

**HEARING ON THE BIDEN ADMINISTRATION'S 2024  
TRADE POLICY AGENDA WITH UNITED STATES  
TRADE REPRESENTATIVE KATHERINE TAI**

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**HEARING  
BEFORE THE  
COMMITTEE ON WAYS AND MEANS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTEENTH CONGRESS**

**SECOND SESSION**

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**APRIL 16, 2024**

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United States House Committee on  
**Ways & Means**  
**CHAIRMAN JASON SMITH**

FOR IMMEDIATE RELEASE  
April 9, 2024  
No. FC-24

CONTACT: 202-225-3625

**Chairman Smith Announces Hearing on the Biden Administration's 2024  
Trade Policy Agenda with United States Trade Representative Katherine Tai**

House Committee on Ways and Means Chairman Jason Smith (MO-08) announced today that the Committee will hold a hearing on the Biden Administration's 2024 trade policy agenda with the United States Trade Representative, Ambassador Katherine Tai. The hearing will take place on **Tuesday, April 16, 2024, at 10:00 AM in 1100 Longworth House Office Building**.

In view of the limited time available to hear the witness, oral testimony at this hearing will be from the invited witness only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record can do so here: [WMSSubmission@mail.house.gov](mailto:WMSSubmission@mail.house.gov).

Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Tuesday, April 30, 2024**. For questions, or if you encounter technical problems, please call (202) 225-3625.

**FORMATTING REQUIREMENTS:**

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

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these guidelines will not be printed but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Please indicate the title of the hearing as the subject line in your submission. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

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

**ACCOMMODATIONS:**

The Committee seeks to make its facilities accessible to persons with disabilities. If you require accommodations, please call 202-225-3625 or request via email to [WMSubmission@mail.house.gov](mailto:WMSubmission@mail.house.gov) in advance of the event (four business days' notice is requested). Questions regarding accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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

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## **THE BIDEN ADMINISTRATION'S 2024 TRADE POLICY AGENDA WITH UNITED STATES TRADE REPRESENTATIVE KATHERINE TAI**

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**TUESDAY, APRIL 16, 2024**

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

The Committee met, pursuant to call, at 8:45 a.m., in Room 1100 of the Longworth House Office Building, Hon. Jason Smith [Chairman of the Committee] presiding.

Chairman SMITH. The meeting will come to order. Ambassador Tai, thank you for joining us today to discuss the Biden Administration's trade priorities. As always, it is a pleasure to welcome you back to your home, the Ways and Means Committee.

The last time you came before this committee, I was very optimistic about the work that we could accomplish together to deliver some real results for American workers, farmers, and manufacturers. Unfortunately today, I am less optimistic as the administration has continued to pursue a trade agenda that ignores Congress, to the detriment of the American worker and American leadership on trade.

The Ways and Means Committee has held field hearings across the United States where we have heard about how the administration has failed to secure our critical supply chains, level the playing field for American farmers and workers, and reassert America's global leadership role.

The United States is rapidly losing ground to China. We must act quickly to right the ship and put workers and American job creators at the center of an effective trade agenda. This starts with strict enforcement of all our existing trade agreements, especially the USMCA agreement.

Unfortunately, the Biden Administration has failed for the last 3 years to hold our trading partners accountable. It took years of congressional engagement to finally get this administration to bring a case against Mexico GMO corn ban. To make matters worse, when I speak to farmers in my home State of Missouri, they often refer to America as the world's breadbasket. But lately, they feel more like the world's cash cow.

You can understand my concern when the U.S. agriculture trade deficit reached a staggering \$21 billion, \$21 billion in 2023. This is even more alarming when you compare it to the years when President Trump was in office where the average trade surplus for agriculture products was over \$5.2 billion. U.S. agriculture pro-

ducers benefit when the administration aggressively pursues a trade agenda that prioritizes their interest, and when USTR goes to bat for them around the world. USTR must be far more aggressive in protecting the interests of American farmers.

Meanwhile, this administration has sat idly by while China continues to spread its milling global influence. You have asked for new tools in that fight, but you haven't even used the tools that you already have. You have failed to enforce the Phase 1 agreement, despite knowing that China is violating its end of the agreement. This administration has pursued no new cases at the WTO, no new Section 301 investigations. To top it off, we are now nearly 6 years into a 4-year review of President Trump's tariffs. Maybe it is time for the Biden Administration to just admit that he did something right.

The Ways and Means Committee stands ready to hold China accountable for its human rights abuses and predatory trade practices that devastate American jobs and communities. Tomorrow, this committee will advance legislation to make sure that countries like China can no longer use trade tools like *de minimis* to escape tariffs they rightfully owe. Additionally, we will counter China's growing influence in the Democratic Republic of Congo and its use of forced labor to harvest critical minerals. We will also propose reforms to the GSP Program specifically aimed at convincing countries to sever their own ties with China.

The administration has also unfortunately chosen to go it alone trade policy that consists of endless dialogues and unenforceable trade frameworks that fail to open new markets to American products and circumvent congressional constitutional authority over trade. A proactive, robust trade agenda that will actually deliver results can only be achieved when USTR and Congress work together, as the Constitution demands.

Your efforts to secure critical mineral deals in places like Japan, the EU, UK, and Indonesia have incensed both Republicans and Democrats on this committee, as well as in the other chamber. Again, we are left with no option but to advance legislation tomorrow to correct that. United States should not sit idly by while our workers and companies are taken advantage of, and I am not just talking about China. The European Union and Canada seek to tax and regulate our companies out of existence. This is completely unacceptable.

Unfortunately, it is clear the Biden Administration's focus has been misplaced. Rather than work to deliver for American workers, farmers, and small businesses, the administration appeases progressive activists to make trade woke and surrenders U.S. leadership on priorities like digital trade.

Let me be clear. We would prefer to work closely together to achieve these goals, and it is not too late to start. We remain willing to work with USTR to realign America's trade priorities and look forward to hearing your answers to our questions today.

Chairman SMITH. I am pleased to recognize the Ranking Member Neal for his opening statement.

Mr. NEAL. Thank you, Mr. Chairman. Let us welcome back Ambassador Tai, certainly one of the most talented and capable negotiators I have met during my long stay here in the Congress. De-

lightful is the word I think that we would use in terms of her raw talent. Also to point out that the template that she was the lead negotiator on, USMCA, was one of the most important trade agreements, if not the most accomplished ones, again, that has happened in decades. She worked with the Republican president at the time and a reminder, every Republican on this committee at the time voted for the agreement that she led the negotiations on with Bob Lighthizer on the Republican side.

We reached the agreement on rapid response, the right to organized labor, and environmental concerns. People said it couldn't be done, and all of our Republican colleagues at the time on this committee, as well as 95 percent in the House, voted for the legislation that she was the chief negotiator on and whom I spoke with almost every day for months.

I saw a headline in the Wall Street Journal recently, that generally doesn't lean in the Democratic direction, which said U.S. economy "is the envy of the world, and it expects to keep powering higher." Much of that has to do, I think, with Joe Biden's vision, and just as importantly, unemployment that has remained under 4 percent for the last 3-plus years. Putting workers and their families first, as Katherine Tai has done, when building an economy from the bottom up and the middle out, putting weight to the phrase made in America, she has embraced. Through targeted investments, we have supercharged domestic manufacturing, improved supply chain resiliency, all while creating millions of new jobs, 15 million to be exact.

For years to come, these successes will continue to unfold, but in the meantime, we also will return to our roots as a maritime nation. Bolstering our commercial shipping industry with comprehensive strategies to expand the sector, grow the workforce, and make sure that this is the next frontier of making it America, and I know we will work together on this initiative.

Our investment in combatting climate change, which is the largest in our Nation's history, is already ushering in hundreds of thousands of new good-paying jobs and spreading investments across our country. Success of late has shown how interconnected workers rights, environmental protections, and a growing economy are. Ensuring that our trade policies support our values, not just spoken but practiced, is critical. I am one who is grateful for Katherine Tai's leadership in these fronts.

The future is in front of us, and we all should be very proud of it. As our Nation's lead negotiator, you have fought to ensure that again that our workers and businesses have the tools they need to compete in today's global economy and strengthen relationships with our allies across the world.

Most recently at the WTO MC 13, you secured an agreement on ecommerce moratorium, and you are making continued progress on fish subsidies as I noted a moment ago.

The other big dimension that this administration and the trade representative have brought to these discussions is enforcement of existing trade agreements. Robustly enforcing our agreements is another way you put workers at the center of our trade policy. Again, with USMCA standing as the beacon of what is possible for labor environmental protections that were bipartisan in agreement.

We no longer have to be concerned that the very foundation of these agreements can be fractured going forward.

I credit much of this success to your vision. We are sure that your efforts will continue on our behalf, and we want to make sure that we will continue with a values-based trade policy working together. United by doing what is right for our people, we might be able to spread opportunity and prosperity for all members of the American family.

Thank you, Ambassador, and I yield back the balance of my time. Chairman SMITH. Thank you, Ranking Member Neal.

Today's sole witness is United States Trade Representative Katherine Tai. The committee has received her written testimony and it will be made part of the formal hearing record.

Ambassador Tai, you may begin when you are ready.

**STATEMENT OF KATHERINE TAI, UNITED STATES TRADE  
REPRESENTATIVE**

Ambassador TAI. Well, thank you so much, Chairman Smith, Ranking Member Neal, and members of this august committee. Good morning, and I appreciate the opportunity to discuss the President's trade policy agenda with each and every one of you.

The Biden-Harris Administration believes strongly that our economic policies should work to strengthen our middle class. In order to give all Americans a fair shot, we need to ensure broad-based access to economic opportunity, and our trade policy should be a tool that works together with our other economic policy tools to reach that goal.

Trade policy hasn't always worked this way. To respond to the many changes occurring in the modern economy, the world economy, and the world in general, we must bring a more open mind and be willing to innovate in the way that we approach trade policy by questioning and testing old assumptions, revisiting norms, and thinking creatively and strategically all at the same time.

In this new era, we increasingly measure our success in progress by the degree to which we are delivering real benefits to more Americans across our society no matter where you live, or whether you have a college degree. Our approach is one that addresses and advances the interests of all parts of our economy, and does not pit Americans against other Americans.

Let me give you some examples of what middle out, bottom up trade policy looks like. First, we are using trade to empower our workers because we know that they are the backbone of our economy. Their success is our success. This is about building our middle classes together with other countries, and not pitting them against each other. This is why we have prioritized strong labor commitments in all of our ongoing trade initiatives, including in our negotiations with Kenya and Taiwan.

This is also why we have been so focused on utilizing the USMCA's Rapid Response Mechanism, a key worker-focused feature of the modernized and reformed North American Free Trade Agreement that garnered robust bipartisan support.

Since 2021, we have used the Rapid Response Mechanism 22 times at facilities that span various industries from automotive and garments to mining and services. These cases have directly bene-

fitted 30,000 workers through new independent unions, new collective bargaining agreements, higher wages, back pay, and reinstatement for wrongful termination. The reason why this matters is because advancing workers' rights abroad strengthens and empowers workers here at home, because only then can they compete fairly and thrive in this global economy.

Our enforcement efforts are also motivated by the principle of inclusivity; that is, ensuring that all Americans enjoy the benefits of our trade policies.

With respect to the producers and workers in our steel industry, last year we secured a victory at the WTO that determined the illegality of the retaliatory tariffs that the PRC and Türkiye imposed in response to the U.S. Section 232 National Security Actions on Steel and Aluminum.

Separately through the USMCA, we are actively championing the interests of our farmers and agriculture producers. We have pursued two cases now against Canada's dairy tariff rate quota allocation measures, and we are currently in the midst of challenging Mexico's restrictive measures on biotech corn before a panel.

We are also opening markets for hardworking American families and communities, especially our rural communities. Through negotiations, our administration has secured over \$21 billion in new agricultural market access in the last 3 years. For example, after the U.S. and India terminated seven disputes at the WTO last year, India also agreed to remove retaliatory tariffs on several U.S. products. This means improved access for chickpeas, lentils, almonds, walnuts, and apples, benefitting farmers across the country, including Michigan, Oregon, California, and Washington. This means more market access for turkey, duck, blueberries and cranberries, benefitting our farmers in North Carolina, Pennsylvania, Virginia, Massachusetts, and Minnesota.

Trade should work for all Americans. Our goal is to stop pitting Americans against each other in our trade policy. This is why we are taking unprecedented steps to incorporate more voices into policy making. Just as you stay connected with your constituents in your districts, I have made a point of traveling the United States to hear from workers, farmers, and small businesses, and tribal leaders to better understand their hopes and aspirations, and learn how trade policy can address them.

I am also meeting with civil society and labor leaders, in addition to the big corporations and trade associations that have traditionally had access to USTR. My job is to represent the entirety of the United States' economy, not only those that can afford Washington lobbyists.

Our vision for a fairer future also applies to the international arena, because it turns out, we all want to grow our economies from the middle out and the bottom up. This is what drives our work at the WTO and in our ongoing negotiations, including with Taiwan, Kenya, and the Indo-Pacific. We are focused on economic engagement and collaboration efforts to drive durable economic growth, to build our middle classes together again, instead of pitting them against each other.

Over the course of the last several years, it has become clear that domestically and internationally we need an economy that is more

resilient, as you say, Mr. Chairman. That means supply chains that can adapt and rebound more quickly and easily from shocks and crises. Developing the tools to reduce dependencies and vulnerabilities and incentivize stronger supply chains is a major priority for USTR this year. We are gathering public input and will hold several public hearings on this. This effort will allow us to draw upon a comprehensive set of perspectives and experiences to help us identify and develop more trade policy solutions.

Part of this exercise includes developing more effective counter-measures to the PRC's unfair practices and their negative effects on our economy and workers, and I want to end on this note. For many years now, we have seen how the PRC's non-market policies and practices left unchecked have devastated many working communities and industries across our country, including many in your districts. Steel, aluminum, solar panels, batteries, electric vehicles, and critical minerals, just to name a few.

As the President said during his State of the Union address, this administration will continue to stand up to the PRC, and we are prepared to use our trade tools in this effort, including through new Section 301 action, and our 4-year review of the China Section 301 tariffs, which assesses ways to deploy tariff measures to more effectively and strategically address the harms from China's forced technology transfer policies, such as cyber theft and cyber hacking, and related imbalances and inequities in the U.S.-China trade relationship. This is also why I am closely reviewing the Section 301 petition I received last month from five national labor unions to initiate an enforcement proceeding to assess the harm to U.S. workers in the shipbuilding industry as a result of the PRC's acts, policies, and practices.

This administration is fighting every day to put working families first, rebuild American manufacturing, and strengthen our supply chains. We are using trade to give everyone a fair shot while working with our allies and partners.

I want to thank my USTR team serving in Washington, D.C., and around the world for their unwavering devotion and determination to serve all America.

Thank you.

[The statement of Ambassador Tai follows:]

**Testimony of Ambassador Katherine Tai Before the House Ways and Means Committee  
Hearing on the President's 2024 Trade Policy Agenda**

Chairman Smith, Ranking Member Neal, and Members of the Committee. I appreciate the opportunity to discuss the President's Trade Policy Agenda. Congress is our constitutional partner on trade, and I am delighted to be here to discuss our agenda and hear your views.

President Biden summed it up during his State of the Union Address last month—America is writing the greatest comeback story never told.

Our Administration's economic plan is leading our country in the strongest economic recovery amongst all developed nations. More importantly, we are doing so in a way that democratizes economic opportunity for more people.

We have shifted the conversation from focusing on the bigs to including and championing the interests of the smalls and the mediums. From trickle down to bottom up. From people as consumers only to people as workers also.

We are reorienting the economic system to strengthen the middle class.

The President's trade agenda is critical to this reorientation. In the past, trade policy primarily focused on and benefitted the largest stakeholders, but we are flipping that top-down approach on its head.

Trade is a tool to give all Americans a fair shot and ensure that our system is set up for inclusive and durable growth. Promoting healthy competition is critical to achieving this goal. This is why I am honored to serve as a member of the White House Competition Council, to align our trade agenda with our domestic economic tools to advance fair competition for more people.

It is also a critical tool for building robust supply chains that lower costs for American families, a goal I work to advance as a member of the President's Council on Supply Chain Resilience.

Asking old tools to solve new challenges—like economic insecurity, fragile supply chains, and a worsening climate crisis—is destined to fail. We must question assumptions, revisit norms, and think creatively and strategically.

In this new era, we increasingly measure success and progress by the degree to which we are delivering real benefits to more Americans across our society—no matter where you live or whether you have a college degree.

Our approach is one that addresses and advances the interests of all parts of our economy and does not pit Americans against Americans. Let me give you some examples of what middle-out, bottom-up trade policy looks like.

### **Empowering Workers Through Trade**

First, we are using trade to empower workers, because they are the backbone of our economy. Their success is our success.

We are incentivizing a race to the top so that we are not pitting our workers against those in other countries and regions. Fellow trade ministers tell me that they too want to build their economies from the middle out, and enacting and maintaining high labor standards is key.

This is why the United States has prioritized strong labor commitments in our ongoing trade initiatives, including in our negotiations with Kenya and Taiwan.

As part of this process, USTR has consulted extensively with labor stakeholders, in addition to the business community. We will continue to work with our trading partners and with you to ensure that our trade agreements work for workers.

This is also why we are using innovative tools with our trading partners to address harmful practices, such as forced labor. Our work with Japan through the Task Force on the Promotion of Human Rights and International Labor Standards in Supply Chains is one example.

This is a part of our Administration's broader strategy to fight for workers' rights around the world, including through the first-ever Presidential Memorandum outlining our commitment to worker rights globally, signed by President Biden last November.

Advancing workers' rights abroad also strengthens workers here at home. This is possible when we are not pitting our working communities against each other, but instead allowing them to compete fairly and thrive in this global economy. This is what it looks like to align our domestic and foreign economic priorities—a foreign policy for the middle class.

At a press conference in San Francisco on the launch of the Memorandum, I had the privilege to meet Rudy Gonzalez, Secretary-Treasurer of the San Francisco Building and Construction Trades Council. He spoke with such passion and conviction on why our approach is important to real, working people.

It is because of friends like Rudy and his colleagues that we are also focused on enforcing the labor provisions in agreements we already have. Trade agreements are not trophies to admire on shelves—they are tools to get us results. The United States – Mexico – Canada Agreement is a prime example.

When I worked for the Ways & Means Committee, I worked with many of you to create the USMCA's Rapid Response Labor Mechanism, and I want to share what it is doing for working people.

Since 2021, the United States has sought Mexico's review under the RRM 22 times at facilities that span various industries, including automotive, garments, mining, and services.

These cases have so far directly benefited 30,000 workers, provided five million dollars in backpay and benefits to workers, ensured wrongly terminated workers were reinstated, and helped secure free and fair elections in which workers selected independent unions to represent them.

Last July, I participated in a labor stakeholder forum on the margins of a USMCA FTC meeting in Mexico. There, I met Juan Gerardo Castor Puentes, a special delegate for the Mexican Workers' League.

It is a union that represents garment workers at a factory near the Coahuila-Texas border. He shared with me how important it was for governments to work together to fight for workers and their interests—how doing so is making a real positive impact on people's daily lives.

This not only affects workers in Mexico, it also empowers U.S. workers by reducing the incentive to unfairly ship jobs overseas.

There are many success stories to choose from, but I want to highlight the Teksid facility in Frontera, Mexico.

In that case, the United States requested Mexico's review of whether workers at the facility were being threatened or coerced into choosing a particular union, and whether workers were being subject to a state-level collective bargaining agreement that was inferior to a federal-level collective bargaining agreement. The company was also refusing to recognize the independent union that held the right to represent workers at the facility.

As a result of the RRM, 36 workers who had been wrongfully terminated were reinstated and given backpay. The independent union was given access to the facility and even paid dues that were previously withheld from workers' pay.

Shortly after the case was closed, the independent union negotiated additional benefits for workers, including a nine percent wage increase and a 6.8 percent increase in the overall value of non-wage benefits, as well as an increase in vacation days, bonuses, compliance with required overtime pay, and improvements to working conditions to address work-related injuries.

This is real positive change for these workers in Mexico, but also helps ensure that the good-paying jobs our Administration is creating stays here, in our communities.

This is how we are building up our working communities and middle classes together, giving them a fair shot to thrive in this global economy.

#### **Enforcing Trade Agreements for a Level Playing Field**

This is why enforcing the trade rules we have continues to be a priority this year for the Administration. We will continue to level the playing field for American workers and businesses. We are vigorously enforcing our trade agreements, defending American jobs, and making sure more people enjoy the benefits of trade.

For the USMCA, this extends to the interests and rights of our farmers and agricultural producers.

I know the agricultural biotechnology concerns with Mexico are important to our farmers, especially our corn producers. Last August, we established a dispute settlement panel under the USMCA. We are working to resolve our concerns and help ensure that American farmers can continue to access the Mexican market and use innovative tools to respond to climate and food security challenges.

I also know that many of you are concerned that Mexico is undermining American companies and U.S.-produced energy in favor of Mexico's state-owned utility and oil and gas company. We launched dispute settlement consultations under USMCA with Mexico to address those concerns and continue engagement with our stakeholders on developments.

On Canada dairy, the United States won a USMCA dispute on Canada's tariff rate quota allocation measures. However, Canada's revised policies did not fix the problem for U.S. dairy farmers, and we will continue to work with Canada to resolve our dairy industry's concerns.

We have also activated the tools for environmental enforcement under the USMCA by engaging in consultations with Mexico relating to the protection of the critically endangered vaquita porpoise, the prevention of illegal fishing, and trafficking of totoaba fish.

I also want to note that, last year, the United States prevailed at the WTO in the cases against the retaliatory tariffs the People's Republic of China (PRC) and Türkiye illegally imposed in response to the U.S. Section 232 national security actions on steel and aluminum.

These matters are a priority for USTR this year, and enforcement is one way we are fighting for American farmers, ranchers, producers, workers, and businesses.

We are also working tirelessly with trading partners to open markets for hardworking American families and communities—especially our rural communities—to get more wins.

#### **Wins for U.S. Agriculture and Rural Communities**

We signed an agreement with the EU to modify tariff rate quota (TRQ) allocations on several important U.S. products, including rice, wheat, and corn.

We revised the beef safeguard mechanism under the U.S. – Japan Trade agreement, to allow U.S. beef exporters to more reliably meet Japan's growing demand for high-quality beef. In 2023, U.S. beef and beef product exports to Japan were \$1.8 billion, accounting for more than 46 percent of Japan's total beef and beef product market.

We are shipping more fresh potatoes to Mexico now, beyond the previous limit of a 26-kilometer zone along the U.S.-Mexico border. U.S. fresh potato exports to Mexico, our largest export

market, grew from \$82.7 million in 2022 to \$117.4 million in 2023. This benefits U.S. potato growers from Idaho to Maine.

We also got major wins for our poultry producers—South Africa lifted restrictions on U.S. poultry and poultry products, and we reopened the Colombian market for U.S. poultry and egg products.

Specifically, let me highlight what we did to open the Indian market for our exports.

Last June, India and the United States terminated six WTO disputes, and India agreed to remove retaliatory tariffs on several U.S. products.

This means improved access for chickpeas, lentils, almonds, walnuts, and apples benefiting farmers across the country, including in Michigan, Oregon, and Washington.

Additionally, in September, India and the United States resolved our final outstanding WTO dispute, and India agreed to reduce tariffs on several U.S. products.

This means more market access for turkey, duck, blueberries, and cranberries benefiting farmers in North Carolina, Pennsylvania, Virginia, and Wisconsin.

We also worked with Japan to implement a new biofuels policy that will allow the United States to capture up to 100 percent of Japan's on-road ethanol market.

I know this is important to many of you. Under this policy, exports of U.S. ethanol could increase by over 80 million gallons annually, representing an additional \$150-200 million in exports each year. This is an important win for our producers in Iowa, Missouri, and South Dakota.

U.S. agricultural exports totaled \$174.9 billion in 2023, and our Administration has won over \$21 billion worth of new agricultural market access in the last three years.

However, this is more than just numbers. It is about people, their livelihoods, and their communities.

People like the first-generation farmer I met in Rowesville, South Carolina. I met him last December together with Congressman Clyburn at his farm where he grows corn, soybeans, cotton, and small grains.

Families growing almonds, like one my Chief Agricultural Negotiator, Doug McKalip, visited in the Central Valley of California last fall.

This family was impacted by India's retaliatory tariffs imposed in 2019, limiting their access to a vital market for their operation. We removed those tariffs and provided more economic certainty for this family and many others.

We are working hard in our efforts to not leave anyone behind. We are making sure that Americans do not have to abandon their hometowns to find opportunity.

#### **Making Trade Work for All Americans**

Trade should work for all Americans. This is why we are taking unprecedented steps to incorporate more voices into trade policymaking.

Just as you stay connected with the constituents in your districts, I have travelled around the country to hear from workers, farmers, and small businesses, and Tribal leaders to learn how trade affects them.

I have also made it a priority to meet with a wide range of stakeholders to ensure their views inform our work, including civil society and labor leaders.

I know this approach may be surprising to some, but this should and must be the norm moving forward—because my job is to represent the entirety of the United States, not just those that can afford Washington lobbyists.

We need to deliver more equitable, fairer outcomes for more Americans. If we want different results, we need different inputs—from more people across our society.

This consultation includes Congress and this Committee.

Like our stakeholders, there is a wide range of views in Congress on trade. Over the last few years, I have welcomed all of your views, and I truly value the various perspectives I hear from Congress. Moving forward, I will continue partnering with you as we carry out our agenda.

Pursuing the interests of all Americans is a clear mandate and vision in the President’s Trade Policy Agenda, and we are placing utmost importance on this work this year.

We also know that we need more and better data to inform our work. This is why USTR is continuing to work with the U.S. International Trade Commission, and we requested that the USITC repeat the distributional effects investigation every three years for the next 15 years.

This is critical for policymakers, researchers, and the public to monitor and ensure progress in assessing the distributional effects of trade policy on U.S. workers. Better input, for better output.

We are also institutionalizing the principles of fairness and equity in our negotiations and regional engagements.

For the first time, we have partnered on inclusivity chapters in our trade negotiations, including those with Kenya. We are also meeting with a broad base of stakeholders to gather input, such as the African Diaspora, and women, youth, civil and rights organizations.

During our APEC host year, I was proud to host first-ever minister-level dialogues with Labor and Indigenous leaders.

We also announced during APEC that the United States is exploring observership in the Indigenous Peoples Economic and Trade Cooperation Arrangement, or the IPETCA.

This is a direct result of our annual Tribal consultations and engagements with Indigenous leaders and communities, and this will be a cornerstone of our work going forward in APEC and in other fora.

This includes the World Trade Organization, where, during the Thirteenth Ministerial Conference (MC13) in February, U.S. leadership was reflected in the effort of ministers holding a first-ever discussion specifically on how the WTO can help foster better outcomes for more people.

#### **Transforming the WTO**

This is part of our overall effort to make the WTO more responsive and effective.

Our Administration is working with other WTO Members on a reform agenda that reflects priorities of our worker-centered approach—improving labor standards, protecting our planet, and advancing shared prosperity.

MC13 was an important milestone to gauge our progress to date, and we announced several important outcomes.

We made more progress on dispute settlement reform in the last year than we did in the last several decades.

We extended the e-commerce moratorium, which was not a forgone conclusion.

We also announced significant development outcomes.

We ensured that Members graduating from the least developed countries (LDC) category can continue a smooth transition. We agreed to support their capacity to effectively utilize the Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary Measures, and we supported a work program for small and vulnerable economies.

We also agreed to hold dedicated sessions on issues important to land-locked developing countries.

Our discussions in Abu Dhabi highlighted that developing economies, both large and small, are having important debates over what rules and policies best serve their interests. This includes issues such as inclusivity, sustainable development, and the need for our trade policies to be flexible to allow WTO Members to manage current global challenges.

While MC13 is over, our work at the WTO continues, and our Administration remains committed to working with all WTO Members to develop a common agenda that allows all of us to have our priorities reflected.

#### **Collaborating with Trading Partners**

What we are trying to do in Geneva is reshaping the global trading system for the better, for the future, for the people. And those are the goals of our regional and bilateral trade initiatives as well.

We are making significant progress with Taiwan.

Last June, the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO) signed the first agreement under the United States – Taiwan Initiative on 21<sup>st</sup>-Century Trade. This was less than a year after we announced the negotiating mandate in August 2022.

The first agreement focuses on economically meaningful areas to build our middle classes together.

For example, small business owners tell me that tariffs are not the primary reason they cannot export more of their products—in many cases, it is because of the red tape.

So, the first agreement with Taiwan includes commitments on simplifying customs procedures and making rulemaking processes more transparent, among other issues. It also includes specific provisions to help SMEs compete and thrive, including addressing corruption.

Furthering these negotiations with Taiwan is a high priority for USTR this year.

We are making progress on the U.S. – Kenya Strategic Trade and Investment Partnership (STIP) as well. Our teams recently wrapped up a third negotiating round.

The United States has tabled text on agriculture, anticorruption, SMEs, and services domestic regulation.

Together, we are working closely to deliver real benefits to our people and so that the STIP can serve as a model for engagement with other willing countries on the African continent—all while respecting the priority of integration among African countries themselves.

An important part of these negotiations is to make sure that any trade deal incentivizes a race to the top, for our people and for our planet. This is why we have tabled strong text on labor rights and the environment in these discussions, and also in the Indo-Pacific Economic Framework.

Trade deals take time, but our team made more progress in the last year than what would typically take years to complete.

I am incredibly proud of my team for what we have accomplished. We are continuing forward with a new and innovative approach to trade, designed to create durable and sustainable economic growth.

This also applies to our work with AGOA partners and in our planning for the next AGOA Forum later this year.

I met incredible workers, small business owners, and entrepreneurs when I was in Johannesburg for the AGOA Forum last November. AGOA has helped Africa grow its extraordinary economic potential over the last two decades.

Its renewal is important to continue to bring real change to people across the continent, and our Administration fully supports renewal beyond 2025. However, we must also seize this opportunity to make AGOA better, to improve utilization rates, and to explore other trade tools to complement our AGOA relationship.

#### **Promoting Supply Chain Resilience Through Trade**

Increasingly, we are seeing that a sense of growing economic insecurity is shared by different communities across continents, and people everywhere felt this more acutely during the pandemic.

Lives and livelihoods, homes and communities were disrupted. This is why reducing dependencies and vulnerabilities and strengthening supply chains is a major priority for USTR this year, which informs our work as part of the President's Council on Supply Chain Resilience.

Resilient supply chains also reduce opportunities for economic coercion and enhance our economic security. They provide a range of sourcing options; adapt, rebound, and recover with agility following shocks; uphold labor rights and environmental protections; and strengthen the U.S. manufacturing base and workforce.

We have been focused on this topic in various fora, including the G7, G20, APEC, and OECD. This also includes our work through the Trade Track under the Americas Partnership for Economic Prosperity, where a lot of our efforts will focus on supply chain resilience.

But to continue our work to develop innovative trade tools and strategies for connecting trade and other economic policy measures to advance supply chain resilience, we published a Federal Register notice last month.

This will allow USTR to draw upon various perspectives and experiences to get a more granular understanding of the challenges and to identify potential policy solutions.

We are integrating trade tools with domestic economic measures to position U.S. manufacturing and services for continued leadership and competitiveness. We are also collaborating with trading partners and allies to incentivize a race to the top through stronger coordination and alignment on labor and environmental protections within trusted networks.

I was in Burlington, North Carolina a few weeks ago, and met with the owners and workers of Glen Raven, a family-owned fabrics and textiles company. I heard first-hand how important it is for us to pursue resilience over efficiency, for our workers and businesses.

I also visited the Marsh Furniture Company, a family-owned cabinet manufacturer in High Point, North Carolina. We talked about the company's rich, 100-year history, and why it is critical to address unfair practices by the PRC and other economies.

#### **Standing up to the PRC's Unfair Economic Practices and Fighting for Fair Competition**

At its core, this is about giving everyone a fair shot.

However, that is not possible when countries like the PRC continue to use non-market policies and practices to dominate industries. That dominance is what enables the PRC to coerce other economies.

The PRC's unfair policies and practices have devastated many working communities and industries across our country, including many in your districts.

Steel, aluminum, solar panels, batteries, electric vehicles, and critical minerals—just to name a few.

The PRC also uses unfair policies and practices to concentrate production of certain goods in the PRC, which undermines supply chain resilience and harms consumers that, in the long run, are deprived of the innovation and choice that fair competition would produce.

As the President said during his State of the Union Address, this Administration will continue to stand up to China's unfair, non-market policies and practices. And we are doing so with like-minded partners and allies, as you saw in the Joint Declaration we issued last June with Australia, Canada, Japan, New Zealand, and the United Kingdom.

We have seen the PRC create dependencies and vulnerabilities in multiple sectors, harming American workers and businesses and creating real risks for our supply chains.

This is why we are taking a serious look at how our existing tools are addressing this problem, including through our four-year review of the China Section 301 tariffs.

This is also why I am closely reviewing the Section 301 petition I received from the five national labor unions regarding the PRC's acts, policies, and practices in the critical maritime, logistics, and shipbuilding sector.

Our economic relationship with the PRC is complex, and as the President said, we want competition with China, not conflict.

But the competition must be fair, and USTR and the Biden-Harris Administration are fighting every day to put working families first, rebuild American manufacturing, and strengthen our supply chains.

#### **Conclusion**

We're using trade to give everyone a fair shot. That means creating incentives that are more than lower costs; raising labor and environmental standards; and pursuing resiliency.

USTR will remain focused this year on developing innovative trade tools and strategies for connecting trade and other economic policy measures to advance these goals. I want to thank my USTR team, serving in Washington, DC, and around the world, for their unwavering devotion and determination to serve all of America.

I think we all agree that our economic system, including trade, should strengthen the middle class. I look forward to continuing our partnership through regular briefings with you and your staff, as we have done for the last three years.

Thank you.

Chairman SMITH. Thank you, Ambassador Tai.

We will now proceed to the question-and-answer session. The committee will convene again tomorrow morning to mark up significant trade legislation, including a GSP reform and renewal bill, and a de minimus reform bill. Our GSP bill is the longest renewal in the history and includes updates to counter China and ensure our farmers are treated fairly when they export to GSP countries.

Given that USTR administers the GSP Program, including enforcing the eligibility criteria, would you agree that having the GSP Program back in place will be a useful tool as you advocate for U.S. interests on trade?

Ambassador TAI. Thank you, Mr. Chairman, for that question. I did see the notification on the markup tomorrow, and our position as the administration is to support the reauthorization of GSP, in particular with appropriate updates to reflect the development goals and the values of the American economy, including human rights, anti-corruption labor standards, and environmental standards.

Chairman SMITH. I appreciate your perspective on this. I have heard similar views from our colleagues on this committee, including my Democrat friends, which is why this morning in an effort to make the legislation bipartisan, as it traditionally has been, we have added those provisions, the labor provisions, consistent with USMCA into the GSP legislation.

Our de minimus bill makes several important reforms, with the most significant being the exclusion of all products subject to Section 301 trade enforcement tariffs from de minimus eligibility. Do you agree that our trade enforcement is less effective if Section 301 or other trade enforcement tariffs can be ignored through other U.S. trade laws?

Ambassador TAI. Mr. Chairman, I have heard a lot of concerns across our economy from stakeholders, especially in the smaller categories, and people producing and selling consumer facing products about the challenges that de minimus presents to their competitiveness, and I agree that this is a worthy issue for the Ways and Means Committee to take up.

Chairman SMITH. There still is no end in sight to your legally mandated 4-year review of the China tariffs. For almost 2 years, China is eating our lunch on trade, and the Biden Administration is still studying the issue. So, your review will run into a third year unless you complete it by the first week of May.

So, will you commit to releasing results by May 3?

Ambassador TAI. Mr. Chairman, I was carefully listening to your description of the timelines. We started the 4-year review in September of 2022, and this has been a whole of government effort. It is a tremendously consequential exercise in examining the use of tariff tools in addressing the inequities in the U.S.-China trade relationship, which are significant.

So, let me just say that we are making progress, and it is my belief that we are very close to the conclusion of this review.

Chairman SMITH. Good. It is just alarming that this administration cannot even complete a mandatory review of this tariff action in a timely way. This raises serious concerns about whether the

Biden Administration truly recognizes the urgency of the threat that China poses to American workers and businesses and farmers.

The U.S. agriculture trade deficit reached a staggering \$21 billion in 2023, after running an average trade surplus of over \$5.2 billion during the Trump Administration. Simply put, the United States is no longer negotiating meaningful market access for American farm exports. Instead of serious agreements, the administration is pursuing so-called dialogues and trade frameworks that lack legal authority and do not even try to address tariffs, which are often the most significant trade barrier our farmers face.

Given how important agriculture is to the American economic vitality, what is the Biden Administration doing to open new markets for our farmers and reverse this deficit?

Ambassador TAI. Well, Mr. Chairman, there is so much that you have just said that I disagree with, but I am going to start with the facts, which is in 2019 and 2020, the United States ran agricultural trade deficits of \$1.3 billion and \$3.7 billion respectively. I also have to look back on—

Chairman SMITH. What was it in 2018?

Ambassador TAI. Well, you said—

Chairman SMITH. It was a trade surplus.

Ambassador TAI. But you said that there were no deficits.

Chairman SMITH. I said an average—

Ambassador TAI. There are deficits.

Chairman SMITH [continuing]. Of \$5.2—

Ambassador TAI. Well, then let's acknowledge that deficits are not a new phenomenon and they happen and they were larger in recent history.

But the main point I want to make—and this is the most important one—which is something that I think you and I agree on, which is American farmers and agricultural producers absolutely deserve the championship of our efforts, and that is what we are doing every single day in trying to score wins for American agriculture. We have removed \$21 billion in non-tariff barriers, which by the way, operate along with tariffs to frustrate opportunities for our farmers every single day. We have also just in the last year lowered tariffs. That is real market access on a dozen products in our negotiations and our work bilaterally with India, a significant market that is really important to the work of diversifying opportunities for American farmers.

So, I really have to push back on your characterization of recent statistics, and also our efforts to align our values, which is that American farmers absolutely are a priority for us in our trade policies.

Chairman SMITH. Ambassador Tai, the fact that you will not even admit to a \$21 billion deficit last year under your watch on agriculture trade, that is disappointing. Because we have a serious problem when it comes to agriculture trade in this country, and it is because USTR and this administration is out to lunch and they have not been going against Thailand, who has a 50 percent tariff on U.S. beef. They haven't been going after Kenya, who has 27 percent tariff on our agriculture products. I can give you a list of countries, Ambassador. I wish that you all would lead on protecting the American farmer.

Mr. Neal is recognized.

Mr. NEAL. Madam Ambassador, for decades House Democrats worked to elevate labor standards and to strengthen the enforcement of labor commitments to U.S. trade agreements, and I would suggest that the agricultural states in America have done pretty well with trade agreements, many of which I have supported. I thought that the trade discussions were always pretty bipartisan on this committee, which led to the major achievement of USMCA.

USMCA reflects the culmination of House democratic work to transform the old NAFTA, which I opposed, into a deal that respects the dignity of workers and it contains meaningful labor enforcement provisions. Why don't you elaborate on Rapid Response Mechanisms and other areas of improvement that you have embraced, quite effectively, I might add.

Ambassador TAI. Well, thank you so much, Mr. Neal.

It is true that we take as one of our most important priorities the serious implementation and enforcement of the USMCA's terms, especially the updated terms of trade between United States, Canada, and Mexico.

On the Rapid Response Mechanism which was responsible for winning the credibility of so many members of Congress and for the first time, so many of our labor unions, we have taken that responsibility especially seriously. We have now invoked the mechanism over 20 times. We have concluded the proceedings in about 15 cases. The net result is 30,000 workers directly benefitted by our efforts that have resulted in \$5 million in real benefits. That is back pay. That is increased benefits. That is raised wages. And with every single one of these measurable wins, we are evening the playing field for American workers who have competed too long against brethren in Mexico whose rights have been suppressed by a system that has exploited them.

So, I think it is really actually an important consequence of the renegotiation of the NAFTA, the work that this committee did in renewing the agreement in the USMCA, that through a trade agreement for the first time in history we are demonstrating that trade does not need to be conducted in a way that undermines the interests of workers. That trade can lift standards, and trade can improve the prospects of working people. And that is something we are working every day to expand into the rest of our trade practice.

But we haven't stopped there, obviously. We have also used the environmental tools in the USMCA to raise concerns and to establish protocols for working with Mexico on, for example, the Vaquita and the Totoaba.

We have also used the USMCA to enforce our expectations of improved market access for U.S. dairy farmers into Canada. And as well, we are in the middle of litigating a case with Mexico on biotech corn policies that are restricting the rightful access of our producers into Mexico. In all of these cases, we are proud to be using the tools that were developed in the renegotiation of this exercise, and for forging a new path in trade policy that really does espouse and champion the interests of as broad a base of our economy as possible.

Mr. NEAL. Thank you.

Just a reminder, if I could, Ambassador, because I think it is important that the USMCA, the largest trade agreement in the history of the world, was a bipartisan effort largely promulgated by this committee, again, in a bipartisan manner, endorsed by the AFL-CIO, the Teamsters Union, the United States Chamber of Commerce, 195 Democrats voted for that trade agreement, and 194 Republicans voted for that trade agreement. Yes, we can build into these trade agreements as you have envisioned, workers' rights, environmental concerns, and do it by both political parties participating in the negotiation and the outcome, as you have embraced and enforced, has been beneficial to all members of the American family.

I yield back.

Chairman SMITH. Thank you.

Mr. Buchanan is recognized for questions.

Mr. BUCHANAN. Thank you, Ambassador, and I appreciate you taking some time this past week, get a chance to visit. I thank the Chairman for putting this on.

You know, USMCA, there is plenty of credit to go around that was an effort. I was chairman at the time of the subcommittee, so a lot of energy, a lot of effort that you did, everybody did. But the thing that I struggle with, there are 7 billion people in the world. We are 350 million. Where do we go from there? It has been 4 years ago. What is the trade agenda to do more in terms of Asia, Europe, Africa should be an easy one. There are a lot of things I just don't—I can't figure out why we are not doing more in some of these other opportunities like Kenya, for example, or Switzerland or Great Britain or—the list goes on and on of things that we should be doing.

Let's take credit, but that was 4 years ago. Let's talk about the trade agenda now and going into the future.

Ambassador TAI. Well, thank you so much, Mr. Buchanan. I appreciate this question, which really gets at what are we doing, and perhaps your specific question is on the negotiation agenda.

We are taking lessons that we learned in the renegotiation of the NAFTA and the creation of the USMCA, and absolutely applying them forward. We have active negotiations going on with the Indo-Pacific countries. That is 12, 13 countries in the Indo-Pacific, with Kenya, with Taiwan. With Taiwan, the first part of that negotiation has been in trying an agreement that has passed through the Congress beginning with this committee.

One important distinction in terms of the renegotiation of the NAFTA and the negotiations we are undertaking now, the USMCA was built on a renegotiation of an existing free trade agreement. The negotiations we are undertaking now are new agreements with countries with whom we do not have an existing FTA. Therefore, we are taking a different approach, and our approach is built on—

Mr. BUCHANAN. Let me ask you—

Ambassador TAI. Our approach is built on the basic principle that we should not be pitting Americans against Americans and American sectors against American sectors, and that is why we are building our negotiations out using the building blocks that you see.

Mr. BUCHANAN. Yeah. USMCA, it just seems like we were all active and engaged both sides, a lot of meetings, a lot of effort, and I just feel like there is not that intensity, the focus that we should have in terms of the future. Because China is very active all over. I just got back from South America. I'll be in Africa later this year. They are active all over the planet in the sense, and I think it is important we are engaged just as well.

Let me go back to ag, talk a little bit about our tomato growers. We have lost probably half our business in the last 10 or 15 years to Mexico primarily. We are in the same time zone in terms of, you know—and it is something we have been talking about for 4 or 5 years. And they are very upset, very—want to find a way to get to us, a lot of this stuff. But they just feel like they have been played in terms of pricing and the competition, the way they do business.

I would like to have the opportunity, what your thoughts are on, you know, where we are at, what we can do, and literally, I think the number is \$2-1/2 billion in imports from Mexico, which was a pittance of that before. They are basically taking all of our—a lot of our businesses.

You know, I am all about free trade, but it needs to be fair. It seems like we have been played in a lot of our vegetables and tomatoes in Florida.

Ambassador TAI. Mr. Buchanan, I think this is a great example of within a sector where a trade agreement is operating in different ways for different parts of that sector, and even for the same set—the producers of the same set of goods, which is on seasonal and perishable products. I know that the tomato growers in Florida are getting pinched in a way that tomato growers in other parts of the United States are not because of the proximity to the growing season.

This is why Secretary Vilsack and I have been in the process of setting up an advisory committee specifically for these growers to give them more voice and influence in the development of our trade policies that affect them. And so, I am very, very attuned to their concerns, and we are working very hard to enable them to have more pull in the development of those trade policies.

Mr. BUCHANAN. And the advisory committee, I guess that is something they have been waiting on about a year or so. But if there is any way you can accelerate that.

So, I can ask one more question. I would love to have you join me with the growers in Florida, where we can sit down and just have a candid conversation. It would be positive, but try to move from where we are to where we need to be. Is that something you can do?

Ambassador TAI. Mr. Buchanan, I want to give you confidence that we are very close on the final stages of the advisory committee formation, and yes, I would be delighted to do that with you.

Mr. BUCHANAN. Thank you.

Chairman SMITH. Thank you.

Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman, and thank you, Ambassador, for your outstanding leadership.

I think it is so important that for the first time we have a trade ambassador who understands this is not just about how many

widgets are sold, but about the impact of trade on families, on our health, on our environment, and that we cannot leave our trade policy exclusively, solely to multi-national corporations who may not think about those issues.

As you know on the GSP bill, we only got it yesterday and it is good to hear from the Chairman just now another surprise that he may add in a consideration concerning labor, but the failure of their bill to include any environmental standards seems to me to be a real setback from the progress that all of us made under the USMCA.

I would ask you to focus on another aspect of this, and that is the way the lack of environmental standards sometimes harm our companies' competitiveness. As you know, we excel at producing clean steel, clean aluminum. Our workers lead the way, and thanks to the CHIPS Act and the climate law, we are advancing even further. But it seems to me that our American manufacturers and workers are competing on a bit of an unequal playing field if countries like India and China can produce the same products without regard to their carbon content.

Can you indicate what is being considered in your role to ensure that our industries can maintain their competitiveness?

Ambassador TAI. Thank you so much, Mr. Doggett. I agree with you that in the practice of American trade policy, it has been long settled on a bipartisan basis that labor standards and environmental standards are core to the way that we conduct trade with the rest of the world.

To your point about the changing nature of our economics and our consciousness around the need for sustainability in our world economic order, I couldn't agree with you more. This is the reason why we have spent the last 2—over 2 years now negotiating what we are calling the global sustainable arrangement on steel and aluminum trade, beginning with the European Union with a view to then expanding it to other likeminded countries from there.

The concept of this negotiation is to join the forces between the U.S. and the EU markets, to create incentives around our combined markets that will incentivize cleaner production and cleaner trade, and also to address the non-market excess capacity that is distorting the world market for incentives for fair trade and fair production.

This would fundamentally flip a paradigm for trade where trade would be about the race to the top, about cleaner over time, more market-based and fairer over time, and that is why we remain committed to our negotiations with the European Union.

It is also really important to remember our partnership with Europe begins at the beginning of the European experiment. In 1948, the United States made clear our investment in Europe—it is part of the Truman Doctrine, the Marshall Plan, the Bretton Woods Project that the United States and the European Union would come together to defend against non-market autocracies. And that is just as relevant today as it was in 1948.

Mr. DOGGET. Well, thank you. That collaboration with our EU allies, I think, is very, very important rather than a go it alone approach.

Let me ask you also about the criticism that you have received at times concerning drug pricing and the way big pharma has handled it. Some of the same people on this dais who are always defending big pharma, insisting on monopoly, uncontrolled prices, the highest prices in the world for Americans seem critical when you address fairer pricing rules for drugs.

Can you comment on that?

Ambassador TAI. Yes. I think it is really important as we are advancing trade policy to recall that we are actually a critical part of the economic policy tool set, and that trade policies have to work for the American people and be in their interest, their economic interest, their public health interest, exactly as you said.

