfair foreign trade practices will be weakened in the current round of WTO negotiations. These trade remedies are under strong attack by many of our trading partners, who have proposed a host of changes that would largely gut the rules against dumping and subsidies. My constituents are concerned that the United States has done little to counter these proposals, even though TPA specifies that a major goal of the United States in these negotiations must be to fully preserve U.S. fair trade laws. If you are confirmed, will you put forth proposals that are in keeping with the Congressional mandate to preserve and improve these rules?

Answer: I share your concern about the need to preserve the strength and effectiveness of U.S. trade laws. I believe that strong and effective remedies against unfair trade practices, including those against dumping and unfair subsidies, are critical for maintaining support for trade liberalization, and are essential to ensure that the benefits gained from trade liberalization are not undermined. If confirmed, I will work with Congress to ensure that the TPA mandate to preserve the ability of the United States to enforce rigorously its trade laws is fulfilled.

In the WTO Rules talks, the United States has emphasized the necessity for strict adherence to the Rules negotiating mandate that U.S. negotiators insisted upon and obtained at the Doha Ministerial Conference in 2001, which requires that the effectiveness and basic principles of the WTO Antidumping and Subsidies Agreements must be preserved. Given the increasing number of WTO Members using the trade remedy rules, including many developing countries, a number of additional Members have joined us in insisting that the effectiveness of the rules must be preserved. When other Members have raised proposals with the potential to undermine our trade laws, we have put them on the defensive by vigorously attacking the technical merits of the proposals.

We have also countered those proposals with our own proposals on key U.S. priorities, including eleven new Rules proposals since March 2006. For example, we have recently tabled proposals on prohibited subsidies, circumvention, new shipper reviews, transparency and due process, WTO dispute settlement, and perishable and seasonal agriculture.

If confirmed, I look forward to working with you to advance our Rules proposals, and to ensure that U.S. trade laws remain strong and effective.

6) Amb Schwab, ending the Arab League Boycott of Israel is of key importance to this Committee and to the Senate as a whole. Saudi Arabia has repeatedly pledged to end its boycott of Israel, though has failed to follow through on its commitments.

During accession negotiations to the World Trade Organization, Saudi Foreign Minister Saud al-Faisal assured Secretary of State Condoleezza Rice that it would apply Most-Favored-Nation status to all WTO members, including Israel. When Saudi Arabia formally joined the WTO it did not invoke the non-application provision with respect to any country. USTR then issued a statement, highlighting that "Saudi Arabia is legally obligated to provide most-favored-nation treatment to all WTO Members, including Israel. Any government sanctioned activity on the Boycott would be a violation of Saudi Arabia's obligations and subject to dispute settlement. This legal obligation cannot be changed."

Saudi officials, however, have stated that the Kingdom intends to maintain the boycott despite WTO membership. Just this week, Saudi Arabia is participating in the Arab

League Boycott meeting in Damascus, designed to find new ways to tighten the boycott against Israel.

If you are confirmed, what specific steps will you take to ensure that Saudi Arabia meets its legal obligations?

What will the USTR do if Saudi Arabia fails to meet these obligations?

Answer: The Administration and USTR have been consistently firm and aggressive in opposing the boycott in all its forms. We have used all of our trade tools, including FTA negotiations, TIFAs, WTO accessions and high level advocacy with partners around the region, including Bahrain and Saudi Arabia to end the boycott. I assure you that USTR considers this a top priority and if I am confirmed we will continue to push aggressively along these same lines.

We have seen occasional press reports quoting unnamed Saudi officials saying that WTO membership does not mean an end to the boycott of Israel. We have raised these issues directly with senior Saudi officials on several occasions, both in Riyadh and in Washington. In all cases, we have received assurances that Saudi Arabia fully understands and remains committed to its WTO obligations, including the obligation to treat all WTO Members according to WTO rules.

At our request, the U.S. Embassy in Riyadh contacted senior Saudi officials to inquire about Saudi Arabia's attendance at the recent Arab League meeting in Damascus and to emphasize that attending such a meeting does not seem consistent with Saudi Arabia's WTO obligations. The Saudi government replied that Saudi Arabia routinely attends Arab League meetings and simple attendance at a meeting related to the boycott was not a violation of the Kingdom's WTO commitments; rather, the Saudi representative would take the opportunity to explain the Kingdom's WTO commitments to other members. We will take every opportunity to stress to Saudi officials -- as did the Embassy -- that attendance at these kinds of meetings reflects poorly on their obligations to WTO members.

