

House Ways and Means Committee – Questions for the Record

Questions from Rep. Nunes

1)

Q: Potential TPP and TTIP agreements would be a real boon for the U.S. economy, yet no trade agreement will help our exporters if we can't transport product to our global customers due to backlogs at U.S. ports. The problems resulting from work slowdowns at the major West Coast ports became an economic catastrophe, with costs to various industries soaring and backlogs that will likely take months to clear. Several exporters and importers from my district have been affected by the backlogs. It was reported on February 20th that the parties have come to an agreement to end the labor strife. Can you explain why the Administration allowed this dispute to reach crisis proportions and cost the American economy billions of dollars before it actively engaged with the parties to facilitate an agreement?

A: Facilitating the resolution of this dispute was a priority for the Administration because successful resolution of the negotiations was critical to both the ports – the employers, workers, and communities – and U.S. exporters, who depend on the smooth functioning of the ports to reach important export markets. Senior Administration officials were in touch with both parties from the very beginning of the negotiations and over the ensuing months. Following the joint request for the assistance of the Federal Mediation and Conciliation Service in January by the International Longshore and Warehouse Union and the Pacific Maritime Association, President Obama directed Secretary of Labor Tom Perez to travel to California, where he successfully worked with the parties to resolve their differences.

2)

Q: New Zealand produces around one-third of the global dairy trade each year and wants access to the U.S. market because of our lower prices. However, if we give the New Zealand dairy industry access to the U.S. market without opening other markets – like Japan and Canada – to our domestic dairies, American dairy producers could be devastated. Can you tell us your plan to make sure American dairy producers are not shut out from exporting to Japan and Canada?

A: We are working to provide new and expanding opportunities for U.S. dairy products in all of the TPP markets. This will be achieved through tariff elimination, deep tariff reductions, and new preferential tariff rate quotas. Gaining new and meaningful dairy market access in Canada and Japan are top priorities of the TPP agricultural market access negotiations. In addition, we expect to gain valuable new market access through the elimination of tariffs for U.S. dairy products exported to Vietnam and Malaysia. We are mindful of the sensitive nature of dairy imports in the United States, and are taking these sensitivities into account as part of the TPP negotiating process.

3)

Q: I know that India's localization requirement for boric acid is not a new issue to you. USTR's National Trade Estimate Report on Foreign Trade Barriers has listed India's localization requirement for boric acid exported from the United States every year since

2006. However, India continues to stall any satisfactory resolution on the matter. What can you do to ensure that India takes action to resolve this matter, since no action has been taken to this point despite repeated calls from Congress?

A: The United States continues to raise concerns with India, both bilaterally and at the WTO, on India's import licensing requirements for boric acid, particularly with respect to the burdensome end use certificates necessary to obtain the license for importation. In November 2014, we discussed this issue with India's Minister of Commerce and Industry during the United States-India Trade Policy Forum, where India provided additional information on application of the requirement, including a website that lists the government entities who may issue the necessary end use certificate. We remain very concerned that the opaque process and certificate requirement impede our exports to India, and we will continue our discussions with India to work to resolve this issue.

4)

Q: The European Union continues to pursue the creation of monopolies in markets around the globe, including right here in the United States, by excluding other countries from using common, generic food names like "parmesan", "bologna", "champagne", and "feta." Last year the House of Representatives sent a letter signed by 177 Members of Congress to you and USDA Secretary Vilsack expressing our concern for the continued use of cheese names. I wanted to thank you for your work on this issue and ask if you can provide an update on any recent developments.

A: The United States and the EU have long-standing differences over the scope and level of intellectual property rights protection for GIs. We continue to raise our strong concerns regarding the impact of the EU's GI policies on Made in America products, including those that use names such as "parmesan", "bologna", and "feta". Within the Transatlantic Trade and Investment Partnership (T-TIP) negotiations, we have been clear with the EU regarding our strong opposition to existing and future barriers. We will continue to press the EU to expand market access for U.S. producers into the EU and third country markets, including through the removal of barriers such as over-broad GI protection for EU products. Likewise, we have engaged extensively in numerous bilateral and multilateral negotiations, including the World Intellectual Property Organization negotiations to expand the Lisbon Agreement to include GIs, to promote and protect the interests of U.S. farmers and exporters, including trademark holders and producers who use common names.

5)

Q: Although we have a free trade agreement with Australia, U.S. beef has not been approved for sale to Australian consumers even though there is no legitimate science-based reason for the restriction. Meanwhile, Australia is one of the largest sources of beef imports for the United States, with over \$1 billion of Aussie beef consumed by Americans in 2013. What is USTR doing to resolve this issue with Australia so that American ranchers can compete on a level playing field with their Australian counterparts?

A: USTR is working closely with the U.S. Department of Agriculture (USDA) to regain access to Australia for U.S. beef and has raised this issue in a number of meetings with the Government of Australia. In August 2013, according to Australia's food safety import requirements, an audit team from Food Standards Australia New Zealand (FSANZ) conducted an inspection of U.S. production and processing facilities. The United States reviewed the draft report from that inspection, and the final report is currently being completed by FSANZ. In addition to the

FSANZ review, the Australian Department of Agriculture will also conduct a separate import risk analysis. USTR and USDA will continue to urge Australia to open its market fully to U.S. beef and beef products based on science, the World Organization for Animal Health guidelines, and the United States' BSE negligible risk status.

Questions from Rep. McDermott:

1)

Q: The current EU import ban on both frozen and fresh shellfish unfairly prevents U.S. shellfish harvesters from entering the European market. This has a particularly detrimental effect on certain American Indian communities along the West Coast who rely heavily on Geoduck export revenues and want to diversify their export markets. Recognizing SPS issues are going to be one of the toughest parts of the TTIP negotiations, what are you doing to ensure lifting the shellfish import ban is part of the SPS conversation? What, in particular, are you doing to open up the EU market to U.S. Geoduck?

A: The Administration is proactively working to reopen the European Union market to exports of U.S. molluscan shellfish. Recent bilateral technical exchanges by the U.S. Food and Drug Administration are helping to establish a path forward for U.S. exports of molluscan shellfish, including Geoduck, to the EU. The EU audited the U.S. food safety system for molluscan shellfish in late March 2015, an important next step towards resolution.

2)

Q: When USTR adopts a negotiating position for a trade agreement, does USTR have to follow current law?

A: The Administration's trade negotiating proposals are typically grounded in U.S. law and are developed taking into account advice and direction from Congress, consultation with our Congressionally-mandated advisory committees, discussion with other agencies within the Executive Branch, and public feedback.

3)

Q: There is a division on data exclusivity for biologics between current policy as outlined in the president's budget and current law. When there is a discrepancy between current policy and current law, does USTR have the ability to decide which position to follow?

A: The Administration develops trade negotiating proposals, typically grounded in U.S. law, after taking into account advice and direction from Congress, consultation with our Congressionally-mandated advisory committees, discussion with other agencies within the Executive Branch, and public feedback. Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. As is our traditional practice, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. We have been engaging intensively with TPP counterparts to try to resolve our differences on this issue.

4)

Q: Ambassador Froman, you testified that USTR’s “initial” position in the TPP negotiations on data exclusivity is based on current law. Is USTR open to changing its initial position based on the fact that the Administration, which USTR represents, is calling for a shorter period for data exclusivity for biologics than what current law requires?

A: Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. As is our traditional practice, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. We have been engaging intensively with TPP counterparts to try to resolve our differences on this issue.

5)

Q: If USTR is unwilling to consider changing its position about data exclusivity for biologics in TPP, can USTR please explain why?

A: As is our traditional practice, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. We have been engaging intensively with TPP counterparts to try to resolve our differences on this issue.