Mr. DOGGET. Thank you very much. Thank you for your leadership. I yield back.

Chairman SMITH. Mr. Smith, the chairman of the Trade Subcommittee.

Mr. SMITH of Nebraska. Thank you, Mr. Chairman. Thank you, Ambassador Tai, for engaging here today. I certainly appreciate the conversation that we set up yesterday, and I think you want to focus on solutions, too. I respect that. That is certainly my goal.

A point of clarification. On the 4-year review of the 301 tariffs, when that 4 years—when did that clock start? Was it 2018 or 2022?

Ambassador TAI. So, this is a fair question and I feel like we should come up with a different term for this review.

The 4 years refers to the 4-year mark when the tariffs are in effect. So, the tariffs began in 2018. At the 4-year mark, a review was triggered by stakeholders who reached out to USTR, and this is under the 301 statute, to say we would like you to review.

Mr. SMITH of Nebraska. Okay. So, you wouldn't characterize this review as being at all late?

Ambassador TAI. Sorry, linked to—

Mr. SMITH of Nebraska. The completion of the review—

Ambassador TAI. Yes.

Mr. SMITH of Nebraska [continuing]. Would you acknowledge that we are a little behind on having that review ready for the public?

Ambassador TAI. So, the review began in 2022, in September of 2022. For us, the approach to China is a deliberative, strategic, and thoughtful one, and I have a lot of confidence that we are nearing the end of that review.

Mr. SMITH of Nebraska. Okay. Well, I hope we can get this going so that we can process it so the American people can process it so that investors can process it. It is very important.

No surprise, I would like to talk about corn and Mexico. Has the President been briefed on what Mexico is doing with our corn?

Ambassador TAI. Yes, Mr. Smith.

Mr. SMITH of Nebraska. Okay, thank you. I am glad to know that. My research shows that the President has had exactly nothing to say about what is taking place. That is disappointing. It would lead most reasonable people to believe that it is not a priority. It doesn't matter.

Now, it is one thing for me, the Representative of the third district of Nebraska, big corn producing district, to raise some con-

cerns. I am concerned, certainly, about my own constituents. I am also concerned about rules-based trade and the perception that Mexico is getting a pass on this. The filing for the dispute resolution was roughly 2 years after the decree, the flagrant violation of USMCA was made. And perhaps there were some efforts to try to work something out to try to push back. I can't speak to those details. I have not been privy to those details. And there are folks who would characterize the decree went from bad to worse before it perhaps got better, but certainly not resolved.

And I am concerned that our President has had exactly nothing to say. Is there a downside to our President speaking up and saying that what Mexico is doing with our corn is wrong? Is there a downside to that?

Ambassador TAI. Well, Mr. Smith, I am the U.S. trade representative in President Biden's Cabinet, and I am here to talk about the President's trade policy agenda today, and I am telling you that we are actively pursuing a litigation with Mexico using the tools of the USMCA precisely to address what we consider to be an illegitimate and unscientifically-based restriction on our trade and biotech corn to Mexico.

Mr. SMITH of Nebraska. I understand that you are a member of the Cabinet. I appreciate that. I think that is important that trade has a seat at the table.

Looking at what President Biden has said publicly about various issues and what he has chosen, apparently—or you are telling me that he has chosen to remain silent on this issue. I don't accept that as being concerned about the issue, and I respect you and your efforts to—and your team here are very capable of filing the dispute, even though it has been slow-locked and Mexico answers that with slow-locking their responses, in their interest. Okay, fine, but there seems to be an acceptance by President Joe Biden of what is happening. That is disappointing. It is frustrating. That is on top of the fact that we basically announced to the world that we are not interested in market access. We are not really interested—I mean, take Kenya, for example. They are members of AGOA. AGOA is a good thing. It means different things to different countries in Africa. Kenya, for example, they have the benefits—unilateral benefits of AGOA, but they would love a trade agreement with us where we can negotiate market access, reducing those tariffs that the Chairman spoke about, and we would—any effort that was made previously, we have actually walked backwards. We are losing ground. I am concerned.

I yield back.

Chairman SMITH. Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman, and thank you for holding this hearing.

Ambassador Tai, it is great to see you. Thank you, and welcome back to the Ways and Means Committee.

I want to start by echoing Chairman Neal's remarks about the great work you did in regard to USMCA. You know, I was fortunate enough to be able to work with you on that negotiating group appointed by Speaker Pelosi and Chairman Neal, and I got to tell you, you were remarkable. It was an honor to be there with you.

It was like taking a graduate course in trade negotiations, so thank you very much.

This is a very timely appearance in this committee because we are going to be marking up the bills that Chairman Smith talked about earlier, and I am glad that we have a *de minimis* bill and a GSP bill. I know we didn't get the material long ago, but in the review that we have been able to do, I know we have some concerns on our side. So, I would hope, Chairman Smith, that we can get an agreement to work together with you, because these are two areas that are extremely important to all of us.

I also want to mention that our economy has made great strides in recovering from the pandemic by creating more than 15 million jobs under the Biden Administration, and through strong domestic investments in our transportation structure, green energy economy, and microchip manufacturing, we have seen an extended period of unemployment under 4 percent, and that is important. It has been pointed out by news agencies across the board, we are the envy of the rest of the world in our recovery from the pandemic, and that is in large part because of the great work that the Biden Administration is doing. And we know that a strong trade agenda both creates new jobs in America and protects jobs at home from unfair foreign competition.

You have been doing good work. I don't have to look any further. I have a big ag industry, and I don't have to look any further in the great work you did to negotiate down the tariffs in India on a couple of crops that are produced in my district, almonds and walnuts, which is important. I think we still have a lot to do in the wine space, and we need to be, I think, aggressive in the rice area also. That is an area that is always on the bubble.

I think we need to get a good commitment that we are going to deal with the Forced Labor Prevention Act stuff. I know that tomato farmers are very concerned that China is now in that market, and they are producing a lot more than the market suggests that they should be producing. So, I would hope that you would take a good, close look at that.

In regard to the trade deficit in agriculture, I just want to be clear that there are a lot of things that create problems in the trade space. For instance, sunflowers are a big crop in my district, and we lost 50 percent of our export because Russia invaded Ukraine. They are not buying those seeds anymore. Can you imagine? We got a lot of ag people on this dais. If one of your major crops lost 50 percent, I would suggest that we could—if we want to do something about that, we could fund the legislation that is hopefully going to be on the floor this week that will provide some protection to our trade allies.

So, Madam Ambassador, I hope you could give us some indication of what the next move is in reducing wine tariffs, and on the *de minimis* issue, there are a lot of products coming into the United States that are creating problems. I spoke with you recently about the products in the bicycle area. There are a lot of consumers that are put at risk because the *de minimis* rule is allowing unsafe products to come in, especially in the electric bicycle area and bicycle helmets. So, anything you could tell us on that would be helpful, and again, thank you for your great work.

Ambassador TAI. Thank you so much, Mr. Thompson.

Yes, with respect to concerns on enforcing the integrity of our trade programs at the border, I think that that is a significant issue, and there are a lot of challenges that we face there together, as an administration and Congress, that really will require Congress's leadership. So, I am encouraged that *de minimus* is coming up in committee. We will be watching this very closely.

I think that, you know, the only thing I would add is we do see concerns around evasion and trans-shipment across the board with respect to enforcing the integrity of our trade programs, our trade enforcement actions. That is something that I would encourage the committee to look very, very closely at.

Chairman SMITH. Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman. Ms. Tai, it is really good to see you. I know we all say it is good to see you, but I truly mean it. It is good to see you, and I think you do one heck of a job.

One of the questions I have had over the years—and you and I have talked about it before, because it actually is a combination of Department of Energy and Trade, and it comes down to a product called grain oriented electric steel. The sole producer, by the way—and it is in my district because it is made in the town I live in—but it is also in the best interest of America.

As you know, grain oriented electric steel is a steel that is used inside the transformers of—that push the electric current from one section to another and control it. But Mexico has gone to the process now of importing steel from someplace else in the world, grain oriented electric steel. They take the coils, they split it in Mexico and they send it to the United States. They say no, no. It is an American product because it is actually assembled in the United States. We see so much of that in the business I am in. If you look to the lower right side of any sticker on a car, it tells you exactly where everything comes from that is made in the production of that vehicle. But in this case, this grain oriented electric steel—and again, Department of Energy making a decision that somehow we should abandon that and go to something called amorphous. We have one producer of grain oriented electric steel in America. We have one very small producer of amorphous steel in America, and the rest would have to be coming from outside to come into America. And I think that the concern is while we know this is going on, why do we continue to let it go on?

There are great opportunities. There are great production capabilities in America. Why would we ever be just kind of turning a blind eye to our neighbor to the south to go ahead and bring this steel in, slit it, and then send it to us is, to me, is beyond anybody's wisdom. I think if we didn't learn anything from the pandemic, it is the global supply chain.

What else can we do to alert the rest of—not only our country, but let Mexico know we know what you are doing. You need to stop doing this. They were able to get away from some of the sanctions the Trump Administration was putting in because they would say oh, no, we are not going to do that, but they would circumvent that. They have done an incredible job of getting around that issue.

Just from your perspective and what you have seen, what else can we do and where is the enforcement if Mexico continues to do

what it does? It weakens our supply chain, makes it almost non-usable anymore. Where can we go from there, and how can we get Mexico to actually participate they way they were supposed to participate, and what they asked us, please, let us get to this point and we are going to be great partners, which we really need in this hemisphere. So, if you can give me any type of an idea what else can we do from this point on? I know DOE changed its rule to go to amorphous steel here in a little bit over a year and they changed it and gave a couple more years for us to stay open, but what else can we do, because this product coming in from other places in the world, it is hurting us.

Ambassador TAI. Mr. Kelly, you know you and I are on the same team with respect to ensuring that our steel producers continue to survive, and also can thrive in our economy and in the global economy. I really appreciate this question in terms of what we can do.

First, let me assure you that we have coming out of USTR an extremely intensive and robust work stream with Mexico on the issue of steel, including this product, but more broadly as well. Concerns around other parties using Mexico as a way to evade and to circumvent our trade programs at the border, and frankly to water down Mexico's own rights in its legitimate trading relationship with us.

So, first of all, thank you so much for being such a leader and a clear voice on this issue. That helps me. That helps to convey the truth in terms of what my team and I have been sharing with our counterparts in Mexico City, that the concerns here are real. They are present, and they are urgent.

I think beyond that, we are really presenting to the Mexicans that it is within their power and their control to do the right thing in collaboration with us to ensure that U.S.-Mexico trade is benefiting our industries and not others.

Mr. KELLY. Listen, I appreciate the help you have given us so far, but I think we have to intensify it. When we have these important discussions and we talk about what we can do, I would actually start to see us actually doing something that shows them that we are serious about this. We cannot afford—from a national security standpoint, we cannot afford the loss of grain oriented electric steel in our steel transformers. And for those who don't know, watch the telephone poles as you are driving. Any place you see a gray canister, that is the transformer. That is what moves electricity from one point to the next. It is absolutely critical for our infrastructure.

Ambassador, thank you so much. I look forward to working with you on this.

Mrs. MILLER [presiding]. Mr. Larson, you are recognized for 5 minutes.

Mr. LARSON. Thank you, Madam Chairman, and Ambassador Tai, welcome back to the committee. Let me join in the crescendo of accolades directed at you, and rightfully so, for your credible work that you did in the service of your country here on the Ways and Means Committee, and in your current role as ambassador.

Ambassador, in your remarks you talked about empowering workers through trade, and I want to elaborate on that. In my district, we are very proud to have a critical defense manufacturing

base—in fact, we power the F-35 with Pratt-Whitney aircraft engines as well. And you have done a remarkable job, and here is my question. Can you talk about everything you have done to level the playing field for the American worker, and what else we can do to ensure our workers can compete fairly?

Ambassador TAI. Certainly. Thank you so much, Mr. Larson.

We believe that our workers are capable. They are strong. They are productive. They are competitive. Just like our farmers in the ag economy, they want that fair opportunity to compete, and for too long, I think our trade policies have not appropriately seen them or focused benefits on our workers in the formulation and execution of our trade policies.

So, our home base with respect to what we call a worker-centered trade policy is to always come back to the renegotiation of the NAFTA. The establishment of the USMCA, again, broad bipartisan support, leadership of this particular committee, and this Rapid Response Mechanism demonstrating that you can do trade in a way that supports the livelihoods and prospects and opportunities for American workers.

I think I might also want to take this opportunity to note that while I am very encouraged that this committee is taking up legislation, in particular to look at the reauthorization of lapsed programs. The GSP isn't the only lapsed trade-related program that matters to our economy and to our leadership in the world. That TAA is also an important piece of our trade programs that goes to the level playing field for our workers, that also should be taken up, and I would encourage the committee to take them up together.

Beyond that in terms of advancing the interests of our workers, all of our negotiations in the Indo-Pacific, with Kenya, with Taiwan, whether they are developed, advanced economies like Europe and the UK and Japan, or very developing countries, we continue to put the worker piece at the center because it is so critical to the way that we want to do trade policy, which is to build economic opportunity for our workers, while also doing trade in a way that allows our partners, especially our developing country partners, to build their middle classes alongside us.

So many of the challenges that we have experienced in trade domestically and internationally have come because our trade policies have pitted worker against worker, sector against sector. We experienced that here in America. We experience that around the world. We are definitely seeing those pressures with respect to our concerns around excess capacity and surges of exports that may come as a result of China's attempts to export its way out of its economic downturn. And I think that this is one of the most critical elements of the trade policy that we are advancing. It is a different kind of trade policy. It is a policy that is aimed at putting America at the center in leading to articulate a way you can do trade that builds your middle and working classes, not at the expense of others, but together.

Mr. LARSON. Well, thank you again. As always, you are precise and I particularly applaud your efforts in your testimony about your work with Mexico especially again demonstrates how we can empower workers and not pit them against one another, and still have the United States excel in an area that we lead the world in.

Thank you, Ambassador.

Mrs. MILLER. Thank you, Mr. Larson.

Mr. Schweikert, you have 5 minutes.

Mr. SCHWEIKERT. Thank you, Madam Chairman.

Ambassador, I want to move a little more globally, and sort of three major topics. From what you do and your staff does, how different does the world look right now?

We have been collecting a number of articles that show how trade flows have actually changed remarkably quickly post pandemic. How does that look for renewal change updates of trade agreements, arbitration, all the things that go with this? How much of those numbers I am looking at in those trade flows are actually maybe a bit dodgy? In other words, trans-shipment, the constant debate we are looking at and data we are looking at coming out of Mexico. If Mexico is now our number one trading partner, but how much of that is both, shall we say, quite legitimate, they are moving a factory, and how much of it is rebranding of a product that just touches ground?

Number two I am going to ask you about currency. As you know, the U.S. dollar has been on a tear. How much do you—does that create headwind for the work you do?

And the third thing, your opinion on investor protection that we did in USMCA for an American company when Canada—a Canadian business has substantially better because they can use different trade agreements? We have recently had an issue of a number of U.S. concerns functionally having takings from the Mexican government and almost minimal redress as we designed this in investor protections in USMCA.

So, first trade flows and trans-shipment.

Ambassador TAI. Thank you, Mr. Schweikert.

Your first question I think is a really profound one, which is that you are absolutely right. The world today, the world economy today is very, very different from the one 5 or 7 years ago. There is so much change that is happening on several different levels all at the same time. I think that in my interactions with my counterparts around the world, there is a recognition that this world is different.

Where I see challenges for trade representatives, trade ministers like myself is what are you going to do about it? I think that one of the hardest points of the trade policy conversation today in America and around the world is how do you adapt to the changes in the world? And from our perspective, in order to lead as the United States, we have to accept that change is happening and we need to get ahead of the change.

Mr. SCHWEIKERT. But in some ways, that is sort of the point I was hoping you would go to is often the language we design our trade agreements under is quite static, and we also, you know, multilateral has become a perverse word here, even though you almost need that type of flexibility in your design. So, how do you future proof?

Ambassador TAI. I think that the key is to really focus on how do trade policy tools apply to making our supply chains more strategic and more resilient.

A lot of the fragility that you see in supply chains today—and you are right, we have an extra consciousness around this over the

course of the last few years, whether because of the pandemic, Russia's invasion of Ukraine, or all of these events that have broken our supply chains and demonstrated their fragility. We are really conscious of doing that after-action review to examine what is contributed to this fragility.

And I think that the key is in new trade arrangements and new trade tools to build towards resilience. I think you are right. I think that there are multilateral elements of this, plural-lateral elements of this, but it is going to require a pretty significant change in the way that we approach and talk about trade.

Mr. SCHWEIKERT. Okay. The flash round, speed round.

U.S. currency, how much does that make your job more difficult?

Ambassador TAI. So, I always have to start when questions of currency come up to say that it is the Treasury Department and monetary policy. Nevertheless, I will weigh in here to say that it has been for a long time for those working on trade, we know how incredibly powerful currency and currency practices are to trade flows. It is a powerful driver and mover of trade dynamics.

Mr. SCHWEIKERT. All right. In our last 15 seconds, investor protections for U.S. companies.

Ambassador TAI. So, I know about the challenges that a lot of our companies have faced in Mexico, and I am also aware that some of them have availed themselves of some of these tools that remain in the USMCA. We are tracking the progress very closely.

Mr. SCHWEIKERT. Thank you, Madam Ambassador, Chairwoman.

Mrs. MILLER. Thank you, Mr. Schweikert.

Mr. Blumenauer, you are recognized for 5 minutes.

Mr. BLUMENAUER. Thank you very much, Madam Chair.

Madam Ambassador, thank you for being here with us. I appreciate you started by attempting to set the record straight, and in a couple of minutes, I will give you some time to elaborate on that.

But I wanted to share some of my initial thoughts. I appreciated the Chairman indicating some flexibility on GSP. As you know, we passed something earlier. We have had on the table proposals that are really not out of sync with what the committee overall has approved, and I am sorry that it has taken this long, but this may be a bright spot in terms of moving forward. We know that we can work together on things that are so critical to our country and our constituents.

I am advised that there are no simple trade issues. The more we pull, the interrelationships are profound. Internally in the United States, challenges in Congress, and of course, internationally. And you have been working hard to recover from some of the go it alone policies of the previous administration. Designating Canada as a national security threat? I imagine you spent a lot of time earlier trying to explain that to our friends and allies.

I was pleased that we were able to work together with Ambassador Lighthizer when you were a key staff director to be able to bring these things forward with USMCA that when it was introduced was dead on arrival. But we all worked together, and I appreciate Chairman Thompson reflecting on that interesting process that we were involved with for hours and hours. I think it was worth it.

But I am concerned that there are certain items that could be part of a more comprehensive approach. I appreciate your referencing trade adjustment assistance, which would help put us on a level playing field with many of our competitors. I am concerned that we are going to have a proposal on de minimus that basically is surrendering to China, that it does not have strong provisions. It will go away if the tariff policies change. It doesn't deal with fentanyl, and this committee got copies of a letter from 13 Republican attorneys general and the proposal that is going to be brought forward is silent on that. It doesn't help at all.

I wonder if you could just take a moment to help establish some perspective on these going forward.

Ambassador TAI. Well, thank you very much, Mr. Blumenauer.

I think on the issue of de minimus, we all know how much time you have invested in examining the existing policy and looking at policy solutions. And so, I do know from my own experience working for this committee and also as the trade representative that the details really matter, and whether or not policies will be effective really comes down to their architecture.

So, again, I am encouraged by the markup and the legislative movement. I really take your point, though, that if you're going to solve the problem, it is really important to think through the dimensions of the policy that you put together so that you aren't creating new problems as you attempt to solve old ones.

Mr. BLUMENAUER. Thank you.

Madam Chair, I would just hope when we turn to this this week, that we have that broader context and we don't settle for something that looks cosmetic but doesn't solve the underlying problem. We are all concerned about the influence that China has, its unfair advantage. We all are aware that there are—I forget the latest—billions of uninspected packages that are leaking through this system, and the threats that it poses not just to public safety, but to domestic businesses. I am hopeful that we can have the spirit of cooperation, the chairman's concern about being flexible. We can work that through because we can do better than to give China a pass on de minimus with the problems to American companies, public safety, and being able to cut back on these billion packages a year and counting that are slipping into the country without oversight, inspection, and tariff.

Thank you, and I yield back.

Mrs. MILLER. Thank you, Mr. Blumenauer. Being from West Virginia, you know I am very sensitive to the drug addition problem that we have.

With that, Mr. LaHood, you are recognized for 5 minutes.

Mr. LAHOOD. Thank you, Madam Chair.

Ambassador Tai, good to see you again. Welcome back.

Ambassador Tai, I am the co-chair with Congresswoman DelBene of the Digital Trade Caucus, and many of us on this side of the aisle have been exceedingly frustrated with the Administration's inability to promote a coherent trade agenda. When we think about digital trade, obviously there is growing concern with the Communist Chinese parties, global economic influence, and their promotion of digital trade policies that run counter to American ideals.

These Chinese policies promote censorship and surveillance. They encourage human rights abuses, and they force unwanted technology transfers through initiatives like the digital silk road. Rather than providing a free market alternative to the CCP's digital governance model, this administration sends mixed messages on the global stage by walking back long-held bipartisan digital trade proposals outlined at the World Trade Organization without clearly articulating a policy path forward.

Last November, Congresswoman DelBene and I led a bipartisan letter along with 36 House colleagues to you underscoring how your decision threatens American's leadership and ultimately harms American businesses and workers. This decision, as we mentioned, was made without any sufficient congressional input.

So, when I mentioned frustration, Ambassador Tai, we continue to have concerns and frustration with this decision and the successive abandonment of digital trade in iPATH, or to understand what the policy position of the administration is moving forward.

Can you tell us as it relates to the letter and the current position of the administration, Ambassador Tai, and the decision to abandon digital trade, what are the plans for being briefed here in Congress on the plans moving forward?

Ambassador TAI. Mr. LaHood, thank you for raising the issue of digital. I have been looking for an opportunity to address the entire committee on this particular issue, because it has generated a lot of heat.

Let me begin by saying that it is precisely because of Congress that we are adjusting our approach and policies on what we call digital trade. It is because we see what you are doing up here with respect to addressing the risks and harms that can come from PRC technology policies and how they impact the rights and the interests of Americans and, for example, their data.

We have paid attention to the fact that bills have advanced through the House and have passed with respect to TikTok and the concerns around onward transfers of Americans' data to China and access to the PRC government, as well as more recently the Data Brokers Bill that we saw pass on a 414 to 0 basis. These concerns around the security of Americans' data, where it ends up in the global technological economic ecosystem is what is animating our approaches to digital trade. The digital trade provisions that you have references go to data flows, data localization, and source code as well. They were developed as part of a trade policy that is really rooted in our recognition and our understanding 20 years ago that data is just about facilitating traditional trade transactions.

What we have discovered today, and I think you probably know better than many, being the head of the Digital Trade Caucus, today data is not just something that facilitates traditional trade, data is the commodity and the thing that has value in and of itself. Data is what is fueling technological advancements. Who has access to that data, who can accumulate it, and then fundamentally here in the U.S. Congress, the debates around what is the relationship between Americans and their data? What kind of rights do they have? What kinds of rights to security do they have? It is precisely because of this evolution in understanding what is at stake that we have indicated that these trade policies that treat data in

a very straightforward way and an outdated way have to be updated to reflect the much, much more complex issues related to American's privacy rights, their intellectual property rights, and also their security and our collective national security.

Mr. LAHOOD. Well, I appreciate that, Ambassador Tai, and I would appreciate more input from the administration in working with the Digital Trade Caucus.

I want to pivot just for a second here. Article from Bloomberg related to—this is the title from April 10, 2024, "Brazil Rebuffs U.S. Pressure to Abandon Tariffs on Ethanol Imports." Can you comment on the current negotiations with Brazil? It is immensely frustrating for our ethanol producers in this country the current situation with Brazil, and what action is the administration going to take?

Ambassador TAI. Mr. LaHood, I know how much this matters to you and your constituents. This is an issue where we are entirely on the same page. We continue to engage with Brazil as recently as a couple weeks ago. My chief ag negotiator had a meeting with their agriculture ministry. We continue to work this issue, and I have been given assurance by my counterparts in Brasilia that they understand how important this issue is to us. We are working to find ways to relieve the tensions in this part of our relationship.

Mr. LAHOOD. Thank you.

Mrs. MILLER. Thank you, Mr. LaHood.

Mr. Pascrell, you are recognized for 5 minutes.

Mr. PASCRELL. Thank you, Ms. Chair.

Look, if we can move, Madam Ambassador, 450 tons of bridge out of the Baltimore Harbor, we ought to be able to come together with a trade policy that is looking forward, which we all are talking about, reciprocal in every manner, shape, or form, and labor-friendly. That is going to be a necessity from here on in, and you know it. And that is how we move forward primarily.

Because of the bad actors we got to deal with, the world we live in today is more fraught and unstable than in quite some time. That instability makes it absolutely critical, in my eyes, for America to reinforce our trade capabilities. The pandemic and its aftershocks were really a wakeup call, and are going to be heard for years to come. That America must bring our industrial capacity home and build trade relationships that benefit our country and our allies. The decades of so-called free trade have hollowed out communities and made America too reliant on bad actors who take advantage of this Nation.

One of my proudest votes in office remains opposing China's entry into the WTO. Since that moment, the Chinese Communist Party has climbed America's back to economic prominence. China and its junior partner, Russia, are directly hostile to the values of the free world and to America specifically. We cannot allow our own economy to bankroll tyrants who wish Americans harm. There are actually some people who are running for president that want to do that, who wish the economy crashes, in their own words.

Trade is not just numbers on a sheet. It is interests and it is values. I believe President Biden has prioritized Americans' interests and values. It is essential that you communicate both of these.

I have some questions for you.

The attacks on freedom and democracy led by China and Russia represent perhaps the challenge of our time. Can you broadly detail how the Biden Administration formulates American trade to preserve democracy and combat autocracy? How does illiberalism negatively impact trade?

Ambassador TAI. Mr. Pascrell, thank you for these questions that go to the center of why trade is important, and why American leadership in trade is important right now in a very changing world, with significant consequences.

One of the leading ways in which we are advancing a trade policy that is focused on defending against autocracies is to work with our partners and allies who share a history with us, and who share values with us, open societies, democratic systems, open market-based economies.

The challenge is that the global economy is being fundamentally distorted by systems that don't share our values, but also systems that work on a different set of economic logic. We talk a lot about markets and freedoms. The challenge is that at this point in time, the global economy is actually being significantly affected and distorted in ways that freedoms are being impacted. The level of economic coercion and bullying that we see happening with those countries that have the leverage to choke where they have chokepoints in supply chains in response to political decisions that they don't like should be highly concerning.

And so, whether it is through our work to diversify and derisk supply chains, or on our work to promote more sustainable, more pro-worker, pro-democracy, pro-economic opportunity trade paradigms and economic frameworks for collaboration, the concerns you have raised animate everything that we are doing to try to change the conversation on trade, which I think for a long time has gotten very complacent.

We need to be fundamentally playing a different game, more active defense. We have to be much more conscious about what is at stake, and what are the values in our economy and in our societies that we need to safeguard because they are under threat. And I thank you very much for raising those concerns.

Mr. PASCRELL. And I have all the confidence that you can change the dialogue.

Thank you for your service.

Ambassador TAI. Thank you so much, sir.

Mr. PASCRELL. Thank you, Madam Chair.

Mrs. MILLER. Thank you, Mr. Pascrell.

Mr. Arrington, you are recognized for 5 minutes.

Mr. ARRINGTON. I thank the Chairman; I thank the ambassador.

When I hear you say we need to play more aggressive defense, I think on the opposition, on our adversaries. But it is like watching—I have to say it—my son play basketball at a young age where sometimes they don't know who is offense and who is defense, and their team will sometimes actually play defense on their own team, which is what I believe, Ms. Ambassador, we are doing with our L&G exports and our domestic energy producers.

Why would we put a moratorium on trading L&G with our allies? Why—we talked about enriching Vladimir Putin and adver-

saries by not trading with Europe, who depends on us now like we are their greatest exporter of L&G. They were 40 percent dependent on Russian natural gas in 2021. That has changed. We have exported three times the L&G. And by the way, this is just a stat—American produced L&G is 41 percent lower life cycle emissions than compressed natural gas from Russia. So, the environment is better off. Our economy is better off. Domestic energy producers are better off. But we are enriching Vladimir Putin and we are putting our allies in eastern Europe in an untenable situation. I don't understand that. I will let you respond, but I need to go to an issue that is admittedly parochial in that it affects Texas. Not my district, but south Texas, the Rio Grande Valley.

This may be a little out of your wheelhouse, but I think you can help us. I am pleading with you to help us. This goes back to the principle of these treaties and trade deals are only as good as our willingness to enforce them. Whether it is labor issues, environmental issues, we agreed to it, the American people did by sending us here. We cut these deals, and we get taken to the cleaners by our competitors and partners when we don't enforce them. So, there is this water treaty since 1944—I am sure you have heard of this—we depend on Mexico based on this agreement to provide 350,000 cubic acre feet a year to a couple of reservoirs so we can produce irrigated crops in the Rio Grande Valley. It is \$1 billion in irrigated crop loss without these resources, and for 4 years, Mexico has failed to deliver. Monica de la Cruz, God bless her, she is a warrior from the great State of Texas, and is a champion and strong voice for her people at a time when they are in desperate need on the heels of a drought with Mexico not complying, and they just shuttered the last—they grow various crops, citrus, vegetables, but sugar is a big production ag center in the Rio Grande Valley. They just closed the last sugar mill to process the sugar. Five hundred jobs gone, and it took her a year and a half to get a meeting with Secretary Blinken. I recognize there are lots of things going on in the world, but we got to be able to walk and chew gum. Somebody over at the State Department—and maybe with your help—can hold Mexico accountable so that we don't lose anymore jobs.

This is a self-inflicted wound. We are not talking about a new deal. This shouldn't be that difficult to solve, and it is devastating the Rio Grande Valley. I have got reports that I would submit for the record, Madam Chair, from the Center for North American Studies, that talks about the loss of almost half a billion dollars in direct revenue and a much broader economic impact.

So, bless Monica de la Cruz's heart. She is a new member, and with the zeal of a new member, she has written letters. She has gotten bipartisan support. She has worked up and down the chain. She has engaged with Mexican officials, and after a year and a half, she sat across from Secretary Blinken and it was just so disappointing. It was like we will try. No real commitment, no definitive action. Will you please help the Rio Grande Valley to just get the water that they are owed according to the treaty so we can help produce safe and affordable supply food for this country and food security for every American.

Ambassador TAI. Mr. Arrington, thank you for raising this issue with me in this context. I would be delighted to follow up with you and have our staffs connect and see how we can assist.

Mr. ARRINGTON. I know that may have been the longest question wind-up in—

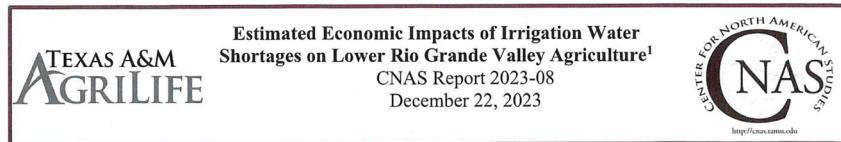
Ambassador TAI. I appreciate it.

Mr. ARRINGTON [continuing]. History, but it is a very important issue. Thank you for your sincere consideration.

Madam Chair.

Mrs. MILLER. Thank you, Mr. Arrington, and we do, without objection, accept the article.

[The information follows:]



**TOTAL ECONOMIC LOSS: nearly \$1 billion!**  
*Introduction*

The value of agricultural production in the Lower Rio Grande Valley (LRGV) region, which includes Cameron, Hidalgo, Starr, and Willacy counties, was approximately \$887 million in 2022 (Table 1). Total crop production accounted for about \$673 million or 75.8% of total agricultural production led by feed crops, cotton, vegetables, miscellaneous crops, and fruits and nuts. Livestock production and agricultural related production were about \$85 and \$129 million, respectively (Robinson, 2023).

Table 1. Estimated Value of Agricultural Production for the LRGV, 2022

	LRGV Value of Production for 2022				
	Cameron	Hidalgo	Starr	Willacy	Total LRGV
	(Thousands of Dollars)				
<b>Total Crops</b>	\$ 144,532	\$ 333,699	\$ 18,118	\$ 176,407	\$ 672,756
Row Crops	\$ 105,145	\$ 106,973	\$ 10,925	\$ 162,739	\$ 385,782
Specialty Crops	\$ 39,379	\$ 225,379	\$ 7,193	\$ 13,668	\$ 285,619
<b>Total Livestock</b>	\$ 11,978	\$ 43,873	\$ 24,539	\$ 5,021	\$ 85,411
Beef	\$ 11,978	\$ 42,343	\$ 24,440	\$ 4,939	\$ 83,699
Other Meat Animals	\$ -	\$ 1,530	\$ 99	\$ 82	\$ 1,711
Livestock Products	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Ag. Related</b>	\$ 104,841	\$ 17,375	\$ 4,320	\$ 2,476	\$ 129,012
<b>Total Agriculture</b>	\$ 261,351	\$ 394,947	\$ 46,977	\$ 183,904	\$ 887,179

Source: Estimated Value of Agricultural Production and Related Items, Texas AgriLife Extension Service, May 2022

Irrigation water is very important to agricultural production in the LRGV region where about half of its crop production acreage is irrigated. Irrigation water shortages in the LRGV have occurred since the mid-1990s (Robinson, 2002; Ribera and McCorkle, 2013; Ribera et al, 2017). These shortages were exacerbated in 1992, when Mexico began undersupplying the average minimum annual amount of 350,000 acre-feet of water into the Rio Grande, which continues today. The treaty of 1944 requires Mexico to deliver 350,000 minimum average annual acre-feet annually over the defined five-year cycles. The water deficit for the current five-year cycle that started on October 25, 2020 is 673,892 acre-feet as of December 9, 2023 the second largest deficit in the last three decades (IBWC, 2023).

The purpose of this report is to estimate the economic impact of the absence of irrigation water for crop production in the LRGV region. Crops affected by irrigation water shortages are row crops (mainly sorghum, cotton, and corn) and specialty crops (mainly vegetables, citrus and sugarcane). Row crops can be grown in either irrigated or dryland production systems while specialty crops can only be grown under irrigation. All row crops and specialty crops are annual crops except for citrus

<sup>1</sup> Prepared by Luis A. Ribera, Landyn Young, Samuel Zapata, Dean McCorkle, and Daniel Hanselka, and is a collaborative effort of Center for North American Studies and Texas A&M AgriLife Extension Service, Department of Agricultural Economics, Texas A&M AgriLife Research/Texas A&M AgriLife Extension Service. For additional information, please contact lribera@tamu.edu or call 979-845-3070.

and sugarcane. The lifespan of a citrus tree is over 30 years while sugarcane is typically five years. The methodology used in this study is an *ex post* historical crop damage approach where the economic impacts are estimated by measuring the change in farm gate or regional gross value of affected row crops and specialty crops.

#### Row Crops

To estimate the impact of the lack of irrigation water in row crops, the difference between irrigated and dryland yields are estimated and multiplied by the irrigated acreage for the crop. To account for the year-to-year fluctuations in yields and crop acres, a 5-year average (2018- 2022) of crop yields and acreage is used to project the impacts for 2024. For example, using the estimated corn yield difference between irrigated and dryland production (i.e., 39 bu. per acre), the 5-year average irrigated corn acres, and the 2023 estimated corn price; the loss in farm-gate cotton revenue is estimated at \$9.4 million for 2024 (Table 2). Therefore, with the absence of water, irrigated row crops are assumed to produce dryland yields, causing a reduction in row crop farm-gate values of \$31.3, \$9.4, and \$3.6 million for cotton, corn and sorghum, respectively. Anecdotal evidence suggests that irrigated fields transitioning to dryland tend to produce lower yields compared to their historical dryland counterparts. Therefore, the dryland yields used in the analysis provide a conservative estimate of the potential economic losses. The total farm-gate loss for row crops is estimated at \$44.3 million.

Table 2. Row Crop Losses due to Lack of Irrigation Water in LRGV						Losses from absence of water:
	Yield <sup>1</sup>	Yield Loss <sup>1</sup>	Acreage <sup>2</sup>	2023 Price <sup>3</sup>	Total Farm Gate	
	5-year average					
Seed Cotton						
Lint - Irrigated	653	(341)	74,540	\$ 0.81	\$ (20,601,138)	• CORN: \$9.4 mil
Lint - Dryland	312		99,259			• COTTON: \$31 mil
Seed - Irrigated	1,739	(907)	74,540	\$ 0.16	\$ (10,738,016)	• SORGHUM: \$3.6 mil
Seed - Dryland	831		99,259			
Corn						
Irrigated	82	(39)	52,550	\$ 4.64	\$ (9,413,207)	
Dryland	43		31,328			
Sorghum						
Irrigated	69	(25)	29,359	\$ 4.88	\$ (3,562,548)	
Dryland	44		179,407			
Total Row Crop Losses				\$	44,314,910	• \$44.3 mil Total

<sup>1</sup> USDA ARC/PLC Yield Adjusted Factors for LRGV region, 2018-2022. Cotton yield is measured in lbs/ac, and corn and sorghum yields are given in bu/ac.

<sup>2</sup> USDA-FSA annual crop acreage report for LRGV region, 2018-2022

<sup>3</sup> CME Group Cotton Lint and Corn December 2023 Prices. USDA Texas Sorghum and Cotton Seed Price December 2023.

Note that seed cotton is composed of cotton lint and cottonseed with Agriculture Risk Coverage (ARC) county yields for the Lower Rio Grande Valley area with the two parts being separated and sold after being picked. The conversion of this seed cotton acreage to the individual parts was assumed to be 27.2975%. For more information on the breakdown of this estimate, refer to the congressional report: [R45143 \(congress.gov\)](https://www.congress.gov/45/143).

*Specialty Crops LOSS due to absence of water: \$476 million*

To estimate the impact of the lack of irrigation water in specialty crops, these crops were divided between perennial, i.e. citrus, and annual crops, i.e. vegetables and sugarcane. This report assumes that citrus orchards are turned into an annual crop and the estimated cost for removing citrus trees are \$800/acre per Texas Citrus Mutual. This has been an on-going threat for the industry since Hurricane Hanna in 2020, the crippling winter storm Uri during 2021 followed by droughts in 2022 and 2023. The recovering citrus industry has continued while struggling to keep orchards going due to the lack of irrigation water. It is important to note that once citrus orchards are removed the whole industry will be lost permanently.

Therefore, the economic loss of the lack of irrigation water at the farm-level would be the 5-year average value of citrus production in the LRGV region plus the cost to transition orchards, \$268.4 million (Table 3). Vegetables and sugarcane production would be lost as well, as irrigation water is needed for their production. Estimated economic losses at the farm-level would be the 5-year average value of production, \$108.5 and \$98.5 million for vegetable and sugarcane production, respectively (Table 3). The total value of specialty crop production is \$475.5 million.

Table 3. Specialty Crop Acreage and Value of Production Loss

	Acreage <sup>1</sup> 5-year average	Value of Production <sup>2, 3</sup>	Citrus	
				Transition Cost
Citrus <sup>*</sup>	27,038	\$ 246,791,479	\$ 21,630,400	
Vegetables	26,090	\$ 108,498,775		
Sugarcane	33,474	\$ 98,538,195		
<b>Total Specialty Crop Loss</b>			<b>\$ 475,458,849</b>	

<sup>\*</sup>Value of Production is years 2015-2019 due to natural events limiting production

<sup>1</sup> USDA-FSA annual crop acreage report for LRGV region, 2018-2022, and Texas Citrus Mutual, 2023

<sup>2</sup> Estimated Value of Agricultural Production and Related Items, Texas AgriLife Extension Service, May 2023

<sup>3</sup> Rio Grande Valley Sugar Growers Inc. Income Statement and Texas Citrus Mutual annual reports

However, it is improbable that the acreage used in specialty crop production would remain out of crop production; instead, they would be converted into dryland crop production, which for the LRGV region would most likely be cotton, corn, or sorghum. The methodology used to redistribute this acreage includes using the 5-year average crop mix in the LRGV region as the crop mix ratio to convert the citrus, vegetable, and sugarcane acreage into row crops (Table 4). Therefore, 37% of the converted specialty crops acreage would go into cotton, 18% into corn, and 45% into sorghum production; accounting for \$24.0 million in production value at the farm-level. This value, \$24.0 million, is subtracted from the total loss of specialty crop production. Therefore, the total crop production loss due to the lack of irrigation water in the LRGV region is estimated at \$495.8 million, which includes row crop losses of \$44.3 million, plus the specialty crops losses of \$475.5 million and the cost to transition land producing citrus to row crops of \$21.6 million, less the value of row crop production of the converted citrus, vegetable, and sugarcane acreage, \$24.0 million.

Table 4. Value of Production of Specialty Crop Acreage Turned into Row Crop Production

	Crop Mix <sup>1</sup>	Acreage Mix	Yield <sup>2</sup>	Price <sup>3</sup>	Value
	5-year average				
Cotton	37%	32,268			
Lint			312 \$	0.81 \$	8,171,525
Seed			831 \$	0.16 \$	4,259,278
Corn	18%	15,573	43 \$	4.64 \$	3,117,270
Sorghum	45%	38,761	44 \$	4.88 \$	8,402,313
<b>Total Gross Revenue</b>					<b>\$ 23,950,386</b>

<sup>1</sup> USDA-FSA annual crop acreage report for LRGV region, 2018-2022<sup>2</sup> USDA-NASS Quick Stats for LRGV region, 2018-2022. Cotton yield is measured in lbs/ac, and corn and sorghum yields are given in bu/ac.<sup>3</sup> CME Group Cotton Lint and Corn December 2023 Prices. USDA Texas Sorghum and Cotton Seed Price December 2023.

#### Total Economic Impact

The IMPLAN input-output model was used to assess the broader economic effects associated with the estimated \$495.8 million crop revenue loss generated by the loss of irrigation water. These effects are measured via three indicators – employment, value added, and economic output. Employment represents both full and part-time jobs, value added is a measure of net business income and employee compensation, and economic output represents gross business activity (spending) associated with the loss of irrigated crop production. Value added also represents a contribution to Texas' Gross Domestic Product (GDP), the most commonly used indicator of the health of the state's economy.

Each of these indicators is measured at three different levels: direct effects represent the farm-level effects; indirect effects represent effects in industries that provide input supplies (fertilizer, fuel, etc.) to farms, and induced effects represent the economic impacts associated with the spending of salaries and wages on household goods. The loss of irrigated crop production in the LRGV region would lead to an estimated \$993.2 million loss in economic output (Table 5). Likewise, the loss of irrigated crop production in the LRGV region would generate a loss of \$554.8 million in value-added (contribution to the state's GDP). In terms of employment, the loss of irrigation would result in an estimated loss of 8,404 jobs (full-and part-time) that depend on the production and sales of these commodities for some portion of their income. It is important to note that value-added and economic output are two distinct indicators, and as such are not to be added together.

This analysis represents the impacts of all economic activities that occur in the production of the described crops, up until the point of sale of the crops at the farm-level. These results are on the conservative side as they do not include the impacts (losses) that occur beyond the farm-level sale of the crops, such as transportation, storage, processing, packaging, and marketing.

Table 5. 2023 Projected Economic Losses Associated with Lack of Irrigation Water in the LRGV

Impact Type	Output	Value Added	Employment
1 - Direct	(\$495,823,372.00)	(\$278,319,316.23)	-5,221.12
2 - Indirect	(\$233,196,608.65)	(\$126,257,482.91)	-1,791.55
3 - Induced	(\$264,226,353.62)	(\$150,178,250.31)	-1,391.71
<b>Total Economic Impact</b>	<b>(\$993,246,334.26)</b>	<b>(\$554,755,049.44)</b>	<b>-8,404.38</b>

Source: IMPLAN Model Estimation

Mrs. MILLER. Mr. Davis, you are recognized for 5 minutes.

Mr. DAVIS. Thank you, Madam Chairman. Ambassador Tai, thank you for being here with us today.

I want to thank you for continually promoting President Biden's efforts in strengthening the U.S. economy through innovative trade initiatives and work-centered empowerment agreements domestically and internationally. You have been instrumental in securing U.S. supply chains and reducing economic liabilities through affirming existing partnerships and developing new ones around the world.

Additionally, as our trade representative, you have embraced President Biden's vision by expanding agricultural opportunities for farmers and producers with more market access.

According to the Bureau of Labor Statistics on Wednesday, April 10 of this year, it was reported that consumer prices increased by 0.4 percent in March, and the cost of medical services increased by 0.6 percent. At the end of May, a number of exclusions from Section 301 tariffs for medical supplies are set to expire. I am concerned that the lapse of these exclusions, along with other economic factors, have the potential to increase healthcare costs. Could you share with us your thoughts and plans relative to how we handle these expiring tariffs and the impact it may have?

Ambassador TAI. Thank you very much, Mr. Davis, for your question, and for framing it around the issues that impact Americans as consumers of healthcare services and products.

Let me just say broadly that with respect to our review of the existing tariffs and a review of the exclusions, the tariffs are meant to serve a purpose, and that is to help us address the imbalances and inequities in the U.S.-China trade relationship, to motivate China's compliance with respect to the challenges and the harms that were identified in the original Section 301 investigation, and also to encourage our producers to diversify their supplies, and also our producers to give them the space to make a transition to being able to improve their own capacities.

So, without getting into specifics with respect to this set of exclusions where I am limited to what I can say right now, I just wanted to acknowledge that the questions that you are raising are exactly the ones that we look at in administering an exclusions process and in reviewing the Section 301 tariffs.

Mr. DAVIS. For your attention to that issue, I moan and groan a great deal about what my district does not have, but one of the things that we do have is a pretty solid supply of medical equipment manufacturers, and they are indeed always concerned. So, I thank you very much and appreciate your serious attention.

Thank you very much, Madam Chairman. I yield back.

Mrs. MILLER. Thank you, Mr. Davis.

Dr. Ferguson, you are recognized for 5 minutes.

Mr. FERGUSON. Thank you, Madam Chairman, and Ambassador Tai, welcome. Glad to see you again, and thank you for your service to the Nation.

I know you have taken several questions along this point, but I want to make it again. I am really frustrated with the lack of movement on GSP. I look at a state like Georgia, and having—you know, we have got about a million and a half acres of privately

owned timber, and about another million—excuse me, \$1.3 billion in manufacturing sales associated with that. GSP could play a role in that, but it does in so many other ways. It is really important for us to pull—to create different supply chains than we have right now, and GSP is one such tool that we can do that with.

Can we have your commitment that you will continue to—to help us get that across the finish line, and can you speak to the importance of a solid, potentially longer authorization versus a shorter authorization, and what that does to stability in the marketplace?

Ambassador TAI. Thank you so much, Dr. Ferguson. GSP is on everybody's mind at the hearing today, because I know you all have a markup tomorrow, which is encouraging because at this point I think GSP has been lapsed for over 3 years.

I have a lot of counterparts who raised GSP with me, asking about reauthorization. I always begin my response by tipping my hat to the U.S. Congress, this committee, and the Senate finance committee in particular in terms of it being a statutory program that comes from you.

That said, the administration is supportive of reauthorization of GSP, of course, with appropriate updates to reflect GSP's purpose as well to be a trade and development program that enhances the relationship between the United States and many of our developing country trading partners. And so, we also support updates to the GSP Program that go to those development goals that address human rights and corruption, rule of law, labor standards, environmental standards.

I would be remiss to not mention other lapsed programs, including TAA, which goes to the competitiveness of our workers. But whether it is with respect to technical assistance or other kinds of assistance that we can provide, we at USTR stand ready as always.

Mr. FERGUSON. Thank you. Thank you for that. I just feel like it is really important that we get—that we work to get this done.

Another area that I am concerned about is digital trade, particularly as it relates to our filmmakers, our music creators, the multi-billion-dollar industry that exists in my home State of Georgia around TV and film production, but also music industry in the metro Atlanta area.