If I am confirmed, I will ensure that USTR continues to insist that Saudi Arabia live up to its WTO commitments. Saudi Arabia confirmed explicitly in its Working Party Report that it did not apply the secondary and tertiary aspects of the boycott. This commitment is subject to WTO dispute settlement. If we learn that U.S. firms face application of the secondary and tertiary aspects of the boycott, we will immediately bring this practice to the attention of Saudi officials and request government action to stop and reverse the illegal requirement, as required by their WTO commitments. If appropriate, we could raise these practices in the WTO. If the Saudi government continues to apply the primary boycott, and the Israeli government believes that Saudi Arabia is not treating goods and services of Israel according to WTO rules, it could pursue WTO dispute settlement. The United States could support Israel in such a case.

SENATOR SCHUMER:

1. As I mentioned during the hearing, on May 15th, for the first time, China “fixed” the value of the yuan below 8 yuan to the dollar. By “fixing,” I mean the value at which the Chinese central bank sets the yuan before the start of the day’s trading. This was an important move, a largely symbolic move, but still an important move if it portends more movement to come. Though the yuan was “fixed” above 8 again this morning, a step backwards.

I understand that it is not the job of the USTR to negotiate currencies, though in responding to a question asked by Senator Baucus on the issue of China you said you “call things as you see them.” Are China’s actions an example of currency manipulation in your opinion? How does USTR intend to monitor the currency issue and enforce WTO commitments?

Answer: USTR does not have the mandate or the technical expertise to make judgments on exchange rate issues and we will leave that to the Treasury Department. That said, Secretary Snow has said that he is extremely dissatisfied with the slow and disappointing pace of reform of the Chinese exchange rate regime. The United States, along with the G-7, the IMF, and the Asian Development Bank, have all called on China to implement greater exchange rate flexibility. The Treasury Department examined China’s currency policies in its Foreign Exchange Report that was released on May 10. In the final analysis, the Treasury Department was unable to conclude that China’s intent has been to manage its exchange rate regime for the purposes of preventing effective balance of payments adjustment or gaining unfair competitive advantage in international trade. The Treasury Department can give you a detailed explanation of their reasons for drawing this conclusion. The Treasury Department remains intensively engaged, both bilaterally and multilaterally, in getting China to move quickly to a more market-determined flexible exchange rate.

As for enforcement in the WTO, in our view initiating a WTO case on this matter would place China in the position of defending, rather than reforming, its currency regime. In addition, a currency dispute would be a first at the WTO and would therefore have an unpredictable outcome and take a relatively long time to reach completion. We believe it is more constructive to work with China towards reforming its regime, and in particular that we should allow for Treasury to continue its intensive program of engagement with China.

2. Earlier this year the office of the USTR released a comprehensive top-to-bottom report focusing specifically on trade with China. I was displeased to see that the most egregious violation of free trade practices, China’s currency manipulation, was only mentioned in a mere foot note.

I would like to know two things concerning this report. First, do you think that the issue of Chinese currency should be given a more prominent section of USTR's next review of trade policy towards China? How large of a problem do you see China's currency practices when placed in the larger context of trade with China? Is it the most serious problem, in your view? Second? Third?

Answer: The Top to Bottom Review was focused on issues relating to trade policy. Exchange rate policies, together with other macroeconomic factors including savings and investment rates, do have an impact on trade and on current account balances, and greater exchange rate flexibility in China and East Asia is a key component of addressing global imbalances. However, engagement on currency issues is the responsibility of the Treasury Department. USTR is focused on addressing our very serious trade policy issues with China, including: continued Chinese barriers to some U.S. goods and services; failure to adequately protect intellectual property rights; unreported and extensive government subsidies and preferences for its own industries; and insufficient transparency.