Questions from Rep. Reichert:

1)

Q: USTR is currently negotiating in the Trade in Services Agreement, or TiSA, with dozens of countries which make up 70% of global services trade. The United States is the most competitive services exporter in the world, with a growing trade surplus in services. However the WTO rules governing services trade (GATS) were negotiated more than 20 years ago – before the Internet was used widely. TiSA is an overdue opportunity to update the rules to 21st Century standards and create an international environment that allows American companies to press their advantage. Where does TiSA stand among the Administration’s trade negotiating priorities?

A: TiSA is a priority and presents an opportunity to negotiate state-of-the-art trade rules aimed at promoting fair and open trade across the full spectrum of service sectors – from telecommunications and technology to distribution and delivery services. TiSA is also a venue to take on new issues confronting the global marketplace, such as restrictions on cross-border data flows that can disrupt the supply of services over the Internet – a rapidly expanding market for U.S. small businesses and entrepreneurs.

2)

Q: I am encouraged by the level of engagement between our governments at all levels since Prime Minister Modi came to office in May 2014. President Obama's visit as the Chief Guest for the Republic Day celebration was remarkable and historic. A major outcome of the engagement so far has been a goal, set during the September 2014 Obama-Modi summit, to quintuple bilateral trade. Unfortunately, that goal is unreachable if India does not level the playing field for American manufacturers, content creators, and innovators. In fact, the ITC recently found that U.S. exports to India would increase by two-thirds and U.S. investment in India would double if India removed a variety of barriers affecting American exporters and innovators, including high tariffs and non-tariff barriers, forced-localization measures, technology transfer requirements, and lack of effective intellectual property protections. What steps is the President taking to deliver increased market access in India?

A: In the September 2014 joint statement between President Obama and Prime Minister Modi, the United States secured India's commitment to engage on trade and investment concerns through the new Dialogue on Promoting Investment in Manufacturing and to engage on intellectual property concerns through a new high-level Working Group. At the minister-level United States-India Trade Policy Forum (TPF) in Delhi in November 2014, USTR raised concerns about several regulatory and market access barriers inhibiting U.S. exports, and India committed to structured work plans for continued engagement in 2015 on (i) promoting investment in manufacturing, (ii) intellectual property, (iii) agriculture, and (iv) services. The President's most recent engagement with Prime Minister Modi in January 2015 resulted in India's commitment to transparency and to stakeholder consultations on policy matters concerning intellectual property protection. We are also working with our Indian counterparts to assess the prospects for moving forward with discussions on a high-standard bilateral investment treaty.

The Administration will continue to press the Indian government to implement the market opening reforms necessary to increase bilateral trade and U.S. goods and services exports to India.

3)

Q: U.S. companies face substantial market access barriers in the Indian marketplace. One such restriction the government of India imposes is the ability of foreign businesses to sell directly to Indian consumers over the Internet. This restriction limits U.S. foreign direct investment (FDI) in India and access for Indian customers to goods and job opportunities. In light of the deepening engagement with India, including the President's trip in January, can you outline what USTR is doing to encourage the Indian government to liberalize FDI in e-commerce?

A: The Obama Administration continues to urge the Government of India to adopt measures that help promote an open and welcoming investment climate for business-to-consumer (B2C) e-commerce. As part of these efforts, I have stressed to the Government of India on numerous occasions, including in the context of the United States-India Trade Policy Forum, that market liberalization in the B2C e-commerce sector can provide broad economic benefits to both the United States and India in terms of potential investment and job creation, and also provide greater consumer choice.

4)

Q: Washington State’s agriculture industry is well positioned to be a big beneficiary of a well-negotiated TPP agreement. Our fruit, potato, and wheat growers have been very keenly interested in making use of our coastal advantage to deepen our access to the Asia-Pacific region. Our dairy companies have also been eager to tap into new markets in Canada that they are largely locked out of right now. What update can you provide on those very challenging discussions and whether we’re likely to see a final result that balances new U.S. commitments with comparable new opportunities to those large markets?

A: U.S. agricultural exports to the 11 other TPP countries totaled \$63 billion in 2014, accounting for 42 percent of total U.S. agricultural exports to all destinations. Through the TPP negotiations, we are working to build on this already strong foundation and deliver new and meaningful market access opportunities for U.S. agriculture, including for wheat, fruits and vegetables, and dairy products. We expect this outcome to be achieved through a combination of tariff elimination, deep tariff reductions, and new preferential tariff-rate quotas. We are pressing Canada for a meaningful outcome on dairy, poultry, and eggs. We are mindful of the sensitive nature of dairy imports in the United States, and are taking these sensitivities into account as part of the TPP negotiating process

5)

Q: I also want to underscore the importance of achieving strong provisions for intellectual property in our trade agreements. IP protections are critical for American innovators who lead the world in technology and create new medicines that improve and save lives. For example, 12 years of biologic data protection, such as is reflected in U.S. law, provides the appropriate balance to encourage investment in research. What is your strategy for ensuring a successful outcome in the TPP on IP — and how can we help?

A: We share your commitment to obtaining strong standards of IPR protection and enforcement that are grounded in U.S. law and that will stand alongside those of other U.S. FTAs in the Asia Pacific region. Biologic drugs offer great potential for new treatments and cures that will benefit all of humankind, and this sector also is one in which U.S. companies are leading global innovators and competitors. As is our traditional practice, the U.S. approach to trade negotiations has been to base U.S. proposals on existing U.S. law, where the current standard is 12 years. In the TPP negotiations, views vary on the best term of data protection for biologics, and standards also vary across the TPP region. Some TPP countries currently have no data protection for biologic drugs, while some have five years and others have eight. We have been engaging intensively with TPP counterparts to try to resolve our differences on this issue.

6)

Q: In remarks last June, you highlighted data localization requirements as a significant problem for U.S. services companies working to expand into foreign markets and compete globally. Specifically, you stated:

“Restrictions on the flow of data across borders or requirements that companies duplicate their IT infrastructure in a country in order to serve that market makes it harder for companies of all sizes, based in all countries, to compete, and for buyers of all types to connect.”

I agree with you, and applaud you for your efforts to ensure that such barriers are addressed in ongoing trade negotiations, including the TPP. However, I am concerned that TPP won't fully address these barriers for U.S. financial services companies (insurers, reinsurers, banks, and electronic payments services providers). Will the TPP explicitly prohibit our trading partners from requiring U.S. financial services firms to set up local data centers as a condition of doing business in their markets? If not, this is a serious concern. Will your office work with mine to ensure that this omission is not repeated in other trade negotiations, such as TTIP and TiSA?

A: The significant increase in localization barriers to trade around the world is of serious concern to the Obama Administration. We are advancing efforts to reduce and prevent the proliferation of localization barriers to trade, including restrictions on data flows and requirements to establish infrastructure domestically, through the full range of bilateral, multilateral, and regional fora.

7)

Q: Is lifting the frozen and fresh shellfish import ban a part of the TTIP SPS conversations? If so, can you describe what actions you are taking to open up the EU market to U.S. geoduck?

A: The Administration is proactively working to reopen the European Union market to exports of U.S. molluscan shellfish. Recent bilateral technical exchanges by the U.S. Food and Drug Administration are helping to establish a path forward for U.S. exports of molluscan shellfish, including Geoduck, to the EU. The EU audited the U.S. food safety system for molluscan shellfish in late March 2015, an important next step towards resolution.

8)

Q: You have often spoken of strong intellectual property (IP) rights and enforcement as important not only to economies, but also to society. For example, patents incentivize the development of innovative medicines and copyrights protect works of cultural value. In the TTIP, both the United States and the EU are already home to robust IP regimes. For that reason, TTIP provides an important opportunity for the two sides to demonstrate international leadership and to establish minimum benchmark standards that the United States and the EU should seek in future trade agreements with third parties. Even though the United States and the EU have strong systems in place to protect and enforce IP, each also faces challenges to the protection of those intellectual assets elsewhere in the world. How can the United States and the EU use TTIP to address critical issues surrounding the erosion of IP rights by our trading partners?