I am concerned about things like what Canada is potentially doing and how that can negatively impact, you know, trade, but really, if that goes into effect, then that really could have a chilling effect on the creator's incentives to, you know, to do more. That could affect job creation in the State of Georgia and capital investment there. Can you speak to how you would deal with that issue, and how Canada could potentially be discriminating against American producers there?

Ambassador TAI. Dr. Ferguson, the Canadians are very active, so I just wanted to ask a point of clarification. Is this with respect to the Canadian digital services taxes?

Mr. FERGUSON. The Online Streaming Act.

Ambassador TAI. Oh, the Online Streaming Act. I appreciate that.

The issues that you raise with respect to impacts on American content creators, our creative industry, jobs in that industry which are heavily unionized, they—this provision is something that we

are looking at very, very closely, and I think what I would say to you is we remain in close contact with our Canadian counterparts with the MC as well in assessing where they are in their implementation.

I believe this Online Streaming Act—became law in April 27, so almost a year ago. It does create an opportunity for Canada to update its definition of Canadian content to better reflect the complex ways in which film, video, and audio content is produced, and we would like to see this updating process lead to fair outcomes for U.S. stakeholder.

Mr. FERGUSON. Yeah. I just would like to have your commitment that we are not going to do anything that discriminates against U.S. producers and content creators.

Ambassador TAI. I think that you can rely on us to do that in our conversations with our good friends up North.

Mr. FERGUSON. Thank you, Ambassador.

I yield back.

Mrs. MILLER. Thank you, Dr. Ferguson.

Ms. Sánchez, you are recognized for 5 minutes.

Ms. SANCHEZ. Thank you so much, and Madam Ambassador, thank you for joining us. I know that you go to extraordinary lengths to make yourself accessible and available. I want to thank you for always being willing to answer questions.

I also want to point out the great work that you have done traveling the country and talking to stakeholders to make sure that our trade agreements are not pitting Americans against Americans and are doing our utmost to boost each sector of our economy.

I just want to, before I jump into questions, I just want to mention, GSP has been mentioned a lot today, and I would remind my colleagues on the other side of the aisle that Democrats support GSP renewal, but trade agreements can create disruptions. And so, Democrats are united in saying that we want to see trade adjustment assistance included in the GSP reauthorization because that helps to minimize some of those impacts. Yet noticeably, the bill that we will be marking up this week does not include trade adjustment assistance. I just wanted to put that into the record.

I have to commend you, Ambassador Tai, and the administration for your efforts to advance a new worker-centered trade agenda, because our trade agreements in the past weren't always focused on workers, and our trade policies in the past had only paid lip service to labor rights. But I am very heartened that our sort of new—our new template for trade moving forward makes sure that workers living abroad are getting decent wages and decent working conditions, and that we are disincentivizing companies in the United States from sending jobs overseas.

I know that we have seen the Biden Administration's work over the last three years in defending workers' rights, both domestically and abroad, and to help U.S. companies compete on a more level playing field in trade. And as a labor lawyer, I am particularly proud of USTR's success with the Rapid Response Mechanism that we saw in the USMCA. You mentioned that there have been over 22 cases in Mexico supporting nearly 30,000 Mexican workers, and I think that those ambitious and enforceable labor protections like

the RRM reflect the changes that many of us here want to see in any new trade agreements moving forward.

To that end, Ambassador Tai, can you speak to how you work to ensure that our trading partners eliminate things like forced labor and other worker abuses in their countries or in their supply chains? And then, people will say well, why do we care what happens to workers overseas? How does that benefit U.S. workers?

Ambassador TAI. Thank you so much, Congresswoman Sánchez.

I will start with that last question and provide an example. In the work that we have done over the years with American auto workers, for instance, we have seen over the past previous decades the amount of American manufacturing that has relocated offshore, and especially when that production goes to jurisdictions where workers do not have a fair shot, where their rights to advocate for themselves are suppressed. What we see is American workers suffer, and the autoworkers are particularly articulate on this, which is that in their negotiations that come up every couple of years, that they are given deals and told you can either take this or leave this, because if you don't take it, we are just going to move production to a jurisdiction where workers can't get a fair shake.

And so, by ensuring that our trade deals are actually reinforcing and creating opportunities for workers in those other jurisdictions to be able to have that fair shot to advocate for themselves to improve their working conditions, we are in a very direct way leveling the playing field for America's workers.

So, that is one key component to what we are doing.

The other question that you asked is how do we work with our trading partners to address forced labor and supply chains? This is something that we have done a lot of work on with the European Union. We do a trade and labor dialogue as part of the Trade and Technology Council, entered into an MOU with the Japanese government in the G7 context. We have advanced this in a lot of our bilateral arrangements. We are working with our trading partners to work with us collaboratively to create measures where they don't have them, to work towards eliminating forced labor from global supply chains.

Everyone knows that forced labor has no place in global supply chains. The challenge is that right now, our global supply chains are largely unfettered. They don't face a lot of scrutiny, and making that change to create more scrutiny, to create enforcement measures, is hard. You can ruffle feathers. You need resources. But we are growing this conversation, including at the WTO, where in May of 2021, we advanced a proposal in the ongoing fishery subsidies negotiations to shine a light on the problem, the scourge of forced labor in the fishing industry, especially on distant water fishing vessels where workers are very far away from land, from communication devices, and are particularly vulnerable to forced labor.

We continue to work on that in the WTO context, and we continue to see progress that we are making across the board.

Ms. SANCHEZ. Thank you, Ambassador Tai.

I just want to mention one thing before I yield back my time.

Mrs. MILLER. Your time is expired.

Ms. SÁNCHEZ. The investor state disputes settlement, but we can talk about that at another time.

But thank you for your time.

Mrs. MILLER. Thank you, Ms. Sánchez.

Mr. Estes, you are recognized for 5 minutes.

Mr. ESTES. Well, thank you, Madam Chair, and thank you, Ambassador Tai, for joining us today. It is always good to talk to you. Unfortunately, I think a lot of our conversation today is centered around things that aren't going well on the trade front. I mean, it seems like over the last 3 years for the Biden Administration, we have been having a lot of the same conversations, sharing the same frustrations with very little or no action.

This committee, both Republicans and Democrats, are passionate about free and fair trade, because we know when it is done right it boosts our economy and lifts more people out of poverty. Unfortunately, the Biden Administration has shown little interest in pursuing meaningful fair-trade agreements that benefit American workers and job creators.

Instead, the Administration has advanced some of the disastrous proposals coming from the OECD and WTO that are widely panned as detrimental to the United States and our economy.

Over the past 3 years, USTR has failed to insist on safeguards for digital trade, which has been brought up before, which will result on the loss of U.S. tax revenue to other countries. By acquiescing to forced tech transfers, localized operations and data localization, the administration is consenting to WTO proposals that will send U.S. jobs and IP to foreign jurisdictions, decreasing our tax base.

In addition, the OECD's Pillar 2 project would accelerate the loss of tax revenue because Treasury ceded the primary—the primacy of U.S. international tax system.

I am especially concerned about the global minimum tax and pillar 2. I want to step back to pillar 1. As you know, me and several other members of the Committee have had concerns about proliferation of the discriminatory digital services taxes since 2017, which is why I encourage previous administration to engage in the OECD BEPS 2.0 project. As you know, the goal of this project was to eliminate digital service taxes and provide tax certainty and simplicity for businesses in a growing digital economy. Eliminating extra charitable taxes like DSTs is not a Republican or Democrat issue. My Democrat colleague, Congressman Dan Kildee, and I introduced a resolution in 2020 condemning DSTs. Yet, today we are seeing more countries like Canada in at DSTs, and OECD issued a convoluted 800-page draft deal that leaves more questions than answers.

And before of this, it is my belief that Pillar 1 deal now represents a foot in the door to more extra territorial taxes on successful U.S. businesses.

A recent Law 360 article summarizes sentiment from a tax subcommittee earlier this year, saying both Republican and Democrat members make clear that they oppose digital services taxes, many of which would be eliminated under Pillar 1, but stakeholders raised concerns about the extent to which convention would protect companies from future measures.

The JCT report on Pillar 1 released earlier this year notes that a parity of in-scope companies would be from the U.S., and 70 percent, or \$135 billion of amount A would come from American companies. Likewise, the U.S. Treasury would forego between \$100 million and \$4.4 billion per year in tax receipts, as we were giving away our taxing rights to other countries. And USTR's negotiation with Canada on a DST that they deemed susceptible is also troubling, be seen as an easy provision for other countries to copy.

Ambassador, I have noticed this in previous hearings. The House Ways and Means Committee, which has jurisdiction over taxes and trade, should have been involved in the conversations early on, and it simply unacceptable that Pillar 1 has currently negotiated by the Biden Administration risks sending U.S. dollars to foreign treasuries at the expense of American job creators, innovators, and workers.

Kansans I represent sent me this body to put their best interest first, not those of foreign countries seeking to pilfer the U.S. Treasury.

In relation to the negotiations of Canada regarding their DST, what would be the threshold for a tax to be determined discriminatory towards the United States? Would it be that 25 percent of the in-scope businesses were American, or over 50 percent or over 75 percent? Where is that threshold in the discussions that you are having?

Ambassador TAI. Mr. Estes, you have compacted a lot of information into your question, and so, I promise I will get to it.

But first, I start with your characterization of what we have done or not done in the context of the WTO. I have to admit, I didn't fully understand which topics you were concerned about, but I really do have to stand up for my people, my agency at the WTO, which is a very challenging but important institution. To allow for someone like me that leads an agency to accept assertions like that does stand, so I am just going to put on the record that I object to the characterizations that we are not standing up for American interests or that we are not leading at the WTO.

On your question on DSTs, I will have to say that for a lot of it—let me just start with I am the U.S. trade representative and not the U.S. tax representative, and a lot of what you are characterizing as Biden Administration approach really is led by the Treasury Department, which I know is subject to Ways and Means jurisdiction. It is just that I am not the person and we are not the main agency.

Your specific question, though, with respect to Canada and discriminatory aspects of Canada's DST, that is where we come into the DST conversation where DSTs that are proposed and come into the world have discriminatory impacts. That is exactly the question that we engage on, not with Canada, but with a number of other jurisdictions. We have suspended Section 301 actions. We stay in very close contact in understanding what the dynamics are around Pillar 1 and Pillar 2, and we look at all the tools that we have with respect to addressing those issues in USTR's purview.

Mr. ESTES. Well, as you know, I only have 5 minutes to ask questions, so covering a lot of material. It is unfortunate that we can't get to some solutions.

So, thank you, and with that, I yield back.

Mrs. MILLER. Thank you, Mr. Estes.

Ms. DelBene, you are recognized for 5 minutes.

Ms. DELBENE. Thank you, Madam Chair. Ambassador Tai, it is always great to have you here at the Ways and Means Committee. Thanks for joining us.

As I often remind you, and pretty much all my colleagues, trade is critical for Washington State's economy. More than 40 percent of our jobs are tied to trade in industries ranging from agriculture to advanced manufacturing, and our port workers serve as a gateway to the Indo-Pacific, where over half of global economic growth is expected in the next 30 years.

You have notched some key wins for Washington's economy—thank you—such as reopening India's \$120 million market for Washington apples. I do worry we are not doing enough to negotiate trade roles that are commercially meaningful, enforceable, supported by Congress, and reflective of the modern-day challenges we face as a Nation.

One area where we need to be doing more is to combat climate change through trade. The Inflation Reduction Act that Democrats passed in 2022 is the most significant federal investment in American history to tackle the climate crisis and is expected to lower greenhouse gas emissions by 40 percent, in part by investing billions of dollars to reduce emissions across steel, aluminum, and other hard to decarbonize industries. As a result, many businesses across our country are investing in cleaner production processes, but their competitors in certain foreign countries are taking advantage of weaker environmental standards in their own countries to undercut our industries, putting American jobs at risk.

And so, if we fail to harness America's clear and growing carbon advantage, more jobs in important areas will be lost to countries like China and India, where production is three to four times as carbon intensive. And so, that is why I believe Congress should pass legislation like the Clean Competition Act that I introduced with Senator Whitehouse and a group of House Democrats, including my colleague, Congressman Don Beyer, to impose a border fee on energy intensive imports. The EU has already passed their own carbon border adjustment mechanism, and many other countries are moving forward with their own proposals, including the UK, Canada, Australia, Taiwan, and South Korea. This is not a partisan idea. Senators Bill Cassidy and Lindsay Graham, both Republicans, have also introduced carbon border legislation and earlier this year, one of Donald Trump's top trade officials testified in this committee in support of the concept. So, this is also very fiscally responsible, as economic modeling in just the steel and aluminum industries has found that a carbon import fee would raise tens of billions of dollars.

So, Ambassador, I wondered how could a carbon border fee level the playing field for American workers and reduce global emissions, in your opinion?

Ambassador TAI. Thank you so much for your leadership on this issue, Congresswoman DelBene. I agree with you. I think that this was one of the most important changes among many changes that

are happening in the global economy, one where the United States is positioned to lead. We have a lot to contribute here.

I wanted to start by letting you know that just a couple days ago, if not two weeks ago, we at USTR put forward at the WTO communication on climate and trade at the WTO, primarily to try to focus the work at the WTO—there are about a dozen workstreams on environment and climate at the WTO. The WTO knows that the solution to our climate challenges is a collective one that involves trade.

Thanks to the work that you and your colleagues are doing here, we are able to advance our voice in that conversation to say the United States has a perspective here, and the measures that countries and economies put together at their border to incentivize pro-climate policies and to make trade work have to be able to work with each other, and that we have to respect that we all have different systems and that our measures might look different. But if our goals are the same or similar, there must be a way for us to join forces, and the approaches shouldn't be to penalize each other.

So, this is one of these areas where we know that there is work that we need to do, that is it a congressional and executive partnership, and the leadership that you are showing in introducing these bills as they advance as a bipartisan conversation grows and develops here will further strengthen our ability to engage and to influence the global conversation. It truly is a partnership.

Ms. DELBENE. Thank you, Ambassador. I yield back.

Mrs. MILLER. Thank you, Ms. DelBene.

Dr. Ferguson, you are recognized for 5—

Mr. FERGUSON. Dr. Wenstrup.

Mrs. MILLER. Whoops, how did I do that? Dr. Wenstrup—

Mr. WENSTRUP. That is all right.

Mrs. MILLER [continuing]. You are recognized for 5 minutes.

Mr. WENSTRUP. Thank you. Ambassador, thank you for being here today, and I may be redundant on something here, but I just want to run it by you real quick when it comes to reopening Section 301.

My concern is that when we have things that are not a threat to our national security and do no harm to our healthcare system, whatever, are we going to be open to let businesses make their case to import some of those types of products from China?

Ambassador TAI. So, thank you, Dr. Wenstrup. I think probably specifically what you are referencing are exclusions programs?

Mr. WENSTRUP. Correct.

Ambassador TAI. Yes. No, we recognize that exclusions programs are particularly important in transitioning from a situation where we have created and are living vulnerabilities with respect to suppliers, to getting us to a place where we are less vulnerable and have more diversified opportunities.

So, I hear you in terms of the importance of exclusions, and their role in the transition that we are making as an economy.

Mr. WENSTRUP. Especially when we are talking about things that do not engage with our national security, but in that—and national health security, in particular, I want to talk to you about that. Because I am concerned about the vulnerability of our supply chain for products critical to our national health security, such as,

you know, PPE, generic drugs. You know, if I had known when I served in Iraq as a surgeon that my protective equipment and my medications relied on an adversary, I am wondering how did our military get here, but how did we as a country get here because it is a threat to all of us, not just our military.

So, I know you understand that situation, so I will really just get right to the question. What actions can you take as a U.S. trade rep to help protect Americans and American patients from predatory foreign medical supply manufacturers? I mean, I look at things, you know, about 15 years ago we had 250 Americans die from tainted Heparin coming from China. You know, we don't really have the oversight that we would like—that we would have here.

And so—but it is not just what can you do as U.S. trade representative, but what can you suggest that we do to help secure our supply chain in that particular topic with medications?

Ambassador TAI. So, Dr. Wenstrup, extremely important issue, and you are right. Trade has an important role to play here, USTR in particular. Obviously we are not the only ones to the point about tainted Heparin. You know, the abilities of our regulators and safety regulators especially come into play.

But I wanted to highlight for you and the members of this committee that just about a month ago, USTR published a Federal Register notice. It is a call for public participation. We are looking for a robust engagement from your constituents from across the American economy, from other economies as well, to help us, to share their wisdom with us, and how they have navigated all the changes in the global economy and all the challenges with the supply chains to survive, and also to create resilience. And of the almost one dozen sectors that we have identified as being of special interest to us this year, the medical supply chain, API, PPE, are right there at the center.

What we are hoping will happen over the course of the solicitation for public comment, a series of public hearings, engagement of formal and informal is to find out from those who are in the supply chain, who do produce, what drives their decisions around production, around contracting for supply? If they are trying to revive and rebuild manufacturing here, what is going to be important incentives for that? How—if we facilitate that, we can prevent offshoring back again. And then how do we make use of the concepts of front shoring and nearshoring?

My desire is to have results of this exercise be informative not just for USTR, but for this committee as well, to think about what we can do with it.

Mr. WENSTRUP. So, if I can, I am tracking with you, but you know, we operate so much in silos where, and would you be okay if we held a round table and we had those key players all at the table with you, with us, and we really talk through all these things and not necessarily with, you know, 5-minute sound bites, that we actually do that. I mean, this is a serious and dangerous problem that we have to address, and we have to use all of our assets to be able to do better.

I mean, Mark Cuban started his own generic company and for some people, you can get your prescription filled for less than your copay because he just marks it up 15 percent. Well, he has the

wherewithal to do that, but he's also concerned that he doesn't have the APIs to actually make all these medications free of adversaries. And so, I think those are things we need to discuss more openly and bring in sort of a whole of government and whole of private sector.

So, if you are up for it, I wouldn't mind organizing a round table in that regard.

Ambassador TAI. Dr. Wenstrup, I would be delighted to do that with you.

Mr. WENSTRUP. Thank you. I yield back.

Chairman SMITH. Ms. Chu.

Ms. CHU. Ambassador Tai, it is always great to have you back at the Ways and Means Committee.

Since last year's trade agenda hearing, the U.S. and Taiwan have signed, and Congress approved the Early Harvest Agreement of the U.S.-Taiwan Initiative on 21st Century Trade. I commend you and your negotiating team for the progress you have made on this important agreement, and I continue to believe that it should be a first step towards a comprehensive free trade agreement between the U.S. and Taiwan, and I want to thank you for the USTR's continued consultation and transparency with Congress as negotiations on the initiative proceed.

I know that the USTR tabled proposed tax on the labor, environment, and agricultural proposals earlier this month. Can you elaborate on the status of the negotiations and talk about how USTR will ensure that we have high standards in these areas, and when do you hope to conclude negotiations on the remaining areas of the original negotiating framework?

Ambassador Tai. Congresswoman Chu, I would be delighted to do so. We remain in intensive talks with our counterparts in Taipei. They are motivated partners in these negotiations. The second agreement that we have taken up with Taiwan does include the scope is labor, environment, and agriculture as you noted. On agriculture, it is agricultural rules, science-based approaches to regulating for things like food safety. I am optimistic about the pace of the negotiations and I hope that we will be able to provide you with additional updates very soon.

Ms. CHU. And Ambassador Tai, as you know, I am the founder and co-chair, along with Representative Drew Ferguson, of the bipartisan Creative Rights Caucus in Congress, and that is because the copyright industries are absolutely integral to the local economy in my district. But it is not just Southern California, which of course has Los Angeles and Hollywood. Every district benefits from the creative workforce, and the industry is one of our most important exporters, producing a \$10.7 billion trade surplus and supporting nearly 10 million American jobs.

That is why it is imperative that the U.S. uphold protections for intellectual property in our trade relationships. This is a critical time for these American industries as they face issues like piracy efforts by trading partners to discriminate against U.S.-based content, and the ingestion of copyrighted materials for development of artificial intelligence tools.

So, Ambassador Tai, can you talk about the tools the USTR can take outside of the special 301 report to promote the robust copyright protections and enforcement needed to address these threats?

Ambassador TAI. Well, Congresswoman Chu, this special 301 is an important tool that we have. It also enables us to take up these issues in our bilateral engagements. In a number of our bilateral frameworks, we have dedicated intellectual property working groups. Those go to addressing specific concerns that have come up to building capacity, to working with our counterparts on issues of piracy of establishing a strong regime, recognizing intellectual property rights. And since you noted that intellectual property rights are currently also implicated in the development of most advanced technology models for artificial intelligence, I would also take a moment to say that the approach we are taking to data and technology and the intersection with trade is also geared to focusing on the rights of our content creators who are struggling to be recognized and compensated in this incredible race and hunger and appetite for data. And that those types of issues, which are primarily domestic, nevertheless are important to informing the way that we approach our trade negotiations, so that in our trade negotiations we do not accidentally take away space for those questions to be taken up and resolved by legislators like yourself.

Ms. CHU. Finally, let me just commend you. You are co-chair of the White House Initiative on Asian American, Native Hawaiians, and Pacific Islanders, and you created a special trade commission study on workers in underserved communities as a part of your chairmanship, and I thought that was just really great.

I yield back.

Chairman SMITH. Mr. Smucker.

Mr. SMUCKER. Thank you, Mr. Chairman. Thank you, Ambassador Tai, for being with us today.

Let me start by echoing several of my colleagues' comments regarding our disappointment to see digital trade barriers not included in the National Trade Estimate. However, there is one area that has been brought up previously that I was pleased to see in the NTA, which is the trade barriers that Canada is enacting or has enacted for online music streaming.

Many people are surprised to learn that in my district, we have companies that provide a lot of services to the live entertainment industry, and particularly concerts in the music industry. We have a big complex of multiple companies called Rock Lititz. We also have a thriving live music scene in our area as well.

I do, Mr. Chairman, I have three articles I would like to submit to the record.

Chairman SMITH. Without objection.

[The information follows:]

4/16/24, 8:49 AM

Audio Streamers Warn of Higher Canada Subscription Fees Due to Pending Rules - WSJ

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## BUSINESS

## Audio Streamers Warn of Higher Canada Subscription Fees Due to Pending Rules

Companies could offset their additional costs through higher fees to subscribers, lobbyist maintains

By [Paul Vieira](#) [Follow](#)

March 20, 2024 1:00 pm ET



A Canadian government proposal that would require companies to make financial contributions to the country's artists could raise costs to consumers, a lobbyist warned. PHOTO: GABBY JONES/BLOOMBERG NEWS

OTTAWA—Canadians could face higher monthly bills from Spotify, Apple, Amazon.com and other audio-streaming services under a government proposal that would require the companies to make annual financial contributions to the country's artists.

Graham Davies, chief executive of the Washington-based Digital Media Association, a lobbyist for the streaming platforms, said the companies could offset the additional costs through higher fees to subscribers. He cited a decision this month by Spotify to increase prices for subscribers in France after the

<https://www.wsj.com/business/audio-streamers-warn-of-higher-canada-subscription-fees-due-to-pending-rules-cf0575c7>

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government there imposed a tax targeting streaming services to help foster the domestic music sector.

“We need officials to understand that all of the current investments are very significant, and should be taken into account when further contributions are being sought,” Davies said in an interview in Ottawa. “What we don’t want to see is anything that’s going to harm the consumer and affordability.”

Canada’s Heritage Minister Pascale St-Onge, who has responsibility for cultural policy, said the government’s intention is to ensure Canadians “can share our stories and hear our Canadian brand of music” in the digital age. A spokeswoman for St-Onge added that Canadians expect “global streaming platforms that profit off Canadians to contribute more to Canadians while protecting Canadian consumers.”

Davies spoke to Canadian officials and regulators in the capital, Ottawa, this week to warn about financial repercussions from the Liberal government’s online-streaming law, which parliament approved last year. Digital companies and streaming services owned by Google, a unit of Alphabet, Netflix and Walt Disney would be forced to prominently showcase Canadian artists relative to foreign-made programming. Officials last year said they envisaged digital platforms contributing about \$740 million annually into a fund to help Canadian artists.

Among the artistic groups that supported the government policy is the Songwriters Association of Canada. Last year, the association said the law marked “a historic milestone for the Canadian music industry, as it ensures foreign streaming giants contribute to Canadian culture by promoting and supporting Canadian music.”

Canada’s broadcasting regulator, the Canadian Radio-television and Telecommunications Commission, is working on the regulations needed to implement the streaming law, with the aim of delivering those late this year. The regulations will outline how much streamers need to contribute annually to Canadian artists, and determine what counts as Canadian content.

Canada also approved legislation last year to compel Meta Platforms, owner of Facebook and Instagram, and Google to financially support domestic media

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outlets. In response, Meta has blocked access to news links for Facebook and Instagram users in Canada.

“Canadian government regulation is significantly increasing the costs of operating in Canada for digital companies,” said Michael Geist, an internet-law professor at the University of Ottawa and a critic of Liberal government attempts to regulate the digital sphere. Some services “have exited certain markets, like Meta with news. I think we can expect others to pass along the costs to consumers.”

Davies said audio-streaming companies already make significant financial contributions to the Canadian music industry, noting that 70% of their revenue is paid out to song rights holders, and have helped promote Canadian artists to a global audience. Davies said these investments should be taken into account.

“We’re really keen that everyone understands how the economics of music streaming work,” Davies said. However, he added, “our members are evaluating the economics of an individual market. And, you know, there is a risk. We think it’s important that officials are aware of that.”

Write to Paul Vieira at [Paul.Vieira@wsj.com](mailto:Paul.Vieira@wsj.com)

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 **OPINION**

## Canadians can't afford overregulation of streaming

Any changes proposed by the CRTC must be made with consumer choice and affordability in mind. Canadians would be well-served by a regulator that recognizes the existing system's dynamics, and works to protect the benefits and opportunities streamers bring to consumers and artists alike.

Published Feb 15, 2024 at 12:05pm

**Graham Davies**

4/16/24, 9:50 AM

Canadians can't afford overregulation of streaming | iPolitics



Vicky Eatrides, Chairperson and CEO of the Canadian Radio-television and Telecommunications Commission (CRTC), right, and Scott Hutton, Chief of Consumer, Research and Communications of the CRTC wait to appear before the Standing Committee on Public Accounts (PACP) on Parliament Hill in Ottawa, on Thursday, Oct. 5, 2023. The committee is studying connectivity in rural and remote areas. THE CANADIAN PRESS/Spencer Colby

Canadians from all walks of life are struggling under the weight of unaffordable groceries, high gas and housing prices and day-to-day essentials. The last thing they need is for the government to add to the burden by meddling with affordable and much-loved access to music streaming services. Yet that is precisely what the Canadian Radio-television and Telecommunications Commission (CRTC) contemplates doing in the name of modernizing Canada's broadcasting system. The federal government should stand up for the consumer and say no.

The Online Streaming Act (formerly known as Bill C-11) was intended to modernize Canada's Broadcasting Act. While this was a laudable goal, modernization should not attempt to apply legacy regulation to modern music streaming services, which could impact the future of innovation and the customer experience. Attempts to impose further costs, driven by new regulatory demands, risk adverse effects to not only the service, but also to

the consumer, as services must consider whether to increase costs, reduce free access, or even reduce investments locally.

In short, C-11 implementation threatens the ongoing affordability and enjoyment of music streaming services beloved by millions of Canadians.

Recent public opinion research by Spark Insights reveals a striking statistic: two-thirds of all Canadians, and 91 per cent of Canadians under 30, regularly use music streaming services. The same study also shows that an overwhelming 86 per cent of respondents reported being either very satisfied or satisfied with their music streaming service: its value proposition, the diversity of content available, and ease of access. Only 2 per cent were dissatisfied. So why 'fix' something that isn't broken?

Digital music services have invested in transforming the music experience, offering the consumer the history of music at their fingertips. For the creator, these services have opened access to global audiences, democratized entry into careers in music, and empowered artists by giving them insight into how and where their music is consumed. These innovations should be encouraged, not impeded through taxes and levies that make streaming services less personal, less responsive to fans, and less able to invest in services to the artist. Simply put, imposing levies in the name of outdated models of cultural investment is not forward-thinking policy.

The Weeknd, now one of the most famous artists in the world, got his start by anonymously uploading his music to YouTube. Montréal-born artist Charlotte Cardin has racked up hundreds of millions of streams, cultivating loyal listeners not only across Canada, but also in France. Across the various streaming services, Canadian and Indigenous artists are reaching audiences at home and abroad, which is good for both Canadian culture and for the economic success and recognition of homegrown talent.

Digital music services, big and small, are now the backbone of the Canadian music sector. Eighty per cent of Canadian music industry revenue comes from these services' royalty payments. Services pay these royalties at a far higher rate than legacy distribution channels .

4/16/24, 9:50 AM

Canadians can't afford overregulation of streaming | iPolitics

Services have also become cultural hubs where Canadians of all backgrounds can find music that resonates with their individual identities, language, and preferences, further solidifying the role of these services in fostering a unified yet diverse national identity.

Any changes proposed by the CRTC must be made with consumer choice and affordability in mind. Canadians would be well-served by a regulator that recognizes the existing system's dynamics, and works to protect the benefits and opportunities streamers bring to consumers and artists alike. From young Canadians juggling the cost of tuition and rent, to seniors on fixed incomes, streaming services should be accessible for everyone.

The message to the CRTC and the government is clear: the current music streaming model benefits both consumers and creators in Canada. Making these services more expensive and less able to invest in services to Canadian artists will not benefit anyone. As we navigate the future of digital regulation, it's important to proceed with caution, ensuring that any changes focus on harmonizing towards the better, and with due regard for the preferences and pocketbooks of the Canadian consumer.

*Graham Davies is president and CEO of the Digital Media Association (DiMA), the global voice of leading audio streaming companies and streaming innovators — Amazon, Apple Music, Feed.FM, Pandora, Spotify and YouTube.*

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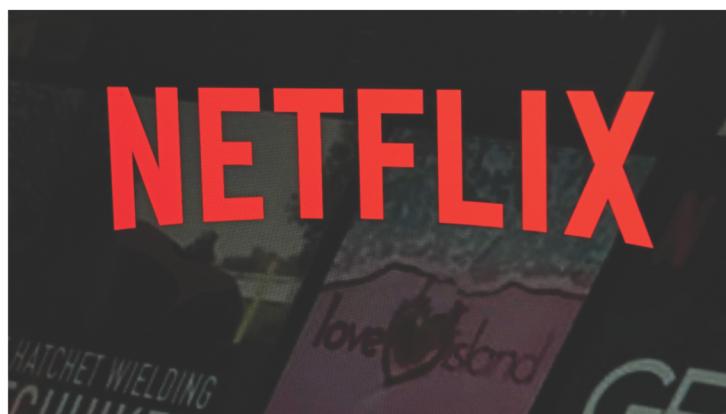
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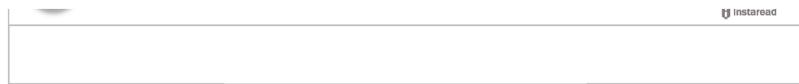
## The US has a strong case against Canada's Online Streaming Act

BY MARC L. BUSCH, OPINION CONTRIBUTOR - 05/18/23 3:00 PM ET

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FILE — The Netflix logo is shown in this photo from the company's website on Feb. 2, 2023, in New York. (AP Photo/Richard Drew, File)



On April 27, after years of political intrigue, Canada's Online Streaming Act, better known as Bill C-11, became law. The legislation requires that streaming services like Netflix, Spotify and Disney+ invest in, and show, more Canadian content, known as "CanCon." Proponents say it will prevent Canada from becoming a "cultural colony." Critics warn that it will result in unprecedented government censorship of the web.

There's only one thing that both sides agree on: Namely, that the Biden administration may challenge Bill C-11 at the United States-Mexico-Canada Agreement (USMCA). That's what should happen. A case would rein in abuses of Bill C-11, and deter other countries from getting carried away with their own cultural protectionism.

The Government of Canada insists that Bill C-11 just amends its Broadcasting Act (1991) to include digital media. Canada has a long history of regulating television and radio broadcasters, including by taxing them to contribute to, and ultimately play, CanCon. Bill C-11 leaves it to the Canadian Radio-television and Telecommunications Commission (CRTC) to set criteria for defining CanCon, and the quotas that will be put aside for this content.

Moving forward, there are two concerns: first, that the CRTC will get carried away implementing CanCon; and second, that the very premise of these guidelines is absurd in the digital age.

Margaret Atwood's "The Handmaid's Tale" is a case in point. The streamed series, based on her novel, did not qualify as Canadian, according to the CRTC's rules for traditional programming. As Atwood recounts it: "Book by a Canadian, filmed in Canada, but ... the scriptwriters were elsewhere."

ADVERTISING



Atwood's frustration will be shared by others working in Canada's creative industries. Digital technologies make it easy to share ideas across borders and collaborate in real-time. Ironically, Bill C-11 is a tortuous read, precisely because digital sharing defies many of the outdated categories the legislation so desperately wants to retread from the heyday of legacy media.

Many Canadians hope Bill C-11 will be short-lived. Pierre Poilievre, the leader of Canada's Conservative Party, vows that, if he's elected, he'll repeal the legislation and replace it with a Free Speech Act.

Bill C-11 could also come undone as a trade issue. CanCon is cultural protectionism, plain and simple. The U.S. can and should challenge Bill C-11 under the USMCA, likely under the digital trade chapter. Canada will then use the cultural industries exception it secured from the U.S. under the 1989 bilateral free trade agreement, which was later copied into the North American Free Trade Agreement (NAFTA) and the USMCA. But there's a catch, and this is where things get interesting.

Canada can use the cultural industries exception, but doing so would entitle the U.S. to "take measures of equivalent commercial effect in response," which means it could exact compensation for Canada's wrongdoings.

This will be embarrassing for Canada. The cultural industries exception will be seen as not worth the paper it's written on. This will cost Prime Minister Justin Trudeau politically, as he put a lot of emphasis on getting the exception copied into the USMCA, over the opposition of President Donald Trump. The only way Trudeau can get a reward from this "win" is to never use the exception.

Some of this may sound familiar. In the mid-1990s, the U.S. and Canada fought over so-called "split-run" periodicals, so named because they were published on both sides of the border. These periodicals had very little Canadian content and took advertising dollars away from Canadian magazines. To give domestic periodicals a chance, Ottawa enacted measures it knew were illegal, save for the cultural industries exception. The U.S. didn't file

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Things will be different this time. The USMCA, unlike NAFTA, has exclusive jurisdiction to hear cases involving the cultural industries exception. Absent this provision, the U.S. would probably challenge Bill C-11 at the WTO, looking to get a ruling that might curtail local content quotas for streaming services in Australia and Europe, for example.

At USMCA, the U.S. could maximize the signaling effect of its case by adding claims under more chapters, and pumping up the numbers behind its calculation of “equivalent commercial effect.”

If Trudeau isn’t ousted in the next election, and if the U.S. doesn’t file a case, some companies will follow Netflix’s lead, setting up shop in Canada to comply with whatever the CRTC decides. The problem with this strategy is that, in the case of cultural protectionism, governments invariably have a right answer in mind when it comes to defining “us” versus “them.”

*Marc L. Busch is the Karl F. Landegger Professor of International Business Diplomacy at the Walsh School of Foreign Service, Georgetown University, and a Global Fellow at the Wilson Center’s Wahba Institute for Strategic Competition. Follow him on Twitter @marclbusch*

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Mr. SMUCKER. Thank you. One is from My Politics, one is from the Hill, and one is WSJ. They do a pretty good job of explaining this issue and the impact on American musicians and the holder of music rights, even talk about how, you know, Canada can't afford it. It is going to increase costs in Canada as well. So, I will submit those for the record.

So, again, serious concerns. It is going to apply quotas on music streaming services that will clearly discriminate against American content to harm American artists and rights holders.

What is deeply concerning is how the new law gives Canada's regulators the power to condition market access for music streaming services on making financial contributions into certain government-linked funds that will be used to create—support creation of Canadian content, again, ultimately restricting cross border digital trade. We have heard from stakeholders that the CRTTC, the Canadian Radio, Television, and Telecommunications Commission, is planning to require these mandatory financial contributions before even defining specifically what Canadian content means for the purpose of the fund.

So, it seems not only like an unfair trade practice, but like a backwards process, and I think it is actually part of a troubling pattern of governments and stakeholders around the world seeing American economic success as sort of a piggy bank from which they can extract value to plug holes in their domestic budgets, similar to the DSTs, which by the way, Canada is also pursuing.

So, Ambassador Tai, I strongly encourage USTR's continued engagement with the Canadian government to ensure that we have an outcome that gives equitable access for the U.S. music industry and artists in the Canadian market, and I would like to get your reaction and I would like to, you know, see if you will commit to working with us to ensure an outcome that protects fair market competition.

Ambassador TAI. So, thank you, Mr. Smucker, and thank you for acknowledging as well that the National Trade Estimate—which it sounds like you have actually looked at—does actually include digital trade barriers, such as this one. So, we are tracking this very closely and engaged. The Online Streaming Act in Canada became law just short of a year ago. The law does create an opportunity for Canada to update its definition of Canadian content to better reflect complex ways in which film, video, and audio content is produced. We have let the Canadians know that we would like to see this updating process lead to outcomes that are fair for U.S. stakeholders, and we are engaged and we would be happy to stay connected with you and your team as well.

Mr. SMUCKER. Yeah, like I said, this is really important for the district I represent, and so, I would love to stay engaged and if we can be helpful in any way, but I think this is a really important issue.

Secondly, I am very concerned about the global proliferation of digital service taxes, but I am equally concerned with the fact that our own administration sees the rise of DSTs around the globe as an opportunity to question if digital innovation born and bred in the U.S. is actually American. I believe comments like that send the wrong signal to the international community that our adminis-

tration welcomes their efforts to cut into the share of taxes that companies are paying.

So, I strongly urge you to pursue aggressive action to ensure that our companies are not discriminated against, and I hope new Section 301 investigations or other tools to respond to DSTs are under consideration. We just—we need to show other countries that there are consequences for unfair practices.

There are only a few seconds left. I don't know if you want to respond to that.

Ambassador TAI. Mr. Smucker, let me just say I have taken note of your endorsement of looking at all U.S. trade tools, including Section 301, with respect to the discriminatory impacts here. I appreciate it.

Mr. SMUCKER. Thank you.

Chairman SMITH. Mr. Hern.

Mr. HERN. Thank you, Mr. Chairman. Ambassador Tai, it is always good to see you here. I am sure it feels nice and refreshing to come home.

But you know, in an increasingly interconnected global community, access to free digital trade is critical to U.S. economic growth and innovation, and prevent digital trade barriers has historically—it has always been bipartisan. It is also a requirement of the 2015 bipartisan Congressional Trade Priorities and Accountability Act, which directs USTR to "ensure that governments refrain from implementing trade-related measures that impede digital trade and good and services, restrict cross border data flows, or require local storage or processing of data." Yet, USTR has continuously failed to protect digital trade. USTR pulled back on its support for digital trade protections at the WTO, sidelined digital trade negotiations in the Indo-Pacific economic framework deal, and most recently, failed to include digital trade barriers in the 2024 National Trade Estimate Report on Foreign Trade Barriers.

The internet and digital technologies have revolutionized commerce, enabling businesses of all sizes to have access to global markets and consumers like never before. However, this potential is being undermined by the rise of digital trade barriers imposed by some of our trading partners. These barriers come in various forms, from data localization requirements to discriminatory regulations and censorship measures. They not only stifle innovation and economic growth, but also undermine the competitiveness of American businesses in the digital age.

An increasing number of U.S. trading partners are adopting digital restrictions modeled after Chinese laws that hurt American workers and impede foreign market access of U.S. exports, which is why I was greatly concerned to see USTR failed to include the majority of these restrictions in this year's NTE.

USTR stated that these exclusions only apply to any barrier that is an effort to regulate in the public's interest, ceding these protections to the interests of foreign governments who would undermine the success of American companies, and as a result, the people they employ, is simply unacceptable.

Ambassador Tai, will you commit to us today to revisit this issue and to publish a supplement to the 2024 NTE report relisting the barriers that were improperly deleted?

Ambassador TAI. Mr. Hern, let me explain to you our approach to the National Trade Estimates report. First of all, let me just say I appreciate the scrutiny of the report, which I don't know that the NTE has ever gotten this much play in the public discourse. Thanks to everyone that is talking about it. I hope that you are also reading it, because we produce this report as a statutory requirement every single year, and it is a tremendous commitment of USTR and U.S. government resources, and it ought to be read.

So, I am going to take this opportunity to explain the development of the NTE over time. When you look at the requirement for the NTE to be created, it is about listing and articulating significant trade barriers that U.S. stakeholders face in our major export markets. It is about looking for opportunities to improve and overcome export restrictions to our exporter opportunities.

Over time, the NTE has become a very, very large catalog of complaints that haven't actually gotten much scrutiny. What we did this year was begin a process of asking our teams to look at the NTE entries and to first ask the barrier that is being discussed, is it actually a barrier? Do we actually export the product that is of concern? And then also with respect to digital, whether the measure that is being complained about is being erected as a barrier, or if it is a regulatory measure that, frankly, we see a lot of bills in Congress trying to address.

Mr. HERN. Madam Ambassador, if I may reclaim? I have one more question I want to ask you regarding the digital commerce.

Thank you for your work on that, and obviously, we have people of grave concern. We don't simply make up things up here. I mean, maybe some do, but we are trying to make sure that we are competitive in the future.

The WTO makes that digitally enabled services accounted for 54 percent of the global services exported in 2022, but as digital trade and digitally enabled services increased, so did the proposed regulations. India, Indonesia, and other U.S. trade partners were proposed adoption of customs duties on electronic transmissions and is an issue of grave concern for me and many of my colleagues.

Do you agree that the countries should impose customs duties on electronic transmissions, and if so, what is your office doing to make the ecommerce moratorium at the WTO permanent?

Ambassador TAI. So, the ecommerce moratorium was created in 1998. I talked a little bit earlier about how the U.S. trade policy approach to data issues really began in 2000 when we thought about data as simply a facilitator for traditional trade transactions, and how that is no longer true, that data has become actually where the action is itself.

On the ecommerce moratorium, there is a similar stuck in time element. It was developed at a time when we could talk about electronic transmissions, because the relevant transmission was about fax transmissions. The ecommerce transmission related to the technological world where we were still faxing information to each other. And what developed was a norm, a promise of WTO members to each other to say we weren't going to try to impose duties on those transmissions, even though to this day we are not really sure how you would impose a duty on a transmission that you can't see or touch.

But as it is, it is now 2024, almost—I need to do my math—26 years later, right? Just the reality that we are living in is so far advanced. And so, I would just say we have extended the ecommerce moratorium for another 2 years. At the WTO, in terms of the project for WTO reform and modernization, part of it relates to this conversation which is for those WTO members who do not want to renew the moratorium, I think we need to really challenge them to articulate what is it that they are trying to accomplish, and how does it relate to the moratorium? Because I am not sure that it does, but there is actually an evolution in just policy debate, policy development at the WTO that is stuck in time that is reflected in this particular effort. I think that this is one of the areas of WTO reform that we are very committed to.

This issue does implicate—

Chairman SMITH. Ambassador Tai, we are already over 2 minutes over, so I apologize.

Mr. HERN. Thank you for that answer. I really appreciate it. That was really good.

Thank you, Mr. Chairman.

Chairman SMITH. Mr.—Ms. Sewell.

Ms. SEWELL. Thank you, Mr. Chairman. Welcome back, Ambassador Tai.

You know my district well. International trade has helped create thousands of jobs in my district, including in the automotive manufacturing sector, as well as agriculture and the forestry sectors. Thanks to the strong economy created by the Biden Administration, exports from Alabama grew by six percent last year, totaling over \$27 billion in goods and services. Moreover, your worker-centered trade agenda has helped to ensure that the benefits of trade are more equitably shared with working class Americans.

As you know, I am a very strong advocate for our preference programs, including CBTPA and the Haiti Hope Help Program, and AGOA, of course. Last month, I had the privilege to join Chairman Smith on a CODEL to several of the AGOA countries, and I got to see firsthand how important the program is to so many sub-Saharan African countries.

AGOA expires in September of 2025, and I think it is critical to reassure AGOA countries and businesses that utilize the program that Congress is committed to reauthorizing AGOA before it expires. However, we also have an opportunity to make important improvements to the program to encourage more economic development, empower women-centered businesses, and providing more certain future for larger economies.

Can you talk about why the AGOA program is so important to the Biden Administration's trade agenda, and do you have any recommendations on how we can improve the program?

Ambassador TAI. Thank you so much, Congresswoman Sewell. I am very aware of your leadership on these trade and development programs or preference programs, and I am really glad that the chairman was able to lead a CODEL to so many different African nations on the continent.

AGOA is really important to us. AGOA had its birth in this committee 20-odd years ago in the early 2000s, if not 2000 itself. It is actually the foundational program for U.S. economic partnership

and trade partnership with sub-Saharan Africa. It is the foundation on which we will be able to build and further develop this incredibly important relationship.

We all know that by 2050, one in four human beings on the planet will be African, and that the population will be overwhelmingly young. So, to your point about the focus on women and youth, unlocking economic opportunity, looking at how trade programs can help with that, we are convinced that the next generation of AGOA can lean into more tools for unlocking that opportunity.

So, to your question around what are areas for enhancement, the first is we know in looking at the data that utilization rates have remained relatively low. They are uneven higher for certain countries, but overall, quite low. So, first question is how can we improve utilization rates?

Second question is there are actually quite a few sub-Saharan African countries that are developing exactly as AGOA hoped. As they increase in their GDP and income levels, the question is presented what happens when they graduate out of AGOA? I think—

Ms. SEWELL. Exactly. I think Kenya is a good point of that.

Ambassador TAI. We should—yes.

Ms. SEWELL. So, how can we go about helping to make a smoother transition?

Ambassador TAI. The next version of AGOA should anticipate that there should be a graduate program for AGOA member economies. How do they continue to build on the partnership with the United States as opposed to just dropping off and just becoming another member of the world economy community? So, graduation. How do you anticipate graduation? How do you continue the partnership?

And then also since 2000, actually quite recently, the AFCFTA has come into effect. That is the African Continental Free Trade Area, and that reflects a desire amongst the countries on the continent itself to better integrate with each other. As we are looking at a renewal of AGOA, I think that we need to be quite conscious about how a program like AGOA can continue to enhance U.S. partnership while also reinforcing and supporting the integration efforts of the countries on the continent itself.

And so, I think that those are a couple initial thoughts for areas that I think would really benefit for exploration and elaboration in partnership with this committee.

Ms. SEWELL. I look forward to working with you on getting this reauthorized.

Thanks so much, and I yield back the balance of my time.

Chairman SMITH. Ms. Miller.

Mrs. MILLER. Thank you, Chairman Smith and Ranking Member Neal. Of course, Ambassador Tai, I always enjoy seeing you.

I am just a little bit grumpier today, so I will apologize ahead of time, but I have been so disappointed with the feckless trade agenda promoted by President Biden and his administration. Even the meager IPEF agenda fell apart under incredibly light pressure from liberal senators who were more concerned about facing stiff competition in their reelection bids than doing the right thing for their constituents.

In our hearing last year, I said that China is eating our lunch when it comes to competing for trade and investment around the world. Unfortunately, they have gone from eating our lunch to eating our breakfast, eating our dinner, and probably our dessert. The United States is losing ground in every step. This administration is more focused on woke, DEI climate, and other big labor agendas than more meaningful trade policy, and you know I like trade policy. Nothing in this year's National Trade Estimate report gives me confidence that this administration is committed to even the basics of trade. There have been no trade deals, no talks to expand free trade agreements, no export control markets, and no increases in market access under President Biden's leadership.

Compared to China's ambitious agenda, the United States is falling behind in every region in the world. China is winning in our back yard of South and Central America. They are building on years of gains in Africa. China is establishing footholds through central Asia, Middle East, and making inroads with our own European allies. Finally, they are outcompeting us completely in Asia through their regional economic partnership agreement.

Ambassador Tai, China has an extremely aggressive trade strategy in the Indo-Pacific. Basically, they are a dressed-up trade version of the Belton Road. They recently concluded there are separate negotiations with 15 countries. They are trying to join CPTPP, and they are working to conclude a digital negotiation with some of our closest allies in the region. This has real consequences for our manufacturing companies, our farmers, and our energy producers in my district. If a company in Vietnam wants to import an information and communication technology and service product from the U.S., it pays 35 percent tariff. If it imports the same thing from China, it is zero. If a company in Cambodia wants to import a dairy product from the U.S., it pays 35.7 percent tariff. If it imports the same thing in China, it is zero. And if a company in Japan wants to import petroleum from the U.S., it pays 18 percent. If it imports it from China, it pays zero.