Given the range of factors involved, it is difficult to assess the relative importance of China's exchange rate policies in effecting trends in the U.S.-China trade relationship. However, I would note that while the bilateral deficit with China has increased significantly, the share of the U.S. global trade deficit represented by the Asia Pacific Rim as a whole (including China) has actually fallen from 57% in 1999 to 43% in 2005. This is because China has become the preferred location for final assembly for goods previously assembled in other Asian economies, and China's share of the total value-added in a product exported to the United States is often small. As a result, the major effect of an appreciation of China's exchange rate relative to the dollar would likely be a shift of the final assembly of these exports back to other Asian economies.

3. I understand that China's banking and financial services sectors are currently undergoing some changes to prepare for the phasing-out of certain limitations on December 11, 2006. I also understand that China is not always the fastest mover when it comes to implementing change, and I am greatly concerned that the Chinese government may not be ready to allow foreign majority shareholder stakes when these restrictive barriers are phased out at the end of this year.

Could you please explain specifically what steps are being taken to ensure that China will comply with the phasing-out of the barriers to ownership and operations in financial services?

Answer: The USTR and the Department of Treasury, along with other United States government agencies, have been reaching out aggressively to remind China that we expect their full compliance with the phase-out of financial services restrictions that they agreed to as part of their WTO commitments.

First, at the WTO, the United States continues to meet with China as part of the ongoing Doha GATS negotiations, in both bilateral and plurilateral (collective) negotiations, to discuss various issues connected with China's commitments. Our most recent negotiations took place in April of 2006.

The United States has also been an active participant in the WTO Transitional Review Mechanism for China, which has met each year since China's accession to the WTO (most recently in the Fall of 2005). We have stressed that China must fully implement all of its WTO accession commitments, including the phase-outs.

Moreover, in April of this year, the United States took part in China's first WTO Trade Policy Review, which was yet another opportunity for the United States and other exporting countries to emphasize the importance of China's compliance with all of its financial services commitments.

We recognize you have a particular interest in banking. Regarding that sector, we are closely monitoring China's commitment to phase-out all restrictions by December 2006. We have expressed concern to the Chinese regarding the ability of foreign financial institutions to establish Chinese-foreign joint banks (joint ventures), specifically in the case in which the foreign financial institution seeks to buy shares in a state-owned bank that is being privatized. The United States and other WTO Members have urged China to relax any limitations on the amount of shares that a foreign institution could buy in a state-owned bank under privatization.

The U.S. Government also has held several regulatory dialogues with China to discuss a range of issues that are designed to promote good regulatory practices in China and further support China's effective implementation of its GATS commitments. These dialogues have taken place within various fora, including the Treasury-led Joint Economic Committee (JEC) and its technical level Financial Sector Working Group. In addition, the USTR-led JCCT Insurance dialogue, which is a critical venue to address China's commitments in the insurance sector, met in May and December of 2005. We are working to set up the next meeting

4. As you know, I am concerned about reciprocity. The U.S. financial services sector is internationally competitive, employs about 6 million Americans, boasts a trade surplus, and would benefit enormously from a commercially meaningful WTO financial services agreement. For these reasons, many believe it ought to be a priority for the Doha negotiation to secure commitments from key emerging-market economies, such as Brazil, India, and Indonesia that would give U.S. firms access to those markets that is comparable to what foreign firms currently enjoy in the U.S. market.

Do you agree that this should be a priority, and if so, can you please bring me up to date on the progress that the USTR and Treasury team have made in achieving this objective?

Answer: Significant improvements in financial services market access, particularly in Brazil, India, Indonesia and other key emerging markets, is a top U.S. priority in the WTO Doha services negotiations. USTR and Treasury are engaged at all levels to convince WTO members that they must improve their financial services offers, including through bilateral and plurilateral (collective) negotiations taking place in Geneva and through outreach to capitals.

Although many emerging markets continue to link their willingness to make improvements in their offers on financial services and other key service sectors to progress in agriculture and other areas of the Doha agenda, since the Hong Kong Ministerial last December we have seen a greater level of engagement in the negotiations among many of the emerging markets, including the WTO members you have highlighted. Greater numbers of emerging markets have begun to send their financial services experts to the WTO negotiations and some of these countries have indicated their willingness to remove certain other restrictions in the next iteration of the offers which are due by July 31, 2006. The United States will continue to press our trading partners to make all necessary further improvements to their offers to reach the high standards of access -- both for investors and cross-border suppliers -- expected by the U.S. financial services industry.