A: T-TIP provides an opportunity to build on the shared transatlantic commitment to strong IPR protection and enforcement, consistent with our respective systems, to enhance our joint leadership in this area and to continue our work to promote those high standards, including in other markets. Our T-TIP objectives seek to build on our common IP strengths and successes to address IP issues in our own markets, while promoting good policies in third countries and international organizations as well. We are working with the EU in T-TIP on developing mechanisms to build upon our long history of cooperation and to enhance our coordination on IPR issues globally.

9)

Q: Nearly two years ago the government in Bogota published a decree requiring Colombian consumers to purchase and scrap an old heavy-duty truck before they can register and use a new heavy-duty truck. This extraordinary regulatory burden has had a significant, negative effect on American truck manufacturers. Sales are down 70% since the decree was published. That translates into nearly half a billion dollars in lost exports. What tools has USTR employed to remove this technical barrier to trade? Are there any next steps?

A: We have been pressing the Government of Colombia to address this issue. The United States has sought to address this issue in multiple fora and at multiple levels, including in the negotiations on Colombia's membership in the OECD. Both USTR and other U.S. Government agencies have voiced strong concerns on this issue with senior Colombian officials. We are continuing to press for a comprehensive solution as soon as possible.

Questions from Rep. Boustany:

1)

Q: You and I have had numerous conversations about the importance of TPA and the role this legislation plays in the ongoing TPP negotiations. From the conversation during the hearing, I think it was clear that many of my colleagues agree. Without having TPA in place, do you believe other countries have an incentive to place their best offers on the table?

A: The Administration has been clear that TPA is a critical part of our trade agenda and will continue to work with Congress throughout the legislative process to pass TPA legislation with as broad bipartisan support as possible. TPA conveys that the United States is negotiating with one voice and that there is support both in Congress and the executive for moving ahead. Our trading partners are following our political process and our policy process closely. And as a result, we've been able to continue to work in parallel to move the TPP agenda forward at the same time as we move forward with Congress towards bipartisan trade promotion authority.

2)

Q: Additionally, it was clearly highlighted during the hearing that the Trans Pacific Partnership will offer incredible opportunities for U.S. businesses and working Americans. Can you describe the issues/provisions/chapters for which negotiations have been completed – as well as those that remain outstanding?

A: As in all trade negotiations, nothing is agreed until everything is agreed. However, we have made significant progress across many chapters and issues where the text is stabilized. For example, we have worked through most of the issues on the chapters related to small- and medium-sized enterprises, development, cooperation and capacity building, competitiveness, and regulatory coherence. We also have made good progress on other issues related to non-tariff barriers, services-related rules, and other issues. But we are still actively working to negotiate strong outcomes in a variety of other areas, including intellectual property rights, state-owned enterprises, and market access.

3)

Q: What is the status of bilateral negotiations between the United States and Japan? What has been agreed to and what remains to be negotiated? In what areas in the overall TPP talks has Japan been supportive of U.S. negotiating positions?

A: In the overall TPP talks, the United States and Japan are working closely to reach agreement on high standard rules and coordinating closely to bring other TPP countries on board..

Regarding the bilateral negotiations between the United States and Japan, we are pursuing a two-prong strategy on motor vehicles — working to keep our auto and truck tariffs in place for as long as possible, while addressing the wide range of non-tariff measures that have impeded access to the Japanese market for U.S. autos. Japan has agreed that the timetable for eliminating U.S. motor vehicle tariffs will be the longest for any product in the TPP. With respect to non-tariff measures, we are making good progress to address issues including regulatory transparency, standards, certification, financial incentives, and distribution. We are also pursuing commitments for strong and accelerated dispute settlement procedures with stiff penalties in the event of noncompliance.

Regarding our bilateral market access negotiations on agriculture, TPP is providing the United States with an opportunity to expand the already strong position that U.S. agricultural products enjoy in Japan’s market. Japan’s market has long been one of the most protected in the world. In TPP, Japan will go further than it has gone before in terms of opening its market. Our primary objective is to secure full tariff elimination. Where that outcome is not achievable, we are working with Japan to secure outcomes designed to provide new and commercially meaningful access for America’s farmers, ranchers, and food processors.

4)

Q: Congress recently enacted legislation as part of the Defense Authorization bill expressing strong support for the Jones Act, and in particular recognizing its importance to national security. The U.S. maritime industry is an important segment of the Louisiana economy. We are aware that the EU and other foreign nations are continuing to aggressively press the U.S. to include the Jones Act and other maritime matters in trade agreements.

You told this Committee last year “this Administration has continuously ensured that the application of the Jones Act is permitted under each of our trade agreements” and that as you “continue to participate in discussions where this issue may arise, including trade agreement negotiations, [the Administration] will continue to take this position.”

It is important to me and to the Congress that we resist any efforts by foreign nations to undermine our maritime laws, such as the Jones Act. Can I get your assurance that, as you have in the past, you will continue to exclude the Jones Act and other maritime matters from trade agreements?

A: Our negotiating counterparts understand our longstanding sensitivity about domestic cabotage and other activities covered by the Jones Act statutes, and they know that those laws and related measures are exempted from the WTO Agreement and all of our previous FTAs. Having consulted with Congress, as well as industry and labor groups, we do not foresee a change in this position.

5)

Q: As you know, I am a strong free trade advocate and am proud to be working with the large U.S. export community to help pass the TPP agreement. However, Malaysia and Vietnam as well as other nations engaged in the TPP negotiation don't always respect the rules of market economics and free trade. For example, both nations have a strategy and millions in funding from their governments for developing a shrimp industry that follows the Asian national champion model. This unfair market distorting approach is problematic to domestic wild caught shrimp processors, important constituents in my Gulf of Mexico district.

What are you doing in the TPP negotiation to eliminate subsidies of this nature and would you be willing to work with me to better highlight these problematic numbers in the shrimp industry as an example of egregious government subsidies overall by these two nations? And, would you be willing to work with me in eliminating these subsidies in the TPP negotiation? Can something be done on this issue in either the fish subsidy or the state owned enterprise negotiations or both?

And I want to ultimately make sure that any nation that might accede to TPP such as Indonesia and Thailand move toward the market standards in the shrimp arena required of our processors and harvesters. If these foreign subsidies are not brought under control, the survival of the US shrimp industry, an important economic and cultural contributor to the Gulf region will be in jeopardy.

A: The WTO Agreement on Subsidies and Countervailing Measures provides remedies to counter foreign subsidies that cause adverse effects to a U.S. industry. More details on the subsidies at issue and the negative effects they may be causing would be needed to determine the possible remedies under the WTO Subsidies Agreement. I would be happy to have my office work with your office further on this particular matter.

6)

Q: China's leadership continues to pledge that the market will play a greater role in China's economy, yet government actions, including use of China's Anti-Monopoly Law, continue to advance industrial policies in a coordinated manner.

What is the Administration's strategy for addressing China's use of the AML as an industrial policy tool? Isn't it time to develop a clear, transparent strategy that marshals the expertise of U.S. trade, competition and commercial diplomacy agencies?

More specifically, recent Joint Commission on Commerce & Trade (JCCT) and Strategic & Economic Dialogue (S&ED) outcomes suggest modest progress on transparency and procedural fairness, but what is the Administration's plan in 2015 to follow up on the discriminatory substance of AML enforcement and M&A review decisions that are fundamentally inconsistent with international best practice and serve to further staid Chinese industrial policy objectives—all to the detriment of American companies competing not only in China but around the world?

A: Over the last few years, there has been a proliferation of Anti-Monopoly Law (AML) cases against U.S. companies in a number of different sectors. This is a serious concern for us.