Unfortunately, through all of these countries, even though they are in IPEF, it doesn't sound like these issues are on the table. Ambassador Tai, do you think this situation is in our best competitive interest, and if not, why isn't it part of IPEF?

Ambassador TAI. Well, Congresswoman Miller, it is always nice to see you, and I am sorry you are grumpy, and I am even more sorry that you cannot see our trade policy and you have described it as feckless. I think that is entirely unfair, but you are obviously entitled to your opinion and your adjectives.

Let me pick up on some of the dynamics that you have identified. It is true that China is a very fierce competitor in the global economy. So, let's start there. We have common cause as Americans working on behalf of other Americans. We have stiff competition that we need to rise to the challenge to address.

What I would like to do, though, is to have all of us take more confidence in the strength of the American economy and the focus that we are placing on our economic resilience. When you look at our partners in the Indo-Pacific, a lot of what we are trying to do, including in the Indo-Pacific economic framework, is to lead on an agenda to help create more resilience—more resilience for our-

selves, but also in partnership with our partners to create more resilience for them. Right now in that region, the supply chains there are so dominated by and so entangled with Chinese economy and the Chinese supply chains. This is a result of the way we have pursued trade policies. Policies like ARCEF, like big comprehensive free trade agreements, they are really in favor of liberalization and a program that has really advantaged the Chinese approach to economic dominance.

What we are really laser focused on here at home and whether it is through USTR, the Department of Commerce, the Department of Treasury, the National Security Council, the National Economic Council, is developing a set of tools and a program for the United States to be able to develop more supply chains, more supply chains that are independent, that run through more different countries to revitalize our own manufacturing base so that we have more options.

In a world that is as volatile and unpredictable as the one that we are in now, we know that we and our allies are better off if we have more options, we have more parallel supply chains.

So, that is the animating force behind the types of economic engagements, frameworks, agreements that we are negotiating. I know they look different from what came before, but that is really the feature, not the bug. Because we need for our economic engagements to produce different outcomes. We need to produce more supply chains that can rebound, more supply chains that run through more places. And that is exactly what we are doing.

I am going to be the first to admit that it is not easy. Getting folks to do something different, to pursue a different program even when they agree with the objective, is hard work. But that is something where we are only going to succeed if we can work together. I know that you and I share a lot of goals. I hope that we will be able to work together on this set of goals, too.

Mrs. MILLER. Well, I have already gone over a minute and a half, but I do want to get together with you to talk about central Asia.

Thank you. I yield back.

Chairman SMITH. Mr. Kustoff.

Mr. KUSTOFF. Thank you, Mr. Chairman. Thank you, Ambassador, for coming today to testify.

I would like to ask you, back in January of this year you issued a press release, the USTR releases 2023 review of notorious markets for counterfeiting and piracy. If I can read from it two sentences, your quote, "The trade and counterfeit and pirated goods harms workers, consumers, and small businesses. It ultimately hurts the U.S. economy. This year's notorious markets list is significant because it underscores the potential dangers of counterfeit goods and why robust enforcement and combat trade in these goods is important in growing our economy from the middle out and the bottom up."

So, first of all, I appreciate your remarks and I agree with them. I am sure everybody here agrees with them. So, I represent part of Memphis, and in Memphis, we have got a company called Ampro Industries led by Jack Sammons. It is headquartered in Memphis, and it manufactures hundreds of hair care products in the U.S.

They are shipped around the world. The problem is their flagship line is being counterfeited by the Chinese and sold in foreign markets.

If I could, I have got Jake holding this posterboard. They make a product called Shine and Jam. That is on the right-hand side. The Chinese make a product called Shino and Jam. Same product, design, same lettering. If I could, this really bothers me. We are proud in Memphis to have St. Jude's Childrens Hospital, great research facility, great employer, great for children and families all around the world. They are a sponsor of this product. The fake Chinese product is St. Jam's Children's Research Hospital. Same logo, by the way, as St. Jude. So, as you can see, these products are nearly identical in not necessarily the product, but the design, the labeling, and it is a real problem.

So, my question to you is—my questions to you are—you see this on a global scale with other products that are being counterfeited. We know what the Chinese are supposed to do as part of the Phase 1 agreement. So, Ambassador, what tools do you have in the toolbox to crack down on stuff like this?

Ambassador TAI. So, Mr. Kustoff, this sounds like this is also a small/medium enterprise, and—

Mr. KUSTOFF. It is.

Ambassador TAI. Yeah. I continue to have conversations and meetings with these types of really hardworking, inventive entrepreneurs in the American system, and they are exactly who we want to champion and be able to allow them to compete more fiercely.

To the bigger question in terms of the China Phase 1 agreement and that underlying Section 301 report and findings around intellectual property rights abuses in China, I would say that those are of a scale that obviously include these types of challenges. The 4-year review that we are undertaking right now, and again, it is a review that was triggered at the 4-year mark of the tariffs, is focused on the question of how effective have the tariffs been in improving China's performance with respect to IP rights abuses and forced tech transfer. We see changes in their laws, but these types of things are continuing to happen. So, that review will be one piece of what we are working on.

Separately, though, I think that, you know, whether it is at the U.S. International Trade Commission, through the Department of Commerce, the Small Business Administration, there are a lot of other tools that are geared towards helping our smaller enterprises be able to address these types of challenges. The notorious markets report itself is also one of those tools.

So, let me say this. The challenge is significant; you are absolutely correct. Every single one of our stakeholders matters. Every single one of these types of instances matters. It is a loss. It is an unfair trade practice. We would be happy to connect with this particular stakeholder, if we are not already connected, to see how we can connect them with more tools.

Mr. KUSTOFF. So, actually I don't think you are. I could make that connection to you with Ampro as it relates to this. I can give them that guidance. Is that a yes?

Ambassador TAI. Yes. Absolutely, yes.

Mr. KUSTOFF. Thank you. Thank you, Ambassador, and thank you, Mr. Chairman.

I yield back.

Chairman SMITH. Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman, and thank you, Ambassador Tai, for being here. It is good to see you, of course. Welcome back.

You and I have talked about this, so this isn't a surprise to you. Where I come from in Michigan, the term free trade, historically anyway, has been associated with bad trade deals that failed American workers and American growers. NAFTA, for example, our experience was to see our jobs, particularly auto jobs, leave the state, leave the country, and often land in Mexico being done by folks without any real labor protections and really low wages. Simply put, deals like NAFTA failed the communities that I represent, and that, of course, has been the focus of the work I have done with you and others here.

But USMCA—and I think this is really important—has shown us a new way of doing trade, and it oddly sort of put me in a position of being a really strong advocate of this approach to trade, because global trade is a reality. Here is a chance for us to set the rules of the game in a way that requires strong, enforceable labor standards like Rapid Response, which I know you referred to in your testimony and answering questions.

With our use of this tool, workers in Mexico are being empowered to stand up to protection unions and the multi-national companies that have taken advantage of them. So, I wonder if you might just, for the folks I represent, talk a bit how we have flipped this race to the bottom to a race to the top, and specifically what USTR is doing to assure that workers across Mexico—which by extension means workers here in the United States—continue to have protections that they need and how those were really only made available through the work that we have done through USMCA?

Ambassador TAI. Thank you so much, Mr. Kildee.

You are absolutely right. I think that the renegotiation of the NAFTA was so extremely challenging precisely because so much support had eroded over time, especially amongst our workers who keep getting pitted against their Mexican brethren, against workers in Mexico who may have rights on paper reflected in the law, but who because of protection unions, because of the tradition there of collusion between employers and unions, never were able to get a fair shake. The renegotiation of the NAFTA provided us with an opportunity to come up with a new trade regime, a new approach to workers and workers standards in a trade agreement that affects the livelihoods of so many of our workers. It is a really competitive world out there.

The Rapid Response Mechanism is actually only available in a trade agreement, and yet, it is empowering workers in Mexico that, in turn, empowers workers here.

I would say that for you and your hometown, of the first dozen cases that we brought, about 90 percent of them were all in the auto supply chain, and that is not an accident. It is because that is one of the industries that suffered the most offshoring and movement from the U.S. and Canada to Mexico. As a result of the use

of this mechanism, we have directly benefitted 30,000 workers in Mexico. That has resulted in \$5 million in back pay that has been retrieved, in improved benefits, in increased wages. With every single one of these successes, we are improving the lot of and the playing field for America's workers.

Now, the key part of this is that trade policy can't solve this problem alone. We have to be working in concert with our investment policies, with our tax policies across the board. In a lot of the areas that Ways and Means is paramount to ensure that the creation of economic opportunity here in the United States can happen along with the creation of economic opportunity for workers in Mexico, and that by doing things in this way, by strengthening our workers together, we actually make a stronger North America. We make a stronger platform for competing with the rest of the world.

The challenge with the direction we were heading before is that if we aren't able to build the strong support bipartisan with our working people for our trade policies, that is what threatens American leadership in the world and in the world economy. And so, I really—thank you for the opportunity to engage with you on this question, because as consequential as it is for your district, I think that that is an indication of how consequential it is for the entire American economy and for our future.

Mr. KILDEE. I really appreciate your work on this, and I look forward to working with you in the remainder of my term here.

Thank you so much. I yield back.

Chairman SMITH. Mr. Fitzpatrick.

Mr. FITZPATRICK. Thank you, Mr. Chairman. Thank you, Ambassador Tai, for being here.

Ambassador Tai, U.S. digital trade policy has consistently been a bipartisan issue in this chamber and in this Congress, and Congress has remained committed to supporting the promotion of digital trade and the removal of foreign barriers to digital trade that directly harm our companies right here in the United States. And moreover, digital trade bolsters American leadership and encourages innovation, and levels the playing field for U.S.-based companies and workers competing against foreign businesses, while also promoting democracy abroad.

Ambassador Tai, last year your office made the unilateral decision to withdraw support of the WTO's digital trade principles. I believe this to be an unfortunate decision. I believe it abandoned longstanding bipartisan digital trade principles. It allows Communist China to have more of a say over the global rules of the road for internet, for ecommerce, and cross border data flow rules and information access. And I believe this change in posture by the USTR will hurt U.S. businesses. It will threaten our national security interests if adversaries like China are able to impose national requirements for data localization and get away with harming American businesses at the WTO.

So, my first question, Ambassador Tai, is why did the administration decide to abandon these principles, and can you explain what steps your office is taking to protect our U.S. companies from foreign government regulation?

Ambassador TAI. I am glad you raised this, Mr. Fitzpatrick, and you are not the first one to have done it in today's hearing. It is

precisely because we are absolutely concerned with U.S. national security, the security of Americans' privacy rights, the security of their data, that we changed our position on these digital trade provisions.

To be more specific, the provisions were talking about deal with data flows, data localization, and source code. American digital trade policy, first of all, is rooted in an outdated perception that issues of data only relate to facilitating traditional types of trade transactions. That is no longer true. Traditional U.S. digital trade policy has also been reliant on a proxy that what is good for an American digital and technology company is also good for American innovation, which we all care about American workers. We all care about the strength of the American economy.

The challenge is that today it is primarily because of all of the developments in Congress that we have been following, bills that have passed out of Congress like the Data Brokers Bill that came out 414 to 0 in this Congress in a time where those numbers really speak volumes.

With respect to the TikTok legislation that also moved through the House very, very swiftly and with a strong voice, those are animated by concern around the rights of Americans with respect to their data, their really sensitive data, and where it is going to go, including whether or not it ends up in places like China for surveillance purposes or other purposes that are against their interests.

Not changing our approach is what was going to put at risk all the work that you are doing here to assert the rights of Americans to their data. At the moment, Americans have little to no privacy rights with respect to their data. That is something that I know that Congress is working to change. Unless we change our approach to digital trade, unless we expand the stakeholder set to go beyond just our biggest companies, we close out the opportunity for those values to be reflected in how we approach these issues.

Mr. FITZPATRICK. Thank you, Ambassador Tai.

I want to shift to tariffs here. The remaining tariff exclusions for China, Section 301 specifically, tariffs are scheduled to expire May 31 of 2024. If these exclusions are not extended, the reimposition of tariffs will have an impact on United States companies. Moreover, Section 301, this statute requires the Biden Administration to conduct a 4-year review of the tariffs, and nearly 2 years later, this review is still incomplete. So, when can we expect the release of a 4-year review, and will the review include a final determination regarding tariff exclusions?

Ambassador TAI. I am confident and optimistic that you will see a conclusion of this review soon, and with respect to the exclusions, as they expire on May 31 the question of what we will do with them will also be answered quite soon.

Mr. FITZPATRICK. I just want to end with a statement. The U.S.-Taiwan economic relationship is obviously critical, that we continue to deepen that bilateral trade relationship. So, I hope that you continue to work with the committee on that.

I yield back, Mr. Chairman.

Chairman SMITH. Dr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman, and thank you, Ambassador Tai, for coming today. I know you are probably worn out from the constant questioning.

But anyway, I recently met—I have a very coastal district and I recently met with some fishermen from the district who have been highlighting to me the devastating impact illegal, unreported, and unregulated fishing is having on the American fishing industry. America's consumption of seafood has steadily increased, mostly because I like it a lot, but that is a different issue. Yet our fishermen continue to struggle, continue to struggle, and it is one thing after another. They are dealing already with burdensome domestic regulation, and they just can't compete with other countries.

It is unconscionable to me that this administration is literally regulating this industry to death. You know, now fishermen have to install a million-and-a-half-dollar camera on their boats to go out to make sure that they are not the bad guys and catch the wrong fish. These guys, if enacted, will literally be out of business. They can't do it. They can't fish anymore. They can't do it with the costs. I don't understand what sense that makes. We are destroying our domestic industry for the sake of appeasing environmentalists. We go along with the NOAA rule of a 10-mile an hour speed limit and they can't even say if this is going to impact whales or not.

And so, yet we are allowing China and other countries to destroy not only our environment, but to use forced labor to provide 90-plus percent of the seafood for this country. What have you done and what have you been able to do to combat the IUU fishing and what progress has been made to stop this from occurring?

Ambassador TAI. Well, Dr. Murphy, I think you are absolutely right that not just the United States but the world faces a crisis with respect to the sustainability of fishing, our fish stocks, and the livelihoods of our fishermen.

This has been an ongoing subject at the WTO, and so, what we have done in 2022, we worked very hard with the 163 other members of the WTO to advance the first part of an agreement at the WTO on fishery subsidies. The IUU fishing issues also extend to unfinished business at the WTO. Our approach is—and it has got to be a collective issue, because our oceans and our waters connect all of us. The challenge is to level the playing field by setting international rules that establish what fair practice is and where practices need to be prohibited.

This past February in Abu Dhabi, the WTO convened its thirteenth ministerial conference. My team and I were there for the entirety of the negotiations. We came very, very close to getting this agreement across the finish line. We weren't able to do it for a variety of reasons. I would be happy to brief you on it in private, but our work continues urgently and with a lot of commitment.

On forced labor as well, you and I are on the same page. In May of 2021, we proposed at the WTO as part of these negotiations a provision that will shine a light on the prevalence of the practice of forced labor, especially in distant water fishing vessels. It is not only not moral; it is an unfair practice and it is a subsidy. It is an immoral subsidy. We will continue to push for this. We are growing the coalition behind this forced labor provision in the fisheries ne-

gotiations, and we remain committed to ensuring that level playing field that, frankly, we all need.

Mr. MURPHY. Well, I appreciate that. I would love a briefing on that. I really would like to know what is going on behind the scenes and what is preventing that.

But you know, getting back to a further point, you know, Wanchese's, where Wicked Tuna comes out, if anybody has watched that show and why those people would go out when the water is 8 and 10 and 12 feet is beyond me. Those guys, they are having to put a million-and-a-half-dollar camera on them. You can't go any faster to get out to the fishing places out at the big rock or anything like that, or it takes two hours to get out there. Now if their speed limit is cut by literally a third, it means no fishing. It could be a \$200-plus billion industry for the United States that is gone overnight, overnight. And so, I just don't get why this administration is hell bent on—look, I love the outdoors. I am from the beach. I absolutely love the outdoors, but there is an imbalance between what is going on in environmentalists and what is going on with our trade industry and with our fishing industries, and we are being absolutely clobbered by over-regulations from this administration.

I yield back.

Chairman SMITH. Mr. Beyer.

Mr. BEYER. Mr. Chairman, thank you very much, and Ambassador Tai, thank you for sitting with us for many hours a couple of times a year. You are heroic. Thank you, too, for your eloquence on the data transfer, the digital law stuff. It is fascinating to follow up with you later on the implications of understanding that digital workforce is now a matter of commodity rather than simply services, which I think has lots of implications for not just trade, but taxation and everything else.

Also on all the fishery stuff, it would be wonderful if you could get your friends in the Senate to ratify the Law of the Sea Treaty. It would take us a long way in the right direction in terms of enforcement mechanisms and everything else.

I wanted to shift, though, to thank you and your team for staying in touch with us about Ethiopia and pursuing a reinstatement into AGOA. I understand that the lack of progress on meeting the benchmarks related to ongoing internal conflicts, accountability for human rights violations, removal of barriers to humanitarian operations, access to human rights monitors, that they are ineligible for readmission this year, late last year. What are your current observations on their progress towards these benchmarks?

Ambassador TAI. Mr. Beyer, thank you for continuing your work on this issue.

We actually in the course of the last review had been tracking a lot of progress, and then saw steps backwards again so that we did not make the decision to bring Ethiopia back into the program at the end of last year's cycle. We remain very, very attuned to developments in Ethiopia, with an eye to tracking where progress is being made, where we still need to see more progress.

As you know, under the AGOA program, there is the possibility of running an out-of-cycle review so that you don't have to wait the full year. That is always something that is available, if it is some-

thing that could be helpful. But I think overall as well as we look at the renewal of AGOA, this version of AGOA expires in about a year and a half. Looking at the tools that we have is actually really hard once we suspend benefits for a country to bring them back in. But the point is to be able to bring them back in, and I think that Ethiopia is a good example of one experience that we can learn from in thinking about how we might be able to develop more tools under AGOA to maintain and create that motivation to get countries back into the program.

Mr. BEYER. Thank you very much.

You know, I with a number of my colleagues here visited the WTO a couple of years ago in the midst of all the ongoing multi-decade fights over the appellate body. You mentioned that you made more progress in the last year than in the previous 20 years, and I was fascinated by noting it was a shift in emphasis from leading negotiations based on their positions to being asked to identify and share the interest that they want served.

Could you explain what that means in English?

Ambassador TAI. Thank you so much, Mr. Beyer, for tracking this very closely, because this is one of the areas that is so important to us. Myself personally, having litigated at the WTO, appreciate how many challenges we have with the dispute settlement system, but also I remain very, very committed to a vision for having a dispute settlement system that is effective, that can be accessed by everyone at the WTO, not just a small handful of the WTO members.

The interest-based approach to negotiations at the WTO, we really endorse this idea from the beginning because we know we have very, very deep, extensive concerns with how the appellate body was operating before, and other aspects of the dispute settlement system. And that if we were to approach these negotiations on dispute settlement reform in the traditional Geneva-based way where you have to think through what your ideal outcome is, and kind of what you can live with, and then from there because it is a paper-based exercise, you are incentivized then to dial up every single one of your proposals to 150 or 200 just to be able to survive a negotiation process that involves almost 200 other participants. That, for us, looked like it was going to be a very, very long, tortured, and unsuccessful road to move forward, because we are genuinely in good faith interested in a reform project.

What we really endorsed and got behind was an approach at the WTO to identify not what your position is, you know, which creates that dynamic of dialing up 150 this way, dialing back 150 this way, and then fighting your way to the middle, but to encourage a conversation that was inclusive, that started not with the question of what is your position, but starts with a question of what is the interest that you want as a WTO member served by a dispute settlement system? And as a result of that approach to the negotiations, we were collectively able to make more progress in one year than in the 20 years before of dispute settlement understanding reform that was run along a positional basis.

So, I think the most critical question in terms of dispute settlement reform going forward is how do we continue this work? My negotiators and my legal advisors in Geneva have told me that this

is the one negotiation area in an institution that is showing a lot of age and brittleness that is dynamic, where negotiators come and they are actually talking to each other and listening to each other, rather than just reading points at each other. So, it is tremendously consequential. We are very invested in this process.

Thank you for the question.

Mr. BEYER. Thank you very much.

Mr. Chair, I yield back.

Chairman SMITH. Ms. Tenney.

Ms. TENNEY. Thank you, Mr. Chairman, and thank you, Ambassador Tai, for being here and also for being here another time before with us in our round table discussion. It was very helpful.

So, as you know, and this is an unfortunate situation. Last November, the U.S. market access rights for our dairy exporters suffered a shocking setback when the USMCA dispute panel actually ruled that Canada does not have to make changes to its very unfair system regarding the dairy tariff quotas. And despite persistently low fill rates for those quotas and the negative impact it has been having on the—our being able to make full use of USMCA, at the same time, we are seeing a notable surge of dairy protein exports from Canada into this market, despite the USMCA's export supply on the Canadian dairy market.

My huge concern—I represent New York's 24th District, the largest dairy district in the Northeast, not just New York, in the Northeast, and ever growing, my district. What is the administration doing? What can we do to ensure this fair access to the Canadian markets for our U.S. dairy products at this stage? Because I share the—almost my entire district is the Canadian border with New York, and it is a critical, critical issue for us, all the way from St. Lawrence Seaway down to Niagara, and we really—this trading partnership is really critical to the economy of my district, and also New York State, and obviously the Northeast.

Ambassador TAI. Congresswoman, we also were tremendously disappointed in the outcome of that second panel, because we had won at the first panel and we also found that Canada's attempts to bring itself into compliance, again, did not translate into more access for our dairy farmers, which is very much our expectation coming into the USMCA.

We remain in very, very close touch with our stakeholders and the industry. We are pushing ourselves to think more outside of the box. There are important conversations—

Ms. TENNEY. Let me ask you just a couple things, because I got two other things I want to get to. One of them has to do with steel scrap, and also wine. I also represent the Finger Lakes Winery, which is a huge part.

Just back to the dairy, though. What can we do? Do we have to renegotiate a trade deal? What other enforcement mechanisms are there, because they are clearly violating USMCA. Is this something we could take to another court or what can we do legally on this?

Ambassador TAI. All tools are on the table, and there are other partners facing similar challenges who we are talking to.

Ms. TENNEY. Great. I appreciate that.

The next big thing is our U.S. steel producers are among the lowest emitting in the world, because they pioneered the development

of circular steelmaking that relies on recycled steel scrap as its primary raw material input. Canadian, European, and other steel industries are now following a similar pathway.

However, as many steel producers seek to adopt low emissions technologies that rely more heavily on scrap, several countries are implementing rules that would restrict scrap exports to hoard scrap in their domestic markets. The United States is a significant net exporter of scrap, and our steel industry relies on the free flow of scrap worldwide.

Do you agree that these steel scrap export restrictions are detrimental on the U.S. steel industry, and to global steel decarbonization efforts? Quickly, if I could just get a quick answer on that, and what we can do about it.

Ambassador TAI. I think it is important for us to look at that very closely and scrutinize, because the issues that you raise are very important.

Ms. TENNEY. Do you think that these are detrimental, some of these restrictions that we have imposed on scrap?

Ambassador TAI. That have been imposed on scrap coming to us?

Ms. TENNEY. Right, from our side.

Ambassador TAI. If there are concerns from our producers, then it is well worth our attention to that.

Ms. TENNEY. Yeah. We would love to talk to you more about that, but thank you.

Another thing is how do we evaluate the impact of this global scrap in terms of restrictions? Are we doing that? Is that something in your agency work?

Ambassador TAI. I am certain that we are looking at it.

Ms. TENNEY. All right. Can we just get a follow-up on that? I would love to have more, because it is obviously another important industry along my massive district on the Canadian border.

Another thing, the U.S. wine makers have struggled to make inroads, as we have talked about in the past, in key markets around the world. This is due to, again, trade barriers. We have talked about this today and you have addressed a lot of these issues.

Vietnam imposes a 50 percent tariff on wine for the United States, but will soon eliminate tariffs from competitors in, I believe it is EU, Chile, Australia, and New Zealand. India and Australia have also entered into an agreement that will lower the tariff to 75 percent, later 25 percent on premium wine from Australia while U.S. wine makers are faced with 150 percent tariff. How can we address this issue? What can we do and will you please look into this as the USTA? The Finger Lakes wine market is a more nascent market. We are coming up. We have got three top wines—three wines in the top 100 wines. We are still struggling to get our place, but we are doing a tremendous job. Hundreds and hundreds of wineries in my district, and we really want a chance to compete and get market access.

We would just love to have you either visit, advocate, or see what we can do on this tariff situation, which is grossly unfair to U.S. wine producers.

Ambassador TAI. Finger Lakes Riesling is one of my favorite wines. I would gladly take you up on that, but more importantly—

Ms. TENNEY. We will send you a bottle.

Ambassador TAI. We will be delighted to work with your producers very, very closely on looking for opportunities.

Ms. TENNEY. Great. Thanks so much. We appreciate your service. Thank you.

Chairman SMITH. Ms. Fischbach.

Mrs. FISCHBACH. Thank you, Mr. Chair. Ambassador Tai, thank you for being here.

Last time you were with us, I guess it was over a year ago, I shared with you the importance of export market development and access to my district. My district is one of the most agricultural-dependent districts in the country, and roughly one-third of what producers in my district take home in sales comes from exports.

Since we spoke, the agricultural trade deficit has not only continued, but is now projected to be at the highest deficit ever. Producers in my district are at a distinct disadvantage as a result of this administration's lack of trade agenda, compared to their counterparts across the world. And at this point, Ambassador, I just want to ask: what you can give to my producers in my district that could possibly be construed as a new market access since we have last spoken? Not enforcement of existing agreements, and not non-binding frameworks or dialogues. I am talking about tangible, binding new market access for the farmers in my district. And I do have a couple of other questions, so—

Ambassador TAI. Certainly. Congresswoman, we really prioritized our work for our farmers and our agricultural producers, and we are very proud of the wins that we have been able to secure. A lot of specialty crops, tree nuts, berries, but maybe if you wouldn't mind my asking you in particular what your producers are producing, and that will give me a better sense for where the opportunities are that we are pursuing.

Mrs. FISCHBACH. Well, and maybe my next question will help that, but you know, we have corn, we have soybeans, we have sugar beets. But this one on the per capita pork consumption in Taiwan I wanted to follow up with that.

So, that per capita pork consumption in Taiwan ranks near the top globally at over 40 kilograms per person per year. Taiwan has erected a number of technical barriers to trade, including labeling and inspection, limiting U.S. imports to just 16 percent of total Taiwanese pork imports. How will your engagements with Taiwan address the unjustified restrictions on U.S. pork?

Ambassador TAI. Well, we are currently negotiating the second agreement with Taiwan, which goes to labor, environment, and agriculture. On agriculture, the subject of the negotiations are those rules that go to regulations and often take the form of barriers. We are establishing high standard rules for science-based, transparent regulatory processes. On pork and beef in particular, these have been longstanding trade irritants with Taiwan. We are leaning in on securing improvements to these particular issues. They are squarely being presented in the negotiations right now. I would be happy to have my team read yours into the latest.

Mrs. FISCHBACH. And I would appreciate that. Are these going to be binding and durable, or are you just—

Ambassador TAI. That is absolutely the intention.

Mrs. FISCHBACH. The intention is to—

Ambassador TAI. Yes.

Mrs. FISCHBACH. Thank you.

Then I do have one last question, not about ag, but about another producer or manufacturer in our district. On May 31, the remaining exclusions from the China Section 301 tariffs are scheduled to expire. Many American companies rely on these exclusions in order to remain competitive with competition from other imports. These exclusions have been vetted multiple times by both the Biden Administration and the Trump Administration, and this vetting has found that there are no viable alternative sources of supply. What are your plans for those exclusions post May 31?

Ambassador TAI. Those decisions haven't been made yet, but obviously they will need to be made before May 31. This particular issue has been raised multiple times in the hearing today. We know the level of interest at this committee, and we will ensure that you all have a heads up.

Mrs. FISCHBACH. And so, I mean, is the intent to continue providing these exclusions that support American manufacturers?

Ambassador TAI. Well, as I noted before, the exclusions are meant to be temporary, but they are granted in recognition of a need for a transition period. So, it will depend and that is exactly what we are looking at.

Mrs. FISCHBACH. Thank you. I have just a few more seconds, but I do have other questions and what I plan on doing is submitting these in writing.

So, thank you very much, and I yield back, Mr. Chairman.

Chairman SMITH. Thank you, Ms. Fischbach. That has been very rare today, so we appreciate you yielding that back.

Mrs. FISCHBACH. I will save it for another time.

Chairman SMITH. Thank you.

Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

Ambassador, I want to begin by just thanking you for your hard work both here on the Ways and Means Committee, and now with President Biden. I want to thank you for your time here today.

On the topic of AGOA, I am very interested in seeing this act re-authorized, and I know many colleagues here today are, too. It is an essential tool in our toolbox to uplift impoverished communities in Africa and create mutual beneficial trade networks.

Ambassador, in your testimony, you briefly mentioned the importance of exploring other fair-trade rules to complement AGOA create expansion on what specifically—in other words, follow up on these tools. Talk to us about what tools you are referring to that could be assisting in terms of improving the initiative.

Ambassador TAI. Mr. Evans, I missed the specific—is it—which trade program are you talking about?

Mr. EVANS. Well, you mentioned that there could be other tools to complement AGOA. Can you please explain on that specifically which of the tools could be of assistance in working together to enhance it?

Ambassador TAI. Certainly. Thank you very much for that clarification.

Yes, one of the areas where we think is really ripe at this point 20 years into AGOA for us to look at is anticipating what happens when economies really reach that middle income level and are ready to graduate from the basic AGOA program. This is informing the engagements and the negotiations that we have been conducting with Kenya, for instance, in the strategic trade and investment partnership. Kenya is one of those leading economies that is coming up on middle income level, and was anticipating what happens when they graduate out of AGOA? They would like to continue to grow their relationship with us. We would as well with them. So, where do we take this?

Part of it is taking those AGOA criteria, which really do reflect a set of U.S. values and U.S. outlook on democratic pluralism anti-corruption rule of law, and bringing those into a bilateral relationship. So, you see us negotiating those types of content in the strategic trade and investment partnership.

We are also building out parameters on labor, environment, agricultural rules, but also in the Kenya negotiations, looking at the topic of inclusivity. From the Kenyan side, from the African continental side, there is this tremendous focus on how to unlock the economic potential of Africa's women and youth, Kenya's women and youth. And I think that this is an area where we as the United States, working with this particular partner of Kenya, are really prepared to innovate in a trade agreement in terms of really thinking about women, youth, other types of groups that our trade policies have traditionally not been focused on, and how to bring them into the trading relationship.

So, those are some of the tools that we are looking at. If we can prove the concept with Kenya, then we think that we may have a framework for engaging with other AGOA beneficiaries who similarly are on the cusp of graduation. And I think that that is a tremendous way of growing the AGOA program, and also doubling down on deepening our relationship with the diverse economies on the African continent.

Mr. EVANS. I yield back. Thank you, Mr. Chairman.

Chairman SMITH. Thank you.

Ms. Steel.

Mrs. STEEL. Thank you very much, Mr. Chairman. Mr. Steube just came in so I gave him a little look there because I thought I am missing my turn here.

Ambassador Tai, thank you for joining us today. You know what, I am not talking about AGOA, but you know, I just want to concern about the AGOA, they're graduating. It is like, malicious, and their GDP is almost like \$21,000. They are very much concerned about that, that after graduating their economy is going to go down. Instead of that, you know, they want to stay. But I don't think that is really fair for staying, if there is one tool maybe FTA that, you certain things that they are actually—like they have textiles and apparel and we can have certain FTA that, you know, between United States and—I think it is going to be really helpful instead of not graduating and trying to stay in AGOA. So, you know, that is kind of like my idea and I got it, it was just a wonderful trip to see how African countries are working.

But we must—and then, you know, I just want to ask you just one more thing is about the California olive growers. We just briefly talked about it last year, and—I mean last week, and I know you are fighting on behalf of our growers. And you know, whatever Congress stands ready to help as needed, and you know, we can work together to make sure California olive growers, you know, they don't have to compete to something coming in from Europe.

Another pressing issue we learned about COVID was our alarming reliance on the CCP for medical supplies, and the U.S. imports half of its PPE from China, and two-thirds of its surgical masks and respirators. Even more dangerous, China dominates numerous aspects of the supply chain, you know, for pharmaceuticals. We rely almost solely on China for imports on ibuprofen and high amounts of insulin.

The reliance poses an unacceptable risk to our economic and national security. Congress must adopt policies to start diversifying our medical trade to our allies. I introduced the Medical Supply Chain Resilience Act with my colleague, Brad Schneider. This bipartisan legislation will help diversify our medical supply chains by directing USTR to negotiate sectoral agreements with trusted trade partners around the world and lower barriers and align standards with our close allies in key sectors.

So, Ambassador Tai, thank you very much for long time staying here, and thank you for all those answers. I appreciate that.

But do you share my concerns about our over-reliance on China for medical supply chains? If so, will you commit to work with me on a strategy that would start aligning our standards and regulations with our close allies, as well as lowering trade barriers?

Ambassador TAI. Congresswoman, I do agree with you that that over-reliance is a challenge and a vulnerability, and I would be delighted to work with you on this.

Mrs. STEEL. Thank you. You know what, we talked about this and everyone always asking the same questions. I am strong supporter of the United States and Taiwan economic relationships, and we must do more to deepen bilateral trade relations with Taiwan.

You know, you just said—one of the questions that you said, you know, we built in the Pacific economic framework to build the stronger resiliency, you know, between Taiwan, and you talked to me regarding a little bit because Taiwan is not really included in this Indo-Pacific economic framework, and you said some of the countries are very much concerned it is not United States. So, can you update the Committee on where things stand in these talks, and what we are actually doing further to include Taiwan?

Ambassador TAI. Sure. So, you have seen the scope of the Indo-Pacific economic framework trade pillar discussions, and you also see the scope of the first agreements and second agreements that we are negotiating with Taiwan. You will see a lot of overlap there, and it is largely because of the consistency of our approach to negotiations, and it is also with a view to ensuring that we have a consistent approach in this particular region.

Taiwan has worked very, very closely with us. Of course, this is a bilateral negotiation. We are moving very swiftly. So, the first agreement, Congress has already spoken and acted on. The second agreement involves labor, environment, and agricultural provisions.

We are making very good progress. I am hopeful in the coming weeks that we will be able to come back and report to you on further progress, and knowing your interest, will make sure that our teams remain in good touch.

Mrs. STEEL. Thank you. I have a couple more questions but my time is up. I yield back.

Chairman SMITH. Thank you.

Ms. Van Duyne.

Ms. VAN DUYNE. Thank you very much. Ambassador Tai, thank you for coming today.

I continue to be concerned over what the trade agenda of this administration looks like. I mean, from my seat, I think most of this committee would say that there is not a trade agenda. What I do see is a laundry list of toothless proposals that do nothing, and that have not had the approval of Congress.

Ambassador Tai, I am going to be very blunt. This administration's trade agenda does not exist. The administration is not holding China accountable. Trade enforcement is weak, and we basically surrendered in areas such as digital trade.

Earlier you said you objected with my colleagues, saying you and your team are standing up to China, particularly at the WTO, but time and time again actions speak louder than words, and I don't think you can truly defend these policies and honestly say that the USTR is actually pursuing an agenda that wins for America and disadvantages our adversaries. You defended IPEF and actions of the WTO as pushing back against China, but IPEF is a framework. It is not a true free trade deal. I mean, last you testified the buzz word was um and ah, and this time it has been soon, which is equally as helpful and informative.

So, the question I have got is does this administration actually plan to enter into a free trade agreement, and I would ask you to please be specific. Soon is not an answer.

Ambassador TAI. Congresswoman, I disagree with almost everything that you have just said, and I think it is actually a tremendous sign of disrespect that you don't see the trade agenda that is so clearly before you.

Ms. VAN DUYNE. Well, I appreciate what you are saying, Ambassador—

Ambassador TAI. We are not negotiating—I am sorry. You asked me a question—

Ms. VAN DUYNE. As you know, we don't have—any of these have real teeth.

Ambassador TAI. Free trade agreements—

Ms. VAN DUYNE. I mean—

Ambassador TAI [continuing]. As we have engaged with in the past have pitted Americans—

Ms. VAN DUYNE. I appreciate your answer.

Ambassador TAI [continuing]. Against Americans—

Ms. VAN DUYNE. I think you can—

Ambassador TAI [continuing]. And we are not doing that anymore.

Ms. VAN DUYNE. I retake my time.

Chairman SMITH. Yes, the lady's time.

Ms. VAN DUYNE. So, last year you had—

Ambassador TAI. She asked me questions.

Ms. VAN DUYNE [continuing]. It backwards.

Ambassador TAI. She asked me questions—

Ms. VAN DUYNE. Yes, we appreciate your answers.

Ambassador TAI [continuing]. That she really wanted me to answer. If she doesn't want me to answer—

Ms. VAN DUYNE. You did a great job not answering questions.

Ambassador TAI [continuing]. I don't need to respond.

Chairman SMITH. It is Ms. Van Duyne's time.

Ms. VAN DUYNE. Last year, we had to do this backwards to ensure that we actually supported our ally in Taiwan. Is the UTR and this administration intentionally avoiding Congress, and do you really care about the constitutional process? And a yes or a no answer would just be great.

Okay, non-responsive. We will send it in a letter.

Last summer, you stated the Biden Administration's trade policy is, I quote, "turning the colonial mindset on its head," and last November, you opened an APEC meeting by acknowledging that it was being held on the "unseated ancestral homeland of a [inaudible]." I mean, I thought it was called San Francisco, but whatever. Then at a conference in Brussels earlier this year, you called for "breaking out of some of these colonial and post-colonial structures." This entire time the Biden Administration has not lifted a finger to enforce China's violation of the Phase 1 agreement, but I guess you considered it more important to travel the world talking about unseated land in post-colonial structures than to hold China accountable for its unfair trade practices.

I continue to hear from my constituents on concerns over the inability of our trade tools to address massive subsidies from China and other countries that dump products and unfairly enter the U.S. market. In your nomination hearing, you expressed the need for new tools to address these new threats to American industries. Last week, I sent you a letter laying out concerns on the aluminum extrusions. Given the serious concerns raised in the aluminum extrusions case, why are new trade tools not being utilized to initiate an investigation into whether Mexican extruders received unwrought aluminum for less than the market rate from governments of China and Russia?

Ambassador TAI. Ms. Van Duyne, I would be happy to respond in writing. I find your approach to this question session to be disrespectful and unserious.

Ms. VAN DUYNE. Excellent. I look forward to getting your—because we haven't really gotten responses at all during this hearing, which I find very frustrating as a member of Congress when we ask questions, and the best that we can get is soon and hopeful and optimistic answers.

In a recent interview, your former deputy USTR, Sarah Bianchi, suggested that the reason that the Biden Administration did not pursue a Section 301 case against China's industrial subsidies was that the administration felt that it was no longer necessary after passage of their Inflation Reduction Act. Shocking to hear that. The Inflation Reduction Act is absolutely nothing to stop China's trade cheating. In fact, the IRA is helping China by maintaining our dependence on infra-critical minerals.

So, given that, will you commit to launching an investigation into China's unfair subsidy practices, and again, please be specific. Soon is not an answer.

Ambassador TAI. Ms. Van Duyne, I am sure that there are issues that we agree on. I don't know what you stand for, and I don't know who your constituents are.

Ms. VAN DUYNE. So, I am asking you—

Ambassador TAI. If I can understand better—

Ms. VAN DUYNE. I appreciate—will you commit—

Ambassador TAI. If I can understand better who you are championing—

Ms. VAN DUYNE [continuing]. To launching an investigation—

Ambassador TAI [continuing]. For, then I would be happy to work with you.

Ms. VAN DUYNE [continuing]. Into China's unfair subsidy practices? So, you can't answer whether or not you will actually do the job of investigating China's unfair subsidy practices?

Ambassador TAI. No, I choose to engage respectfully with people who will treat me the same way. You are not.

Ms. VAN DUYNE. So, you can't give me an answer on it?

Ambassador TAI. No, I choose not to.

Ms. VAN DUYNE. All right. Thank you very much, and I yield back.

Chairman SMITH. The gentlelady's time is expired.

Mr. Schneider, you are recognized.

Mr. SCHNEIDER. Thank you, Mr. Chairman, and Ambassador Tai, thank you for joining us and for your patience in working with this committee. On a personal level, I appreciate your work and I am grateful for the successes you and the Biden Administration have delivered.

The pandemic demonstrated how U.S. companies are at the forefront of biopharmaceutical innovation, not just in developing leading COVID-19 vaccines, but also research and deploying cutting edge diagnostics and therapeutics. I was pleased the recent WTO ministerial—that the recent ministerial confirmed that the TRIPS waiver would not be extended to diagnostics and therapeutics, robustly defending U.S. IP protections.

My district, my constituents include many of the innovators and researchers who are leading the world in developing the next generation technologies, and they rely on strong U.S. intellectual property protections to ensure they are global competitors, and China and elsewhere cannot appropriate U.S.-developed technology as their own.

Keeping the U.S. at the scientific forefront requires strong protections, and I want to again commend the Biden Administration and you, Ambassador Tai, for your tireless work in protecting U.S. innovation.

Let me now shift to another topic that you and I have discussed many times, the importance of developing robust supply chains, including planning for and building sufficient resiliency, redundancy, and slack to absorb shocks within supply chains while not breaking them. This applies to virtually every industry and associated sup-

ply network, but none more so than the medical-related supply chains.

We saw during the pandemic how our medical supply chains are exposed and vulnerable to over-reliance on single-sourced inputs, as well as the negative actions by entire countries in the global crisis, as occurred with the People's Republic of China throughout the COVID crisis.

During the pandemic and after, we have all talked a lot about ideas like reshoring and front-shoring production of both inputs and finished products, which would also create quality jobs here in the United States. And these challenges, protecting U.S. intellectual property and protecting our supply chains against China, did not end with the pandemic.

This year, the biopharmaceutical industry has been rocked by intelligence that a Chinese company, WuXi AppTec, had transferred U.S. IP to the Chinese government without consent. That is problem number one. Problem number two is that WuXi's Chinese operations are a critical node in the development of as many as one in four drugs used in the United States, and now the industry is scrambling to address the consequences of the expected removal of WuXi from supply chains, highlighting the need to shift our focus on trading with friends rather than turning to companies in China.

As she noted a few minutes ago, Ms. Steel, I joined with my friend and fellow Ways and Means colleagues, Michelle Steel, to introduce H.R. 4307, the bipartisan Medical Supply Chain Resiliency Act. This legislation will empower the USTR to negotiate trade agreements with respect to medical goods with trusted trade partners who will commit to working with us during public health emergencies, and not cut us out of supply chains like China did during COVID.

The premise of our bill is that this globalized economy—that in the globalized economy when United States can count on our friends and vice versa, we are all better together. Working with friends who share our interests and values ensures that critical medical supplies get to patients in the United States and around the world in proper time, and sufficient quantity, irrespective of unforeseen circumstances.

So, in the minute or so left, can you please share your thoughts regarding the ongoing geopolitical risks to our supply chains posed by China, and potentially other nations, and discuss how the administration is thinking strategically to ensure robust and secure supply chains into the future?

Ambassador TAI. Thank you so much, Mr. Schneider, and I would just note with respect to WuXi AppTec, I just saw a report earlier this morning that not only has there been unauthorized transfer of American IP to China, but unauthorized access of Americans' genetic information and data—

Mr. SCHNEIDER. Personal data.

Ambassador TAI. Indeed, and so, there are multiple dimensions of these concerns that affect our economy and our individual citizens and their privacy rights as well.

The issue of supply chain concentration and over-reliance is a significant one, and it is actually a reflection of the version of globalization we have today. The incentive structures for firms in

their production decisions in the relationships that they have formed in supply manufacture, we are very much concerned about the role that USTR can play to set you incentives, to create incentives for our producers, the people who are so critical and the different links in our supply chains, especially in this sector, to make decisions that are not just based on maximizing efficiency. Efficiency is still important and always will be, but also to incentivize resilience so that to your point about redundancy and slack, so that there is a plan B and a structure that is built into their business models.

This is where it is all at. This is about applying the lessons very, very painfully learned over these past 5 to 7 years and ensuring that the global economy, U.S. role in the global economy going forward is one that is strong, that doesn't suffer catastrophic breaks in the way we have experienced, and that allows us the opportunity to have that strength and resilience that is so critical to the experience of our people.

Mr. SCHNEIDER. Thank you, and Mr. Chairman, thank you for the extended time. I yield back.

Mr. STEUBE [presiding]. The gentleman's time has expired. I recognize myself for 5 minutes.

Ambassador Tai, I am concerned about the total lack of ambition from this administration on trade policy. It feels like we are asleep at the wheel while China and other competitors pursue an aggressive trade policy abroad that divides up the world's consumers for their farmers, manufacturers, and workers. Whether it be efforts to make trade woke or surrendering U.S. leadership on digital trade, the Biden Administration has put progressive activists at the center of the President's trade agenda, all while creating a void that is allowing China to pursue an aggressive global trade that undermines our economic interests and national security.

We need our tariff policy to make sense. I want to take a quick moment to highlight two companies with domestic manufacturing in my district. One is the Brunswick Corporation, the largest recreational boating company in the world. The other is ASO, the largest manufacturer of adhesive bandages in the United States, producing over three billion bandages a year. I will note with other colleagues, it was actually a letter Mr. Schneider and I did together. We sent a bipartisan letter to you on December 22, 2023, about Brunswick and the issues they are facing in my district and others, and the response from your office really didn't address the issues. We need action taken now. I will submit both the letter we sent, Mr. Schneider and I sent, as well as the letter that you replied with for the record.

[The information follows:]

**Congress of the United States**  
**Washington, DC 20515**

December 22, 2023

The Honorable Katherine Tai  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

Dear Ambassador Tai,

Thank you for your work to promote U.S. trade and protect U.S. workers from unfair trade practices abroad. As Members of Congress who represent the Brunswick Corporation's domestic manufacturing operations, we write to you regarding the four-year review of actions taken in the Section 301 investigations related China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property and Innovation. We urge you to consider revising tariff policies as they relate to the recreational motor industry.

Brunswick Corporation's manufacturing operations are heavily integrated into the recreational motor industry and have been negatively impacted by the current Section 301 policies—both by the burden of increased costs associated with procurement, and by the uncertainty surrounding the future of these policies. These manufacturers rely on a limited amount of Chinese origin inputs subject to Section 301 duties to sustain their operations. The associated tariffs on these inputs impose a financial burden and create a unique competitive disadvantage to foreign competitors without U.S. manufacturing presence that are able to circumvent the duties by importing Chinese inputs through manufacturing operations in a third country.

We appreciate the need for our trade policies to protect vital U.S. national security interests and the U.S. workforce. However, inputs used in the recreational motor industry are simply not the kind of emerging technologies targeted by China for intellectual property or technology transfer. As a result, U.S. policy focused on these components hampers domestic production – potentially at the expense of American workers – while having little to no meaningful impact on addressing unfair Chinese trade practices.

As the Biden Administration continues its examination of Section 301 policies, we urge you to consider eliminating or limiting tariffs on those codes within the Harmonized Tariff Schedule of the United States that Brunswick identified in its January 2023 comments to USTR, which we are including as an attachment with this letter. At minimum, we would urge USTR to continue its reinstated exclusion for "Parts suitable for use solely or principally with spark ignition internal combustion piston engines of heading 8407 for marine propulsion described in statistical reporting number 8409.91.9290 beyond the current December 31, 2023 expiration date.

We agree with the Administration's goal of combating unfair Chinese trade practices, and believe that targeting the recreational motor industry within these efforts is an unintended consequence of that effort. We urge you to be mindful of these considerations as you reexamine U.S. policy moving forward.