5. Under current WTO rules, rebates of value-added taxes on exports are not considered export subsidies, but rebates of income taxes are. The disparity in treatment between the direct taxes in the U.S. system and the indirect taxes of many of our trading partners is an important factor in the huge and growing U.S. trade deficit. Congress long ago recognized the inequity of this situation, and wants to try to fix it through trade negotiations.

What is the status of this issue, and what do you intend to do to address this disparity in the Doha Round negotiations?

Answer: Pursuant to the Trade Promotion Authority negotiating objective to address this issue, in March 2003, the United States submitted a paper to the Rules Negotiating Group identifying the differing treatment of direct and indirect taxes under the WTO Subsidies Agreement rules. While recognizing that this distinction has existed in the GATT/WTO subsidy rules for some time, the United States stated its position that an essential part of the work of the Rules Group should be to work toward greater equalization in the treatment of various tax systems and noted that the current distinction risks ignoring the potential trade-distorting effect that certain practices involving indirect taxes may have on trade, and may unfairly disadvantage competitors operating under a direct taxation system. This proposal received no support. Nonetheless, we have continued to examine the issue within the government and have continued to consult with U.S. industry and staff of the relevant Congressional committees.

In this regard, while it is often asserted that the current rules favor countries with VAT regimes, economists seem to be of differing opinions. One study, for example, concluded

that there was a negative relationship between VAT systems and exports (see, M.A. Desai, and J.R. Hines, *Value-Added Taxes and International Trade: The Evidence*, November 2002, University of Michigan).

THE HONORABLE GORDON H. SMITH
HEARING ON THE NOMINATION OF SUSAN C. SCHWAB TO BE
UNITED STATES TRADE REPRESENTATIVE
May 16, 2006

Mr. Chairman, I want to thank you for holding this hearing. I also want to thank Ambassador Susan Schwab for being here and for her ongoing work to bring an end to the long-standing dispute with Canada over the valuation of softwood lumber.

The announcement last month of a possible settlement in the cross-border lumber dispute was certainly very welcome news and a great step forward. It could not have been possible without your personal involvement and the admirable efforts of the U.S. negotiating team. I am hopeful that Canada will use this agreement as an opportunity to move toward open and competitive timber and log markets, thereby permanently solving the dispute.

Madame Ambassador, you come to this job at a difficult and interesting time. Global trade liberalization talks have reached a critical point and many have already begun predicting their failure. I hope this is not the case - I hope that in the coming weeks and months we will see new life injected in the Doha round.

I believe in trade's ability to spread economic opportunity, and I believe that it is in our interest and that of global partners to reach a successful conclusion to the Doha round. The United States has shown ambition in the Doha round, yet I have seen little indication out of Geneva that our European friends share our commitment to the advancing the ideals of free trade. Our trading partners should know that we will not accept a bad deal because it is the only deal on the table.

I offer the same words of caution to Russia as it seeks to conclude bilateral talks with the United States leading up to its WTO accession. I believe that it is in the United States' interest to bring Russia into the rules-based, global trading system. However, the timeline for doing that depends on Russia's determination to resolve outstanding issues, including the protection of intellectual property rights.

Russia's current copyright piracy problem is one of the worst of any country in the world, resulting in losses of over \$1.7 billion last year for U.S. copyright businesses. In the last nine years, the number of optical disc plants producing illegal material and exporting it abroad has grown exponentially—from 2 plants in 1996 to 47 plants as of January 2006.

I voted for China's accession to the WTO, and for the last 4 ½ years I have watched as the Chinese government has failed to crackdown on the rampant theft of U.S. intellectual property. U.S. businesses have lost billions of dollars because China has refused to enforce its intellectual property laws. There is little appetite on this panel for another China. We need to see results from Russia before we can allow its accession to go forward.

Finally, Madame Ambassador, I want to congratulate you, Ambassador Portman, and the U.S. negotiating team for recently completing talks that will lead to Vietnam's accession to the WTO. I believe that this is an important step in strengthening ties and cooperation between our two countries.

In the coming weeks, I will be introducing legislation graduating Vietnam from Jackson-Vanik and extending Permanent Normalized Trade Relations. I look forward to working with you, the Chairman, Ranking Member and members of this Committee to advance this legislation.