Across the Administration, we have been pursuing a robust strategy to convey to China that AML enforcement must be transparent, non-discriminatory, and limited to addressing harm to competition. We are closely monitoring China's implementation of the AML and have been in regular contact with U.S. companies on the range of AML issues that affect the business climate in China. We want to ensure that U.S. firms are not singled out for AML investigations, and we have expressed concern to China, for example, about China AML agency actions indicating that there was inappropriate treatment of U.S. firms.

The Administration has made important progress. At the 2014 Strategic and Economic Dialogue, China committed that the objective of competition policy is to promote consumer welfare and economic efficiency, and the enforcement should be fair, objective, transparent, and non-discriminatory. At the December 2014 U.S.-China Joint Commission on Commerce and Trade, China made more specific substantive and procedural commitments. For example, China committed that all businesses shall be treated equally and that any enforcement actions will address harm to competition and not promote individual competitors or industries. China also committed to increase the ability of counsel to attend meetings with AML agencies, and to provide more transparent penalty procedures and competition-based remedies. The U.S. Government will continue to work with China in 2015 to ensure that competition-based factors must guide enforcement and to urge China to abide by commonly-accepted best practices.

7)

Q: How do you plan to use the ongoing BIT negotiations to address serious Anti-Monopoly Law enforcement concerns as well as a range of challenges that U.S. investors confront in China, including (1) competing with unfairly subsidized and otherwise state-advantaged enterprises (SOEs and SSEs), (2) discriminatory and non-transparent standards setting, (3) data localization requirements, and severe and growing restrictions on cross-border data flows, etc.? My colleagues and I would appreciate a detailed response about what modifications you plan to make to the Model BIT in your negotiations with China to ensure that the market access and level playing fields that are promised by the BIT are not comprised by limited coverage and/or loopholes in the current text.

A: The United States is pursuing a high standard BIT with China that would require China to make major economic reforms and would help to address key concerns of U.S. investors in the China market. We are continuing to engage in analysis and intensive consultations to ensure that the BIT text, as well as the "negative list," will adequately address U.S. stakeholders' concerns, including with respect to SOEs and other top priority issues in the Chinese market.

8)

Q: The United States and European Union protect foreign investments through systems of jurisprudence, rights to equitable treatment, and fair and impartial hearings of disputes. I think many industries here in the U.S. fully support the right of governments to regulate in the public interest, for example, in the field of environmental protection or consumer health.

Do you support an investment chapter containing strong investment protections that ensure fair and equitable treatment of investors; full protection and security of investments; a prohibition on expropriation of investments; prompt compensation when expropriation occurs; free transfers of capital; and access to reliable, independent, international third-party dispute resolution mechanisms (e.g., investor state arbitration)?

A: Ensuring that Americans doing business abroad are treated in a fair and non-discriminatory manner is an important objective of our trade negotiations, as is ensuring access to an effective mechanism for resolving investment disputes. In keeping with these objectives, and as we do in all our trade agreements, the United States is seeking the inclusion of procedures for fair and transparent settlement of investor-State disputes, while ensuring that the provisions of the agreement safeguard legitimate government regulatory interests. The basis for our investment proposals in trade agreements is the U.S. Model Bilateral Investment Treaty, which is available on the State Department's website, and which was the result of an extensive, multi-year congressional and public consultation process.

9)

Q: As you know, Louisiana is home to much of our nation's oil and gas industry. Throughout recent conversations, it has been raised to me by a number of energy companies who would like assurance from USTR that the Administration will negotiate agreements that open up the U.S. and other markets for more capital investment and trade in goods and services and that do not also import additional regulation.

Ambassador Froman, could you provide us with assurances that USTR continues to negotiate agreements such as TPP and TTIP so that the accords work in favor of American businesses by opening up markets for investment and trade while not also undermining U.S. sovereignty with regards to regulations?

A: It remains our goal and expectation that T-TIP and TPP will both be comprehensive agreements that provide non-discriminatory access for U.S. goods, investors, and services providers without compromising the ability of the U.S. federal government, states, or localities to regulate in the public interest

10)

Q: The auto industry looks very different today than it did 40 years ago. International companies like Toyota, Honda, Nissan, Hyundai, Kia, VW and BMW employ 100,000 Americans, produce 45 percent of all the vehicles made here each year, and export almost a million vehicles annually from their U.S. facilities.

When you assess the potential impact of trade agreements like the TPP or TTIP, do you think about how it would affect all of the companies (and their employees) that make up the U.S. auto industry as it exists today – or do you look at a smaller group of companies? If the latter, why?

A: When we assess the potential impact of our trade agreements, including with respect to TPP and T-TIP, we consider the potential impact on the U.S. automotive industry as a whole. Cross-border transactions are vital to the auto industry, which accounts for nearly 10 percent of global trade. In 2014, the United States exported more than \$200 billion in autos and auto parts, accounting for 12.4 percent of U.S. goods exports. Since 2009, the U.S. automotive industry has undergone an industrial renaissance, with employment increasing steadily, up 40 percent (250,000 jobs) in the past six years, supported by growing U.S. exports. From 2009 to 2014, U.S. auto exports more than doubled to \$69 billion, and U.S. exports of auto parts increased by more than 80 percent to \$131 billion, with exports of both autos and auto parts now at all-time record highs. U.S. auto exports to our current FTA partner countries have increased by 513,000

vehicles, to 1.5 million vehicles, and U.S. auto parts exports to our FTA partner countries have increased by \$43 billion.

11)

Q: The Transatlantic Trade and Investment Partnership (TTIP) can improve upon the already deep relationship between the world's two largest financial markets, the European Union and United States. Addressing financial services broadly in TTIP will make economic growth and job creation more efficient, reducing costs and ultimately benefiting consumers in both the US and EU.

Do you agree that the inclusion of a financial services framework, including regulatory cooperation, is an essential part of a successful TTIP? What is USTR currently doing to advance American interests in this regard?

A: In T-TIP, as in all of our free trade agreements, the Administration seeks robust market access commitments for financial services to help protect U.S. financial services suppliers from discriminatory treatment in foreign markets.

The United States is pursuing an ambitious and comprehensive agenda on regulatory cooperation in the financial sector – multilaterally in the G-20, the Financial Stability Board, international standard-setting bodies, and bilaterally with the European Union in the Financial Markets Regulatory Dialogue. The Administration believes that financial regulatory cooperation should continue to make progress in those existing and appropriate bilateral and multilateral fora in parallel, alongside the T-TIP negotiations.

12)

Q: As you know, the ITC recently found that U.S. exports to India would increase by two-thirds and U.S. investment in India would double if India removed a variety of barriers affecting American exporters and innovators, including high tariffs and non-tariff barriers, forced-localization measures, technology transfer requirements, lack of effective copyright protection, and discriminatory application of its patent laws. We understand that reform will not come overnight, but can you explain to me your short term goals to lower India's many and varied trade barriers?

A: During the November 2014 United States-India Trade Policy Forum (TPF), India committed to structured work plans for continued engagement in 2015 on intellectual property (IP), agriculture, services, and promoting investment in manufacturing. With respect to IP, the United States agreed to work jointly with India on, among other issues, improved copyright enforcement, enhancing access to healthcare, and bolstering trade secrets protection. In manufacturing, India agreed to engage with the United States on best practices concerning procedures for notice and comment on new rules, single window clearance, and conformity assessment. India also agreed to reconcile disparities in labeling regulations affecting U.S. agricultural exporters, and expressed a willingness to promote foreign participation in services sectors of interest to the United States. Additional engagement on these and other issues is planned in the coming months.

13)

Q: I believe it is universally agreed that India needs to improve IPR. I know that USTR is in the middle of the 2015 Special 301 Report comment period. Last year's report

maintained India's position on the Priority Watch List, but designated India for an Out-of-Cycle Review. Your OCR process, completed in December, focused entirely on India's engagement and not at all on substantive progress. So, the 2015 Special 301 process must assess changes by the Modi Administration in IPR policy and enforcement, if any have been made. Can you summarize any such changes by the Modi Administration?