Sincerely,



Bradley Scott Schneider  
Member of Congress



Glenn Grothman  
Member of Congress



James R. Baird  
Member of Congress



W. Gregory Steube  
Member of Congress



THE UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON

January 18, 2024

The Honorable Bradley Scott Schneider  
United States House of Representatives  
Washington, DC 20515

Dear Representative Schneider:

Thank you for your letter regarding inputs used by Brunswick Corporation in their manufacturing of recreation products that are subject to additional duties under the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation.

As part of USTR's statutory review of the tariff actions in this investigation, USTR is considering the overall structure of the tariffs, including which products should be subject to additional duties. We are also considering whether an additional exclusions process or extensions may be warranted, and what that process might look like based on the findings during the review on impacts to consumers, workers, and U.S. industries.

Additionally, USTR recently announced the further extension of previously reinstated and Covid-related product exclusions through May 31, 2024, including:

*parts suitable for use solely or principally with spark-ignition internal combustion piston engines of heading 8407 for marine propulsion (other than cast-iron parts, not advanced beyond cleaning, and machined only for the removal of fins, gates, sprues and risers or to permit location in finishing machinery or connecting rods) (described in statistical reporting number 8409.91.9290).*

On January 22, 2024, USTR will open a docket to receive public comments on whether to further extend this and other exclusions beyond May 31, 2024. USTR encourages Brunswick Corporation to submit their comments on the docket, and will evaluate each exclusion on a case by-case basis.

My staff will keep your office apprised of any relevant developments.

Please do not hesitate to contact me if you would like to discuss this or any other issues in the future.

Sincerely,

A blue ink signature of Katherine Tai, which appears to read 'Katherine Tai' in a stylized, cursive font.

Ambassador Katherine Tai

cc:

The Honorable Glenn Grothman  
The Honorable James R. Baird  
The Honorable W. Gregory Steube

Mr. STEUBE. Back to these two companies creating jobs in my district. Both of these companies are major domestic job creators, yet have difficulty acquiring materials and resources in the United States, requiring them to acquire limited raw supplies from China to bring to our country to manufacture with U.S. jobs. For Brunswick, their competitors are all from Japan and not subject to these tariffs, but are put at an unfair advantage with foreign competition despite being the company creating jobs right here at home.

For ASO, their competitors produce their bandages in China or Brazil, and import products ready for distribution using the same fabric ASO does and are not subject to the duties and taxes placed on this U.S. company. U.S. policy focused on these companies hampers domestic production, potentially at the expense of American workers, while having little to no meaningful impact on addressing unfair Chinese trade practices.

We must combat unfair Chinese trade practices, and I believe that targeting the recreational motor industry and medical supply industry within these efforts is an unintended consequence of that effort.

I am also very concerned about the global proliferation of digital services taxes. These taxes are clearly discriminatory and unfairly target U.S. companies. That is why I supported the Trump Administration's Section 301 investigations. Given the discriminatory nature of these DSTs, I was very surprised to see the Biden Administration unilaterally terminate these investigations, eliminating U.S. leverage without concrete assurances the discriminatory DSTs will be eliminated. I am now seeing concerned reports out of the European Union about a potential EU-wide DST and Canada is pursuing its own unilateral DST. The Biden Administration has failed to pursue aggressive action, and it is upsetting that you are just letting our U.S. companies be discriminated against.

I believe you need to have new Section 301 investigations and use the tools that Congress has given you to show other countries there are consequences for unfair trade practices.

Like many of my colleagues, I believe we need to fully enforce the USMCA to ensure that American workers receive the full benefit of that agreement. One area where Mexico is falling short is the pharmaceutical sector. Mexico has yet to fully implement key commitments in the USMCA intellectual property chapter, and continues to delay regulatory approval, and therefore market access for innovative medicines. This not only undermines American jobs and exports, but makes it more difficult to strengthen medical supply chains in North America. USTR needs to use all tools necessary to bring Mexico into compliance with these commitments.

I yield back the remainder of my time, and I recognize Mr. Moore for 5 minutes.

Mr. MOORE of Utah. Thank you, Chairman, Ranking Member for holding this hearing. Ambassador Tai, again, for joining us today.

Ambassador, something that concerns me greatly is the Chinese government's interest in replacing the United States and the permanent power in the Indo-Pacific region. One sign of proof that China wants to replace the United States and achieve economic hedge money in Asia is their recent application to join the Com-

prehensive Agreement for Trans-Pacific Partnerships, CPTPP. This trade agreement was previously negotiated by the United States and 10 other allies, as you know, and it was explicitly designed to exclude China and develop strong standards on IP protection, labor, investment, governance, and dispute settlements to ensure that the Asia-Pacific economy would be shaped in a pro-U.S. image for the foreseeable future. Of course, now the U.S. is out of the picture and China wants to join. They are in the proverbial waiting room.

My question to you, would China joining the CPTPP be a good or bad thing for U.S. economic and national security interests? Simple yes or no would be great.

Ambassador TAI. Mr. Moore, I don't want to disappoint you but a simple yes or no is challenging here, especially given the history of TPP, and the history of this committee with TPP.

TPP was a challenging, ambitious agreement on the framework of our traditional FTA practice, and it generated a lot of controversy during the negotiation, and of course, it was an American president who took us out of it. So, I think the question is a fair one, which is what do we do now? Whether China joins the CPTPP is up to the existing CPTPP partners.

Our engagement in the Indo-Pacific is about forming different kinds of supply chains. One of our concerns is that our partners there not further entangle themselves in existing supply chains, but look to build new supply chains with us.

So, I guess what I would say is in terms of what is relevant to us, it is about advancing this diversification program with our partners in Asia, in Latin America, and all around the world to make for stronger and more autonomous trading systems.

Mr. MOORE of Utah. I know yes or no questions aren't ever necessarily being done. I get there is context, I mean, but given the list of the reasons that it was established and China is not a fair player in any of those categories, intellectual property, things like that.

The point of the question is, is it good for U.S. national interests, regardless of whether we are in it or not. Is it good for U.S. national interests, and I would argue that it is not.

As you may recall, I wrote you in August of last year to highlight significant concerns about Health Canada's post-cost recovery scheme for the sale of natural health products, which include dietary supplements. I previously raised that there are broad industry concerns that Canada's scheme will negatively affect the overall dietary supplement industry and in favor the manufacturing of dietary supplements in Canada to the detriment of U.S. manufacturers. U.S. industries believe that the proposed scheme may be in breach of the USMCA. What are you doing to ensure Canada upholds its obligations under USMCA with respect to the manufacture and sale of natural health products so Utah companies in my district can achieve fair market access within Canada?

Ambassador TAI. I am happy to look into this further, and we have a strong relationship with Canada, and there are lots of reasons for that. But the point to having a strong relationship is so that you can work through issues and concerns like this.

Mr. MOORE of Utah. We sent the letter in. What would be the best way to interact on this further? As my colleague, Mr. Buchanan, also said, this is important in my district. It is extremely important. It is a strong industry. It is something that strengthens not only our State, but our country. It is a strong export. We do it better, you know, we do it more responsibly than others. We get into the mode of writing letters back here, and I get it. It is a thing and I am from the Republican party and the White House is under Democratic control. What can we do to understand what your opinion is, what you and your team are going to do to help? I am game to do anything.

Ambassador TAI. The title of the job is U.S. trade representative, and it is to represent the interests of the entire United States. Have your team reach out to mine. If supplements falls under ag, that will be under my chief ag negotiator's purview. If it is not, we will find the folks on our team who can help your constituents.

Mr. MOORE of Utah. Thank you very much. I yield back, Chairman.

Chairman SMITH. Thank you.

Mr. Panetta.

Mr. PANETTA. Thank you, Mr. Chairman, I appreciate this, and of course, Ambassador Tai, thank you for being here this morning and into the afternoon. I want to acknowledge your staff as well, especially Doug Mckayla, who is there. I appreciate them taking the time to be here and to listen, and I am sure learn.

Also, I want to thank you, obviously, for your service, for your work, for your efforts, especially within the confines of the politics that we are seeing and the policies that are coming out of the White House. I want to thank you for your work at the 13th World Trade Organization Ministerial, the Japan deal, and ongoing negotiations with Kenya and Taiwan.

Now, I think it is clear that as demonstrated in your and our work as a committee and in a bipartisan manner on the USMCA that we support trade deals that support the middle class, increase economic security, raise labor and environmental standards, and have enforcement mechanisms. Unfortunately, though, we haven't seen those types of deals or agreements, at least in this administration. Now, earlier in your testimony you hearkened back to our Nation's trade leadership last century, when U.S. transformed the global economy with freer and a wider trade system.

President Biden actually campaigned on restoring multilateralism; however, I don't believe the U.S. has leaned into its role as a leader of the rules-based global trading system. I do appreciate the frameworks that you have set up. I do appreciate that we are practicing right now for these trade deals, and I congratulate you on your efforts to innovate and be creative. Some of the new ways are investment that we have seen from legislation that we have passed, from CHIPS, IRA, and the IAJ, including an announcement today, \$6.4 billion to Samsung for production properties in Texas. Technology protections and even unilateral coercion is what we are using.

But that isn't getting rid of tariffs. It isn't ensuring SPS are based on science, and that doesn't allow market access. And I do believe that if we want to incentivize countries to implement labor,

environment, and enforcement mechanisms, it takes more. It takes deals. It takes multi-lateralism. It takes FTAs, and it does take working with Congress. I know it is a tough environment. We have had COVID. We have a war in Ukraine, Middle Eastern shipping issues, supply chain issues. But I also think there are some inconvenient truths that are out there as well that you really haven't hit on in your testimony today.

Many countries can't pass the litmus test of the USMCA. Moreover, they won't do it on their own to keep up with the rising tide. So, you are seeing a reduction of trade deals with countries like India, Indonesia, Brazil, Angola, and also, politics are just not with us on trade. We see that on both sides of the aisle. No matter the agreement, the framework, no matter how worker-centric they are, no matter the benefit to the U.S. global economy and our security agenda, there is a perception that trade is toxic. And what we don't want is for us to be sitting on the sidelines just because of that perception. We want to make sure that we are a part of the economic integration that is going on right now, as we are seeing in the Pacific especially as China tries to fill that void with its being a part of the CPTPP and RCEP.

So, I do believe that if we want to use trade to further our goals economically and security-wise, we need more. We need the quid pro quo of a trade deal. We need tariffs to be reduced. We need access to markets, and yes, we need Congress to be involved.

I know you like sports analogies, and so, I believe that we are good. There are practice players and there are game players. I know you are both. I think it is time that we as a country start to get into the game with our trade deals.

Now, when it came to the USMCA, we were players. There was an agreement where market access contributed to the leverage in negotiations. However, we are seeing our administration step away from offering market access as a tool for leverage, and I worry that it has undermined our ability to support both labor and environmental standards. Is there—are there negotiations going on right now in which this year in 2024 basically we have been able to offer that, to have other nations raise their labor and environmental standards?

Ambassador TAI. The short answer is yes, Mr. Panetta. I guess what I just wanted to say is, you know, with respect to your world view on trade, there are things we agree on and there are things that we don't agree on. One aspect of it is we need to remember who we are. We are the United States of America. We are the largest and strongest economy in the world right now. We should not have to apologize for requiring others to meet our standards in order to access our market. We hold the most valuable market of consumers in the world. If we forget that, we shortchange our people. We shortchange the economic opportunity that we and our people deserve. And I think that is a fundamental shift in thinking about trade and trade deals that is necessary for us to appreciate what our role in the world economy is.

Mr. PANETTA. Madam Ambassador, I agree with you. I don't think we need to apologize, but I do think we need to be realistic about the quid pro quo that goes into the trade deals that can actu-

ally have an impact, not just in this country, but in other countries as well.

Thank you. I yield back.

Chairman SMITH. Mr. Feenstra.

Mr. FEENSTRA. Thank you, Mr. Chairman. Thank you, Ambassador Tai, for being here.

I have the second largest ag district in the country, corn and soybeans being the priority along with cattle, hogs, dairy, eggs, you name it, turkeys. Here is—first of all, I just want to say do everything you can on the Mexico issue on GMO corn. I mean, 40 percent of our corn exports to Mexico. I can't tell you how big an issue this is, and there is a lot of worry in the markets right now where this is headed. The downward pressure in the commodity market on corn is reflecting this issue with corn, you know, we got below four just about a month ago.

That also brings up the topic—and you have heard from everybody about market access. I get that, and I heard all your points, but it really affects ag, especially, you know, when you talk about corn and soybeans and pork and dairy and cattle, the downward pressure on the commodity markets. I heard what you said about the trade deficit, that it has got ebbs and flows.

But here is my issue, is that we are seeing individual states doing individual trade deals with different countries, and I struggle to square this up. If other countries can do this with individual states, why can't our federal government do some of this? I would like you to answer that. I mean, why are we lagging behind—especially even our global partners? I mean, our global partners, China has done 10 new agreements, Japan has done seven new agreements, EU eight, Canada eight, and we haven't done anything since the last USMCA. So, can you expound on that?

Ambassador TAI. Thank you, Mr. Feenstra, and I appreciate the significant footprint your district has in our Nation's agricultural production.

I think this is a fair question. It is one that I come upon quite often, so I am always willing to engage.

The first place is just to assert that you and I are on the same team with respect to U.S. farmers and agriculture producers, the big ones all the way to the small family farmers. They feed us. They are able to feed the world.

The second piece is to look at the way that we have done trade traditionally, and you have heard me say we need to do trade in a way that stops pitting Americans against other Americans. One of the things about the traditional free trade agreement is that it has done very, very well for ag, American ag, especially big ag. But it has actually not done well for our heavy industries, our industrial workers, and that has created this pitting of Americans against each other.

So, what we are trying to do is we are trying to continue to score wins for American ag. We have done it with India. We have done in the singles and our doubles, but at the same time, what we need to do is stand up for our industries because the FTAs that we have negotiated—

Mr. FEENSTRA. Thank you.

Ambassador TAI [continuing]. Have been much more strategic for farmers than the industry.

Mr. FEENSTRA. Thank you, and I hear that, and it is a bit rhetorical rhetoric there. I struggle with it. I struggle because no one in the ag industry is seeing a lot—nothing is getting done and that is where our commodity markets struggle. It is serious.

I want to switch gears. I also share concern, along with my colleagues, on USTR's decision related to digital trade rules. Without the longstanding digital trade rules, local data storage requirements will proliferate and countries will essentially require U.S. companies to invest in building facilities in those countries as a requirement for them to do business there.

This creates a significant implication for our tax base, our economy, our companies' taxable profits are shifted to other countries. You know, you talk about America and American, can you expound on this, Ambassador Tai? Did you consult with the Treasury on economic and tax implications of your decision on digital trade here?

Ambassador TAI. So, Mr. Feenstra, I have made this point a couple of times so I definitely want to make sure that I make it to you, which is it is actually the actions of the U.S. Congress that were most powerful in indicating to us that our digital trade provisions related to data flows, data localization—your point of storage—and also with respect to source code are outdated. They do not reflect the level of debate that is happening up here in the Congress. Not about national security, we are on the same page there. Not about Americans' need to have rights to their data, rights to their privacy, but with respect to these digital provisions, they don't take into account the interests of Americans, American citizens, and a regulatory structure that is lagging behind where the technology is.

So, that is why we have pulled back on those proposals. We will absolutely—we are absolutely interested in advancing new, more modernized proposals that give Congress the space—

Mr. FEENSTRA. My time is up.

Ambassador TAI [continuing]. To actually legislate.

Mr. FEENSTRA. Thank you for your comments, but just a quick note. I always want to remind everybody that businesses create jobs. Businesses create the economy, all right, and that is lost in this administration and it is lost in these rules. I am very scared about that, and we all should be.

Thank you, and I yield back.

Chairman SMITH. Ms. Malliotakis.

Ms. MALLIOTAKIS. Well, thank you, and Ambassador Tai, I appreciate you being here today.

You know, since I have come on this committee, I really made it a priority to address the supply chain issue as it relates to our pharmaceuticals. I think everybody on this committee agrees that it is very dangerous for us to rely overwhelmingly on Communist China for our pharmaceuticals.

As a matter of fact, one of our biggest issues right now is that there are 252 drugs that are currently in shortage in the United States with no pattern or predictability, and India and China manufacturers, as you know, active pharmaceutical ingredients that make up about 60 to 70 percent of the generic drugs in the United

States. Chinese API prices have more than doubled since 2020. China is the leading source for U.S. pharmaceutical imports, and China is the leading source of the API that even India uses in its drug production. Over 80 percent of all APIs for essential medicines are used in the U.S. have no domestic manufacturing source, and over the past 20 years, pharmaceuticals went from the ninth most imported good to the second most imported good.

Now, obviously we see overseas tax entry on this committee. I am introducing legislation soon that would try to onshore a lot of our pharmaceutical production, but as it relates to trade, you know, China also accounts for 95 percent of our ibuprofen, 91 percent of hydrocortisone, 70 percent of some other—I am sorry, 40 to 45 percent of penicillin. So, what can we do from the trade aspect, and is this something that you are actively speaking with within this administration?

Ambassador TAI. Yes, this is an incredibly important issue, and I have noted the interest on this committee. I think that a logical next step is to find an appropriate forum or convening so that we can sit down and continue the work.

But Ms. Malliotakis, yes, we are working on this on an inter-agency basis, but from a trade perspective as well. We have supply chains exercise going this year that identifies 11 critical sectors and medicines API is one of them.

Ms. MALLIOTAKIS. Okay. What countries do you potentially see opportunity? So, for example, we recently visited Poland. I mean, that is a country that is likeminded. We are in agreement on so many issues and values. They seem to be producing pharmaceuticals. Ireland is another opportunity. Again, obviously we want to try to onshore as much as we can using various incentives to level the playing field, but from the trade perspective where we can't onshore, we want to at least friend-shore. Do you see any countries in particular that you think would be capable of working with us?

Ambassador TAI. Let me just endorse your onshoring and friend-shoring combination in terms of seeing that as the solution. Our thinking is very much aligned.

In terms of good candidates, let me just put it this way. My mind is very open. You have probably done more due diligence and footwork in your visits. I would be delighted to take on board what you found in your travels.

Ms. MALLIOTAKIS. Okay. Well, I really—in your role, I think it is critical that you play a really instrumental part in trying to identify those countries where we can have these types of arrangements, and I really urge you to urge the President to talk about this. I mean, it is shocking that the President of the United States does not talk about the need to bring pharmaceutical manufacturing home, or at least not rely on Communist China. I mean, this is potentially very, very dangerous, and not hearing the President talk about this in a post-COVID world, right, where we know we need to have our pharmaceutical supply chain shored up and all of that, it is incredible to me that there has been no mention of this.

So, it is great that we are talking about it. We have talked about it before when you visited the committee. I think we really need to take action now, and as our leading, you know, trade ambas-

sador, I really appreciate your leadership on this, and we on the committee will help and work with you however we can to get it done.

Thank you.

Ambassador TAI. Thank you.

Mr. FEENSTRA [presiding]. So, we have four votes on the floor right now, so we will recess and reconvene immediately following the vote series. So, this committee stands in recess until the votes are done.

[Recess]

Mr. CAREY [presiding]. I am not used to being up here. The committee will now reconvene. The chair now recognizes Mr. Gomez for 5 minutes.

Mr. GOMEZ. Thank you, Mr. Chair.

First, fast forward 20 years. This is where we would be in 2044, so this is the future. One of the things I think you are hearing on the committee and the struggle is a lot of the traditional positioning between the parties on trade has been inverted. You know, free trade versus fair trade, all that has kind of fallen—I don't want to say apart, but it has moved away from where the public is at. So, I believe our challenge regarding trade in the 21st century is developing a trade strategy and agenda that takes into account the public's opinion on trade, but at the same time uplifts American workers while positioning the United States to compete against China and continue to play a role in the global marketplace, which traditional positions, policies are not necessarily sufficient to achieve that goal.

I believe USMCA is part of that strategy, which I believe is an example and maybe a path toward achieving that goal, but the path is not a straight one. It is not a clear one, but it is something that I believe gives us some insight into what is possible.

Ambassador, thank you for being back here, and I know we worked closely in negotiating the necessary enhancements to the final USMCA deal. We have already seen the mechanism used 22 times across a variety of sectors, and we have seen real results with over three-quarters of existing cases already resolved, with tens of thousands of workers gaining union representation, back pay, and freely exercising their right to organize.

Ambassador, can you share your perspective on how the Rapid Response Mechanism has contributed to raising labor standards and workers' wages in Mexico? What lessons can we learn from the first years of using this tool as we continue to push for strong USMCA labor enforcement, and enforceable labor commitments in future trade deals?

Ambassador TAI. Thank you, Mr. Gomez. This is one of the most important aspects of our trade agenda, and one of the most successful as well.

To your point about the bipartisan approach to trade, I actually think that there are a lot opportunities that are available to us in the current recombination. And to your point about USMCA, it was negotiated on a bipartisan basis. It came through Congress with strong bipartisan support, and this Rapid Response Mechanism was a critical piece of that bipartisan rallying around the USMCA

and a promise that we could do trade and trade agreements in a different way.

So, to your point, we have brought 22 cases, accepted—most of them were petitions. A couple were self-initiated. As a result of the 15 or 16 concluded cases where we have been working very collaboratively with the Mexican government, the economy ministry and the labor ministry, we have secured wins with direct benefits for human beings, workers at individual facilities in Mexico. Thirty thousand workers have now been directly benefitted. They have received back pay. They have gotten free and fair votes for unions that will actually represent them. They have won better benefits. They have won wage increases to the tune of \$5 million in terms of back pay, better benefits.

This is real change. This is demonstrating that we can do trade in a different way. We can do trade in a way that lifts workers and creates middle classes together. Empowering workers in Mexico is empowering and leveling the playing field for workers here in America, and I think that this is the beginning of a paradigm shift that we are eager to expand to other trading relationships and other trade arrangements.

Mr. GOMEZ. One of the things that I also recognize is that paradigm shifts sometimes take time, but also, they do set the foundation for what might be greater engagement of the United States in trade agreements or trade policies that accomplish the goals of uplifting American workers.

Where do you see the more opportunities where the United States can engage on in the short-term, through the end of the term, and in the next administration?

Ambassador TAI. Certainly. There are ongoing negotiations that we have undertaken that we remain very committed to. One is with the Indo-Pacific through the trade pillar, the Indo-Pacific economic framework. Another one is with the European Union on the global sustainable steel and aluminum arrangement. These are two examples, but we are also actively negotiating through this year as well bilateral agreements with Kenya, with Taiwan, both important strategic partners, but very different from each other. And I think that with respect to the issue of supply chains, the nut that we have yet to crack, but something that I think we can do in partnership between the administration and this committee certainly is around supply chain resilience. What are the trade tools that we can bring to bear? Enforcement tools, negotiation tools to create resilient and diverse supply chains.

Mr. GOMEZ. Thank you. I am out of time.

Mr. CAREY. Thank you, Ambassador, for being here today. It is great to have you in front of us, and welcome back to your home committee.

We are going to talk about de minimus as I have outlined, so if you need some team help on that, I just wanted to let you know.

Again, I want to thank you for talking all time, and as a former staffer myself, you can appreciate when you get down to the final two.

But anyway, as you know, in recent years we have seen an influx of low-cost imports from China, many of which fall below the de minimus value which the threshold right now I believe is \$800. I

need to get my glasses to make sure I am right on there. I am pleased that the committee will be considering a bill tomorrow to reduce the abuse of this *de minimis* privilege, but this is only one of the many vectors by which unsafe or counterfeit goods can enter the United States. This particularly affects products intended for children and families.

One way we can address the influx of unsafe goods from China is through a 4-year review of China tariffs. However, it is my understanding that that has not taken place yet through the administration, and it is still not complete and review is—within the last 2 years.

I am asking you, would you be willing to commit to address the importance of the unsafe and counterfeit goods as part of a 4-year review?

Ambassador TAI. I think the point you make is an excellent one. I want to assure you that the 4-year review, which is currently still ongoing, but I have confidence it is coming into its final stages, does address the issue of counterfeit, unsafe, and even larger issues regarding the fundamental inequities reflected in the U.S.-China trade relationship. So, short answer is yes, longer answer is yes, among many other factors.

Mr. CAREY. Well, I thank you for your answer.

GSP expired more than 3 years ago, and renewing it remains a top priority for this committee, as you know. We know the expiration of this program has caused some tremendous uncertainty for both American businesses and the beneficiary countries that meet the program's requirements. The longer the program remains expired, the more China benefits. The U.S. loses credibility, as is common in trading partners—committing trading partners to these countries.

So, I guess my question to you, what additional products could be added to GSP eligibility to enhance the supply chain diversification and resilience efforts? You have got 2 minutes. I know it is a big question.

Ambassador TAI. It is a good question. It is a hard question in part because the GSP program, the foundational principle of the program is to operate as a trade program to help stimulate development in developing trade partners that we have. It is our oldest preference program, so when it was set up and created, it wasn't done with a particular supply chain strengthening goal in mind. If that is something that we want to bring into the GSP, I think it would probably require a bit of a rethink and some new architecture. As it is, though, I want to say I really commend the committee for taking it up. It has been lapsed for 3½ years. Again, you know, I hope that the committee is able to engage with the issues robustly, to listen to each other. We as an administration are supportive of reauthorization, and of course, also supportive of seeing GSP brought up to level with our other trade programs that reflect labor and environmental provisions, and also to look at other lapsed programs like TAA as well.

Mr. CAREY. Ambassador, I want to thank you for appearing here. I know this was a long committee hearing, but I do want to really—I appreciate your time. I appreciate you answering all the questions that both sides of the aisle asked you.

I want to say, at this time please be advised that members have 2 weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record.

So, with that, the committee now stands adjourned.

[Whereupon, at 2:00 p.m., the committee was adjourned.]

**MEMBER QUESTIONS FOR THE RECORD**

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**House Ways & Means Committee Hearing on “The President’s 2024 Trade Policy Agenda”**  
**April 16, 2024**

**Responses to Questions for the Record for Ambassador Tai**

**Chairman Smith**

1. What efforts has USTR been undertaking to guarantee that Mexico establishes an aluminum import monitoring scheme under the 232 agreement, and what tools could USTR utilize if Mexico does not make progress?

Answer: Maintaining viable aluminum and steel industries is essential to U.S. national security. These industries fueled American industrialization and helped build the American middle class. On July 10, 2024, President Biden and President of Mexico Andrés Manuel López Obrador announced actions to jointly prevent the evasion of tariffs on aluminum and steel. Under this agreement, in order to enter the United States free of Section 232 tariffs, aluminum imports from Mexico must not contain primary aluminum smelt or cast in Belarus, China, Iran or Russia.

The United States is committed to continued discussions with Mexico to protect the North American aluminum market from unfair trade practices.

2. How is USTR engaging with its Mexican counterparts to ensure its public trade data, including the origin of metal imported into Mexico, is publicly disclosed?

Answer: I have repeatedly pressed Mexico to ensure greater transparency with regards to its official trade statistics for steel and aluminum, including through the publication of these data in Mexico’s Tariff Information System (SIAVI) and will continue to do so.

3. Can you elaborate on USTR’s efforts with the Mexican government to fulfill this directive? What measures have been taken to date, and are there additional measures the U.S. and Mexico can employ to stem these unfair trade practices?

Answer: On July 10, 2024, the United States and Mexico announced key measures to protect the North American steel and aluminum markets from unfair trade. Both countries will implement policies to jointly prevent tariff evasion on steel and aluminum, and strengthen North American steel and aluminum supply chains (Mexico, United States, and Canada).

To improve transparency of the origins of its imports, Mexico is requiring importers to provide more information about the country of origin of steel products. This action adds to Mexico’s recent tariff increases on steel from countries with which it does not have a free trade agreement. To complement these actions and further protect the North American market, the United States will implement melt and pour, and smelt and cast requirements, respectively, for certain steel and aluminum imports from Mexico in order for those steel and aluminum imports to enter the United States tariff-free under Section 232 of the Trade Expansion Act of 1962.

The United States is committed to continued discussions with Mexico to protect the North American aluminum market from unfair trade practices.

4. Mexico recently imposed temporary tariffs of 20-35% on a range of aluminum products from non-FTA countries, but some notable aluminum products were excluded. Do you anticipate Mexico will impose an additional tranche of tariffs to cover more aluminum?

Answer: While Mexico has taken action on steel and certain aluminum products from countries with which it does not have a free trade agreement, my team has requested that Mexico align its measures on steel and aluminum with those taken by the United States. We will continue to emphasize the importance of joint actions to address global non-market excess capacity emanating from China's state-led, non-market approach to the economy and trade.

5. As you are aware, the European Union's (EU) Regulation and Deforestation-free Products (EUDR) entered into force on June 29, 2023. This regulation will affect Missouri farmers as soybeans—a major commodity grown in my home state—are listed as a covered commodity. Under this new regulation, exporters will be required to provide documentation to the EU that their purchased soybeans were not grown on recently deforested land. The United States does not have a deforestation problem. Requiring farm-level data to prove a negative to the EU—that soybeans grown in Missouri do not come from deforested land—is extremely burdensome, especially for smaller farmers, and does not help address any actual deforestation issues.

For U.S. soybean producers, the EU represents a top five export market. The U.S. government must protect existing large export markets for American farmers by ensuring that they are able to maintain market access without hindrance.

I know your team, in coordination with USDA, has worked extensively on this issue. Nevertheless, enforcement begins at the end of December. Please provide an update as to the status of USTR's current engagement with the EU, including your view on whether the EU is likely to cooperate in ensuring that this new regulation does not diminish export opportunities for U.S. farmers?

Answer: The Biden-Harris Administration remains strongly committed to combating deforestation, but I share your concerns regarding how the EU's Deforestation-Free Supply Chain Regulation (EUDR) will be implemented and the impact it may have on U.S. producers that engage in sustainable production practices. USTR has directly engaged with the EU at all levels regarding our implementation concerns and continues to urge the EU to delay implementation and enforcement of penalties until U.S. concerns have been addressed. This includes adjustments to the risk benchmarking to take into account good forest management practices, such as those in the United States. I have engaged directly with Executive Vice President for the European Green Deal, Interinstitutional Relations and Foresight Maroš Šefčovič to request that implementation and enforcement issues are addressed, including by sending a letter with USDA Secretary Vilsack and Commerce Secretary Raimondo detailing our shared concerns. Chief Agricultural Negotiator Doug McKalip has also raised these issues directly to the European Commission. Additionally, we have raised EUDR implementation concerns at the WTO, including at the Committee on Technical Barriers to Trade, the Committee on Market

Access, and the Council for Trade in Goods. USTR will continue to engage at all levels to press the EU to ensure that this regulation does not lead to unnecessary barriers for U.S. exports.

6. On February 13, 2024, you received a letter from our colleagues on the House Judiciary Committee regarding a waiver of certain portions of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). That letter requested certain information and documents relating to your activities and policies with respect to that TRIPS waiver as well as any similar measures proposed, negotiated, or considered in other international agreements. Given the importance of intellectual property (IP) rights to U.S. economic and trade policy, the issues raised in that letter deserve thorough oversight. Please indicate for each such IP-related measure whether you opposed, supported, or took any other official position on behalf of the Administration; identify the specific documents, reports, studies, data, analyses, communications, or other information on which each of those positions was based; and confirm that you will provide copies of the identified documents and information to the fullest extent practicable.

Answer: I responded on February 26, 2024, and on April 3, 2024, to the letter from the House Judiciary Committee that you reference in your question and USTR has engaged extensively with the committee and its staff on this matter. I will have my team share a copy of my responses with you.

USTR appreciates the many consultations relating to the TRIPS Agreement that we have had with you and your team, and other members of Congress over the past few years.

**Congressman Carey**

1. What is the administration's plan to address unfair tax policies impacting Indian startups that are reducing foreign direct investment in India's private sector?

Answer: I would advise that this question be addressed to the Department of Treasury, who has jurisdictional authority over tax policy.

**Congresswoman Chu**

1. I appreciate USTR Senior Advisor Cara Morrow raising concerns with Quebec's Bill 96 during a US-Canada bilateral meeting in January. Bill 96 will upend decades of trademark law with sweeping labeling and signage mandates, imposing burdensome and conflicting requirements on American products and services. Bill 96 could have deleterious effects on the intellectual property of American stakeholders and poses serious questions about Canada's compliance with the WTO Technical Barriers to Trade (TBT) Agreement, the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the USMCA. Please provide additional details on the timeline, process, and desired outcomes for USTR's continued engagement with Canadian counterparts on Quebec's Bill 96.

Answer: USTR has been closely following the development and implementation of Québec's Bill 96. We have regularly expressed to Canadian officials our interest in ensuring that Bill 96 and its implementing regulations allow U.S. companies to continue doing business and use their Canadian trademarks in Québec. Senior Advisor Morrow discussed Bill 96 with Deputy Minister for International Trade Rob Stewart on the margins of the USMCA Small- and Medium-sized Enterprises (SME) Dialogue in Montreal in May. In June, the Québec government amended its regulation. We will continue to engage with our Canadian counterparts to closely monitor the implementation of Bill 96.

2. South Africa's parliament recently passed legislation that would seriously weaken copyright protection in that country and raise questions about its compliance with eligibility criteria for GSP and AGOA trade preference programs. Can you describe how USTR is engaging with South Africa to prevent harm to U.S. copyright industries in South Africa?

Answer: USTR and other relevant agencies have engaged heavily with the Government of South Africa throughout their copyright reform process, going back nearly a decade to the initial stages of the recently passed legislation. Throughout the process, we have engaged extensively with senior South African government representatives, Members of Parliament, and other relevant stakeholders. The legislation underwent many changes during the multi-year process, and although the recently-passed legislation continues to raise some concerns, it also would bring some needed improvements to the current copyright regime. Whether or not the recently-passed legislation is signed into law, South Africa's copyright system will need additional reform to bring the laws in line with international norms. USTR and the intellectual property (IP) interagency are committed to continuing our engagement on this ongoing copyright reform process.

#### **Congresswoman Delbene**

1. On April 16, 2024, the White House announced the creation of a new task force on climate and trade. I am eager to help advance the work of this task force:

- Who is on the task force?
- Who is leading the task force?
- What specific policies will the task force focus on?
- How will the task force engage with Congress (including members like me who are interested in partnering with the Biden administration to advance key climate and trade objectives)?

Answer: The White House Climate and Trade Task Force was publicly announced in March by White House Senior Advisor and Climate Envoy John Podesta. In addition to USTR, it includes EOP components: NSC (international economics and climate and trade staff), NEC, Climate Policy Office, OSTP, OVP, CEQ, OMB, and CEA, as well as Treasury, State, EPA, DOE, Commerce, DOD, GSA, DOT, EXIM, DFC, USTDA, USDA, and NASA (satellite monitoring of emissions). It is currently active and will operate through three priority areas: methodologies and data, potential trade measures, and other industrial competitiveness policies.

2. I have been advocating for a federal consumer data privacy law since I arrived in Congress. Every day, millions of Americans' personal information is at risk. We must put people back in control of their data. This has been crystal clear in debates around reproductive health data, TikTok, and AI. Congresswoman McMorris Rodgers and Senator Cantwell have recently announced their bipartisan data privacy bill. The Cantwell-McMorris Rodgers draft provides us with an opportunity to finally get data privacy over the finish line. How would Congress passing a national domestic privacy law strengthen your hand when negotiating strong digital trade rules with foreign nations?

Answer: Given the dynamic nature of the digital economy, USTR is very careful to ensure that any digital trade rules do not get ahead of the legislative and regulatory considerations taking place right now. As the Administration and Congress continue their work on issues important to the digital economy such as privacy and personal data protection, USTR will take all such actions, including the proposal of the American Privacy Rights Act, into account in further evolving our trade policy.

In the Biden-Harris Administration, USTR has been committed to digital trade that is inclusive, that protects the privacy of consumers and workers, that supports U.S. values like freedom of expression and freedom from discrimination, and that supports environmental sustainability goals.

3. President Biden recently closed a loophole in our Russian seafood ban that previously allowed fish caught in Russia to still get into the US if processing occurred in a third country like China. The ban is working, but unless our allies act in concert, American seafood will remain at a competitive disadvantage to Russian seafood in foreign markets. How can USTR push our allies who are also large seafood importers, including Japan, Canada, the EU, and the UK, to cut off seafood trade with Russia?

Answer: In response to Russia's full-scale of invasion of Ukraine, we have worked actively with our allies and partners to hold Russia accountable for its unjust war. USTR will continue to work with other agencies to find ways to encourage our allies and partners to cut off seafood trade with Russia.

**Congressman Doggett**

1. The Biden administration has taken several steps to address high prices and anti-competitive practices within the pharmaceutical sector. Such efforts aim to check patenting and pricing abuses, lowering health care costs. Inequitable access to COVID-19 medicines needlessly prolonged the pandemic, costing lives and exacerbating economic losses. The U.S. supported the WTO's Covid vaccine waiver, acknowledging that pharmaceutical companies' patent protections should not be a barrier to addressing urgent public health needs. Can you clarify your effort to ensure countries are able to utilize compulsory licensing and other mechanisms to respond to health crises, including in future pandemics?

Answer: The United States respects its trading partners' rights to grant compulsory licenses in a manner consistent with the provisions of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the Doha Declaration. The United States also recognizes that the TRIPS Agreement provides for additional flexibilities in public health emergencies and other circumstances of extreme urgency within a Member's territory. Article 31 of the TRIPS Agreement establishes requirements that must be met with respect to compulsory licenses. Importantly, a Member choosing to issue a compulsory license may waive some of these requirements in certain circumstances. For example, in cases of national emergency or extreme urgency or in cases of public non-commercial use, Members may waive the requirement to seek prior authorization from the patent holder before issuing a compulsory license. In addition, under Article 31*bis*, the requirement that compulsory licenses must be authorized predominantly for the supply of the Member's domestic market may be waived in certain circumstances. Recognizing that Members with insufficient pharmaceutical manufacturing capacities could face difficulties in making effective use of compulsory licensing, Article 31*bis* and its related Annex set forth a system whereby such Members can import from another Member pharmaceutical products produced subject to a compulsory license.

It is also important to note that work on public health and pandemic preparedness issues is continuing not just in the TRIPS Council, but across the WTO, including under the June 2022 Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics. This Declaration directs multiple WTO bodies to analyze lessons that have been learned and challenges experienced during the COVID-19 pandemic. The Abu Dhabi Ministerial Declaration adopted at the Thirteenth Ministerial Conference (MC13) in March 2024 recalled the June 2022 Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics and encouraged the relevant WTO bodies to continue their work, to which the United States is contributing.

Finally, the Biden-Harris Administration has continued its policy of declining to call out countries for exercising TRIPS flexibilities, including with respect to compulsory licenses, in a manner consistent with TRIPS obligations.

2. The recently released National Trade Estimate Report acknowledged the need to respect each government's right to adopt measures in furtherance of legitimate public purposes. This is a commendable acknowledgement that U.S. trade policy and reports like the NTE and the Special 301 are not intended to override the public interest. Can you elaborate on steps USTR has taken to limit undue pressure against legitimate public policy decisions intended to protect health and how this is supportive of your broader approach to trade policy?

Answer: USTR works to ensure that U.S. trade policy is consistent with U.S. policies concerning intellectual property (IP) and health policy and does not impede its trading partners from taking measures necessary to protect public health.

The United States respects its trading partners' rights to grant compulsory licenses in a manner consistent with the provisions of the World Trade Organization (WTO) Agreement on Trade-

Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the Doha Declaration. The United States also recognizes that the TRIPS Agreement provides for additional flexibilities in public health emergencies and other circumstances of extreme urgency within a Member's territory. Article 31 of the TRIPS Agreement establishes requirements that must be met with respect to compulsory licenses. Importantly, a Member choosing to issue a compulsory license may waive some of these requirements in certain circumstances. For example, in cases of national emergency or extreme urgency or in cases of public non-commercial use, Members may waive the requirement to seek prior authorization from the patent holder before issuing a compulsory license. In addition, under Article 31bis, the requirement that compulsory licenses must be authorized predominantly for the supply of the Member's domestic market may be waived in certain circumstances. Recognizing that Members with insufficient pharmaceutical manufacturing capacities could face difficulties in making effective use of compulsory licensing, Article 31bis and its related Annex set forth a system whereby such Members can import from another Member pharmaceutical products produced subject to a compulsory license.

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Finally, the Biden-Harris Administration has continued its policy of declining to call out countries for exercising TRIPS flexibilities, including with respect to compulsory licenses, in a manner consistent with TRIPS obligations.

**Congresswoman Fischbach**

1. On May 31, the remaining exclusions from the China Section 301 tariffs are scheduled to expire. Many American companies rely on these exclusions in order to remain competitive with competition from other imports. These exclusions have been vetted multiple times by both the Biden Administration and the Trump Administration, and this vetting has found that there are no viable alternative sources of supply. What are your plans for the exclusions post-May 31st? Will you continue to provide these exclusions that support American manufacturers? We now have nearly six years of experience with the China tariffs. What I have learned is that the current mix of tariffs has created an uneven playing field for manufacturers in my district. These Minnesota businesses are competing against foreign companies that don't pay the tariffs on manufacturing inputs because they don't manufacture in the United States. I believe we need to rebalance the tariffs. We should remove tariffs from products that are inputs into goods manufactured in the United States. And we should focus tariffs on those products that give us real leverage over China or that have a national security nexus. So I'll ask - what are the guiding principles under

which you are making decisions in your 4-year necessity review of the tariffs? When can we expect to see the results of this review?

Answer: The Section 301 statute directs that the four-year review includes a consideration of: the effectiveness of the tariff actions in achieving the objective of the investigation; other actions that could be taken; and the overall effects of the tariff action on the U.S. economy. After considering the statutory factors, USTR issued an extensive report finding that China has not eliminated its technology transfer related acts, policies, and practices, which continue to impose a burden or restriction on U.S. commerce. The Report also found that the PRC has persisted, and in some cases become aggressive, including through cyber intrusions and cybertheft, in its attempts to acquire and absorb foreign technology. Based on these findings, the Report suggests modifications to the strengthen the actions, and makes certain recommendations.

After thorough review of the statutory report and having considered my advice, President Biden directed USTR to maintain tariffs on products currently covered by the Section 301 actions. Additionally, in light of the increased burden on U.S. commerce, the President directed me to propose tariff increases on targeted products in strategic sectors. The President also directed USTR to establish an exclusion process for machinery used in domestic manufacturing. Consistent with the President's direction, in a *Federal Register* notice published on May 28, 2024, USTR proposed tariff increases for certain products. Additionally, the notice establishes the framework for an exclusion process and proposes temporary exclusion for certain solar manufacturing equipment. Following a public comment process, in a *Federal Register* notice published on September 18, 2024, USTR announced the final tariff increases. The notice also proposed tariff increases for five additional tariff lines. A notice and comment process for these proposed increases opens on September 23, 2024.

Regarding the exclusions that were scheduled to expire on May 31, 2024, in a recent *Federal Register* notice, USTR extended certain exclusions through May 31, 2025. It was determined that extending certain exclusions will support efforts to shift sourcing out of China or provide additional time where, despite efforts to source products from alternative sources, availability of the product outside of China remains limited.

2: Last November, U.S. market access rights for our dairy exporters suffered a shocking setback when a U.S.-Mexico-Canada Agreement dispute panel ruled that Canada does not have to make changes to its protectionist system for handling USMCA dairy TRQs despite persistently low fill rates for those quotas and the negative impact that's been having on making full use of USMCA. At the same time, trade data indicates we're seeing notable surges of dairy protein exports from Canada into this market despite USMCA's export disciplines on Canadian dairy. What is the Administration doing to ensure fair access to the Canadian export markets for U.S. dairy products at this stage, and what are the next steps your team has identified?

Answer: We continue to work closely with U.S. industry to consider all options to ensure our dairy sector receives the full benefit of market access under the USMCA and will not hesitate to use all available tools to enforce our trade agreements. On the issue of dairy protein exports from Canada, USTR is working with USDA to analyze and assess the issue.

3: One of the non-tariff barriers that the EU has aggressively pursued domestically and exported to outside markets has been the monopolization of common food and beverage names. The result is that U.S. producers can all of a sudden no longer use certain terms, which have long been generic-like "parmesan", "bologna", and "chateau" - to market and sell their products abroad. The EU is pressing this issue with real tenacity. Can you provide an update on where USTR efforts stand regarding protecting the rights of U.S. producers to use common names in markets around the world? How are you working with trading partners to secure these protections so that our export markets aren't further undermined?

Answer: The United States has seen how European Union (EU) trade agreements with provisions that provide for automatic or virtually automatic protection for a list of terms as geographical indications (GIs) can undermine market access for U.S. products. USTR is working intensively through bilateral and multilateral channels to advance U.S. market access interests in foreign markets and to ensure that GI-related trade initiatives of the EU, its Member States, like-minded countries, and international organizations do not undermine such market access. USTR is also continuing to press trading partners to ensure transparency and due process in the granting of GI protection and to ensure that the grant of GI protection does not deprive interested parties of the ability to use common names. We are raising these concerns and engaging with trading partners through every available avenue, including in trade agreement negotiations, through exchanges of letters, and as part of bilateral dialogues such as our trade and investment framework (TIFA) discussions. For example, on September 3, the National Congress of Chile approved the agreement on Chile Market Access and Prior Users for Cheese and Meats after a multi-year USTR-led effort to exchange letters on this exact issue. The agreement ensures that U.S. producers have the opportunity to grow their businesses and supply Chilean consumers with specialty cheeses and meats.

**Congressman Gomez**

1: The US film and television industry supports 2.7 million American jobs. These heavily unionized, well-paid jobs are supported by the licensing of films and television programming overseas, including licensing via streaming services.

I am concerned over reports that Australia's Minister of Culture is seeking to impose screen content requirements on streaming video services. This action appears to prejudice the interests of US creative workers, as well as US film and television studios, and seems to be in clear violation of Australia's FTA obligations to the United States. What actions are your office taking or planning to take to work with the Government of Australia to ensure its compliance with its FTA obligations?

Answer: We are closely tracking the Government of Australia's consideration of domestic expenditure requirements for streaming services. We have engaged the Government on this issue, and have made clear our expectation that any legislation in this space adhere to rules set out in our FTA.

**Congressman Kildee**

1) I am concerned about the growing threat that low-cost, state-subsidized automobiles from the People's Republic of China pose to American jobs and manufacturing. Currently, inexpensive automobiles from China are flooding the global marketplace, threatening to undercut the competitiveness of domestic manufacturers and workers. At the same time, we see Chinese automakers increasing their investments in Mexico's automotive parts and vehicle manufacturing sector, raising concerns that these state-backed companies are trying to gain preferential access to U.S. markets.

To help address this, I have called on the Administration to raise tariffs on Chinese automobiles and ensure automobiles and parts produced by Chinese firms are not reaping the benefits of our trade agreements. Will USTR commit to protecting American workers, for instance by raising tariffs on Chinese automobiles, and working to ensure Chinese state-backed firms are not benefiting from our trade agreements?

Answer: The issues that you described are a priority for the Biden-Harris Administration, and we are clear-eyed that the PRC has developed and implemented a plan to target the EV sector for dominance through a wide and evolving range of non-market policies and practices applied across the entire EV supply chain—from the mining and processing of minerals to the production of batteries and finished EVs. The U.S. response needs to employ a variety of tools and work at all levels of the EV supply chain in order to effectively defend U.S. workers and businesses and restore fair, competitive, and market-oriented economic conditions. Investments to strengthen our supply chains, such as through the Inflation Reduction Act, the Infrastructure Investment and Jobs Act, and the CHIPS and Science Act, and tariffs targeted at strategic sectors that can support those investments, are key tools.

In May, USTR issued a comprehensive Report on the statutory review of the tariff actions in the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. In the Report I recommended a series of actions to the President, including modifications to increase tariffs on specific products in strategic sectors. One of the sectors recommended for tariff increases was electric vehicles. After thorough review of the statutory report and having considered my advice, President Biden directed me to maintain current tariffs and to increase tariffs on certain strategic sectors. Consistent with the President's direction, in a Federal Register notice published on May 28, 2024, I proposed increasing tariffs on specific products in certain sectors, including a proposal to increase tariffs on electric vehicles to 100 percent. I also proposed increasing tariffs on electric vehicle batteries.