A: The 2014 Out-of-Cycle Review of India was initiated to evaluate progress toward achieving meaningful, sustained, and effective engagement on intellectual property (IP) issues with India. Over the last several months, USTR has had multiple engagements with Indian Government officials at both the staff and senior levels on the broad range of IP issues of concern to the United States and to U.S. stakeholders. Through that engagement, the Indian Government has discussed plans to institutionalize high-level engagement on IP issues, pursue a specific work program, promote stakeholder consultation, and deepen cooperation and information exchange with the United States on IP-related issues under the U.S.-India Trade Policy Forum.

14)

Q: The past eight months have been immensely encouraging for U.S.-India relations. I see a relationship emerging here that opens up an unlimited potential for collaboration, for enhanced competitiveness of both our economies. One area where India is primed for increased competitiveness is in content creation. Poor copyright enforcement has stunted India's entertainment industry. India is the largest source in Asia of pirated movies, so its major movie releases only spend an average of about a week in theatres. India's music sector grosses only about \$100 million annually. Can you update us on steps USTR is taking to bolster India's copyright enforcement?

A: To address issues related to copyright enforcement, USTR has invited India's experts in this area to work with U.S. experts to identify what steps both governments can take towards this common objective. We plan to identify the successful enforcement efforts in both countries, examine common challenges posed by technological advances, discuss how governments can better share information and cooperate between national, state, and local authorities, and review input from the private sector, as appropriate. By cooperating on efforts to improve copyright enforcement, including through the sharing of information and experiences from each country's own enforcement efforts, India and the United States can help reduce the scope for infringing behavior.

15)

Q: India has tariffs of more than 100 percent on such products as autos, textiles and distilled spirits as well as government procurement provisions that force local production of solar energy and telecommunications equipment. Can you update us on progress towards creating broad new market access for U.S. exporters in India, perhaps to start with a BIT?

A: The Obama Administration has strongly encouraged the Indian government to reduce tariffs and remove local content requirements, arguing that such reforms will help not only U.S. companies, but also facilitate the foreign direct investment that India is seeking to attract. For example, under the U.S.-India Dialogue on Promoting Investment in Manufacturing, USTR is encouraging India to adopt trade and investment policies that will attract investment to India without the use of local content or local manufacturing requirements. In line with President Obama and Prime Minister Modi's January 2015 joint statement, the Obama Administration is

also working with India to assess the prospects for moving forward with high-standard bilateral investment treaty discussions.

16)

Q: One of the areas of focus in Congressional deliberations over Trade Promotion Authority (TPA) will be improvements in the rule of law and strengthening the operation of legal regimes in the trading partners of the United States. In the case of Mexico, Mexico's executive branch continues to make important strides in passing progressive reforms which should assist in furthering an environment conducive to foreign direct investment. However, U.S. investors continue to find the Mexican judicial system at the state and local level to be characterized by costly inefficiencies, and legal proceedings that run on for years without resolution. This has been recognized periodically by the State Department in its annual Investment Climate Statement and Human Rights Reports. How can we expect TPP to address the problems that American investors face in Mexico, particularly when it comes to responding to these challenges in the Mexican judicial system – that is, systemically improving the rule of law in Mexico – beyond existing investment protections?

A: We are seeking in TPP to complement balanced investor protections, such as those against discrimination and uncompensated expropriation of property, with opportunities for cooperation and consultation. Separate from the negotiations, USTR actively monitors the trade and investment climate in the markets of our trading partners; works closely with stakeholders to identify problems they may be facing in those countries; and engages regularly with officials from these countries to encourage policies and actions that support trade and investment with the United States.

Questions from Rep. Roskam:

1)

Q: I am heartened to see the energy that the Modi government has brought to India. Of particular note is Prime Minister Modi's recognition of the importance of improving India's trade and investment climate. To be sure, many barriers still remain, but the government's acknowledgement and engagement has been a breath of fresh air. You accompanied the President during his recent visit to India. What is the Administration doing and what are you doing to translate this renewed bilateral engagement into action that can lead to concrete progress and real results on longstanding trade, investment, and intellectual property challenges?

A: In the September 2014 joint statement between President Obama and Prime Minister Modi, the United States secured India's commitment to engage on trade and investment concerns through a new Dialogue on Promoting Investment in Manufacturing and to engage on intellectual property concerns through a new high-level Working Group. At the minister-level United States-India Trade Policy Forum (TPF) in Delhi in November 2014, USTR raised concerns about several regulatory and market access barriers inhibiting U.S. exports, and India committed to structured work plans for continued engagement in 2015 on (i) promoting investment in manufacturing, (ii) intellectual property, (iii) agriculture, and (iv) services. The President's most recent engagement with Prime Minister Modi in January 2015 resulted in India's commitment to transparency and to stakeholders' consultations on policy matters concerning intellectual property

protection. We are also working with our Indian counterparts to assess the prospects for moving forward with high-standard bilateral investment treaty discussions.

The Administration will continue to press the Indian government to implement the market opening reforms necessary to increase bilateral trade and U.S. goods and services exports to India.

2)

Q: Ambassador Froman, the WTO Trade Facilitation Agreement is a landmark deal that will simplify customs procedures and facilitate the movement of goods across borders. When the agreement is fully implemented, it could provide more than \$1 trillion in stimulus to the world economy. And perhaps just as importantly, the TFA is an important barometer for the institution of the WTO, as the first multilateral trade agreement to be concluded in its history. You and the team at USTR played a vital role last year in ensuring the TFA was implemented, after the WTO hit a roadblock with India in adopting the protocol of amendment. Now that the TFA is on its way to ratification, what steps will the United States be taking -- both bilaterally and unilaterally -- to help countries ratify this agreement and begin working toward fulfilling the commitments under each category?

A: The Administration is committed to ensure that the TFA enter into force by the end of 2015. We were pleased to notify the WTO of the U.S. acceptance of the TFA in January and are proud to take a leadership role in encouraging other WTO Members to ratify the agreement as soon as possible so as to ensure rapid entry into force of the agreement.

In addition to outreach through U.S. Embassies in WTO Members, the United States, along with important co-sponsors, is working to advance this goal through important regional groups such as APEC and Summit of the Americas and through cooperation with the East African Community (EAC) under the recently signed U.S.-EAC Cooperation Agreement. USAID continues to provide a vast range of trade facilitation-related implementation support, including work aimed at advancing implementation of the TFA by conducting WTO Trade Facilitation needs assessments in over 27 countries. In Nigeria, Vietnam, and Central America, for example, U.S. missions conducted workshops focused on implementation of the WTO TFA. Further, we are working closely with USAID on how to best support those countries that are committed to implementation.

Questions from Rep. Becerra:

1)

Q: As you know our U.S. film industry, including the independents is a major generator of jobs and a major export. Almost three years ago, the U.S. and China reached an agreement to address China trade violations related to entry of U.S. films into the China market. I am concerned that China has not taken steps to implement the February 2012 agreement's provisions to allow more distribution of U.S. films outside of the state owned theatrical distribution monopoly, the China Film Group. Additionally, there is another informal quota for imported film that is thwarting implementation, as well as the introduction of new restrictions on TV and VOD that are not consistent with overall trade obligations. What can the U.S. do to get China to comply with its trade agreements in this area?

A: Following the February 2012 agreement between the United States and China with regard to certain rulings relating to the importation and distribution of theatrical films the two sides signed a memorandum of understanding (MOU) providing for substantial increases in the number of foreign films imported and distributed in China each year, along with substantial additional revenue for foreign film producers. More revenue-sharing U.S. films have been imported and distributed in China since the signing of the MOU, with a corresponding increase in box office revenue for U.S. producers. However, China has not yet fully implemented its MOU commitments, including with regard to the commitment to open up film distribution opportunities for imported films that are distributed in China on a flat-fee basis rather than a revenue-sharing basis. As a result, USTR has been pressing China for full implementation of the MOU.

2)

Q: We have an entire Foreign Agriculture Service to promote U.S. agriculture exports, but for the core copyright industries, the primary benefit they get from trade agreements is strong copyright provisions. Can you commit to working for the strongest possible copyright provisions in TPP, building on those in the KORUS FTA, which received broad support in Congress and from the U.S. business community?

A: USTR is working in TPP to secure strong standards of IPR protection and enforcement that are grounded in U.S. law. To this end, we have been closely consulting with Congress, industry, and other stakeholders.

Questions from Rep. Schock:

1)

Q: I understand that the WTO will rule on the U.S. Country of Origin Labeling rules for muscle cuts of meat as early as this spring, and both Canada and Mexico have threatened retaliation against U.S. Products if they win. If this happens, what's your plan to avert such harmful retaliation against the farmers in my district and producers of numerous products across the country? How would a finding of non-compliance for the U.S. affect its status as a trading partner with Canada and Mexico while in the midst of finalizing the Trans-Pacific Partnership?

A: The Appellate Body has informed the parties that the WTO will issue the report "no later than May 18." When the report is issued, USTR and USDA will work closely with Congress to evaluate what if any changes are necessary and determine the best way to implement necessary changes. Were the Appellate Body to find that the current COOL requirements are WTO-inconsistent, we would consider what steps the United States would need to take to come into compliance.

2)

Q: Over the past few months, there have been a growing number of marketing restrictions proposed for processed foods that may be derived from biotechnology crops (for example, genetically-modified soybeans). They include labeling requirements or outright prohibitions on entering the market. This is despite the findings of numerous well-respected regulatory agencies and organizations, including the U.S. Food & Drug Administration, the American Medical Association, the World Health Organization, Health Canada, the U.S. Department of Agriculture and the National Academy of Sciences, that have found genetically modified food ingredients are safe and there are no negative health effects associated with their use.

These proposed restrictions are not based on sound science and create unnecessary barriers to US food exports. I appreciate USTR's efforts to address non-science based regulations in foreign markets such as China and the EU that impede trade in biotechnology products, including commodities produced from biotechnology. However, I am concerned about an increasing number of trade restrictions being placed on processed food that may be derived from biotech crops, including import bans and unjustifiable labeling requirements, by foreign governments, such as Taiwan and Sri Lanka. Can you provide me with an update on how the Administration plans to defend U.S. food exports from these non-science based regulations globally, which are increasingly becoming a serious market access barrier for U.S. companies?

A: Agricultural biotechnology is critical to helping feed the world's growing population and reduce the impact of agriculture on the environment. Central to the U.S. government's effort is a comprehensive strategy to address trade disruptions resulting from differences in national approval systems for agricultural products derived from modern biotechnology. We will continue to execute this strategy at the highest levels bilaterally as well as through international organizations.

3)

Q: President Obama has said that the US-Korea FTA should be the model for future trade agreements. I firmly agree with the President on this point and believe this is particularly important with regard to international IP norms. We were able to secure, for the first time in the US-Korea FTA, a provision to criminalize illicit camcording in theaters. This was a major accomplishment as 90 percent of infringing copies of films currently in theatrical release and found online and on the streets can be sourced back to illicit camcords. This is source piracy and if we are serious about tackling the theft of U.S. intellectual property then we must make great efforts to tackle source piracy in our trade agreements. Do I have your commitment that you will secure a commitment to criminalize illicit camcording in the TPP?

A: We are working to address illicit camcording in a variety of contexts, including TPP. More generally, we are working to secure strong standards of IPR protection and enforcement that are grounded in U.S. law.

4)

Q: As you know, tariff rates on footwear are burdensome for both consumers and businesses. For example, 99.9% of children's shoes are imported and the tariff rates can be as high as 67.5%, adding significant cost for families buying shoes for their kids. The U.S. footwear industry employs hundreds of thousands of Americans and adds the majority of the value to footwear through design, marketing and retail; yet these businesses paid \$2.7 billion in footwear duties in 2014 and \$400 million in duties from TPP countries alone. Eliminating these duties would help both families and businesses, so can you update us on the status of the TPP negotiations as they relate to footwear?

A: USTR has worked closely with U.S. footwear manufacturers, brands, and importers to develop a comprehensive understanding of sensitive and non-sensitive footwear products, so that we can appropriately address their priorities and concerns in the tariff treatment of footwear. As we negotiate with our TPP partners, we are continuing to consult closely with stakeholders on how to

structure tariff elimination offers to balance their interests and to achieve the broad tariff liberalization that is the key objective of TPP.

5)

Q: The idea that trade policies and regulations should be based on sound science is a pillar of free trade, so it's concerning when U.S. FTA partners and international organizations push for regulations that target a specific industry without good science behind them. For example, Chile appears ready to implement a restrictive nutrition labeling regime without scientific evidence that the proposed regulations will achieve the stated goal of reducing obesity. The regulations would affect over 90% of processed food and beverage products, many of which are exported from the U.S. What is the Administration's view of these specific proposed regulations, and do you think it sets a dangerous precedent for other U.S. FTA partners?

A: U.S. FTA partners are bound by both their free trade agreement obligations and the World Trade Organization agreements. The United States is working closely with Chile to understand the most recent version of its proposed nutrition labeling regime and ensure it complies with all relevant FTA and WTO obligations.

6)

Q: I want to touch on the negotiations with the EU on TTIP. There are a wide range of issues being discussed, but the Administration has taken financial services regulatory issues off the table for the agreement. I understand that there are parallel processes that are ongoing, like the Financial Market Regulatory Dialogue, but I share the concerns of the EU and the industry that this dialogue isn't moving us closer to resolving regulatory inconsistencies. Would you be willing to take another look at including financial services within TTIP?

A: Financial services are a critical part of our transatlantic economic relationship. In T-TIP, as in all of our free trade agreements, the Administration seeks robust market access commitments for financial services to help protect U.S. financial services suppliers from discriminatory treatment in foreign markets.

The United States is pursuing an ambitious and comprehensive agenda on regulatory cooperation in the financial sector – multilaterally in the G-20, the Financial Stability Board, international standard-setting bodies, and bilaterally with the European Union in the Financial Markets Regulatory Dialogue. The Administration believes that financial regulatory cooperation should continue to make progress in those existing and appropriate bilateral and multilateral fora in parallel, alongside the T-TIP negotiations.

Questions from Rep. Reed:

1)

Q: There are a lot of dairy farm and dairy processing jobs in my district. Trade has been having a growing impact on their businesses as U.S. dairy exports have grown. TPP seems to offer some sizable opportunities for them – especially into the Canadian & Japanese markets. What are you doing to ensure that whatever access the U.S. grants on dairy

imports to the major dairy exporters in TPP will be balanced out with commercially meaningful new access into the Canadian and Japanese markets?

A: We are working to provide new and expanded opportunities for U.S. dairy products in all of the TPP markets. This will be achieved through tariff elimination, deep tariff reductions, and new preferential tariff rate quotas. Gaining new and meaningful dairy market access in Canada and Japan are top priorities of the TPP agricultural market access negotiations. In addition, we expect to gain valuable new market access through the elimination of tariffs for U.S. dairy products exported to Vietnam and Malaysia. We are mindful of the sensitive nature of dairy imports in the United States and are taking these sensitivities into account as part of the TPP negotiating process.

2)

Q: I want to thank you for working with USDA on the agreement announced on January 26, 2015, to further open the Chinese market to U.S. apple exports. This agreement is expected to boost apple exports by \$100 million per year. This is exactly the type of effort that can help apple growers in New York State. What more can be done with TPP and other trade agreements to get similar results for apples and other agricultural products?