Following a public comment process, in a *Federal Register* notice published on September 18, 2024, USTR announced the final tariff increases, including a 100 percent tariff on electric vehicles. The final announcement also included new timing and rates for tariffs on face masks, medical gloves, needles, and syringes; an exclusion for enteral syringes; a proposal regarding coverage of additional tungsten, wafers, and polysilicon tariff lines; an exclusion for ship-to-shore cranes ordered prior to May 14, 2024; an expansion of the scope of the machinery exclusions process to include five additional tariff lines; and modification of the coverage of proposed exclusions for solar manufacturing equipment. These finalized tariff increases will target the harmful policies and practices of the People's Republic of China that continue to

impact American workers and businesses. These actions underscore the Biden-Harris Administration's commitment to standing up for American workers and businesses in the face of unfair trade practices.

2) As Chinese EV overcapacity continues to impact global markets, what additional tools is the Administration prepared to use to prevent an influx of inexpensive Chinese automotive goods from flowing into the U.S. market?

Answer: The Biden-Harris Administration shares your concerns about non-market excess capacity and overproduction of autos in China, especially with regard to EVs. As mentioned in my previous answer, the U.S. response needs to employ a variety of tools and work at all levels of the EV supply chain in order to effectively defend U.S. workers and businesses and restore fair, competitive, and market-oriented economic conditions. Investments to strengthen our supply chains, such as through the Inflation Reduction Act, the Infrastructure Investment and Jobs Act, and the CHIPS and Science Act, and tariffs targeted at strategic sectors that can support those investments, are key tools.

One of the principal outcomes of the USMCA negotiation was much stricter rules of origin for North American trade in automobiles, to better ensure that preferential tariff treatment is only accorded to automobiles substantially manufactured in the United States and North America. USTR continues to assess whether the rules of origin are effectively supporting their objectives and consider other potential policy responses, given that the USMCA duty preference is only one element of Chinese automakers' calculus in shifting production abroad.

Beyond North America, we are actively working with like-minded trading partners in a number of channels in an effort to develop and execute joint or coordinated strategies both for addressing the unique challenges posed by China's non-market policies and practices and for enhancing the resilience of our supply chains.

We must also be aware of the incentives created by the Section 301 tariffs. These tariffs promote diversification of supply chains away from China, but they may encourage PRC-based companies to set up operations outside China, whether in the United States or in other jurisdictions, to avoid the tariffs. Given the openness of our market to goods from key trading partners and to foreign investment, we will need to work closely with Congress to evaluate and address these challenges and to ensure we have the proper tools.

**Congressman Kustoff**

1. MECO, a Tennessee-based company that has specialized in barbecue grills since 1969, has suffered greatly due to the influx of cheap imports from China. What measures is USTR taking to combat the theft of American designs and trademarks?

Given the complex nature of intellectual property theft, how does USTR prioritize cases and allocate resources to ensure timely and effective enforcement actions against infringers?

Can you provide examples of successful collaborations between USTR, industry stakeholders, and law enforcement agencies to combat intellectual property theft, and how these partnerships have contributed to tangible results?

Is the USTR considering ways to streamline the process for US businesses to report intellectual property infringement and seek assistance, particularly for smaller enterprises that may lack resources for extensive legal action?

Answer: USTR works closely with our colleagues across the intellectual property (IP) interagency, including USPTO's regional IP attachés, the Department of Justice, and Customs and Border Protection, on these types of company-specific issues. USTR also publishes the annual "Special 301" [report](#), which reflects the outcome of a Congressionally-mandated annual review of the global state of intellectual property (IP) rights protection and enforcement. The review reflects the Administration's resolve to encourage and maintain enabling environments for innovation, including effective IP protection and enforcement, in markets worldwide, which benefit not only U.S. exporters but the domestic IP-intensive industries in those markets as well.

**Congresswoman Miller**

1. The USMCA achieved historic bipartisan support among Democrats and Republicans in Congress. However, the U.S. has yet to negotiate any new trade agreements since the USMCA. As chair of the Friends of Ecuador Caucus, I am interested in launching negotiations on a high-standard trade agreement with Ecuador to secure a new market of our exports. Ecuador's economy is largely complimentary with the U.S. Moreover, a trade deal can help cement Ecuador as a U.S. ally in the region, bring economic and political stability to Ecuador, and stem the tide of migration from that country into the U.S.

- a. Would you be willing to study the possibility of a high-standard trade agreement, similar to the USMCA, with Ecuador?
- b. In the meantime, I am also interested in renewing preferences for Ecuador to help secure and create additional jobs for thousands of women in Ecuador working in sectors that do not directly compete with the U.S.,

Answer: The Biden-Harris Administration recommitted to pursuing a bilateral trade policy that is resilient, supports workers, protects our shared environment, and fosters equitable growth. We established committees of interest to both our countries. We believe that these efforts better serve U.S. interests at this time than pursuing a traditional free trade agreement. We currently have a robust bilateral work program and look forward to working with you to continue to grow our engagement.

We support Congressional efforts to revitalize and renew preference programs, such as the Generalized Systems of Preferences (GSP). GSP has indeed been helpful in creating jobs and boosting economic development in Ecuador.

- c. Do you agree that preferences programs can help provide economic opportunities for both the U.S and our allies and become a building block toward full fledge trade agreements in the future?

Answer: Trade preference programs are intended to promote development in the beneficiary countries, which is best achieved by growing the middle class.

Efforts to modernize the GSP program to strengthen labor rights and establish criteria on human rights, rule of law, anti-corruption, anti-poverty, and environment are steps in this direction. They will help these countries push back on the race to the bottom, fostering a climate in which these countries can provide economic opportunities that will grow their middle class and can also help to level the playing field for U.S. businesses and workers.

2. 301 tariffs are a critical piece to the portfolio of policy actions to help ensure a fair market for competing with China. What is the timing for the 301 tariffs currently under review? What actions can Congress anticipate the Administration taking?

Answer: In May USTR issued a comprehensive Report on the statutory review of the tariff actions in the Section 301 investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation. In the Report, I recommended a series of actions to the President, including modifications to increase tariffs on specific products in strategic sectors. Many of the sectors included are targeted by China for dominance or are sectors where the U.S. has recently made significant investments through initiatives such as the Inflation Reduction Act and the Bipartisan Infrastructure Law. The sectors include: electric vehicles; lithium-ion batteries, certain critical minerals, ship-to-shore cranes, semiconductors, solar cells (whether or not assembled into modules) and steel and aluminum products. The report also recommends the establishment of an exclusion process targeting machinery used in domestic manufacturing and recommends 19 exclusions for certain solar manufacturing equipment, with the goal of supporting investment in U.S. solar manufacturing.

Having considered my advice, President Biden directed me to take action by proposing substantial tariff increases on targeted products and establishing an exclusion process for machinery used in domestic manufacturing. Consistent with the President's direction, in a *Federal Register* notice published on May 28, 2024, I proposed certain modifications to the tariff actions, including increasing Section 301 tariffs on products in the above sectors. Additionally, the notice establishes the framework for an exclusion process for machinery and proposes temporary exclusion for certain solar manufacturing equipment.

On September 13, my office announced the final modifications.<sup>1</sup> The proposed modifications announced in May 2024 were largely adopted, with several updates to strengthen the actions to protect American businesses and workers from China's unfair trade practices following the review of more than 1,100 comments from the public. The updates included new timing and rates for tariffs on face masks, medical gloves, needles, and syringes; an exclusion for enteral syringes; a proposal regarding coverage of additional tungsten, wafers, and polysilicon tariff lines; an exclusion for ship-to-shore cranes ordered prior to May 14, 2024; an expansion of the scope of the machinery exclusions process to include five additional tariff lines; and modification of the coverage of proposed exclusions for solar manufacturing equipment. These

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<sup>1</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/september/ustr-finalizes-action-china-tariffs-following-statutory-four-year-review>

finalized tariff increases will target the harmful policies and practices of the People's Republic of China that continue to impact American workers and businesses. These actions underscore the Biden-Harris Administration's commitment to standing up for American workers and businesses in the face of unfair trade practices.

Information on the revisions to modifications are detailed in USTR's Federal Register Notice.

3. Commerce recently announced an advanced notice of proposed rulemaking that signals the national security concerns related to connected vehicles from China and foreign adversaries.
  - a. How could a 232 investigation be utilized to further address the national security concerns useful tool related to Chinese connected vehicles?

Answer: We share your concern about connected vehicles from China and foreign adversaries. The specific challenge of EVs is part of a larger pattern that we have seen—first with steel and aluminum, then solar panels, and now autos and EVs. We must take early and decisive action, and we will continue to work closely with the Department of Commerce and other agencies to combat unfair trade practices and enforce U.S. trade agreements and laws.

4. There is a growing narrative that CAFTA-DR countries are being used to transship products, particularly textiles and apparel, connected to forced labor. I am strongly opposed to forced labor being present in any of our nation's supply chains, but I have concerns that these claims are being repeatedly made without strong supporting evidence or data. The Department of Homeland Security (DHS) even announced expanded enforcement activities to protect the domestic textile industry based on these claims. That narrative has the potential to chill investment and sourcing in the region, in turn hindering bipartisan policy goals to strengthen and diversify supply chains, boost economic development, empower women in the region, and stem the flow of migration.
  - a. What is the Administration doing to promote trade, investment, and resilient supply chains in the CAFTA-DR region?
  - b. What efforts is the Administration taking to support legitimate trade while combating forced labor in supply chains?
  - c. How is the Administration working with all relevant stakeholders to support these efforts?
  - d. Is USTR coordinating with OHS on a risk-based approach to textile enforcement that takes into consideration the significant resources expended by trusted traders to ensure the integrity of their supply chains?

Answer: The CAFTA-DR promotes regional trade and investment and has fostered highly integrated regional supply chains in textiles and apparel. As a leading source of trade and employment in the region, the textiles and apparel sector is central to efforts to build inclusive economic opportunity in Central America.

On March 25, 2024, the White House announced the following two dedicated workstreams to strengthen U.S.-CAFTA-DR textiles and apparel supply chains:

*CAFTA-DR Textiles and Apparel Supply Chain Directory:* USTR and Central American trade agencies and textiles and apparel industry stakeholders are working together, with support from the InterAmerican Development Bank (IDB), to build a CAFTA-DR directory to facilitate sourcing of CAFTA-DR textiles and apparel products and to bolster the region's supply chains. This will support inclusive trade under the CAFTA-DR to strengthen U.S.-Central America supply chains, promote resiliency and nearshoring, and bolster labor and environment standards.

*Trade and Customs Capacity Building for Secure Textiles and Apparel Trade:* USTR and U.S. Customs and Border Protection are developing a Trade Capacity Building program to advance secure trade in textiles and apparel between the United States and Guatemala by encouraging engagement, including with the existing government-to-industry stakeholder partnerships and trusted trader programs, such as CBP's Customs Trade Partnership Against Terrorism Program (CTPAT) and Guatemala's Authorized Economic Operator (AEO) Program.

USTR also works closely with CBP and the interagency, including through the Committee for the Implementation of Textile Agreements (CITA) on enforcement against illicit trade and promoting secure CAFTA-DR trade opportunities. The Department of Homeland Security launched an enhanced strategy to combat illicit trade in the textiles and apparel sector in April. This new enforcement plan will involve a risk-based approach to customs audits and textile production verifications to ensure that textiles traded under the CAFTA-DR and the USMCA qualify for preferential treatment under these agreements.

Additionally, USTR's initiative to promote supply chain resilience includes a focus on the textiles and apparel sector. Through this initiative, USTR has sought input from textiles and apparel stakeholders to foster a more granular understanding of supply chains to inform the development of trade and investment policies that advance supply chain resilience. We aim to bolster domestic manufacturing and strategic arrangements with trusted partners and regional partners, including CAFTA-DR countries. An important aspect of our work involves collaborating with trading partners and supporting stronger coordination and alignment on labor and environmental protections to encourage supply chains that can adapt and rebound with agility and to drive lasting, inclusive prosperity.

We are enforcing the labor rights provisions in our existing trade agreements to protect workers. We also are addressing unfair competition based on the exploitation of workers, using all of our trade policy tools to combat forced labor in global supply chains. As a member of Forced Labor Enforcement Task Force (FLETF), USTR works closely with the interagency, including CBP, to implement the Uyghur Forced Labor Prevention Act (UFLPA). USTR is highly committed to working with the FLETF to further develop the Entity List in order to assist CBP with the enforcement of Section 307 and the UFLPA. Last month, the FLETF announced the addition of 26 PRC-based companies that trade and warehouse cotton to the UFLPA Entity List. Additionally, USTR is committed to working with CBP as DHS moves forward with its enhanced textile enforcement strategy announced in April, which includes a focus on identifying malign suppliers and reviewing additional entities in the high-priority textile sector.

5. The CAFTA-DR region has enormous potential to help grow the textile and apparel supply chain, which aligns well with Administration initiatives in support of shared policy goals to strengthen and diversify supply chains, boost economic development, empower women in the region, and stem the flow of migration. Qualifying for the duty-free benefits under CAFTA-DR is key to unlocking investment in the region, but sourcing challenges under the agreement's rules have restricted many companies to producing basic apparel in the region, which imposes a ceiling on the region's growth potential and hinders those goals.

- a. How important is expanding trade and investment with our CAFTA-DR partners to meeting those policy goals?
- b. How is the Administration working with the whole textile and apparel industry to shape policies in a way that grows economic opportunities for the whole supply chain?

Answer: Increased economic opportunity through trade and investment is an important element of the Administration's efforts in Central America. The textiles and apparel sector, already a major source of trade and employment in the region, has great potential to drive worker-centered economic growth and create good jobs and economic opportunities, especially for women.

USTR supports strengthening CAFTA-DR textiles and apparel supply chains and the renewed focus of U.S. textiles and apparel companies interested in increased sourcing from the CAFTA-DR region. We are working with all stakeholders to bring more production back to this hemisphere, while also strengthening regional supply chains and supporting good-paying jobs in the United States and Central America.

Strong and secure CAFTA-DR textiles and apparel supply chains support U.S. domestic industry and workers. The agreement illustrates the benefits of nearshoring and U.S. supply chain resiliency, a focus of our trade work at USTR. Investments in the region and sourcing commitments will help increase economic opportunities in these countries, promote greater nearshoring and support American jobs that provide the yarns and fabrics that go into Central American apparel production.

CAFTA-DR's yarn-forward rules of origin have contributed to the success of our trade partnership with the region. Investment and business decisions depend on the existing rules of origin remaining stable and secure. We recognize the need for ongoing discussions with all stakeholders to identify issues and to develop policy approaches that build resilient and sustainable textiles and apparel supply chains. Through dialogue with stakeholders, including U.S. and Central American textile and apparel producers and U.S. brands and retailers that source from the region we continue to work to identify ways to increase bilateral trade and to make the most of the opportunities provided by the CAFTA-DR.

In addition, USTR also coordinates government-wide efforts to address challenges facing the U.S. textiles industry and co-production in the region. We provide capacity building for American and Central American producers on how to make the most of the textile and apparel provisions in the CAFTA-DR and also support the region through capacity building initiatives, trainings and education to improve the sector's global competitiveness and to strengthen regional supply chains.

6. The United States is heavily reliant on foreign critical minerals used to make battery materials, particularly graphite from China. I'm concerned about our reliance on these foreign supply sources that have little to no regard for labor standards for extracting and processing critical minerals. Additionally, China's recently announced export controls on natural and synthetic graphite further manipulate prices and demonstrate how vulnerable U.S. supply chains remain. I'm proud that my home state of West Virginia is home to one of the few domestic synthetic graphite facilities, and with the right policies, I believe we can produce these battery materials domestically according to the highest standards in the world.

a. What steps is the Administration taking to ensure that our trade policies support the domestic graphite industry and combat corrosive Chinese trade practices?

Answer: Following review of the Report in the statutory four-year review of actions taken in the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, on May 14, 2024, the President directed the Trade Representative to maintain the current tariffs and to increase tariffs on certain strategic sectors, including natural graphite.

We are mindful of the importance of diversifying our global critical minerals supply chains, including graphite, given China's present dominance. We regularly coordinate with other agencies, such as the Department of Energy, to ensure our trade policies support the domestic investments currently underway to build a more secure and resilient U.S. supply chain for graphite and other critical minerals. We also continue to closely monitor China's export controls on natural and synthetic graphite that went into effect in December of last year.

7. American winemakers face serious obstacles in China as well as developing markets such as Vietnam and India. China imposes a 54% tariff on U.S. wine while winemakers from the European Union pay a 14% tariff and those from New Zealand and Chile pay zero. Vietnam will soon be eliminating tariffs on wine from the European Union, Australia, New Zealand and Chile but has kept a 50% tariff in place for U.S. wine. India and Australia just completed a trade agreement that will lower the tariff on premium Australian wine while continuing to apply a tariff of 150% to U.S. wine. How are American vintners expected to compete. How can we negotiate lower tariffs and improve market access for American wine in these countries?

Answer: USTR works to eliminate trade barriers to U.S. wine through bilateral engagements with our trading partners, in the World Trade Organization, and through partnering with the U.S. wine industry and like-minded countries in the World Wine Trade Group.

8. Treasury Secretary Janet Yellen has said the United States won't take "anything off the table" with respect to Chinese overcapacity that drives down prices and boosts exports. The Biden administration has so far failed to initiate a single World Trade Organization (WTO) complaint against China's overcapacity and other trade violations. Are WTO challenges on the table?

Answer: The Biden Administration and USTR in particular have been intensely focused on defending US workers and businesses and finding the most effective responses to China's non-market policies and practices (NMPPs).

WTO rules and disputes provide no solutions for the threats from China's non-market economy. In fact, China uses the WTO to attack our ability to defend our workers and businesses from China's non-market policies and practices. It also uses the WTO dispute settlement system to attack U.S. actions to defend our national security interests, such as our Section 232 tariffs to preserve our critical steel and aluminum industries, our Hong Kong national security (origin labeling) actions in defense of democracy and human rights, and our semiconductor export controls. And China has recently filed a dispute attacking the Inflation Reduction Act, our groundbreaking tool for the United States to seriously address the global climate crisis and invest in U.S. economic competitiveness, even while the PRC continues to use unfair, non-market policies and practices to undermine fair competition. Given the numerous WTO disputes that have sided with China on critical issues, it is clear that the WTO has been effective in advancing China's interests and ineffective for core U.S. interests.

USTR has engaged recently in major enforcement against China. First, USTR's statutory four-year review of the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation found that China continues to engage in intellectual property theft and forced technology transfer, which underpinned the initial 2018 investigation. In light of this finding and to further encourage the elimination of China's unfair technology transfer-related policies and practices that continue to burden U.S. commerce, the President directed USTR to increase tariffs on \$18 billion of imports from China in strategic sectors. Second, in response to a petition from five national labor unions, I determined to initiate a new section 301 investigation on China's targeting of the maritime, logistics, and shipbuilding sectors for dominance. The petition presents serious and concerning allegations of the PRC's longstanding efforts to dominate these sectors, including the use of unfair, non-market policies and practices to achieve those goals.

We are also working with major trading partners, as well as regionally and multilaterally, to find solutions to the many serious problems posed by China's state-led, non-market approach to the economy and trade. USTR has been working intensively with key trading partners in a variety of venues to identify China's non-market policies and practices, assess their impact, and design more effective responses, including in the G7,<sup>2</sup> the US-EU Trade and Technology Council (TTC),<sup>3</sup> and with diverse like-minded partners.<sup>4</sup> The United States is also holding discussions with many other like-minded trading partners, including in the Indo-Pacific region, on how to strengthen our existing trade relationships. In the current negotiation regarding a further agreement under the U.S.-Taiwan Initiative on 21st-Century Trade, the United States and Taiwan are seeking to adopt provisions to collaborate on ways to address unfair, non-market policies and

<sup>2</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>

<sup>3</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/31/u-s-eu-joint-statement-of-the-trade-and-technology-council-2/>

<sup>4</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices>

practices. Given that trade with China poses so many serious risks and potential harms, the United States believes that market economies should enhance their trade with each other.

9. In March, the State Department and the Department of Health and Human Services issued a joint statement affirming that "[i]ntellectual property is a critical cornerstone of innovation and provides a strong incentive for medical countermeasures development, especially in pandemics." Unfortunately, the Administration's trade policy does not reflect that sentiment. Strengthening IP protection has not been an objective in IPEF or any other trade negotiation the Administration has pursued, and enforcement of existing IP rules has been limited under this Administration.

a. Can you explain why the protection of American intellectual property has been de-prioritized in President Biden's trade agenda?

Answer: A priority of the Biden-Harris Administration is to craft trade policy in service of America's workers, including those in innovation- and creativity-driven export industries. This is exemplified in the Special 301 Report, which serves a critical function by identifying opportunities and challenges facing U.S. innovative and creative industries in foreign markets and by promoting job creation, economic development, and many other benefits that effective intellectual property (IP) protection and enforcement support.

The Biden-Harris Administration recognizes that counterfeit products in particular, including counterfeit medicines, may harm the citizens of the trading partners where those counterfeit products are sold. In that regard, appropriate enforcement can also serve the interests of foreign governments. Counterfeit products are more likely to be made of substandard materials or contain toxic or harmful chemicals. They also are more likely to be manufactured in workplaces that are not subject to the same regulations and safety standards as legitimate commerce. As such, these products can pose serious potential health and safety risks to consumers. The production and sale of counterfeit goods also harms local businesses and governments by undermining fair market values and disincentivizing investment. The Special 301 Report calls for adequate and effective enforcement against trademark counterfeiting, which plays a key role in reducing the potential health and safety risks due to counterfeit products.

In addition, USTR continues to seek adequate and effective protection for pharmaceutical and other health-related IP around the world to ensure robust American innovation in these critical industries to fight not only the current, but also future pandemics. USTR also recognizes that access to medicines in developing economies is important to development itself.

10. The President's Trade Agenda for 2024 states that you intend to work with like-minded trading partners to facilitate trade in medicines. Fortunately, that is an area where our closest allies are eager to work with us: the so-called "Ottawa Group" of WTO Members, which includes Canada, the EU, Japan, Korea, Mexico, and Switzerland, among others, has proposed a Trade and Health initiative that would eliminate unnecessary trade barriers on medical goods. This seems like an obvious way to build stronger supply chains with our strongest allies.

a. Can you explain why the Administration hasn't endorsed that initiative or advanced a similar trade and health agenda at the WTO?

Answer: The 13 WTO Members that comprise the Ottawa Group submitted the Trade and Health Initiative (TAHI) to the WTO in November 2020. The initiative called for Members to make political commitments in five areas: export restrictions; customs, services, and technical regulations; tariffs, transparency and review; and WTO cooperation with other multilateral institutions. In the period preceding the WTO's Twelfth Ministerial Conference (MC12) in June 2022, Members deliberated on TAHI and several other proposals pertaining to the WTO's response to the COVID-19 pandemic. TAHI did not come close to achieving consensus, and Members instead gravitated toward suggestions to use relevant WTO committees to examine lessons learned and challenges experienced during the pandemic. These deliberations culminated in the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics, which the United States was pleased to support at MC12. Following MC12, the United States actively contributed to the ensuing discussions in the WTO.

Throughout 2021, the United States and many other Members expressed several concerns to the EU-led Ottawa Group about various elements of TAHI. These concerns were not addressed by the proponents. One key divergence was that TAHI proponents had concluded from their experiences during the pandemic that, in a future international emergency, governments should have *less* flexibility in how they respond to protect the health of their people. However, the United States and many other Members drew a different conclusion – that the existing balance of Members' rights and obligations within the WTO Agreement provided important stability and flexibility during the pandemic, and, during worldwide emergency, the vast majority of Members acted reasonably and responsibly in exercising those rights and following those obligations. In addition, TAHI would have further empowered the WTO Secretariat to monitor Members' trade policies, but the United States firmly believes this is an important responsibility of Members, not of the Secretariat.

11. I noted that our Senate Colleague Sen Cassidy sent you a letter on January 30th, 2024 regarding protectionist measures in the European Union designed to exclude exports of U.S. methanol to Europe. Such efforts seem to undermine jobs in West Virginia and elsewhere along with our nation's energy security,

a. Can you explain what USTR has done to address this case?

Answer: USTR continues to track this issue and coordinate with the Department of Energy and other relevant U.S. agencies to maintain U.S. market access. The Union Database (UDB) as currently implemented hinders access for non-EU producers, particularly those without permanent connections to the EU gas grid. Through the U.S. Mission to the European Union, the United States has met with the European Commission to seek assurances that U.S. biogas producers will maintain access to the EU market after the UDB goes into effect in November 2024. The United States will continue to engage with the Commission on methodologies that would permit certification of biogas from the United States and other third countries that meet the EU's objectives of addressing possible fraud in exports from China and double counting.

12. I understand there were significant procedural problems in the recently completed first Rapid Response Labor Mechanism panel process.

- a. What assurances can you give that these proceedings will be fair and transparent?

Answer: Rapid Response Labor Mechanism (RRM) panel proceedings are governed by the approved provisions of USMCA Chapter 31, Annex A, and the Rules of Procedure for Chapter 31 (Dispute Settlement). We share your interest in ensuring fairness and transparency in these proceedings, consistent with the rules. Should procedural issues arise in future RRM panel proceedings, USTR would continue to pursue fairness and transparency by raising such issues to the attention of the panel, as well as directly with Mexico, as appropriate.

13. I am concerned about the Administration's retreat on digital trade issues. This includes the decision to stop pursuing Section 301 investigations into digital services taxes that target the American tax base, the reversal of long-standing positions at the WTO on the free flow of data, protection of source code, and localization requirements that protect American business, and the decision to not even try to include high-standard digital provisions in the Indo-Pacific Economic Framework for Prosperity (IPEF). Further, as I recently noted in a letter to USTR, I am also concerned about changes to the National Trade Estimate to stop highlighting other discriminatory digital policies being adopted by our trading partners around the world. USTR's retreat has given other countries carte blanche to target America's most innovative companies. For example, Canada has moved forward with a Digital Services Tax. Likewise, South Korea is considering digital economy legislation that would place restrictions on U.S. firms but exempt the largest South Korean companies as well as Chinese technology giants such as ByteDance, Alibaba, and PDD/TEMU. I am also concerned with the EU's many problematic digital policies and the fact that Japan and India are considering measures that would emulate them.

- a. Is the Administration considering resuscitating the dormant Section 301 investigations on DSTs?

Answer: USTR initiated Section 301 investigations of the digital services taxes of France, Austria, India, Italy, Spain, Turkey, and the United Kingdom in 2019 and 2020. From that time to the present, USTR and Treasury have worked closely together in trying to address these DSTs, which burden technology companies and challenge the existing international tax system.

An important purpose of the Section 301 investigations is, and always has been, to support Treasury's efforts to find a solution to the challenge of DSTs through the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting negotiations and in any other negotiations relating to DSTs.

In November of 2021, USTR terminated the trade actions in the investigations on the grounds that action was no longer appropriate due to political arrangements that Treasury had reached with the DST countries. Since then, all seven investigations have been in a monitoring phase under section 306(a) of the Trade Act. Specifically, USTR is monitoring the implementation of the political agreement on an OECD/G20 Two-Pillar Solution as pertaining to DSTs, the commitments under the joint statement between Treasury and the DST countries, and associated measures.

On August 30, 2024, USTR requested consultations with Canada concerning its DST under the USMCA dispute settlement chapter. USTR will continue to consider using all available tools to make progress towards addressing unilateral, discriminatory DSTs.

b. What steps has the Administration taken in South Korea to: (i) protect U.S. firms from discrimination; and (ii) inform the ROK government of the national security implications of privileging Chinese technology firms over firms based in the United States, the ROK's ally?

Answer: We continue to put a high priority on actively engaging with the Republic of Korea, including through KORUS sub-committee and working groups, to ensure its trade policy and practices are applied in manner consistent with Korea's trade obligations.

c. Does the Administration have any plans to address emerging policies that target U.S. companies in the EU, Japan, or India?

Answer: We continue to put a high priority on actively engaging with the EU, Japan and India, to ensure that the trade policy and practices of each are applied in manner consistent with their trade obligations to the United States. With the EU, we have raised these issues in the Trade and Technology Council (TTC) and in other bilateral engagement. With Japan, we have raised transparency and due process concerns related to digital platform regulation in several rounds of the U.S.-Japan Partnership on Trade, most recently in December 2023. USTR raising these issues has resulted in improvements, for example, Japan lengthening public comment periods and allowing comments to be submitted in English. With India, we raise these issues through the U.S.-India Trade Policy Forum (TPF) and its working groups.

**Congressman Moore**

1. Ambassador Tai, in light of the significant role that American small businesses play within international supply chains, their unique position presents a dual challenge: they're integral to our economy yet disproportionately vulnerable to economic fluctuations, including taxes, tariff hikes, and inflation. Unlike their larger counterparts, these businesses have limited capacity to mitigate such impacts, which could hamper their competitiveness and, by extension, our economy's resilience. Given this backdrop, what types of new trade initiatives or programs is the Biden Administration considering in support of these critical players? Utah companies, for example, tell me that they would greatly benefit from expanded eligibility for Section 301 tariff exclusions on non-sensitive imports. We have a golden opportunity with the UK to the standards of the future on new technology like quantum and artificial intelligence. We still don't have a free trade agreement with New Zealand, one of the Five Eyes Partners. And we don't have any FTAs in Africa. Why must we continue with unenforceable dialogues that don't ultimately set any demand signals for business? Why are we not negotiating new and enforceable trade deals to help our small businesses export more?

Answer: U.S. trade policy today recognizes the economic impact of the disruptions created by the pandemic, as well as the fact that democratic governments must be responsive to the needs of

their people. The world has changed, so too must U.S. economic and trade policy. Concentrated supply chains belie the core assumption underpinning past trade policy – that is, that tariff liberalization would facilitate the creation of a global marketplace reflecting fair competition. Our engagements with trade partners and allies revolve around understanding the common challenges we face. Our trade policy focuses on creating diversified and resilient supply chains; mobilizing public and private investment for a clean energy transition and sustainable economic growth; creating good jobs; stemming inequality; ensuring trust, safety, and openness in digital infrastructure; enhancing labor and environment protections; addressing non-market policies and practices; and combatting corruption. The priorities are reflected in our ongoing trade engagements as well as the initiatives launched by the Biden-Harris Administration, including the U.S.-Kenya Strategic Trade and Investment Partnership, the U.S.-Taiwan 21<sup>st</sup> Century Initiative on Trade, and the Indo-Pacific Economic Framework.

2. Ambassador Tai, my question deals with the renewal of the African Growth and Opportunity Act and whether the Biden administration will be pushing for better behavior on the international stage from beneficiary countries who rely on AGOA for their export growth. South Africa's recent behavior is particularly troubling given that they are the largest beneficiary of the program but have been pursuing a foreign policy directly counter to U.S. interests. They have refused to condemn the Russian invasion of Ukraine, continue to court close economic ties with China, and filed a baseless genocide case against Israel to the International Court of Justice. They have also been a bad-faith actor at the WTO level, lobbying to eliminate IP protections in the biotech space and to terminate the moratorium on e-commerce tariffs, which would have a disproportionate impact on small U.S. companies. There comes a point - and I would argue we have reached this point - where this behavior serves as an active detriment to U.S. interests. However, in your annual review of AGOA you did not bring up these issues, which would have put this behavior on notice. Did you issue a formal warning or demarche to the South African government in advance of the AGOA forum?

Answer: I would reemphasize that both USTR and other relevant U.S. agencies have voiced concerns over these issues with high-level representatives of the Government of South Africa on numerous occasions.

I would also note that while USTR does not publicly disclose which countries receive demarches or warning letters following an AGOA eligibility review, my staff are always available to discuss countries of interest with your office.

3. Ambassador Tai, I also wanted to bring up some deep frustrations that I and other members of this committee have about the Biden Administration's Indo-Pacific Economic Framework and the absence of a true trade-based strategy to deepen our partnerships and alliances in the region. We insisted that every member agree to stringent rules on labor, environment, governance, agriculture, and more...but without offering any carrot in return. Any negotiation worth its salt requires give and take from both sides and we refused to offer the number one thing that our trade partners want, which is increased access to the U.S. market to trade and do business. How can Congress work productively with your team to put a more ambitious strategy together?

Answer: USTR has launched an ambitious trade agenda that revolves around understanding the common challenges we face. Congress is our constitutional partner on trade and we consult closely with Congress on our trade agenda. These consultations have heavily informed our work and I look forward to continuing to partner with Congress.

Our trade policy focuses on creating diversified and resilient supply chains; mobilizing public and private investment for a clean energy transition and sustainable economic growth; creating good jobs; stemming inequality; ensuring trust, safety, and openness in digital infrastructure; enhancing labor and environment protections; addressing non-market policies and practices; and combatting corruption. These priorities are informed by our consultations with Congress and they are reflected in our ongoing trade engagements, including Indo-Pacific Economic Framework.

**Congressman Murphy**

1. In September of 2023 my office, along with several members of the North Carolina delegation, sent you a letter regarding the European Union's (EU) decision to restrict the use of S-metolachlor. Additionally, the EU is expected to reduce the Maximum Residue Level (MRL) of S-metolachlor to unachievable levels. If the EU adopts these restrictions North Carolina farmers will face another non-tariff trade barrier that would impact their ability to export to the EU. Specifically, farmers would be forced to adopt costly new measures or abandon the EU market. In response to my initial letter, you stated that the United States has raised concerns at the World Trade Organization and has built a coalition of like-minded countries that oppose the EU's regulatory approach to herbicides and pesticides. Have there been any updates regarding this matter since my last correspondence?

Answer: Like you, we are concerned about the use of unjustified non-tariff measures that limit the ability of U.S. producers to export their products to this important market. The United States continues to engage the EU both bilaterally and at the WTO regarding the EU's approach to approving and reapproving pesticides and establishing pesticide maximum residue limits (MRLs).

2. A company with a major presence in my state is facing unfair competition from a Chinese company that has set up a new factory in Thailand to circumvent the China Section 301 tariffs. They are using cheap Chinese inputs in its production in Thailand and bringing the final products into the United States tariff-free, undercutting my local company. While the company is pursuing AD/CVD relief, we know that is costly, time consuming and uncertain. Company officials visited USTR and while your team was sympathetic, they offered no solution to this problem. We understand the Chinese are duplicating these efforts in other industries. How does USTR plan to address this issue and what type of policy solutions does USTR recommend to address this type of circumvention in the future?

Answer: To maintain the effectiveness of the section 301 actions, the U.S. government must ensure that goods subject to the section 301 duties are properly assessed. That is why, in my report, *Four-Year Review of Actions Taken in the Section 301 Investigation: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, I

recommended additional funds be allocated to Customs and Border Protection (CBP) for the enforcement of trade actions. As noted in my report, despite the significant increase in trade actions under section 301, section 201, and section 232, the budget for CBP does not have funds specifically allocated for the enforcement of these trade actions. Additional funds for CBP's enforcement work would make these trade actions more effective.

Generally, as your question suggests, we must be aware of the incentives created by the Section 301 tariffs. These tariffs promote diversification of supply chains away from China, but they may encourage PRC-based companies to set up operations outside China, whether in the United States or in other jurisdictions, to avoid the tariffs. Given the openness of our market to goods from key trading partners and to foreign investment, we will need to work closely with Congress to evaluate and address these challenges

3. China is currently circumventing AD/CVD duties on U.S. soil pipe and fittings by unlawfully concealing the true country of origin of the products and transshipping through third countries not subject to the orders. The existing penalties for this type of fraud are nominal and insufficient to discourage the bad behavior in the initial instance. Moreover, the recourse offered under existing law is demonstrably inadequate. Despite twelve favorable EAPA determinations by U.S. Customs on petitions alleging transshipment of product to evade the AD/CVD orders, China continues to deploy its elaborate network of shell company exporters and U.S. importers of record, keeping Customs engaged in a fruitless game of "whack-a-mole" and perpetuating the injury to United States manufacturers and their workers. Would the Biden Administration support a proposed legislative solution to enhance penalties for bad actors; suspend import authority for repeat, negligent violators; and allow for private enforcement action to put a stop to this unlawful behavior?

Answer: I support the effective enforcement of U.S. trade remedies measures to defend U.S. producers and workers, including preventing and deterring duty evasion and illegal transshipment. I would welcome the chance to work with you on legislative solutions to enhance the existing laws and CBP's ability to combat such practices.

**Congressman Panetta**

1. The Jackson-Vanik Amendment was originally proposed to promote free movement in response to Soviet restrictions on Jewish emigration. Since the fall of the Soviet Union, Kazakhstan has been subject to this requirement, which has been lifted for other former Soviet states, including Russia. Given Iran's attack on Israel, the US Kazakhstan relationship is even more important.

- How does PNTR strengthen the bilateral relationship between nations?
- Given that Jackson Vanik was put in place to address emigration issues that the State Department has certified are no longer a problem, what is USTR's view on Jackson Vanik?
- What are labor standards like in Kazakhstan compared to other nations with which we grant PNTR?
- What are environmental standards like in Kazakhstan compared to other nations with which we grant PNTR?

Answer: USTR's assessment is that the termination of Jackson-Vanik would be unlikely to have a significant impact on the trade and investment relationship with Kazakhstan, given that conditional NTR status has been authorized annually. However, the Government of Kazakhstan would see the removal as a significant gesture of support for Central Asian countries' efforts to diversify their economies and trade routes. The Administration is supportive of the region's interest in economic diversification, which was highlighted during the recent meeting of the U.S.-Central Asia TIFA Council. While in the region, I took note of Kazakhstan's interest in the termination of the application of the Jackson-Vanik amendment and emphasized to Kazakh counterparts that it requires an act of Congress. USTR continues to engage with Kazakhstan to strengthen environmental protections and address longstanding concerns about protection of labor rights, including freedom of association and collective bargaining.

2. I share your desire to see labor and environmental standards increase globally. I also appreciate your update on the rapid response mechanism in USMCA and how it has been used to support workers in Mexico. I would note, however, that the USMCA was an agreement where market access contributed to our leverage in negotiations. In August you were quoted saying that no traditional FTA was in the works with the Philippines and that FTAs were not the right tool for the challenges being faced right now in the Indo-pacific. I worry that an unwillingness to negotiate formal free trade agreements with market access has undermined our ability to support both labor and environmental standards.

- What are we offering to other nations to raise their labor and environmental standards?
- Is USTR willing to leverage US Market Access to raise labor and environmental standards?

Answer: USTR has identified trading partners that are interested in pursuing trade agreements with the United States and we have made significant progress in our negotiations.

We continue to seek trade-related environment commitments with allies and partners that seek to deepen cooperation and joint approaches on environmental protection and strong environmental governance structures. In our recent engagements we are seeking environmental protections that respond to common sustainability challenges, including climate change. We have made significant progress in our negotiations, in particular with Taiwan. Our recent text proposals recognize a healthy environment is essential for building inclusive, resilient, and strong economies, that sustainable management and continued availability of natural resources are foundational to the global economy, and that many environment- and climate-related challenges are global in nature and require a collective response.

In addition, we continue to make progress through robust discussions on high-standard labor commitments in our negotiations. For example, the U.S. text proposals for the U.S.-Kenya Strategic Trade and Investment Partnership and the U.S.-Taiwan Initiative on 21st Century Trade both include, *inter alia*, provisions establishing cooperative mechanisms to help the Parties support each other in achieving ambitious labor goals and to collaborate constructively on labor issues. The proposed texts also include a mechanism to address forced labor in supply chains and an entity-specific mechanism to encourage corporate accountability in cases where an entity violates domestic labor laws.

3. Recently USTR published a press release that discussed the dairy cases under USMCA as a win for this Administration. However, the US lost those cases.

- You also wrote to the Agriculture Trade Caucus that you have serious concerns about Canada's implementation of its USMCA dairy tariff-rate quotas.
- How do you intend to do to address Canadian dairy policies for the remainder of the Administration?
- How are you working to ensure that U.S. dairy farmers, workers, and exporters receive the full benefits agreed to under the USMCA?

Answer: We continue to work closely with U.S. industry to consider all options to ensure our dairy sector receives the full benefit of market access under the USMCA and will not hesitate to use all available tools to enforce our trade agreements. My staff is available to speak with yours regarding this issue.

**Congressman Pascrell**

1. China's reliance on forced labor is well documented. Do you think the United States is doing enough to combat these abuses and are you satisfied with the efforts of U.S. companies to decouple their operations from forced labor in China?

Answer: I am fully committed to utilizing every trade tool available to make sure that goods tainted by forced labor in China do not enter the United States. My office has undertaken a number of efforts to address forced labor, including the development of the first-ever trade strategy to combat forced labor, and is closely tracking and reviewing reports of forced labor in China.

As a member of the Forced Labor Enforcement Task Force, USTR is working closely with the interagency to implement the Uyghur Forced Labor Prevention Act (UFLPA), including by accelerating the expansion of the UFLPA Entity List. In that context, we are actively examining reports and other evidence identifying Chinese entities engaged in the use of forced labor directed at Uyghurs and other minority populations in the Xinjiang Uyghur Autonomous Region, and we are also making clear to U.S. companies that continuing to engage with these entities puts them at risk of penalty under the UFLPA.

More broadly, the Administration continues to urge businesses and individuals to undertake appropriate human rights due diligence measures when doing business in China.

2. Antitrust policy is an important priority for the Administration to increase economic fairness at home. How is USTR using trade policy to oppose monopolies and promote open competition in our economy?

Answer: USTR coordinates closely across U.S. government agencies and departments, including the U.S. Department of Justice and U.S. Federal Trade Commission who have a primary U.S. government equity on domestic antitrust matters, in a whole-of-government approach to address competition issues that affect American workers, businesses, and consumers. As a member of

the White House Competition Council, for example, USTR will continue to level the playing field by prioritizing fair competition in our bilateral and plurilateral negotiations to reduce vulnerabilities and supply chain chokepoints and reverse the race to the bottom.

3. This month, Canada's finance ministry reaffirmed plans to press forward on imposing a digital services tax (DST) retroactively covering taxable revenue back to the start of 2022. Last year, I led a bipartisan coalition of 41 House Ways and Means Members in a letter to you requesting an update on efforts to ensure Canada does not enact a DST unfairly discriminating against U.S. industry. I appreciate USTR's stated opposition to this plan. In 2022, USTR filed comments with the Canadian Government stating that it would "examine all options, including under our trade agreements and domestic statutes" should Canada adopt a DST. What potential actions has USTR examined taking to safeguard our economy in anticipation of Canada's enactment of a discriminatory DST?

Answer: USTR has consistently expressed our strong concerns about Canada's unilateral, discriminatory DST. On August 30, 2024, USTR requested consultations with Canada concerning its DST under the USMCA dispute settlement chapter.

An important goal for USTR is to support Treasury's efforts to find a lasting solution to the challenge of DSTs through the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting negotiations and in any other negotiations relating to DSTs.

4. The World Trade Organization has been considering whether to extend the intellectual property protections of its TRIPS Agreement to cover the production and supply of COVID-19 diagnostics and therapeutics. You asked the United States International Trade Commission (USITC) to report on the issues surrounding a potential extension of the TRIPS Agreement, and the Commission released its report last October. Given the report's findings, what is the position of USTR on this extension?

Answer: At the World Trade Organization's (WTO's) Thirteenth Ministerial Conference in February 2024, WTO Members did not extend the Ministerial Decision to COVID-19 therapeutics and diagnostics.

5. In March, the State Department and the Department of Health and Human Services issued a joint statement affirming that "[i]ntellectual property is a critical cornerstone of innovation and provides a strong incentive for medical countermeasures development, especially in pandemics." However, I'm concerned that strengthening intellectual property (IP) protection has not been adequately prioritized in the Indo-Pacific Economic Framework (IPEF) or other trade negotiations. How can the Administration place a higher priority on protecting IP through the IPEF and other agreements?

Answer: We recognize that intellectual property (IP)-dependent industries can be drivers of employment and economic activity. We worked with Indo-Pacific Economic Framework (IPEF) partners to develop the scope for Trade Pillar negotiations, and focused on topics that would enhance our resilient, sustainable, and inclusive trade. We look forward to continuing

discussions with you and your team on other ways that we can advance IP protections, including through bilateral engagement with trading partners.

6. Our closest allies are eager to work with us to facilitate increased trade in medicines. The “Ottawa Group” of WTO members, including Canada, the EU, Japan, Korea, Mexico, and Switzerland, among others, proposed a Trade and Health initiative that would eliminate unnecessary trade barriers on medical goods. Will the Administration endorse that initiative?

Answer: The 13 WTO Members that comprise the Ottawa Group submitted the Trade and Health Initiative (TAHI) to the WTO in November 2020. The initiative called for Members to make political commitments in five areas: export restrictions; customs, services, and technical regulations; tariffs, transparency and review; and WTO cooperation with other multilateral institutions. In the period preceding the WTO’s Twelfth Ministerial Conference (MC12) in June 2022, Members deliberated on TAHI and several other proposals pertaining to the WTO’s response to the COVID-19 pandemic. TAHI did not come close to achieving consensus, and Members instead gravitated toward suggestions to use relevant WTO committees to examine lessons learned and challenges experienced during the pandemic. These deliberations culminated in the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics, which the United States was pleased to support at MC12. Following MC12, the United States actively contributed to the ensuing discussions in the WTO.

Throughout 2021, the United States and many other Members expressed several concerns to the EU-led Ottawa Group about various elements of TAHI. These concerns were not addressed by the proponents. One key divergence was that TAHI proponents had concluded from their experiences during the pandemic that, in a future international emergency, governments should have *less* flexibility in how they respond to protect the health of their people. However, the United States and many other Members drew a different conclusion – that the existing balance of Members’ rights and obligations within the WTO Agreement provided important stability and flexibility during the pandemic, and, during worldwide emergency, the vast majority of Members acted reasonably and responsibly in exercising those rights and following those obligations. In addition, TAHI would have further empowered the WTO Secretariat to monitor Members’ trade policies, but the United States firmly believes this is an important responsibility of Members, not of the Secretariat.

7. Expanding trade with the European Union (EU) and its life sciences industry is an important approach to developing more resilient supply chains for medicines. In meeting with the EU’s Trade and Technology Council, the Administration has yet to secure outcomes to better facilitate trade in medicines. How can the Administration better prioritize medical supply chains in discussions with the EU?

Answer: This Administration is actively engaged and works collaboratively with the EU on health and trade related matters in the life sciences sector. The pharmaceutical sector has been deemed a critical one by this Administration and therefore it is a priority to enhance resiliency within the pharmaceutical global supply chain. We continue to look for solutions that produce mutually beneficial outcomes that maintain the health, safety, and quality of our medicines.

Under the U.S.-EU Trade Technology Council, we have engaged with the EU with respect to China's non-market policies and practices and the challenge that they pose to our workers and businesses and to other third-country markets. The United States and the EU have engaged with other countries who share our concerns in the medical devices sector, and conveyed these concerns directly to China.

8. Pursuing strong enforcement of the United States-Mexico-Canada (USMCA) trade agreement helps to ensure that American workers receive the full benefit of that Agreement. Under the USMCA, Mexico is falling short in the pharmaceutical sector. It has yet to fully implement key commitments in the intellectual property chapter, and it is delaying regulatory approval for innovative medicines, which delays market access. This not only undermines American jobs and exports, but also makes it more difficult to strengthen medical supply chains in North America. Will you commit to using all necessary tools to bring Mexico into compliance with these commitments?

Answer: The full implementation of the United States-Mexico-Canada Agreement (USMCA) is one of my top priorities and I remain committed to ensuring that Mexico and Canada provide all the benefits negotiated for our workers, farmers, ranchers, service providers, and producers under the agreement.

In addition, I share your concerns about regulatory delays, which remain a primary barrier to entering the Mexican market for pharmaceuticals. The USMCA included novel commitments in the pharmaceutical sector with the goal to better strengthen regulatory cooperation in critical products and to enhance resiliency in North American pharmaceutical supply chains. USTR will continue to raise concerns about the regulatory delays and underscore the importance of the full implementation of all pharmaceutical commitments under the USMCA.

The United States continues to urge Mexico to address long-standing concerns related to intellectual property (IP), including with respect to enforcement against counterfeiting and piracy, protection of pharmaceutical-related IP, pre-established damages for copyright infringement and trademark counterfeiting, and enforcement of IP rights in the digital environment. The United States continues to monitor Mexico's compliance with outstanding IP-related USMCA commitments, including those with transition periods that end in 2024 and 2025.