A: In TPP and T-TIP, we expect to eliminate all tariffs on U.S. apples. For example, Vietnam, to which we currently export \$33 million of apples, currently has a tariff of around 10 percent, and Malaysia, to which we export \$15 million, currently has a tariff of five percent. The EU, to which we export about \$13 million of apples, has a tariff of 10 percent. With tariff elimination, U.S. apples would be more competitive in those countries.

In addition to eliminating tariffs, TPP and T-TIP can level the playing field for U.S. exports through the use of internationally-accepted, science-based standards. Using risk-based standards, countries can remove unwarranted barriers to facilitate trade in food and agricultural products.

The Obama Administration is also focused on enforcing current trade agreements. For example, on March 18, USTR initiated a WTO dispute against Indonesia for its unwarranted import licensing regime, which is restricting the import of U.S. apples and other horticultural products.

3)

Q: I know you are committed to bringing down or eliminating tariffs but I am also concerned with non-tariff barriers, where countries use regulatory frameworks to keep out U.S. exports and diminish trade flows. These non-tariff barriers impede U.S. exports ranging from NY state apples, to manufactured goods to financial services. Can you assure me that you will make an effort to address regulatory issues across all sectors in the TPP and TTIP? How does the Administration plan to address financial services barriers in Europe in an enforceable and ambitious manner in TTIP?

A: The Administration is working to address non-tariff barriers both through our free trade agreement negotiations, including TPP and T-TIP, and our other bilateral, regional, and multilateral engagement.

For example, transparency and good governance are key priorities for the Obama Administration. In TPP, we are negotiating specific transparency and due process provisions. These elements are already an integral part of the U.S. system. Through TPP and T-TIP we are seeking to promote a

similar level of transparency throughout the EU and the Asia-Pacific region. We are also actively working to secure high standard commitments on technical barriers to trade and SPS measures.

As another example, the significant increase in localization barriers to trade around the world is of serious concern to the Obama Administration, and we are advancing efforts to reduce and prevent these barriers, including restrictions on data flows and requirements to establish infrastructure domestically, including in bilateral, multilateral, and regional fora.

In T-TIP, as in all of our free trade agreements, the Administration seeks robust market access commitments for financial services to help protect U.S. financial services suppliers from discriminatory treatment in foreign markets. We believe that work on financial services regulatory issues should proceed in parallel, alongside T-TIP through the existing mechanisms for regulatory cooperation, including the bilateral Financial Markets Regulatory Dialogue.

4)

Q: I am proud that my district is home to Corning Incorporated. Corning recently expanded its plant and workforce to produce filters for mobile emissions technology. These products face staggering tariffs as high as 17.5 percent. Eliminating tariffs like these is crucial to helping our U.S. manufacturers. Who are the major global traders in environmental goods that are not party to the Environmental Goods Agreement negotiations, and what is your plan to try to bring them into the process? How do we avoid a free-rider problem when this agreement is implemented?

A: The United States is proud to be leading the way in advocating for a robust Environmental Goods Agreement (EGA) that eliminates tariffs on a wide range of environmental technologies. Currently, 17 WTO Members are participating in the EGA negotiations, which account for nearly 88 percent of global trade in environmental goods. While all the major global traders in environmental technologies are already participating in the negotiations, we expect that other Members that share our ambition will join the negotiations as well. We expect to use a “critical mass” model under which participants will agree that the agreement will enter into force once a “critical mass” of Members have ratified the EGA.

5)

Q: Amb. Froman, your colleagues at the Federal Reserve who are implementing the Volcker Rule have thus far been appropriately mindful of the international trade obligations of the United States, in particular NAFTA. How is your office working with the Treasury and Federal Reserve to make sure they are aware of U.S. NAFTA obligations?

A: We work closely with other U.S. government agencies regarding issues relevant to their work. Treasury co-leads, with USTR, our financial services negotiations and the monitoring of financial services obligations under our trade agreements, and leads the U.S. delegation in meetings of the NAFTA Financial Services Committee (in which the Federal Reserve and certain other regulators also participate). Treasury consults and interacts with the Federal Reserve and other financial regulators on a regular basis regarding the negotiation and implementation of the banking and other, non-insurance financial services provisions of our agreements.

Questions from Rep. Young:

1)

Q: I remain particularly concerned about the unfair trade practices in Indonesia that are hurting domestic information and communications technology (ICT) companies. Indonesia constitutes a major market and huge opportunity for this sector, with the world's 4th largest population and a 5.3 percent GDP growth rate. Yet the Indonesian government is blatantly maintaining a highly burdensome, non-automatic import licensing regime and onerous local content requirements that must be satisfied by American ICT products such as mobile devices in order to be sold in the Indonesia market. These measures are contrary to the international trade rules and significantly impede the market access of one of this globally-competitive industry. These market access barriers are listed in USTR's Section 1377 Review on Compliance with Telecommunications Trade Agreements and National Trade Estimate Report on Foreign Trade Barriers. I am aware that you have personally communicated concerns to your Indonesian counterparts, but could you please explain what else you plan to do to change the trajectory of Indonesian protectionism? The USG must not allow U.S. companies to be pushed out of the Indonesian market by unfair trade practices, and it must not suggest to other countries that such egregiously unfair trade practices will go unchallenged.

A: Burdensome import licensing and localization requirements can adversely impact U.S. interests. For example, in recent years, Indonesia has put in place localization requirements to compel the development of certain areas of its domestic IT industry. We have raised concerns with these policies both in the WTO and bilaterally, including in high-level meetings with the new administration in Indonesia, and are also working with other WTO members to press Indonesia to address these concerns.

2)

Q: The West Coast Port slowdown significantly hampered domestic industry and their ability to export goods. The slowdown had far reaching implications for employees of retailers, processors, the transportation sector and for farmers, ranchers, & consumers, including many stakeholders in Indiana's 9th District. The ramifications of this labor dispute will continue to detrimentally impact U.S. consumers and businesses alike for an extended period of time. Can you please elaborate how this Administration will utilize the experiences of this dispute settlement process to ensure that future disagreements are prevented from reaching a similar elongated impasse?

A: Facilitating the resolution of this dispute was a priority for the Administration because successful resolution of the negotiations was critical to both the ports – the employers, workers, and communities – and U.S. exporters, who depend on the smooth functioning of the ports to reach important export markets. Senior Administration officials were in touch with both parties from the very beginning of the negotiations and over the ensuing months. Following the joint request for the assistance of the Federal Mediation and Conciliation Service in January (by the International Longshore and Warehouse Union and the Pacific Maritime Association, President Obama directed Secretary of Labor Tom Perez to travel to California where he successfully worked with the parties to resolve their differences.

Questions from Rep. Renacci:

1)

Q: If China improved its IPR protection to the same level as we afford in the United States, U.S. exports to China would increase by \$21.4 billion, sales by U.S. companies in China would increase by \$87.8 billion, and 2.1 million jobs would be created in the United States. What is the Administration doing to address the theft of our intellectual property by China? Are there additional tools that you need?

A: Data show increasing U.S. sales to China and higher licensing revenues flowing from China to the United States, but more needs to be done to better protect and enforce IP rights in China. Through the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue, the Administration presses China on a range of IP issues, from trademarks and geographical indications, to copyrights, trade secrets and patents, and pernicious technology localization pressures. We engage China in technology and other issues via the U.S.-China Innovation Dialogue. We employ our Special 301 authority to identify key concerns and provide China with an annual IP Report Card. Our yearly Notorious Market Report features various markets in China. We also use multilateral and plurilateral fora, including the OECD, APEC, and WIPO, to address problems related to China IP protection and enforcement. In addition to these established mechanisms, we also engage in multiple ad hoc bilateral engagements in order to address new and evolving issues as they arise.