9. I share your views regarding both the importance of U.S. manufacturing of fundamental healthcare products like needles and syringes and the need to address China's unfair competitive practices, which are harming U.S. industry and supply chains. Given its economic strength, the size of its market, and the active role of its state, China skews the playing field against U.S. firms. What steps will USTR take to help protect domestic manufacturing from the coordinated efforts of foreign entities, either through the Section 301 process or through other means?

Answer: China utilizes a wide range of unfair, non-market policies and practices to undermine fair competition and dominate markets, both in China and globally. Those anti-competitive

policies and practices, which include non-market excess capacity, pervasive subsidization, forced labor and other labor violations, and many others, create strategic dependencies and vulnerabilities, which undermine our supply chain resilience and economic security. The United States must consider all available tools and options to more effectively address this threat, including use of Section 301 and strategic investments, in order to defend our workers and market-oriented businesses and address China's non-market distortions.

Following the Report in the statutory four-year review of actions taken in the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, on May 14, 2024, the President directed me to increase tariffs on certain strategic sectors, including syringes and needles.

Consistent with the President's direction, in a *Federal Register* notice published on May 28, 2024, the Trade Representative proposed certain modifications to the tariff actions, including increasing Section 301 tariffs for syringes and needles to 50 percent. In the same notice, USTR announced the opening of a docket and requested public comments on the proposed modifications. With respect to needles and syringes, USTR solicited comments on whether the tariff rates should be higher than 50 percent. In a *Federal Register* notice published on September 18, 2024, USTR announced the final tariff increases, including a 100 percent tariff on needles and syringes. USTR also included a temporary exclusion for enteral syringes, which currently have limited availability outside of China.

10. In recent years, U.S. industry and lawmakers have expressed increasing concerns over the inability of our trade tools to address massive subsidies from China and other countries that target certain industries and create excess capacity, which unfairly enters the U.S. market. In your nomination hearing, you expressed the need for "new tools" to address these new threats to American industries. In response to these types of concerns, the U.S. Department of Commerce recently issued new regulations that strike the transnational subsidy prohibition, permitting the Department to investigate a broad range of transnational subsidies, and not only those that are upstream subsidies or provided through an international consortium.

a. Considering your past statements and the Commerce Department's recent withdrawal of its transnational subsidies rule, do you believe that it is now time to countervail the type of transnational subsidies alleged in the ongoing countervailing duty investigation of aluminum extrusions from Mexico, where it was alleged that Mexican extruders are converting unfairly traded Chinese and Russian metal into extrusions at the expense of the U.S. industry and their workers?

b. Given the serious concerns raised in the aluminum extrusions AD/CVD case before Commerce and the USITC, and with the new trade tools available to address this precise concern, do you believe the Department of Commerce should be aggressively addressing this issue? More specifically, why are these new trade tools not being utilized to initiate an investigation into whether Mexican aluminum extruders received unwrought aluminum for less than adequate remuneration (LTAR) from the governments of China and Russia?

c. I know USTR has called for a review of U.S. supply chain vulnerabilities. Will this review include the types of countervailable third-country subsidies alleged in the ongoing countervailing duty investigation of aluminum extrusions from Mexico where Mexican extruders are converting unfairly traded Chinese and Russian metal into extrusions at the expense of the U.S. industry and their workers?

Answer: I share your concern with China's unfair, anti-competitive non-market policies and practices, and the Biden Administration and USTR have been intensely focused on defending US workers and businesses and finding the most effective responses to China's non-market policies and practices, including subsidy practices. Although the U.S. Department of Commerce undertakes investigations of alleged countervailable subsidies, USTR will consider potential policy tools and approaches, in consultation with Commerce. USTR has sought public comments on trade policies for promoting supply chain resilience. As part of this public comment process, concerns about unfairly traded aluminum extrusions have been raised by stakeholders.

11. I was pleased to see the June 2021 agreement announced by the U.S. and EU to establish a Working Group to address the longstanding Boeing-Airbus dispute. As part of this agreement, both parties reaffirmed the strong ties between the United States and Europe and suspended tariffs on products that contribute to the cultural fabric of the United States. As part of the announcement, the Working Group committed to meeting every six months. The last ministerial meeting of the Working Group was held in December 2022. Can you please provide an update on the status of these discussions and what progress has been made to reach a permanent solution to the dispute?

Answer: Under the Working Groups established by the 2021 framework understandings, the United States has continued to engage, respectively, with the European Union (EU) and the United Kingdom (UK) to analyze Chinese non-market practices that may harm their respective large civil aircraft industries. The United States also continues to engage with both the UK and the EU in the Working Groups, and with respective EU Member States in bilateral engagements, regarding financing and research and development funding for the large civil aircraft sector.

USTR continues to monitor implementation by the EU and UK of the framework understandings and their measures related to the matters covered in the LCA dispute, including whether the EU or the UK provides financing to an LCA producer for the production or development of LCA that is not on market terms. If USTR considers that the implementation of the framework understanding or measures related to the WTO dispute are not satisfactory, USTR will take any and all appropriate and feasible action under Section 301.

**Congresswoman Sanchez**

1. I appreciate that USTR has, as President Biden promised, excluded investor-state dispute settlement (ISDS) mechanisms from any new trade and investment agreements. However, ISDS provisions in our current trade agreements continue to enable some corporations to undermine the democratic sovereignty of our allies, claim exorbitant compensation from taxpayers, and fuel

a global race to the bottom for worker and environmental protections. I wanted to thank you for sharing USTR's willingness to work with Congress to reform ISDS in our Free Trade Agreement with Central America and the Dominican Republic (CAFTA-DR) in your response to the letter I recently led on the issue with nearly 50 of my colleagues. I believe the Americas Partnership for Economic Prosperity (APEP) could be a good forum for initial discussions on ISDS reform. Would it be possible to create a working group in APEP to review and assess options for reforming ISDS mechanisms in our existing pacts in the hemisphere?

Answer: The Biden-Harris Administration does not believe corporations should receive special tribunals in trade agreements that are not available to other organizations, and he opposes the ability of private corporations to attack labor, health, and environmental policies through ISDS. I share these views, and the United States is not currently pursuing any trade or investment agreements that would establish ISDS.

USTR has focused instead on working with our trading partners to advance worker-centered trade policies that deliver sustainable and inclusive economic growth and benefit workers, consumers, and businesses of all sizes. The Americas Partnership is a mechanism for regional cooperation that will operate alongside our existing free trade agreements in the hemisphere.

I look forward to working with you and other Members of Congress, including those on our committees of jurisdiction, to identify the best path forward with respect to ISDS provisions in our existing agreements, recognizing the role of Congress in such matters.

2. The U.S. entertainment industry is a critical contributor to the American economy. The film and television industries — which, in total, employ approximately 2.7 million Americans and have strong unions — rely on licensing films and television programming overseas, including to streaming services. The recorded music industry receives 84% of its revenues from music streaming services, enabling significant investment in creators and allowing consumers to legally access music from around the world. However, some governments, including those of our Free Trade Agreement (FTA) partners (e.g., Canada, Korea, and Australia), have been trying to impose local programming requirements which would harm these U.S.-based industries and the workers they support.

I was, therefore, pleased to see USTR identify online streaming laws by certain countries as an issue worth tracking in its 2024 National Trade Estimate report. In this respect, how can we work together to ensure our trading partners comply with their existing trade obligations to the United States?

Answer: We are closely tracking the imposition of domestic expenditure requirements for streaming services. We are committed to engaging governments on this issue, and have made clear our expectation that any legislation in this space adhere to rules set out in our FTAs, where applicable.

**Congresswoman Steel**

1. The US antidumping and countervailing duty (AD/CVD) orders have important trade implications for the California olive industry, effective trade enforcement, and fair US-EU agricultural trade. Although the EU appears to accept that the Spanish olive industry is engaged

in dumping, benefiting from heavy specific subsidies, and injuring the US industry, it is trying to dismantle the olive orders by undermining US trade laws. It has obtained a WTO ruling against a valued US trade tool the Department of Commerce used in the olive case, Sec. 771B of the Tariff Act of 1930, which was enacted to ensure that CVD laws are not rendered ineffective for American agriculture. Will the Administration continue to uphold and safeguard Sec. 771B as now written?

Answer: I share your concerns regarding the need to protect U.S. agriculture from unfair trade practices, including through countervailable subsidies and dumping, and I support the effective enforcement of U.S. trade remedies laws to defend U.S. producers from those practices. I can assure you that the Administration will continue to observe the Uruguay Round Agreements Act and the statutory terms of Section 771B of the Tariff Act of 1930.

2. Do you anticipate any future effort in the WTO to revive the MC13 proposal to expand the TRIPS IP waiver? What factors would or should the U.S. consider in deciding whether to support or oppose such an expanded waiver? What was the impact of the US-supported WTO TRIPS waiver of IP protections for the Covid-related vaccines on:
  - Global access to IP
  - Future investments in US biopharma vaccines? medicines? other technologies, including EVs, green technology?

Answer: The June 2022 World Trade Organization (WTO) Ministerial Decision on the TRIPS Agreement (Ministerial Decision) contains time-bound accommodations to certain IP rules for COVID-19 vaccines to help facilitate a global health recovery. Developed countries, a group that includes Russia, and countries with existing capacity to manufacture COVID-19 vaccines who have opted out from the Ministerial Decision, including China, are not eligible to benefit from this Decision. We currently do not have information that would indicate that an eligible WTO Member has used the Ministerial Decision for COVID-19 vaccines.

Whether or not to extend the Ministerial Decision to cover the production and supply of COVID-19 diagnostics and therapeutics was an important and complex issue. That is why I asked the U.S. International Trade Commission (ITC) to use its expertise in studying markets and its robust, transparent processes for soliciting input from a wide variety of stakeholders to conduct an investigation and prepare a report regarding access to COVID-19 diagnostics and therapeutics.

Since the ITC's report on "COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities" was published on October 17, 2023, USTR has engaged with Congress and a range of stakeholders including labor organizations, civil society, public health experts both inside and outside of the government, and the private sector. The facts in the report and the record the USITC meticulously gathered have helped to inform a thoughtful and constructive policy discussion and deliberative process at home, around the world, and at the WTO on matters so critically important to global public health and economic resilience.

At the WTO's Thirteenth Ministerial Conference in February 2024, WTO Members did not extend the Ministerial Decision to COVID-19 therapeutics and diagnostics.

3. The European Union deforestation-free regulation (EUDR) poses very serious compliance challenges surrounding the import of U.S. forest products into the EU and while we can all agree that the spirit of the EUDR – eliminating deforestation, is in all of our best interests, I share the very serious concerns of the US forest products industry when it comes to the over burdensome and unworkable due diligence and information this regulation requires, particularly from U.S. producers where deforestation is negligible or non-existent. Have you seen the bipartisan letter signed Sept 29, 2023, that was signed by 68 Members of the House, many of whom are on this Committee that highlighted a number of challenges relating to the European Union's new, deforestation-free regulation (EUDR), which is set to be enforced by the EU at the end of December of this year? Do you think the United States, with the highest standards for forest management and sustainability, should be treated by the European Commission the same way that a country with known high-risk deforestation activity should be treated? Do you think forest products companies in the United States should be subject to the onerous and costly due diligence requirements that have no relation to solving the problem of global deforestation, and would eliminate from market participation small, private landowners who don't have the technology tools needed to comply? More specifically, has USTR requested a delay of implementation of this legislation so that trade flows between the US and the EU are not disrupted?

Answer: The Biden-Harris Administration remains strongly committed to combating deforestation, but I share your concerns regarding how the EU's Deforestation-Free Supply Chain Regulation (EUDR) will be implemented and the impact it may have on U.S. producers that engage in sustainable production practices. USTR has directly engaged with the EU at all levels regarding our implementation concerns and continues to urge the EU to delay implementation and enforcement of penalties until U.S. concerns have been addressed. This includes adjustments to the risk benchmarking to take into account good forest management practices, such as those in the United States. I have engaged directly with Executive Vice President for the European Green Deal, Interinstitutional Relations and Foresight Maroš Šefčovič to request that implementation and enforcement issues are addressed, including by sending a letter with USDA Secretary Vilsack and Commerce Secretary Raimondo detailing our shared concerns. Chief Agricultural Negotiator Doug McCalip has also raised these issues directly to the European Commission. Additionally, we have raised EUDR implementation concerns at the WTO, including at the Committee on Technical Barriers to Trade, the Committee on Market Access, and the Council for Trade in Goods. USTR will continue to engage at all levels to press the EU to ensure that this regulation does not lead to unnecessary barriers for U.S. exports.

4. In July 2022, USTR invited input from the public to assist in the development of a forced labor trade strategy, but the strategy has not yet been published. Can you provide us with an update on when we can expect that strategy to be announced and made public? Can you provide us with a preview of what that strategy will entail?

Answer: USTR has undertaken an inclusive process in developing the first ever trade strategy to combat forced labor. We are seeking to incorporate the feedback we received from the public comment period into the strategy which seeks to enhance work across the U.S. Government and governments around the world to utilize trade policy to address forced labor. We look forward to releasing that strategy soon.

5. On March 7th, USTR announced a public comment period to "inform the development of trade and investment policy initiatives that promote supply chain resilience." Why is USTR launching this comment period and initiative just now - in Year 4 of the administration? What does USTR hope to achieve through this initiative? How will USTR communicate with stakeholders and Congress about outcomes, strategies, and objectives developed from this public comment period?

Answer: While USTR continues to pursue a range of efforts to promote supply chain resilience, we seek through the public comment period to solicit input from a wider group of stakeholders, which input will inform a more integrated, holistic understanding of supply chain resilience. Additionally, having weathered the acute disruptions wrought by the Covid-19 pandemic during earlier years in the Administration, many stakeholders now have new perspectives that can help shape trade policy going forward. Accordingly, we aim to harness these insights to both build on our past work and identify new tools and approaches.

We are committed to communicating in due course with stakeholders and Congress about relevant trade policy analyses, strategies, and objectives developed from the public comment period.

6. American companies are concerned about reports that businesses outside the U.S. are manipulating the current de minimis rules to bulk ship products to distribution centers in Canada and Mexico for further distribution to the United States. We understand that once the goods arrive in these distribution centers, foreign companies break down the shipments into individual articles that are then shipped to U.S. consumers using the de minimis rules. Meanwhile, Foreign Trade Zones (FTZs) do not enjoy the same de minimis benefits as overseas distribution centers. As a result, U.S. businesses would have to outsource operations across the border to enjoy similar benefits as overseas distribution centers - negatively impacting American jobs. Is USTR aware of these concerns? How can USTR engage with the Congress and with trading partners to ensure a level playing field for U.S. companies?

Answer: USTR is aware of these concerns regarding U.S. Foreign Trade Zones (FTZs). U.S. Customs and Border Protection and the U.S. Department of Commerce have authority regarding the oversight of FTZs; however, USTR consults with Congress and these agencies on trade issues, as appropriate.

**Congresswoman Beth Van Duyne**

1. What does this administration comprehensive trade agenda look like?

Answer: On March 1, 2024, USTR released and submitted to Congress the annual President's Trade Agenda for 2024. This report is a comprehensive trade agenda for the upcoming year and it details USTR's trade initiatives. It also includes the 2023 Annual Report. You can read the 2024 Trade Agenda here:

<https://ustr.gov/sites/default/files/The%20Presidents%202024%20Trade%20Policy%20Agenda%20and%202023%20Annual%20Report.pdf>

2. Does this administration have a trade agenda with China and what steps are you taking to hold them accountable?

Answer: While it becomes increasingly clear that China is committed to its state-centered economic and trade system and its plans do not include any meaningful reforms that address our concerns – or those of our allies and partners, the Administration's trade agenda is focused on enforcement, diversification of supply chains, and working collaboratively with allies and partners.

We are continuing to take steps to make strategic investments domestically to strengthen our supply chains, rebuild American manufacturing, and maintain our global competitive edge – such as through the Inflation Reduction Act, Bipartisan Infrastructure Law, and the CHIPS and Science Act. We are also committed to the vigorous defense of our values and economic interests from the negative impacts of China's unfair, anti-competitive, and non-market economic policies and practices, including by building the case for new approaches and trade tools that defend our interests and help us remain competitive.

We are using the trade tools available to us, such as Section 301 investigations, where we recently took action to make the tariffs more strategic, both in terms of protecting American workers and businesses from China's unfair trade policies and practices and in terms of pressuring China to make needed changes.

USTR has been working intensively with key trading partners in a variety of venues to identify China's non-market policies and practices, assess their impact, and design more effective responses, including in the G7,<sup>5</sup> the US-EU Trade and Technology Council (TTC),<sup>6</sup> and with diverse like-minded partners.<sup>7</sup> The United States is also holding discussions with many other like-minded trading partners, including in the Indo-Pacific region, on how to strengthen our existing trade relationships. In the current negotiation regarding a further agreement under the U.S.-Taiwan Initiative on 21st-Century Trade, the United States and Taiwan are seeking to adopt provisions to collaborate on ways to address unfair, non-market policies and practices. Given that trade with China poses so many serious risks and potential harms, the United States believes that market economies should enhance their trade with each other.

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<sup>5</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>

<sup>6</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/31/u-s-eu-joint-statement-of-the-trade-and-technology-council-2/>

<sup>7</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices>

3. Given the serious concerns raised in the aluminum extrusions case, why are new trade tools not being utilized to initiate an investigation into whether Mexican aluminum extruders received unwrought aluminum for less than market rate from the governments of China and Russia? In a recent interview, your former Deputy USTR, Sarah Bianchi, suggested that the reason the Biden administration did not pursue a Section 301 case against China's industrial subsidies was that the administration felt it was no longer necessary after passage of the Inflation Reduction Act. It is shocking to hear that. The Inflation Reduction Act does absolutely nothing to stop China's trade cheating. In fact, the IRA is helping China by maintaining our dependence on them for critical minerals.

Given that, will you commit to launching an investigation into China's unfair subsidy practices?

Answer: China's non-market policies and practices are deeply concerning, including its pervasive subsidization, and the Biden-Harris Administration and USTR have been intensely focused on defending US workers and businesses and finding the most effective responses to China's non-market policies and practices.

Section 301 is one of the most important enforcement tools that USTR brings to bear to address unfair trade practices. China utilizes a wide range of unfair, non-market policies and practices to undermine fair competition and dominate markets, both in China and globally. Those anti-competitive policies and practices, which include non-market excess capacity, pervasive subsidization, forced labor and other labor violations, and many others, create strategic dependencies and vulnerabilities, which undermine our supply chain resilience and economic security. I agree with you that we must consider all available tools and options to more effectively address this threat, including use of Section 301.

The Inflation Reduction Act (IRA) is a groundbreaking tool in the United States' efforts to address the global climate crisis. At the same time, the IRA aims to foster the development of secure and sustainable supply chains and to protect our energy security. With respect to critical minerals, the Clean Vehicle Credit in Section 30D of the Internal Revenue Code as amended by the IRA requires that, to access half the credit (\$3,750), a certain percentage of critical minerals contained in the battery must be extracted or processed in the United States or in a country with which the United States has a free trade agreement in effect, or recycled in North America.

In addition, Section 30D excludes from eligibility for the entire \$7,500 credit any vehicle that, beginning on January 1, 2024, contains any battery components manufactured or assembled by a "foreign entity of concern" and, beginning on January 1, 2025, contains any critical minerals extracted, processed, or recycled by a "foreign entity of concern". A "foreign entity of concern" includes an entity "owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation", including China. We refer you to the final guidance issued by the Department of the Treasury and the Department of Energy on May 6, 2024.

USTR has sought public comments on trade policies for promoting supply chain resilience. As part of this public comment process, concerns about unfairly traded aluminum extrusions have been raised by stakeholders. Although the Department of Commerce undertakes investigations of

specific alleged subsidies, USTR will consider potential policy tools and approaches, in consultation with the Department of Commerce.

4. Given that, will you commit to launching an investigation into China's unfair subsidy practices?

Answer: Section 301 is one of the most important enforcement tools that USTR brings to bear to address unfair trade practices. China utilizes a wide range of unfair, non-market policies and practices to undermine fair competition and dominate markets, both in China and globally. Those anti-competitive policies and practices, which include non-market excess capacity, pervasive subsidization, forced labor and other labor violations, and many others, create strategic dependencies and vulnerabilities, which undermine our supply chain resilience and economic security. We must therefore consider all available tools and options to more effectively address this threat, including use of Section 301.

5. Energy Security and our North American Energy supply chain are key priorities for Congressional Republicans. I am very concerned about the path the Mexican Government has taken to discriminate against American companies and energy workers in favor of its state-owned companies. I appreciate that you filed a Request for Consultations in July 2022 on this issue under the USMCA dispute settlement mechanism, but I am concerned that nearly two years later we are no closer to resolution. Could you update the Committee on next steps that you plan to take to address these issues with Mexico?

Answer: USTR is focused on certain measures by Mexico that undermine American companies and U.S.-produced energy in favor of Mexico's state-owned electrical utility, the Comisión Federal de Electricidad (CFE), and state-owned oil and gas company, Petróleos Mexicanos (PEMEX). We will continue to engage with the Government of Mexico to address the concerns in our request for consultations. The Mexican Supreme Court recently declared unconstitutional the 2021 amendments to Mexico's Electric Power Industry Law, and U.S. companies advise that they have received some of the permits they were seeking from Mexican authorities. Although these developments do not address all our concerns, we remain in close conversation with American companies and want to make sure that our strategy and the steps we take are coordinated with them.

6. Can you also update on what USTR plans when it comes to USCMA renewal?

Answer: Our trade agreements require care and attention if they are to remain relevant and properly address today's challenges and prepare us for the future. The USMCA review provides an opportunity to do that. Central to our review will be a firm commitment to ensure that the USMCA is working for all stakeholders, and an assessment as to whether Canada and Mexico are living up to their obligations in the Agreement. We will be engaging directly with the House Ways and Means and Senate Finance Committees on our plans, as required by the USMCA Implementation Act.

7. Can you provide an update on the trade agenda and the future of a trade agreement with the United Kingdom?

Answer: The UK is one of our oldest and strongest trading relationships and the Biden-Harris Administration is committed to continuing our engagement. USTR has engaged regularly with the UK during the course of the Biden-Harris Administration to identify our common interests and ways we can work together to leverage our close trade relationship to achieve progress on addressing shared challenges.

Any path forward regarding a more formal mechanism between our two countries would be done in consultation with Congress, and will reflect the Biden-Harris Administration's commitment to a trade policy that is "worker-centered": meaning that it prioritizes the interests of American farmers and workers, and supports a more equitable and sustainable trade policy.

8. Can you provide an update on the trade agenda in the indo-pacific?

USTR is actively engaged on trade issues across the Indo-Pacific, in order to develop inclusive and sustainable economic growth and to address barriers that harm the competitiveness of U.S. workers and businesses. Through the Indo-Pacific Economic Framework Trade Pillar, we are working together with our partners to craft a durable and high-standard agreement on a range of important issues, including labor and workers' rights, the environment, customs and trade facilitation and agriculture, among others, in order to increase opportunity for exporters across all sectors, especially small and medium-size businesses. We also work closely with the Indo-Pacific in ASEAN as well as APEC. The United States has FTAs with Australia and Singapore and Trade and Investment Framework Agreements (TIFA) or similar arrangements with all of the other countries in Southeast Asia and the Pacific. We are routinely engaged in bilateral work with our partners in the region. For example, over the last few years, we have had TIFA meetings with Thailand, Vietnam and the Philippines. In these meetings, we discussed a range of bilateral trade issues in areas such as agriculture, labor, environment, manufacturing, and customs and trade facilitation and the digital economy.

9. Can you provide an update on the trade agenda in the Africa and USTRs position on the renewal of AGOA?

Answer: For the last two decades, AGOA has been a positive force to grow Africa's extraordinary economic potential. It has made a difference for millions of Africans by opening new doors for trade and investment, creating hundreds of thousands of jobs, and promoting regional integration. It has also incentivized many African governments to undertake key political and economic reforms.

The Biden-Harris Administration strongly supports the timely reauthorization and modernization of AGOA. While authorization is ultimately up to Congress, I am committed to working with Members of Congress, African partners, and other key stakeholders to enhance AGOA and make the program as impactful as possible. As noted in the 2024 Biennial Report on Implementation of AGOA, this includes supporting continental integration under the AfCFTA; improving utilization rates; exploring ways to deepen economic engagement post-graduation; and providing additional tools for assessing and reinstating eligibility.

USTR continues to negotiate the United States-Kenya Strategic Trade and Investment Partnership (STIP) with a view to increasing investment, promoting sustainable and inclusive economic growth, benefiting workers, and supporting African regional economic integration. USTR also continues to implement the Memorandum of Understanding with the African Continental Free Trade Area (AfCFTA) Secretariat signed in December 2022.

10. As the 13th WTO Ministerial Conference approaches, we strongly suggest that you reconsider your decision to withdraw support for core digital trade priorities, and properly assess the impact of such policy changes on small businesses. Small businesses—which make up 99.9 percent of all businesses in the U.S.—must be heard and considered.

Answer: At the time of Trade Agenda hearings, the 13<sup>th</sup> WTO Ministerial Conference was already completed.

11. Why was the SBA not included in roundtables about the impact of Ambassador Tai's decisions?

Did the USTR conduct any sort of economic impact analysis, including the impact on U.S. small businesses, before announcing its unwillingness to support longstanding trade principles? What has the USTR done to ensure small businesses are considered in decisions involving international trade issues?

Answer: USTR frequently meets with small business stakeholders to gather information on their challenges in the international digital economy and their views inform the Administration's trade policy. USTR works with inter-agency partners to address these concerns through bilateral discussions, at the WTO, the G7, and other international forums.

12. Is the USTR concerned by this administration's pause on LNG exports, especially knowing the fact that 80% of LNG exports go to countries in which we do not have a free trade agreement?

Answer: USTR understands that DOE has authorized exports over 48 Bcf/d to countries that do not have a free trade agreement requiring national treatment for trade in natural gas – four times our actual current LNG export levels, and nearly twice the anticipated export volumes at the end of this decade. This level of authorized exports to non-FTA countries represents nearly 45% of our current domestic natural gas production levels.

DOE has stated that they need to refresh evaluations of the impacts of authorizing further exports. Additionally, they mention the need to understand how additional authorized exports could impact our economy, communities, domestic consumers and manufacturers, international partners, and the environment.

**PUBLIC SUBMISSIONS FOR THE RECORD**

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## **Statement of the American Farm Bureau Federation**

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**TO THE HOUSE COMMITTEE ON WAYS and MEANS**

**The Biden Administration's 2024 Trade Policy Agenda**  
**April 16, 2024**

**Presented By:**  
**American Farm Bureau Federation**  
**600 Maryland Avenue, SW**  
**Suite 1000 W**  
**Washington, DC 20024**

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The American Farm Bureau Federation, the nation's largest general farm organization, submits this statement for the House Committee on Ways and Means hearing on the Biden Administration's 2024 trade policy agenda. Trade is critically important to the current welfare and future prosperity of U.S. farmers and ranchers. America's farmers and ranchers depend on growing and stable export markets for the success of their businesses.

**President's Trade Agenda for 2024**

The Administration's approach on trade includes the Indo-Pacific Economic Framework; reducing trade barriers generally and with Taiwan and Kenya specifically; supporting agriculture; promoting sustainable environmental practices; focusing on supply chain improvements; and promoting stability.

The Indo-Pacific Economic Framework (IPEF) was introduced as a part of the overall Indo-Pacific Strategy. It is an approach to improve relationships and reach agreements with the region's countries. It should also be used to reach science-based standards that will assist exports. The inclusion of sanitary and phytosanitary (SPS) standards will reduce barriers and expand opportunities for our agricultural exports. Trade initiatives should also include a strategy of expanding market access for agriculture by working to reduce tariff barriers.

The Administration is also not proposing a reauthorization of Trade Promotion Authority nor a commitment to pursue trade negotiations with binding and enforceable commitments. Farm Bureau supports trade agreements in the Indo-Pacific region as the most durable and effective means to improve market opportunities for farmers and ranchers.

The U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade was launched in 2022. For agriculture, this effort needs to resolve standards barriers by Taiwan that restrict U.S. exports. In fiscal year 2023, \$3.7 billion in agricultural products were exported to Taiwan.

**Indo-Pacific Region Agricultural Trade**

Current agreements in the region show the importance of moving forward with additional efforts to improve opportunities for U.S. agricultural exports.

*U.S.-China*

The U.S.-China Phase 1 Agreement resulted in improved agricultural trade and progress in the removal of barriers that impact the competitiveness of U.S. products in this market. In the Phase 1 Agreement, China committed to increase purchases of U.S. agricultural products.

The outlook for Chinese purchases of soybeans, corn, wheat, sorghum, beef, pork, and other products remains strong. China bought \$33.7 billion of U.S. agricultural products in 2023.

China must continue addressing the commitments they made to improve and reform many standards in the Agreement. As these barriers go down, the opportunity for increased U.S. commodity sales improves.

An ongoing trade relationship with China is critical for U.S. farmers and ranchers.

***U.S.-South Korea***

The U.S.-South Korea Free Trade Agreement (KORUS) entered in force on March 25, 2012. The agreement eliminated or reduced tariff and non-tariff barriers on agricultural and other products. U.S. agricultural exports to South Korea reached an all-time high in 2023 at \$7.7 billion.

***U.S.-Japan***

The U.S.-Japan Trade Agreement went into effect on Jan. 1, 2020. The tariffs applied to U.S. products are now the same as those applied to the products of the other countries with a trade agreement with Japan. Tariffs are being reduced or eliminated on a variety of U.S. agricultural exports to Japan. The U.S. and Japan should continue talks on the remaining issues, such as SPS rules, which would help lead to a comprehensive FTA between the U.S. and Japan. The agreement on the operation of Japan's beef safeguard mechanism will help increase sales of U.S. beef products.

U.S. agricultural exports to Japan were over \$12.2 billion in 2023.

***USMCA***

The U.S.-Mexico-Canada Agreement is important for the continuation and improvement of trade among the nations of North America. Mexico (\$28.3 billion) and Canada (\$28 billion) are the second- and third-largest export markets for U.S. agriculture. The implementation and enforcement of this agreement will yield future growth for our exports.

Issues between the U.S. and Mexico on biotech corn are currently in the dispute settlement system. Concerns continue with the amount of U.S. dairy product access into Canada.

***U.S.-United Kingdom***

We support a resumption of trade negotiations between the U.S. and the UK to deal with non-science-based barriers to our agricultural exports. A trade agreement that addresses both tariff and non-tariff barriers will benefit farmers and consumers.

***Trade Promotion Authority***

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Trade Promotion Authority) ended on July 1, 2021. Farm Bureau recognizes the crucial importance of Trade Promotion Authority and supports its reauthorization. The negotiating objectives set by Congress, the consultation requirements of the Administration with Congress and the voting procedures established under TPA are important to the successful negotiation and conclusion of trade discussions.

***World Trade Organization***

The Biden Administration will need to deal with various WTO reform issues such as the operation of the Appellate Body. For agriculture, we support working toward increased transparency through an improved notifications process. We do not support discussion of subsidy levels without a full discussion of market access initiatives.

**Sustainability**

U.S. farmers and ranchers look to be partners in addressing the challenges of our changing climate. Not only are agriculture's emissions low, American farmers and ranchers are making their environmental footprint even smaller. This is best accomplished through policies that provide voluntary, incentive-based tools for farmers, ranchers, and forest owners to maximize the sequestration of carbon. This approach will also help achieve a reduction in greenhouse gas emissions, increase the resilience of the land, advance science-based outcomes and help rural economies adapt.

**Agricultural Exports and Imports**

U.S. imports of agriculture and food are growing more than our agricultural exports, with imports of \$195 billion in fiscal year 2023 and exports of \$178.7 billion. This growing trend shows the need for more aggressive efforts to expand market opportunities for U.S. farmers and ranchers.

Part of the rise in imports is due to an increase in fruit and vegetable imports. We are concerned that foreign competitors are hurting domestic seasonal produce growers.

We support efforts to expand export markets and to also use our existing trade laws to protect growers against unfairly traded imports. When fruit and vegetable imports are increasing, producers of perishable commodities need an import relief procedure that will prevent their markets from being severely impacted during a short marketing season.

**Conclusion**

U.S. farmers and ranchers rely on export markets for over 20% of agricultural production. As Congress considers future discussions with the nations that are our most important export destinations, and those that have the potential to grow in importance, we need to consider how trade initiatives can most effectively expand agricultural exports to the benefit of the nation's farmers and ranchers.

As we seek to expand and diversify our markets, we will rely upon the actions of Congress and the Administration to enact market opening trade agreements.

**AMERICANS FOR  
FREE ★ TRADE**

April 15, 2024

The Honorable Ron Wyden  
Chairman  
Senate Finance Committee  
Washington, DC 20510

The Honorable Mike Crapo  
Ranking Member  
Senate Finance Committee  
Washington, DC 20510

The Honorable Jason Smith  
Chairman  
House Ways & Means Committee  
Washington, DC 20515

The Honorable Richard Neal  
Ranking Member  
House Ways & Means Committee  
Washington, DC 20515

**RE: Statement for the Hearing Record: The President's 2024 Trade Policy Agenda**

Dear Chairman Wyden, Ranking Member Crapo, Chairman Smith, and Ranking Member Neal,

The Americans for Free Trade coalition, a broad alliance of American businesses, trade organizations, and workers united against tariffs, respectfully submits this written statement to include in the public record of the Senate Finance Committee and House Ways & Means Committee's ("the Committees") 2024 Trade Policy Agenda hearings scheduled for April 16 and 17. We appreciate the Committees holding hearings on this important matter.

By way of background, [Americans for Free Trade](#) represents every part of the U.S. economy including manufacturers, farmers and agribusinesses, powersports, retailers, technology companies, service suppliers, natural gas and oil companies, importers, exporters, and other supply chain stakeholders. Collectively, we employ tens of millions of Americans through our vast supply chains.

For more than five years, AFT has called for an end to the China 301 tariffs which have had a disproportionate economic impact on American companies, workers, and consumers. These tariffs have also failed to achieve their stated objective which was to change China's use of unfair trade practices relating to intellectual property rights, forced technology transfers, and innovation. We have repeatedly called for the administration to find a new path forward to address the ongoing China trade issues, without a response. We continue to believe that it is well past time for a strategic realignment of the tariffs to focus on the original intent of the Section 301 investigation and seek alternate measures to achieve the necessary changes in China's behavior.

Unfortunately, we have seen no change in the Biden-Harris administration's position or communication regarding the tariffs since the last time the committee held this hearing in 2023.

# AMERICANS FOR FREE ★ TRADE

The statement<sup>1</sup> that we submitted for those hearings remains true today. The only difference is that importers have paid close to \$40 billion more in the Section 301 tariffs. As of today, importers have paid more than **\$211 billion<sup>2</sup>** in Section 301 tariffs on covered products imported from China, according to U.S. Customs and Border Protection (CBP). These taxes continue to create tremendous uncertainty, increase the cost of doing business in the United States, and place a financial burden on American businesses – negatively impacting their ability to invest in their companies, hire more American workers, innovate new technologies, and remain competitive globally. The tariffs also have an impact on consumers. While many companies have tried to absorb the costs of the tariffs, many have had to share the costs with final consumers.

## I. Lack of USTR Response and Timely Communications

AFT has continuously sent communications to the Office of the U.S. Trade Representative (USTR) regarding both the release of the four-year necessity review as well as calls to renew expiring exclusions and to reopen a more fulsome exclusion process. Each of those communications has gone unanswered.

Our most recent letters sent in July 2023<sup>3</sup> and December 2023<sup>4</sup> urged USTR to quickly renew expiring exclusions, as well as call for an immediate release of the results of the four-year review. The lack of urgency for USTR to renew the expiring exclusions has been concerning. Each time USTR has renewed the exclusions, importers have been guessing until the last minute whether they will have to pay the tariffs on products that have already been bought and paid for under contract.

For the most recent extension of the COVID-19 and small batch exclusions at the end of December 2023, USTR did not provide CBP enough time to program its system (the Automated Commercial Environment or ACE) to note that the exclusions had been extended. This resulted in importers having to pay duties on products imported into the United States for several days and then subsequently file for a duty refund – creating additional administrative burdens for both the importers as well as CBP. USTR must improve the product exclusion renewal process so that both importers and CBP are provided with more advanced notice about the status of the exclusions.

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<sup>1</sup> <https://americansfreetrade.com/wp-content/uploads/2023/04/AFT-Trade-Policy-2023-Statement-for-SFC-HWM-Hearing-Record-Final-040623-1.pdf>

<sup>2</sup> CBP Trade Statistics - <https://www.cbp.gov/newsroom/stats/trade>

<sup>3</sup> AFT Letter to USTR – Extension of Section 301 China Tariffs Exclusions - <https://americansfreetrade.com/wp-content/uploads/2023/07/AFT-Letter-to-USTR-Tariff-Exclusion-Renewal-Final-072723.pdf>, July 27, 2023

<sup>4</sup> AFT Letter to USTR – Four Year Review and Exclusions - <https://americansfreetrade.com/wp-content/uploads/2023/12/AFT-Letter-to-USTR-Tariff-Exclusion-Renewal-Four-Year-Review-Final-Updated-121123.pdf>, December 11, 2023

# AMERICANS FOR FREE ★ TRADE

As AFT communicated with the committees in a December 2023 [letter](#)<sup>5</sup>, “*USTR has taken over a year and half to conduct the review, which has exacerbated the uncertainty around the future of the tariffs.*” The letter concluded, “*As economic uncertainty continues, it is imperative that Congress reclaim its constitutional authority over trade and conduct rigorous oversight over USTR to ensure it is using its tools appropriately to create economic opportunity for all Americans and to ensure that American businesses can compete globally.*” We continue to renew that call upon Congress to reclaim its tariff authority.

## II. 301 Tariffs’ Impacts on American Businesses and Consumers

From the onset of the tariffs, AFT has stated that American companies, not Chinese companies, bear the economic brunt of the tariffs. Those who argue otherwise are simply ignoring reality. As a reminder, this fact was confirmed by the non-partisan, independent U.S. International Trade Commission (USITC) last year in its recent report entitled “*Certain Effects of Section 232 and 301 Tariffs Reduced Imports and Increased Prices and Production in Many U.S. Industries*<sup>6</sup>”. The report states: “*U.S. importers bore nearly the full cost of these tariffs because import prices increased at the same rate as the tariffs. The USITC estimated that prices increased by about 1 percent for each 1 percent increase in the tariffs under sections 232 and 301.*”

As part of the 301 four-year review, AFT [submitted comments](#)<sup>7</sup> to USTR with feedback from our coalition partners regarding the negative impacts that the tariffs have had on their businesses, workers and consumers.

In general, our comments concluded that:

- 1) **The tariffs make U.S. manufacturers less competitive.** While protecting domestic manufacturing was never the stated purpose of the section 301 tariffs, they have been harmful to manufacturers by taxing inputs they need to produce more products domestically. Many of these companies are not able to find alternate markets to purchase their inputs, even from U.S. manufacturers. The section 301 tariffs have harmed, and continue to harm, U.S. manufacturers and make them less competitive vis-à-vis their competitors and China. They should be lifted immediately.
- 2) **Tariffs increase costs for American consumers and contribute to inflation.** Despite what the proponents of the tariffs say, the tariffs do have a very real impact on inflation when they artificially cause prices to remain high. While there are various contributing

<sup>5</sup> AFT Letter to Congress Urging USTR to Promptly Conclude Section 301 Four-Year Review and Extend Expiring Exclusions - <https://americansforfreetrade.com/wp-content/uploads/2023/12/AFT-Section-301-Tariff-Letter-to-Big-Four-HWM-SFC-Final-Update-122023.pdf>, December 20, 2023

<sup>6</sup> Economic Impact of Section 232 and 301 Tariffs on U.S. Industries – <https://www.usitc.gov/publications/332/pub5405.pdf>, March 15, 2023

<sup>7</sup> AFT Comments to USTR on Four Year Review - <https://americansforfreetrade.com/wp-content/uploads/2024/04/AFT-USTR-301-Review-Comments-011723-Final.pdf>

# AMERICANS FOR FREE ★ TRADE

factors to inflation, lifting tariffs is one of the few tools that the administration could utilize to bring down inflation. Time and again, we have heard from businesses of all kinds that they were forced to pass along the increased costs associated with the section 301 tariffs directly to their customers.

- 3) **Tariffs disproportionately harm low-income American families.** Tariffs harm American families by raising prices on consumer products, and this is felt most acutely by low-income families. A [report](#)<sup>8</sup> by the Progressive Policy Institute found that tariffs on consumer goods are discriminatory and regressive because low-income Americans are disproportionately impacted by these tariffs, especially single-parent families and people of color. Our coalition partners agree with the report and witness the impact the tariffs have on their customers.

### III. China Strategy Moving Forward

As we have asked previously, members of Congress must call upon the Biden-Harris administration to provide a clear and transparent China trade strategy. Such a strategy has yet to be delivered. We know that this strategy goes well beyond the China 301 tariffs, but we believe addressing the tariff issues and China's unfair trade practices associated with them are important for the reasons we discussed above.

As a near-term path forward, with regards to the tariffs specifically, AFT urges the following:

- 1) **Realign the Section 301 Tariffs** – Through the strategic four-year review process, the administration must strategically realign the tariffs away from consumer goods and manufacturing inputs and equipment that are currently unavailable in sufficient quantities from sources other than China. These tariffs harm American companies and consumers and are not related to China's Made in 2025 program or critical sectors. The realignment should provide the opportunity for the administration to refocus the tariffs and create better leverage to achieve changes in China's unfair trade practices regarding forced technology transfer and intellectual property theft. As part of this realignment, USTR should also include a new, fair, predictable, and transparent exclusion process available to all products subject to the 301 tariffs to ensure that American companies are not unduly harmed.
- 2) **Use Targeted Tools to Hold Bad Actors Accountable** – There has been ongoing discussion about what tools other than tariffs can be used to achieve success regarding China's trade practices. USTR has discussed other “tools in the toolbox” and potentially the development of “new tools” but has stopped short of articulating what those might be. We believe these discussions are incredibly important and need to continue, with

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<sup>8</sup> Progressive Policy Institute Report - [Trade Policy, Equity, and the Working Poor: United States MFN Tariffs are Regressive Taxes Which Help Few Workers and Harm Many](#) (4/19/22)

## AMERICANS FOR FREE ★ TRADE

stakeholder input. We need to find the right set of tools that address China's unfair trade practices in a targeted way without causing disproportionate economic harm to American businesses, workers, and consumers.

- 3) **Support U.S. Supply Chain Resiliency and Competitiveness by Partnering with Allies** – AFT continues to call upon the administration to work with allies to address China's unfair trade practices. This includes work at the G-20, G-7, World Trade Organization, the Asia-Pacific Economic Cooperation (APEC) forum, and other multilateral and regional institutions. The U.S. can be much more effective in addressing China's unfair trade practices by working in concert with allies.
- 4) **Support Efforts on Supply Chain Diversification** – Congress and the Biden-Harris administration should support the U.S. business community's efforts to further diversify supply chains. This includes developing an offensive trade agenda that supports supply chain diversification and ensures the U.S. does not cede global economic influence and international rulemaking to China. This should include seeking new free trade agreements with our allies that include tariffs and market access considerations. Congress should also quickly act to retroactively renew expired trade preference programs including the Generalized System of Preferences (GSP), which provide sourcing alternatives to China, as well as the Miscellaneous Tariff Program (MTB), which provides temporary duty benefits for U.S. manufacturers and businesses.

#### IV. Conclusion

We appreciate the Committees' continued focus on ensuring that U.S. trade policy advances American values and boosts U.S. competitiveness. The Committees must continue to weigh in with the Biden-Harris administration to ensure that destructive tariffs are lifted and that a new and more effective approach to addressing China's unfair trading practices is adopted.

We thank the Committees for holding this year's trade agenda hearings and look forward to continuing to work with you.

Sincerely,

Accessories Council	American Association of Exporters and Importers (AAEI)
ACT   The App Association	American Association of Port Authorities
Agriculture Transportation Coalition (AgTC)	American Bakers Association
Alliance for Chemical Distribution (ACD)	American Bridal & Prom Industry Association (ABPIA)
ALMA, International (Association of Loudspeaker Manufacturing and Acoustics)	American Clean Power Association
American Apparel & Footwear Association (AAFA)	American Coatings Association, Inc. (ACA)
	American Down and Feather Council
	American Fly Fishing Trade Association

## AMERICANS FOR FREE ★ TRADE

American Home Furnishings Alliance	Electronic Transactions Association
American Lighting Association	Energy Workforce & Technology Council
American Petroleum Institute	Experiential Designers and Producers Association
American Pyrotechnics Association	Exhibitions & Conferences Alliance
American Rental Association	Fashion Accessories Shippers Association (FASA)
American Seed Trade Association	Fashion Jewelry & Accessories Trade Association
American Specialty Toy Retailing Association	Flexible Packaging Association
American Trucking Association	Florida Ports Council
Arizona Technology Council	Florida Retail Federation
Arkansas Grocers and Retail Merchants Association	Footwear Distributors and Retailers of America (FDRA)
Association For Creative Industries	Fragrance Creators Association
Association for PRINT Technologies	Game Manufacturers Association
Association of American Publishers	Gemini Shippers Association
Association of Equipment Manufacturers (AEM)	Georgia Retailers
Association of Home Appliance Manufacturers	Global Business Alliance
Auto Care Association	Global Chamber®
Bay Area Council	Global Cold Chain Alliance
Beer Institute	Greeting Card Association
Building Service Contractors Association International (BSCAI)	Halloween & Costume Association (HCA)
Business Alliance for Customs Modernization	Home Fashion Products Association
California Retailers Association	Home Furnishings Association
Chemical Industry Council of Delaware (CICD)	Household and Commercial Products Association
Coalition of New England Companies for Trade (CONECT)	Housing Affordability Coalition
Coalition of Services Industries (CSI)	Idaho Retailers Association
Colorado Retail Council	Illinois Retail Merchants Association
Columbia River Customs Brokers and Forwarders Assn.	Independent Office Products & Furniture Dealers Association (IOPFDA)
Computer & Communications Industry Association (CCIA)	Indiana Retail Council
Consumer Brands Association	Information Technology Industry Council (ITI)
Consumer Technology Association	International Bottled Water Association (IBWA)
Council of Fashion Designers of America (CFDA)	International Foodservice Distributors Association
CropLife America	International Housewares Association
Customs Brokers & Freight Forwarders Assn. of Washington State	International Warehouse and Logistics Association
Customs Brokers & Freight Forwarders of Northern California	International Wood Products Association
	ISSA - The Worldwide Cleaning Industry Association
	Juvenile Products Manufacturers Association
	Leather and Hide Council of America
	Licensing Industry Merchandisers' Association
	Los Angeles Customs Brokers and Freight Forwarders Assn.
	Louisiana Retailers Association
	Maine Grocers & Food Producers Association

## AMERICANS FOR FREE ★ TRADE

Maine Lobster Dealers' Association  
 Maritime Exchange for the Delaware River and Bay  
 Maryland Retailers Association  
 MEMA, The Vehicle Suppliers Association  
 Michigan Chemistry Council  
 Michigan Retailers Association  
 Minnesota Retailers Association  
 Missouri Retailers Association  
 Motorcycle Industry Council  
 NAPIM (National Association of Printing Ink Manufacturers)  
 National Association of Chain Drug Stores (NACDS)  
 National Association of Foreign-Trade Zones (NAFTZ)  
 National Association of Home Builders  
 National Association of Music Merchants  
 National Association of Trailer Manufacturers (NATM)  
 National Confectioners Association  
 National Council of Chain Restaurants  
 National Electrical Manufacturers Association (NEMA)  
 National Fisheries Institute  
 National Foreign Trade Council  
 National Grocers Association  
 National Industrial Transportation League (NITL)  
 National Lumber and Building Material Dealers Association  
 National Marine Manufacturers Association  
 National Pork Producers Council  
 National Restaurant Association  
 National Retail Federation  
 National Ski & Snowboard Retailers Association  
 National Sporting Goods Association  
 Natural Products Association  
 New Jersey Retail Merchants Association  
 North American Association of Food Equipment Manufacturers (NAFEM)  
 North American Association of Uniform Manufacturers and Distributors (NAUMD)  
 North Carolina Retail Merchants Association  
 Ohio Council of Retail Merchants  
 Outdoor Industry Association  
 Pacific Coast Council of Customs Brokers and Freight Forwarders Assns. Inc.  
 Pennsylvania Retailers' Association  
 PeopleforBikes  
 Personal Care Products Council  
 Pet Food Institute  
 Pet Advocacy Network  
 Plumbing Manufacturers International  
 Power Tool Institute (PTI)  
 PRINTING United Alliance  
 Promotional Products Association International  
 Recreational Off-Highway Vehicle Association  
 Retail Association of Maine  
 Retail Council of New York State  
 Retail Industry Leaders Association  
 Retailers Association of Massachusetts  
 RISE (Responsible Industry for a Sound Environment)  
 RV Industry Association  
 San Diego Customs Brokers and Forwarders Assn.  
 Semiconductor Industry Association (SIA)  
 Snowsports Industries America  
 Software & Information Industry Association (SIIA)  
 South Dakota Retailers Association  
 Specialty Equipment Market Association  
 Specialty Vehicle Institute of America  
 Sports & Fitness Industry Association  
 TechNet  
 Technology Trade Regulation Alliance (TTRA)  
 Telecommunications Industry Association (TIA)  
 Texas Retailers Association  
 Texas Water Infrastructure Network  
 The Airforwarders Association  
 The Fertilizer Institute  
 The Hardwood Federation  
 Toy Association  
 Travel Goods Association  
 Truck & Engine Manufacturers Association (EMA)

**AMERICANS FOR  
FREE ★ TRADE**

United States Council for International  
Business  
United States Fashion Industry Association  
US Global Value Chain Coalition  
US-China Business Council  
Vinyl Institute  
Virginia Association of Chain Drug Stores

Virginia Retail Federation  
Virginia-DC District Export Council (VA-DC DEC)  
Washington Retail Association  
Water Quality Association  
Window and Door Manufacturers Association  
World Pet Association, Inc. (WPA)

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## CTA Statement for the Record for the House Ways and Means and Senate Finance Committees Respective Hearings on the 2024 U.S. Trade Policy Agenda

April 16, 2024

In advance of the April 16 and April 17 congressional hearings on the 2023 U.S. Trade Policy Agenda, the Consumer Technology Association (CTA)® respectfully submits this statement for the record on increasing the ambition of U.S. trade policy and reducing the harm the current path is causing to the U.S. economy.