2)

Q: The U.S. Department of Defense and U.S. Department of Energy have identified several critical minerals whose availability is restricted but which provide essential functionality for defense systems and renewable energy production, respectively. Likewise, the European Commission has identified 20 substances it considers to be in short supply and essential for the European economy. The metal beryllium is an example, which DoD has designated as the only critical and strategic material for national security, and the EC has recognized as critical. Our European trading partners are proposing workplace exposure and REACH (Registration, Evaluation, Authorization, and Restriction of Chemicals) regulations that will restrict the use of beryllium and other critical minerals, essentially creating non-tariff trade barriers for U.S. exports to Europe. It is my understanding support for either of these restrictive regulatory policies is not uniform within EU Member States or Brussels. Have you or your office objected to these trade restrictions on U.S. critical minerals? What is USTR doing on a bilateral basis to oppose these proposed regulations before they become legal requirements?

A: U.S. exporters have expressed concern about a number of issues related to the treatment of beryllium within the European Union. The Administration is engaged with stakeholders on this issue and is carefully examining it. The U.S. Government has urged the European Commission and individual Member States to ensure transparency in its process, including by providing opportunities for meaningful input by stakeholders. We have also stressed the importance of taking a science-based approach.

Questions from Rep. Holding:

1)

Q: All prior US trade agreements to the TPP have allowed apparel made in the U.S. that used a global “gimped” yarn to maintain its benefits under the FTA. We have companies making apparel in the United States today, in North Carolina, in Arkansas, in Alabama,

that incorporate global gimped yarns. Is USTR seeking to negotiate a rule of origin for all apparel products that will allow the use of global gimped yarns (yarns in HTS chapter 56)?

A: We are negotiating a yarn-forward rule of origin for textile and apparel products in TPP with appropriate flexibility in cases where yarns and fabrics are not available in commercial quantities in the TPP region. We believe this approach will help to achieve our objective of encouraging production and trade within the free trade area while also expanding export opportunities for yarn fabric among the TPP countries.

2)

Q: In the past, the Administration and USTR have proposed including language in TPP that would expressly recognize that countries have the right to regulate tobacco in order to protect the public health. Previous reporting has also indicated that USTR has sought, in the past, language that would carve out tobacco from the regulatory transparency and due process provisions in TPP. Both of the proposals were met with bipartisan opposition in Congress. It is my understanding from conversations with you that the Administration is currently considering tobacco-specific language in TPP. Can you provide me an update on the status of any such proposals in the TPP negotiations?

A: The Administration is committed to an approach in TPP that protects the ability of the United States and other TPP countries to implement public health policies while simultaneously protecting and expanding opportunities for agricultural exporters. There is a wide range of views among the countries engaged in the negotiations about how best to accomplish this goal, and we will continue to consult with stakeholders and Members of Congress as we work to seek consensus on this issue.

3)

Q: Strong intellectual property protections are essential to the success of the U.S. and EU economies. In the United States alone, intellectual property-intensive industries account for over 50 million jobs, nearly \$6 trillion in output, and \$1 trillion in exports. What barriers for IPR-intensive trade in goods and services do U.S. companies face in the EU?

A: Both the United States and EU already have strong intellectual property (IP) rights protection and enforcement, as well as a successful track record of joint coordination. We are engaging extensively with a wide-array of U.S. stakeholders to identify IP-related concerns in Europe. Where specific IP challenges arise in the EU, we are reviewing those closely and consulting broadly on possible approaches.

4)

Q: In what areas is there potential for greater convergence between U.S. and EU IPR practices, and how can the United States and EU enshrine high levels of protection in those areas in which harmonization is not pursued? I'd be interested in hearing not only about patents, trademarks, and copyrights, but also about protection of trade secrets from disclosure by governments.

A: In T-TIP, both the United States and the EU share a strong commitment to intellectual property (IP) rights protection and enforcement. This includes developing targeted and value-added mechanisms to streamline the processes of applying for and protecting IP, so that these

processes are more efficient, easy to use, and cost-effective for stakeholders, whether they be companies, small businesses, universities, single inventors and creators, or others. T-TIP offers an opportunity to enhance the transatlantic environment for innovation and creativity. We are evaluating how our respective IP systems work and what we can do to ensure appropriate levels of protection.

Questions from Rep. Sanchez:

1)

Q: Along with many of my colleagues on this Committee and throughout the House, we have called on USTR and the White House to seek strong IP protections that are truly representative of a 21st century agreement for all U.S. industries. Given the breadth of this agreement, we cannot afford to get the substance of this agreement wrong, especially as we're dealing with countries that often have a poor IP environment, such as Canada. As it appears we're in the final throes of the negotiations, I'd like an update on how this process is evolving and how you intend to finalize a pact with strong and robust IP protection.

A: We are working in TPP to obtain strong standards of intellectual property rights protection and enforcement. To this end, we have been closely consulting with industry and other stakeholders, as well as with Congress.

2)

Q: You have frequently stated that the labor chapter of the TPP will include high labor standards. Will the TPP prohibit signatory countries from murdering, jailing, firing and disciplining its citizens who try to exercise these rights? How will you deal with countries such as Vietnam that will be out of compliance from day one?

A: Progress on labor rights in Vietnam is a key priority in our bilateral relationship. We have been consistent in our message to Vietnam that we cannot build the kind of strategic relationship both sides desire, including on economic and security issues, unless Vietnam does more to protect the labor and human rights of its citizens.

Vietnam's inclusion in the TPP negotiations presents an unprecedented opportunity to raise standards in a range of areas, including by making historic progress on labor rights and working conditions. The provisions that the United States is seeking on labor in TPP include the key May 10 requirement for each TPP country to "adopt and maintain" in its laws and practice fundamental labor rights as stated in the International Labor Organization's 1998 Declaration on Fundamental Principles and Rights at Work, including freedom of association and the right to collective bargaining. We are also seeking provisions in TPP requiring these laws to be effectively enforced and making all the obligations of the TPP labor chapter subject to the dispute settlement mechanism that applies to the rest of TPP.

We are working closely with Vietnam and other TPP parties to ensure that they are prepared to live up to the high-standard, enforceable commitments of a final agreement. Under TPP, Vietnam would be expected to undertake significant reforms, particularly in the area of freedom of association, but also concerning forced labor, child labor, and employment discrimination. The U.S. government has engaged closely with Vietnam to discuss needed reforms and will closely monitor Vietnam's continued implementation of these reforms, including the ability of workers to exercise freedom of association, after the agreement is in place.

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Q: USTR and the ITC both play major roles in ensuring American employers are protected from foreign companies that unfairly infringe on American products under Section 337's patent program. It's my understanding the ITC has been wrestling with how to address the continued filing of complaints by patent assertion entities that have an immaterial impact on the trade balance of the US, but effectively create a trade barrier for US employers. These companies don't make, buy or sell any products. They use the ITC, which is a trade body, to force American companies to pay high licensing and settlement fees rather than risk shutting down major product lines. For example, a case filed in 2012 would have shut down the importation of most American cars. This seems like a perversion of the intent of the statute, which is to protect domestic industry from unfair trade practices. Do you believe patent assertion entities are the types of companies that Congress should be protecting as a matter of U.S. trade policy?

A: The ITC is an independent, quasi-judicial federal agency with broad investigative responsibilities on matters of trade. In addition to other statutory responsibilities, the ITC conducts investigations under Section 337 of the Tariff Act of 1930 involving imported articles that allegedly infringe intellectual property rights or other unfair acts or unfair methods of competition in the importation of articles into the United States. Although USTR has authority, delegated from the President, to review certain ITC section 337 determinations for policy reasons, USTR's delegated review authority does not extend to matters of ITC procedure. In respect to the referenced ITC efforts to address issues posed by patent assertion entities, it is USTR's understanding that the ITC has initiated a still-ongoing pilot study. We defer to the ITC for an assessment of its work on this issue.