The current trajectory set by the Office of the United States Trade Representative (USTR) should be cause for deep bipartisan concern. The current U.S. trade policy agenda is undercutting the collective U.S. efforts to compete with China not just on trade, but on our foreign policy and national defense priorities.

By not negotiating or entering into new trade agreements, not defending U.S. companies from barriers to trade in foreign markets, and ceding global trade leadership to other countries, including U.S. adversaries, USTR is isolating the United States, harming the U.S. economy, increasing inflation, and weakening the U.S. innovative and defensive capacity. More, by taking protectionist steps in the name of its “worker-centered trade policy” or “supply chain resilience,” USTR in fact is diminishing prospects for U.S. workers and their long-term investments. Collectively, this helps China, not the United States.

CTA is gravely concerned that the isolationism envisioned by USTR will lead to more expensive consumer prices. With workers already in short supply due to generational shifts in the U.S. workforce shifts and limitations on immigration, USTR’s protectionist agenda will result in out-of-control inflation and force interest rates higher. This lethal combination of cutting down on trade, failure to protect U.S. companies overseas, and higher-for-longer interest rates will hurt our national defense as it will isolate us from our friendly trading partners, skyrocket government interest payments and further take away from defense spending.

With this context in mind, CTA offers the statement below.

### USTR Has Thrown U.S. Companies into the Trade Jungle

Congress created the Office of the Special Trade Representative (STR) under the Executive Office of the President in Section 141 of the Trade Act of 1974. President Carter reorganized the STR and established it as the Office of the U.S. Trade Representative (USTR) in 1979 under

Producer of



Executive Order 12188. Since its founding, U.S. businesses of all sizes and all sectors expected that USTR would identify foreign trade barriers and work to address and remove them through a wide range of negotiation, enforcement and litigation tools. They did not expect that USTR would encourage foreign governments to impose trade barriers on U.S. companies and ignore the harms of those barriers on the U.S. economy.

Today, the USTR openly admits that encouraging foreign trade barriers in the name of "public interest" is a fundamental aspect of its harmful and misguided domestic competition policy. Since October 2023, USTR under Ambassador Katherine Tai has taken the position that all governments deserve "policy space" to regulate as they see fit. When USTR released the significantly shorter National Trade Estimate report in March 2023, Ambassador Tai reiterated that each government "has the sovereign right to govern in the public interest and to regulate for legitimate public policy reasons." These statements are not as benign as they first appear.

Under this worldview, USTR is signaling to other governments that they can discriminate against U.S. companies – whether by intent or impact – and USTR will do nothing in response, especially if the government claims the measure is in the "public interest." With this policy, USTR has opened a Pandora's box of discrimination against U.S. companies to preserve the United States's own ability to discriminate and violate international trade norms and U.S. law.

Where does this leave U.S. companies, particularly technology firms who are the primary target of the Administration's ire? Once, they could rely on the U.S. government to uphold and promote the rule of law and to enforce the WTO and other free trade agreements. Now, they will contend with the law of the jungle, where might makes right and the rule of law is an inconvenient relic of the past. U.S. companies exporting to other markets or operating abroad will be on their own in facing trade barriers, whether digital barriers, technical barriers, or other discriminatory measures. They will receive less favorable treatment by foreign governments, who may choose to prioritize their own domestic companies and retaliate against U.S. measures.

Congress must hold USTR to account, demand that USTR justify its deviation from decades of bipartisan trade policy and explain why it believes that other governments can do whatever they want on trade so long as they claim their measures are in the "public interest." More, if USTR remains unable to meet its statutory obligations to defend U.S. companies in foreign markets, Congress should consider drastic steps, such as withholding appropriations, refusing to confirm nominees for key roles or assigning responsibility for digital trade issues to other agencies.

#### **USTR's Theory of the Case on Supply Chain Resilience Is Wrong**

The Biden-Harris Administration has identified supply chain resilience for certain strategic goods as one of its top economic priorities. The Administration has also cited the fragility of certain private sector supply chains during the pandemic as a reason for this approach. While some supply chains showed strains of historically high demand during the pandemic, not all

supply chains buckled and collapsed. In fact, many, many more survived and thrived due to the agility and nimbleness of U.S. companies and their ability to pivot in the face of challenging circumstances associated with the pandemic (e.g., people staying at home and purchasing more goods, including consumer technology products). These companies, many of them startups and small businesses, succeeded without any help from federal or state governments and often had to overcome policy barriers hampering their ability to compete and respond (e.g., the tariffs on imports from China under Section 301 of the Trade Act of 1974).

President Biden issued an Executive Order (EO) on America's Supply Chains in February 2021. Only now, more than three years later, is USTR seeking public comment and testimony from stakeholders on its own set of supply chain resiliency principles that diverge from the EO. In doing so, it is signaling that supply chains not located in the United States are inherently risky and that government intervention might be necessary to address those risks. It is not making any distinction between strategic goods identified by the EO and goods designed for and delivered to consumers. In fact, the Federal Register Notice concerning this request for comment identifies many additional economic sectors for scrutiny, most of which are not related to the EO. Congress should be wary of USTR going 'off-mission' and designing trade measures that have protectionist intent for the sake of supply chain resilience.

In CTA's comments and testimony before USTR in that consultation, we will encourage USTR to understand how and why companies design and execute supply chains. USTR may benefit from viewing supply chains, and the workers who run them, not through the lens of academics or the federal government but through the eyes of the private sector. It may also benefit from speaking more with U.S. trading partners, particularly our treaty allies and FTA partners, who may take offense at USTR efforts to force companies to make everything in the United States. Supply chain resilience is an important concept, but it should not be a pretext for protectionism and forced localization at the expense of U.S. foreign policy and economic interests.

#### **Tariffs Hurt U.S. Consumers, and Supply Chains and Are Not as Worker Centric as USTR Believes**

CTA has long fought for tariff relief for the consumer technology industry, including by advocating the removal of the harmful and ineffective Section 301 tariffs on imports from China.<sup>1</sup> Study after study demonstrates that tariffs, which are taxes on imports, do not make U.S. businesses more competitive, lead to more job creation, or make supply chains more resilient. These studies have indicated that the U.S. consumer bears the costs of U.S. tariffs.<sup>2</sup>

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<sup>1</sup> See, e.g., CTA's comment to USTR on its four-year necessity review docket, submission USTR-2022-0014-00034970, available at <https://comments.ustr.gov/s/commentdetails?rid=72BH3CQWG6>.

<sup>2</sup> Building a Resilient U.S. Consumer Technology Supply Chain, CONSUMER TECHNOLOGY ASSOCIATION (July 2022), <https://shop.cta.tech/products/building-a-resilient-u-s-consumer-technology-supply-chain>; *Analysis of Section 301 Tariff Impacts on Imports of Consumer Technology Products*, CONSUMER TECHNOLOGY ASSOCIATION (July 2022), <https://shop.cta.tech/products/analysis-of-section-301-tariff-impacts-on-imports-of-consumer-technologyproducts?variant=43179752358058>; PNTR Revocation is a Recipe for Inflation, CONSUMER TECHNOLOGY ASSOCIATION (Jan. 2024),

This is because importers to the United States pay the tariffs,<sup>3</sup> not foreign governments. Importers can either absorb the costs or pass them on through their supply chains. Inevitably U.S. consumers pay the costs. CTA has included a short annex to our statement on recent studies and tariff commentary for the benefit of the Ways and Means and Finance Committees.

USTR believes that tariffs make supply chains more resilient. USTR has also demonstrated that it does not value the public comments it receives about tariffs. This ambivalence was evident during both the current and prior Administrations. For example, in 2019, USTR implemented massive and unprecedented modifications to the Section 301 tariffs over 3,000+ vociferous public comments opposing the policy. And this USTR has dallied for nearly two years on the statutorily-required “necessity review” of those tariffs, again in ignorance of thousands of public comments seeking the removal of the tariff action.

The truth is that tariffs undermine the resilience of private sector-led supply chains by imposing more costs, creating significant uncertainty on rates and duration of duties, and forcing companies to spend time and resources on tariff payments and bureaucracy as opposed to hiring and innovating new products and services. Instead of dismissing tariff analysis as “fiction” or conveniently ignoring authoritative research inconsistent with its worldview, USTR should take this analysis into account as it formulates and executes U.S. trade policy. Further, we encourage Congress to organize hearings with trade economists to present their research in person to Committee members and invite USTR leadership to attend these hearings.

If USTR or Congress truly believe that tariffs are a necessary tool - for example to prevent highly subsidized imports from China from entering the U.S. market or further decouple the U.S.-China economic relationship by revoking permanent normal trade relations - it must level with Americans that they will experience higher inflation, higher costs for inputs and finished goods, and retaliation by trading partners that could evaporate markets for their goods and services abroad. Such candor with the American public is emblematic of rational and compelling leadership. Ignoring inconvenient truths about economic impacts of tariffs and other trade barriers is the hallmark of governments lacking confidence in their actions and seeking to deflect the political fallout.

#### **Reducing Trade Costs Between the United States and Its Trading Partners Will Support Supply Chain Diversification Efforts**

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[https://cdn.cta.tech/cta/media/media/pdfs/cta\\_pntrreport.pdf?\\_ga=2.139639793.373325017.1712953669-1972693078.1712953669&\\_gl=1\\*8wysx5\\*ga\\*MTk3MjY5MzA3OC4xNzEyOTUzNjY5\\*ga\\_5P7N8TBME7\\*MTcxMjk1MzY2OS4xLjAuMTcxMjk1MzY3Mi41Ny4wljA](https://cdn.cta.tech/cta/media/media/pdfs/cta_pntrreport.pdf?_ga=2.139639793.373325017.1712953669-1972693078.1712953669&_gl=1*8wysx5*ga*MTk3MjY5MzA3OC4xNzEyOTUzNjY5*ga_5P7N8TBME7*MTcxMjk1MzY2OS4xLjAuMTcxMjk1MzY3Mi41Ny4wljA)

<sup>3</sup> E.g., U.S. International Trade Commission, Press Release, *Certain Effects of Section 232 and 301 Tariffs Reduced Imports and Increased Prices and Production in Many U.S. Industries*, available at [https://www.usitc.gov/press\\_room/news\\_release/2023/er0315\\_63679.htm](https://www.usitc.gov/press_room/news_release/2023/er0315_63679.htm) (“The report finds that on average from 2018 to 2021: U.S. importers bore nearly the full cost of these tariffs because import prices increased at the same rate as the tariffs.”)

As companies reorient their supply chains and find new sourcing opportunities, they will look at the costs of trade between the United States and its allies and key trading partners. Reducing trade costs, whether through tariff elimination, trade facilitation measures, or regulatory alignment, will create a stronger enabling environment for the diversification of supply chains. Reducing trade costs also allows U.S. companies to compete more effectively against firms from foreign adversaries.

USTR may promote the notion that more trade barriers lead to more resilient supply chains, for example by localizing production of goods in specific economies. However, reducing trade costs allows companies to make their supply chains as efficient as possible, therefore permitting them to lower their own internal costs and deliver competitively priced products to consumers. Companies also will seek to produce their goods with sustainability in mind as a means of delivering more ethical products to consumers, particularly in the face of growing consumer demand for such products. The costs of sustainable production are decreasing, and companies will benefit from being able to freely choose sourcing partners that can demonstrate high commitments to sustainability. But more importantly, lowering trade costs strengthens U.S. commercial and trade relations with its allies and key trading partners, thereby increasing U.S. soft power over time.

#### **USTR Must Negotiate New Agreements that Strengthen U.S. Relationships with Its Allies and Key Trading Partners**

USTR has stated that free trade agreements are a tool of the 20th century. Nevertheless, in the 21st century, U.S. trading partners continue to negotiate FTAs, some of which exceed the high standards of the U.S.-Mexico-Canada Agreement (USMCA) particularly on topics like digital trade. The Biden Administration has chosen to avoid any trade negotiations that would result in an agreement require an affirmative vote from Congress for enactment, thereby seeking to make an end-run around long-standing, bipartisan Congressional priorities.

CTA strongly advocates for the negotiation of new FTAs to support supply chain diversification, particularly with U.S. treaty allies such as the United Kingdom and Japan and other close trading partners in Southeast Asia, such as Vietnam, Thailand, Malaysia, and the Philippines. The adamant refusal of USTR to even contemplate the negotiation of comprehensive, market-opening, binding and enforceable FTAs with these partners is a source of comfort to U.S. adversaries. USTR could still address its labor and sustainability objectives through FTA negotiations while advancing higher-standard rules that curtail the harmful and predatory practices of adversaries. USTR's current posture of doing as little as possible on trade creates a vacuum in the global rule-making environment. Stronger U.S. trade leadership on the global stage is necessary to fill that vacuum.

**U.S. Global Trade Leadership Is Essential for Preserving and Strengthening the Multilateral Trading System**

At the 13<sup>th</sup> WTO Ministerial Conference in Abu Dhabi in February, a final, limited package came together due to the leadership of the UAE and the WTO Director-General, Dr. Ngozi Okonjo-Iweala. We understand that the USTR team on the ground worked incredibly hard behind the scenes to secure another two-year extension of the moratorium on customs duties on electronic transmissions. This was the most important deliverable for MC13. However, it does not seem that USTR leadership played a key role in securing this deliverable. The path to MC14 in Cameroon in 2026 will be far more difficult and will require greater and more visible leadership from USTR to renew the moratorium or make it permanent. A permanent moratorium would benefit U.S. businesses in all sectors and of all sizes by providing durable certainty that they will not face tariffs on cross-border data flows as they navigate a global digital economy made all the more challenging through USTR's unwillingness to address barriers to trade in foreign markets.

**Conclusion**

CTA greatly appreciates the opportunity to submit these comments for the record. We look forward to continuing to work with the House Ways and Means and Senate Finance Committees to increase the ambition of the U.S. trade policy agenda, combat inflation, strengthen U.S. trade and economic ties with allies, open new markets to exports of U.S. consumer technology products, negotiate high-standard, binding and enforceable trade rules and bolster U.S. technology leadership and the innovation economy.

**Attachment 1 – Studies on Economic Impact of Tariffs – 2021 - present**

1. April 2024, Goldman Sachs Economics Research: [The Effect of Tariffs on Government Revenue, Growth, and Inflation: Lessons From the Last Trade War](#) (Walker); [Jan Hatzius, Alec Phillips, David Mericle, Spencer Hill, Ronnie Walker, Manuel Abecasis, Tim Krupa, Elsie Peng and Jessica Rindels](#)
2. March 2024, Harvard Business School: [Research Brief: The Real Cost of Countering China](#); Jennifer Myers
3. February 2024, Brookings Institution: [Hidden exposure: Measuring US supply chain reliance](#); Richard E. Baldwin, Rebecca Freeman, and Angelos Theodorakopoulos
4. February 2024, Council on Foreign Relations: [Why U.S. Imports From Mexico Surpassed Those From China](#); Brad W. Setser
5. February 2024, National Bureau of Economic Research: [Tariff Rate Uncertainty and the Structure of Supply Chains](#); Sebastian Heise, Justin R. Pierce, Georg Schaur & Peter K. Schott
6. February 2024, Peterson Institute for International Economics: [Would Trump's threats of new tariffs survive legal challenge in the Supreme Court?](#); Alan Wm. Wolff
7. February 2024, Competitive Enterprise Institute: [Trump proposes 60 percent China tariff](#); Ryan Young
8. January 2024, Tax Foundation: [Tariff of Abominations Redux: Trump Proposes 60% Tariff on Chinese Goods](#); Erica York
9. January 2024, Consumer Technology Association: [Consumer Technology Association Releases New Report Showing That Revoking PNTR for China = Massive Inflation for American Consumers](#); Ed Frank
10. January 2024, National Bureau of Economic Research: [Help for the Heartland? The Employment and Electoral Effects of the Trump Tariffs in the United States](#); David Autor, Anne Beck, David Dorn, Gordon H. Hanson
11. November 2023, The American Action Forum: [Trump's Proposed 10 Percent Tariff: Considering the Impact](#); Tom Lee
12. October 2023, Consumer Technology Association: [Landmark Study Shows Bringing All Tech Manufacturing Back to U.S. Not Feasible](#); Ed Frank
13. September 2023, Brookings Institution: [BPEA Conference Draft: Hidden Exposure: Measuring U.S. Supply Chain Reliance](#); Richard Baldwin, Rebecca Freeman, Angelos Theodorakopoulos
14. September 2023, The Committee for a Responsible Federal Budget: [Donald Trump's Universal Baseline Tariff](#)
15. August 2023, Harvard Business School: [Global Supply Chains: The Looming 'Great Reallocation'](#); Laura Alfaro & Davin Chor
16. August 2023, Harvard Kennedy School: [Global Supply Chains: The Looming "Great Reallocation" \[PowerPoint Slides\]](#); Laura Alfaro & Davin Chor
17. July 2023, The Tax Foundation: [Tracking the Economic Impact of U.S. Tariffs and Retaliatory Actions](#); Erica York
18. April 2023, Council on Foreign Relations: [The Cost of Trump's Trade War with China Is Still Adding Up](#); Gabriel Cabanas, Natalia Feinberg and Inu Manak

19. March, 2023, U.S. International Trade Commission: [Economic Impact of Section 232 and 301 Tariffs on U.S. Industries](#); Peter Herman, Kelsi Van Veen
20. July 2022, Consumer Technology Association: [Analysis of Section 301 Tariff Impacts on Imports of Consumer Technology Products](#)
21. May 2022, American Action Forum: [The Total Cost of U.S. Tariffs](#); Tom Lee & Jacqueline Varas.
22. April 2022, Tax Foundation: [Tracking the Economic Impact of U.S. Tariffs and Retaliatory Actions](#); Erica York.
23. March 2022, Peterson Institute of International Economics: [For Inflation Relief, the United States Should Look to Trade Liberalization](#); Gary Clyde Hufbauer, Megan Hogan, and Yilin Wang.
24. January 2022, USDA Economic Research Service: [The Economic Impacts of Retaliatory Tariffs on U.S. Agriculture](#); Stephen Morgan, Shawn Arita, Jayson Beckman, Saquib Ahsan, Dylan Russell, Philip Jarrell, and Bart Kenner.
25. December 2021, Tax Foundation: [Who Really Pays the Tariffs? U.S. Firms and Consumers, Through Higher Prices](#); Alex Durante & Alex Muresianu
26. October 2021, National Bureau of Economic Research: [ILLUMINATING THE EFFECTS OF THE US-CHINA TARIFF WAR ON CHINA'S ECONOMY](#); Davin Chor and Bingjing Li.
27. May 2021, Moody's Investor Service Report, as reported in [U.S. companies are bearing the brunt of Trump's China tariffs, says Moody's](#), CNBC, Yen Nee Lee.
28. January 2021, IHS Markit: [Did the US section 301 tariffs work?](#); Yacine Rouimi.

**COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES**

**THE 2024 TRADE POLICY AGENDA**

**APRIL 16, 2024**

**STATEMENT OF THE DISTILLED SPIRITS COUNCIL  
OF THE UNITED STATES, INC.**

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

**“The 2024 Trade Policy Agenda”**

**April 16, 2024**

The following statement is submitted on behalf of the Distilled Spirits Council of the United States, Inc. (“DISCUS”) for inclusion in the printed record of the House Ways and Means Committee hearing on the Administration’s 2024 trade policy agenda. DISCUS is a national trade association representing U.S. producers, marketers, and exporters of distilled spirits products. Its member companies represent approximately 75% of total U.S. distilled spirits exports.

**Introduction**

DISCUS and its member companies have strongly supported commitments by the U.S. to liberalize trade through a variety of fora and mechanisms. International trade is essential to the U.S. distilled spirits sector and is instrumental to its long-term viability. Our small, medium and large companies, their employees and their suppliers have benefitted from the successful efforts to open markets for U.S. spirits exports. Distilled spirits are high value-added agricultural products, which utilize a range of grains, fruits, and other agricultural raw materials in the production process. In fact, over the past decade, grain use in U.S. production of whiskey, brandy, rum, gin, and vodka increased by 121% to more than 2.8 billion pounds in 2023.

2023 was a banner year for American spirits exports. Total U.S. spirits exports reached a record \$2.2 billion, up 8% compared to last year. American Whiskeys, which accounted for 63% of all U.S. spirits exports, increased by 9% over 2022 to reach a record \$1.4 billion. U.S. distilled spirits were exported to more than 130 countries in 2023 from small, medium, and large distillers located in 44 states. Today, there are more than 2,600 U.S. craft distillers, up from less than 100 in 2005. The distilled spirits sector directly and indirectly supports 1.7 million good-paying jobs in every state, from the production, import, wholesale and retail tiers.

Over the past two decades, global U.S. spirits exports rose nearly 280% (from \$587 million to more than \$2.2 billion between 2003-2023). Long-term growth for U.S. spirits exports is due, in large part, to the range of trade agreements that eliminated import tariffs, opened many foreign markets for distilled spirits, and provided tools and mechanisms to address discriminatory tariff and non-tariff barriers.

U.S. spirits exports tumbled between 2018 and 2021, due largely to retaliatory tariffs on American spirits imposed by the European Union (EU) and United Kingdom (UK), which have since been suspended or removed. In 2023, exports have rebounded over pre-tariff levels. Our top priority is to secure the final removal of tariffs on U.S., EU, and UK distilled spirits and a return to permanent zero-for-zero tariffs.

## I. U.S. Spirits Industry Has Benefitted from Market Opening Trade Agreements

DISCUS and its members have strongly supported comprehensive trade agreements that eliminated tariffs and included other provisions to protect U.S. spirits products, such as recognition for distinctive American Whiskeys (e.g., Bourbon, Tennessee Whiskey, American Rye Whiskey, and American Single Malt Whiskey), and best practices for the labeling and certification of distilled spirits products. These have been vital to opening new markets and keeping them open for U.S. spirits exports.

### a. Tariff Elimination

Exports to our trading partners, which have agreed either through multilateral, regional, or bilateral trade agreements, to eliminate tariffs on U.S. spirits, reached \$1.8 billion in 2023, accounting for 83% of global U.S. spirits exports. In 2023, U.S. distilled spirits exports to bilateral and regional free trade agreement (FTA) partners totaled \$726 million, accounting for nearly 1/3 of global U.S. spirits exports. In fact, between 2000 and 2023, exports to U.S. FTA partners have grown faster (539% increase) than U.S. distilled spirits exports to non-FTA partners (400% increase).

In contrast, U.S. spirits exports to high-tariff countries, such as India (150% tariff), Vietnam (45% tariff) and Brazil (20% tariff on all imported distilled spirits, except bulk whiskey, which is 12% tariff), reached \$69.2 million, accounting for only 3% of total U.S. spirits exports in 2023. Clearly, the elimination of tariffs leads to an increase in U.S. spirits exports.

In particular, the tariff elimination commitments regarding distilled spirits products secured during the Uruguay Round, which led to the development of the World Trade Organization (WTO) in 1994, and subsequent negotiations under the U.S. government's "zero-for-zero" initiative have paved the way for a significant increase in U.S. distilled spirits exports. At the outset, participation in the spirits "zero-for-zero" was limited to the U.S. and the EU. However, other countries, including Japan, Canada, Macedonia, Taiwan and Ukraine have since also agreed to eliminate tariffs on spirits imports on a Most Favoured Nation (MFN) basis.

Since the "zero-for-zero" agreement came into effect in 1997, the value of U.S. spirits exports to the EU (current membership) increased by 413%, from \$171 million to nearly \$880 million in 2023. The "zero-for-zero" agreement continues to produce benefits for U.S. spirits exports. Specifically, as countries have joined the EU, they are required to adopt the EU's common external tariff, which, in the case of distilled spirits is zero for practically all spirits. For example, exports to Latvia, which is currently the 21<sup>st</sup> largest destination for U.S. distilled spirits, increased by almost 879%, from \$1.8 million in 2004 when it joined the EU, to \$17 million in 2023. Similarly, exports to Poland, which is the 14<sup>th</sup> largest market, increased by nearly 3,887%, from \$1.1 million in 2004 when it joined the European Union to \$47 million in 2023. Prior to Poland joining the EU, U.S. spirits faced tariffs ranging from 75% to 105% *ad valorem*.

In the case of Japan, U.S. distilled exports grew from \$68 million in 2002, when the tariff was eliminated, to \$122 million in 2023, representing a growth rate of 79%.

*b. Distinctive Product Recognition for Bourbon, Tennessee Whiskey, and American Rye Whiskey*

Bourbon and Tennessee Whiskey, the largest categories of American spirits exports, are recognized by 45 countries as distinctive products of the U.S. Such recognition ensures that products sold as Bourbon and Tennessee Whiskey are produced in the U.S. in accordance with U.S. laws and regulations. Distinctive product recognition for Bourbon and Tennessee Whiskey has been secured in free trade agreement negotiations with Canada, Mexico, Colombia, Peru, Chile, Australia, Panama, Korea, Dominican Republic, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. In addition, distinctive product recognition for Bourbon and Tennessee Whiskey has been secured in Brazil, Japan, the EU, the UK, and Bolivia through bilateral agreements. With regard to the EU, any country that joins must automatically afford this protection to Bourbon and Tennessee Whiskey.

The USMCA includes provisions to preserve recognition for Bourbon and Tennessee Whiskey in Canada and Mexico and secures Mexico's agreement to take steps to provide distinctive product recognition for American Rye Whiskey, a fast-growing category of American Whiskey.

*c. Best Practices for the Labeling and Certification of Distilled Spirits Products*

For the first time in a U.S. FTA, the USMCA establishes new best practices regarding the labeling and certification of beverage alcohol products. These important protections will facilitate trade in distilled spirits and reduce potential barriers to trade by providing greater certainty, transparency and efficiency for distilled spirits producers, importers and exporters among the three countries. These commitments ensure that the USMCA is a model 21st-century trade agreement for the distilled spirits industry.

**II. American Spirits Exports Tumbled Due to Retaliatory Tariffs**

As noted above, trade agreements and the elimination of tariffs on U.S. spirits exports have directly increased U.S. spirits exports.

However, in mid-2018, the EU, UK, Canada, Mexico, Turkey, and China implemented retaliatory tariffs on U.S. spirits in trade disputes unrelated to the spirits sector. The retaliatory tariffs curtailed overall U.S. spirits export growth between 2018 and 2021.

Export contracts were canceled, and distribution negotiations were postponed for U.S. distillers of all sizes. Many also put expansion and investment plans on hold. The impact was felt across the U.S. throughout the supply chain, from farmers to suppliers.

The only retaliatory tariffs on U.S. distilled spirits currently imposed are those applied by China and Turkey. The EU's retaliatory tariffs on U.S. distilled spirits products are suspended as part of trade disputes over steel-aluminum and large civil aircraft subsidies. The U.S., Canada, and Mexico reached an agreement in the steel and aluminum dispute in connection to the USMCA negotiation that resulted in the repeal of retaliatory tariffs on American Whiskey exports to Canada and Mexico.

Since the EU first agreed to suspend its 25% retaliatory tariff on American Whiskeys in 2022, exports to the EU surged by over 60%, climbing from \$439 million in 2021 to \$705 million in 2023.

In December 2023, the EU announced that it would continue the suspension of tariffs on American Whiskeys in the steel and aluminum dispute for 15-months, until March 31, 2025. If no agreement is reached, the EU will reimpose its tariff on American Whiskeys at 50%, up from the previously imposed 25%. The UK permanently removed its retaliatory tariff on American Whiskeys in the steel and aluminum dispute in June 2022.

Tariffs on U.S., EU, and UK distilled spirits in the large civil aircraft disputes are suspended until June 2026. If agreements are not reached, the tariffs will be reimposed. Our top priority is to secure the permanent removal of U.S and EU tariffs on distilled spirits and a permanent return to zero-for-zero tariffs with the EU and UK.

### **III. U.S. Tariffs on Imported EU and UK Spirits Impact U.S. Jobs**

While U.S. tariffs imposed on EU and UK spirits may appear only to harm EU and UK companies, this is simply not the case. As a result of the important market-opening agreements highlighted above, the U.S., EU, and UK spirits sectors are deeply integrated with companies owning a range of U.S., EU, and UK spirits. The same is true for EU and UK tariffs on American spirits. Many companies have made considerable investments in the U.S., EU, and UK to successfully create complementary product portfolios with brands from the U.S., EU, and UK to satisfy consumer demands. Thus, tariffs on imported spirits compounds the negative impact on companies negatively impacted by the EU's retaliatory tariff on American spirits. Since retaliatory tariffs on imports are, in effect, taxes, imposing tariffs on EU beverage alcohol imports will have the unintended consequence of harming U.S. consumers of these products.

Trade associations representing the spirits sectors in the EU and UK are aligned with DISCUS in opposition to tariffs on distilled spirits. They have and continue to urge their respective governments to permanently remove tariffs on American spirits imports.

### **IV. DISCUS Strongly Supports New Comprehensive Market Opening Trade Agreements**

DISCUS and its members have strongly supported comprehensive multilateral, regional, and bilateral market-opening agreements, as these are vital to opening new markets and keeping them open for U.S. spirits exports. Efforts by the U.S. government to secure the elimination of tariffs on U.S. spirits have contributed to the significant growth in exports. As noted above, U.S. spirits exports to our trading partners, which have agreed to eliminate tariffs through multilateral, regional, or bilateral trade agreements, reached \$1.8 billion in 2023, accounting for 83% of global U.S. spirits exports.

DISCUS supports new comprehensive bilateral/regional market-opening agreements, which we believe will contribute significantly to the continued growth of our sector. DISCUS supported the Congressional passage of the U.S.-Mexico-Canada Agreement (USMCA) implementing bill and continues to urge the administration to pursue new comprehensive trade negotiations to secure the reduction of tariffs for U.S. spirits exports, distinctive product recognition for Bourbon, Tennessee

Whiskey, and American Rye Whiskey, and best practices for the labeling and certification of distilled spirits products.

DISCUS also strongly supports the WTO and its ongoing efforts to further liberalize global trade and strengthen the rules-based multilateral trading system. Unquestionably, the package of agreements concluded in the Uruguay Round, which led to the establishment of the WTO in 1994, has significantly benefitted the U.S. distilled spirits sector by reducing or eliminating import tariffs and establishing rules for transparency, non-discrimination, and equal access. Since the Uruguay Round agreements entered into force in 1997, global U.S. distilled spirits exports have increased by almost 300% through 2023.

#### **V. Other Trade Barriers Negatively Impacting American Spirits Exports**

Several priority target markets apply discriminatory spirits taxes in favor of domestically-produced spirits and maintain high tariffs and/or an array of non-tariff barriers to U.S. spirits, which inhibit the sector's long-term growth prospects. For example, India maintains an excessive tariff on imports of bottled spirits of 150% ad valorem, Brazil maintains a tariff of 12% ad valorem for bulk whiskey and 20% ad valorem for other distilled spirit products, and Vietnam imposes a 45% ad valorem tariff. In addition, Thailand, Peru, Brazil, and the EU continue to apply discriminatory spirits taxes in favor of domestically produced spirits, which distort the market in violation of the national treatment provisions of GATT Article III, paragraph 2. Furthermore, labeling requirements, packaging requirements, and product standards under consideration in Thailand, Ireland, South Africa, the EU, Brazil and elsewhere, which are inconsistent with standard international practices, could impose unnecessary barriers to entry for U.S. spirits exporters.

These, and many other tariff and non-tariff market access barriers impacting U.S. spirits exports, are discussed in length in DISCUS' October 2023 submission regarding foreign trade barriers to U.S. exports to the Office of the United States Trade Representative, which can be viewed at the following link: <https://www.distilledspirits.org/wp-content/uploads/2023/10/DISCUS-2024-National-Trade-Estimate-Report-Submission-Final.pdf>

#### **Conclusion**

In summary, the U.S. distilled spirits industry has benefitted significantly from the comprehensive multilateral, regional, and bilateral trade agreements the U.S. has concluded. However, the imposition of retaliatory tariffs had a significant negative impact on the sector. For these reasons, our top priority is to request that Congress continue to urge the Administration to engage with their EU and UK counterparts to secure the permanent removal of U.S., EU, and UK tariffs on distilled spirits. Our EU and UK counterparts share our strong opposition to the application of any tariffs on distilled spirits and are sharing similar concerns with their respective governments.

In addition, we urge the Administration to pursue new market-opening and comprehensive trade agreements for U.S. spirits exports to secure the reduction of tariffs on these exports, distinctive product recognition for Bourbon, Tennessee Whiskey, American Rye Whiskey, American Single Malt Whiskey, and best practices for the labeling and certification of distilled spirits products.

Thank you again for the opportunity to provide the U.S. spirits sector's views. Please do not hesitate to contact us if we can provide any additional information.

Thank you very much for your consideration.

Written Statement of:

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April 10, 2024

The Honorable Jason Smith  
 Chairman  
 Committee on Ways and Means  
 U.S. House of Representatives  
 Washington, DC 20515

The Honorable Richard Neal  
 Ranking Member  
 Committee on Ways and Means  
 U.S. House of Representatives  
 Washington, DC 20515

Dear Chairman Smith and Ranking Member Neal:

We, the Coalition for Economic Partnerships in the Americas (CEPA), a group of major American companies and manufacturers dedicated to promoting regional trade and job growth, write today to underscore the importance of expanding trade and investment throughout the Western Hemisphere. Through this lens, we are particularly focused on expanding apparel sourcing from partner countries in the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR).

The CAFTA-DR region offers enormous potential due to its proximity to the U.S. market. However, some in the U.S. apparel industry have faced challenges in meeting new investment goals and commitments in the region, and recent allegations of transshipment of goods made with forced labor through CAFTA-DR perpetuate these challenges by driving a risky narrative that trade with the region is tainted.

U.S. apparel imports face regressively high tariffs, so the duty-free benefits that free trade agreements like CAFTA-DR offer provide additional incentives to source competitive apparel for U.S. consumers. These duty-free benefits are key to unlocking investment in the region. Unfortunately, CAFTA-DR is not living up to its potential as apparel imports from the region claiming duty-free benefits have declined since the agreement's rolling entry into force.<sup>1</sup>

Increasing utilization of CAFTA-DR for apparel can be done without reopening the agreement and will facilitate trade and investment in the region. This also aligns well with initiatives such as the Vice President's Call to Action and the Partnership for Central America,

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<sup>1</sup> Dr. Sheng Lu, *U.S. Apparel Sourcing from CAFTA-DR and U.S. Textile Exports: Myth vs. Reality*, Coalition for Economic Partnership in the Americas, (March 2023), <https://img1.wsimg.com/blobby/go/22dec558-ac80-4801-b2f6-9c5d799b644c/downloads/CAFTA-DR%20sourcing%20and%20US%20textile%20exports%2003.30.pdf>.

supporting shared policy goals to strengthen and diversify supply chains, boost economic development, empower women in the region, and stem the flow of migration.<sup>2</sup>

We want to build on this momentum and capitalize on industry commitments to achieve those goals, but several long-term challenges have proven an obstacle to doing so. CAFTA-DR's built-in short supply mechanism allows sourcing flexibilities for yarns and fabrics that are not made in the U.S. or partner countries so that imports can still unlock duty-free treatment. But this process has been costly, burdensome, and inefficient over the years. Companies seeking to expand their investments have been unable to source the inputs that would allow them to manufacture high-demand products like technical apparel and fashion items in the region. Without these additional materials, companies are restricted to producing basic apparel in the region, which imposes a ceiling on the region's growth potential.

Compounding this long-term challenge is a growing narrative that CAFTA-DR countries are being used to transship products connected to forced labor. Lawmakers have amplified these allegations in a series of recent letters to the Biden Administration. The U.S. apparel and retail industry champions robust trade compliance and is on the front lines of ensuring our supply chains are free of forced labor. Therefore, we have concerns about repeated claims of non-compliance being made without supporting evidence and data, which may harm the very growth the U.S. government and industry are trying to promote by creating a chilling effect on new investment and sourcing in the region.

In response to these allegations, the Department of Homeland Security (DHS) has developed a comprehensive action plan with the aim of expanding enforcement of these illegal customs activities that are purportedly harming the American textiles industry.<sup>3</sup> The U.S. apparel industry, which boasts many designated as "trusted traders" by U.S. Customs and Border Protection, stands ready to engage with and provide input to DHS as it rolls out these enhanced enforcement activities. The U.S. apparel industry benefits from a level playing field and is an important partner in ensuring bad actors are unable to profit from illegal customs practices. We encourage you to hold DHS to a commitment to work with all stakeholders in support of a risk-based and data-driven action plan that is effective in combating illicit commerce while still facilitating legitimate trade.

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<sup>2</sup> FACT SHEET: Vice President Harris Launches a Call to Action to the Private Sector to Deepen Investment in the Northern Triangle, The White House, (May 27, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/05/27/fact-sheet-vice-president-harris-launches-a-call-to-action-to-the-private-sector-to-deepen-investment-in-the-northern-triangle/>; and Partnership for Central America, <https://www.centampartnership.org/>.

<sup>3</sup> New DHS Textile Enforcement Actions Crack Down on Illicit Trade to Support 500,000 American Textile Jobs, U.S. Department of Homeland Security, (April 5, 2024), <https://www.dhs.gov/news/2024/04/05/new-dhs-textile-enforcement-actions-crack-down-illicit-trade-support-500000>.

The textiles and apparel industries comprise unique, complex supply chains that foster growth and support jobs both in the region and here at home. We appreciate congressional engagement in supporting strong trade partnerships throughout the hemisphere, and we look forward to continuing to work with lawmakers to shape policies in a way that grows economic opportunities for the whole supply chain.

Sincerely,



Beth Hughes  
Vice President, Trade and Customs Policy  
American Apparel & Footwear Association  
On behalf of CEPA

cc: Members of the U.S. House Committee on Ways and Means

**Comments for the Record**  
**United States House of Representatives**  
**Committee on Ways and Means**  
**Hearing on the Biden Administration's 2024 Trade Policy Agenda**  
**with United States Trade Representative Katherine Tai**  
**Tuesday, April 16, 2024 at 10:00 AM.**

Michael G. Bindner  
The Center for Fiscal Equity

Chairman Smith and Ranking Member Neal, thank you for the opportunity to submit comments to the committee.

As Russian aggression in Ukraine continues, it must be a key component of our trade policy, not just including the obvious connection to our Foreign Military Sales program, which is being used to aid Ukraine directly and to backfill contributions by our NATO allies.

Europe's energy independence is also a related issue, which means that replacing Russian energy with other sources is a relevant issue - and a reason to consider alternatives like increased support of nuclear power here and abroad (development of small modular reactors) and its use to replace gasoline with electric vehicles - either battery powered or tethered electric cars and trucks (on separate roadways).

These changes are necessary, regardless of Ukraine, due to global climate change - particularly regarding the warming of the Barents Sea and its impact on the continued warming of the Northern Hemisphere. In short, the thermostat is broken and only drastic change, like replacing gasoline in urban areas, is required.

Replacing Ukrainian and Russian grain in the developing world is another priority - however such replacement should not rest with the United States, at least not in the long term. Instead, developing nations need help in developing nations to feed themselves. For too long, agricultural aid and trade have been predatory, designed to destroy local agriculture for the sake of our own. We need to ship know-how, not grain, whenever possible, although such know-how should respect local land ownership practices rather than imposing the Anglo-American system of ownership fee-simple arising as a grant from the British monarchy or state government.

Our comments from last year touch on still lingering issues of trade with China and the possible resurrection of something like the Trans-Pacific Partnership, immigration as a trade policy issue, consumption taxes and the issue of Tier 2 OECD corporate tax policy reforms. We have included them as an attachment, along with our usual attachments on taxation and trade policy, consumption taxes and an asset value added tax (which will include a need for a negotiated rate).

Some income taxation of the very wealthy as a way to reduce the debt is appropriate, as are the use of an income tax system (or subtraction value-added tax) to fund adequate tax support for families. Taxation for other domestic government, including contributions from employers to social insurance, should be replaced with a credit invoice value added tax or some sort of fair tax. To not do so runs counter to the spirit of the constitutional provision banning export taxes.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

**Attachment: The President's 2023 Trade Policy Agenda, March 23, 2023**

(Last year at this time) Chinese President Xi met with Vladimir Putin to strengthen economic ties, although any direct help with the Russian aggression in Ukraine (not a regional conflict) was not disclosed. If such aid is found to exist, it is news to no one that this would be very bad for our trade relationship with China.

Barring such stupidity, an agreement between Russia and China on energy and resources is geographically inevitable, although its instigation by authoritarian regimes is problematic for anyone outside the ruling oligarchy on one side and the Communist Party on the other. Revolution in both countries is inevitable and may occur sooner than later - which would be good news for the Mongols, the Uyghurs and the Ukrainians (and many others).

The continuing conflict in Ukraine is not good for the Belt Road initiative. If China acts in their own interests in this matter, rather than in the interests of the strongmen, development will be good for all.

Until sanity returns, a rapprochement between Russia and China is all the more reason to dust off plans for the Trans Pacific Partnership (or whatever Ambassador Tai wishes to call it). We made our feelings about extra-legal provisions of trade treaties in regard to local law last year - and the years before. Global capitalism is bad enough. Global authoritarian capitalism is worse. Using right to work laws to leave American workers naked in the face of such power (including migrants to the United States) is a practice that must be ended if we wish to claim moral high ground in dealing with the Chinese.

The crisis on the border continues. The President is finding that dealing with it is not so easy as evicting Stephen Miller from the West Wing, which is why immigration reform must be part of the trade policy agenda. Workers who do not have documentation problems cannot be easily exploited - especially if they are able to unionize. This will also help level the playing field for American workers.

An analysis of how consumption taxes can improve our trade policy is found in our first attachment, as it was last year. We have updated our tax reform and debt papers, which are also attached.

Congress has recently passed corporate minimum taxes to come into compliance with the OECD's agreement on this subject. The President's budget includes further proposals in this area. I am no fan of corporate income taxation when value added taxes (both GST/Invoice VAT and Subtraction VAT) are available.

Our proposal for an **Asset Value Added Tax** will require international cooperation. Part of trade is moving money around - including financial assets. An asset VAT as a replacement for capital gains taxes and capital returns must go farther than the border. It is too easy to shift to offshore stock exchanges where such taxes do not exist. International agreements on rates and enforcement structures are vital for such a tax to work. The model for negotiating the CMT on a multi-national basis can be used for this effort. Again, please see the third attachment, which has been recently updated.

**Attachment – Taxation and Trade Policy**

Consumption taxes could have a big impact on workers, industry and consumers. Enacting an I-VAT is far superior to a tariff. The more government costs are loaded onto an I-VAT the better.

If the employer portion of Old Age and Survivors Insurance, as well as all of disability and hospital insurance are decoupled from income and credited equally and personal retirement accounts are not used, there is no reason not to load them onto an I-VAT. This tax is zero rated at export and fully burdens imports.

Seen another way, to not put as much taxation into VAT as possible is to enact an unconstitutional export tax. Adopting an I-VAT is superior to its weak sister, the Destination Based Cash Flow Tax that was contemplated for inclusion in the TCJA. It would have run afoul of WTO rules on taxing corporate income. I-VAT, which taxes both labor and profit, does not.

The second tax applicable to trade is a Subtraction VAT or S-VAT. This tax is designed to benefit the families of workers through direct subsidies, such as an enlarged child tax credit, or indirect subsidies used by employers to provide health insurance or tuition reimbursement, even including direct medical care and elementary school tuition. As such, S-VAT cannot be border adjustable. Doing so would take away needed family benefits. As such, it is really part of compensation. While we could run all compensation through the public sector.

The S-VAT could have a huge impact on long term trade policy, probably much more than trade treaties, if one of the deductions from the tax is purchase of employer voting stock (in equal dollar amounts for each worker). Over a fairly short period of time, much of American industry, if not employee-owned outright (and there are other policies to accelerate this, like ESOP conversion) will give workers enough of a share to greatly impact wages, management hiring and compensation and dealing with overseas subsidiaries and the supply chain – as well as impacting certain legal provisions that limit the fiduciary impact of management decision to improving short-term profitability (at least that is the excuse managers give for not privileging job retention).

Employee-owners will find it in their own interest to give their overseas subsidiaries and their supply chain's employees the same deal that they get as far as employee-ownership plus an equivalent standard of living. The same pay is not necessary, currency markets will adjust once worker standards of living rise. Attachment Three further discusses employee ownership.

Over time, ownership will change the economies of the nations we trade with, as working in employee-owned companies will become the market preference and force other firms to adopt similar policies (in much the same way that, even without a tax benefit for purchasing stock, employee-owned companies that become more democratic or even more socialistic, will force all other employers to adopt similar measures to compete for the best workers and professionals).

In the long run, trade will no longer be an issue. Internal company dynamics will replace the need for trade agreements as capitalists lose the ability to pit the interest of one nation's workers against the others. This approach is also the most effective way to deal with the advance of robotics. If the workers own the robots, wages are swapped for profits with the profits going where they will enhance consumption without such devices as a guaranteed income.

**Attachment: Consumption (Fair) Taxes, March 24, 2023**

Corporate income taxes as a whole should be abolished and a two stage Fair Tax enacted in its place. We propose channeling a Fair Tax style subsidy through two taxes, a (credit) invoice value added tax (turning the deduction for sales taxes paid into a full credit - which is the essential the difference between a VAT and income tax based collections) and a subtraction value added tax to channel subsidies for health care and the child tax credit through employers rather than the Social Security Administration (as proposed for the Fair Tax).

**Subtraction Value-Added Tax (S-VAT).** Corporate income taxes and collection of business and farm income taxes will be replaced by this tax, which is an employer paid Net Business Receipts Tax. S-VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S-VAT will not be border adjustable.

**Credit Invoice Value-Added Tax (CI-VAT).** Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S-VAT, then they would be funded by the I-VAT to take advantage of border adjustability.

CI-VAT forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. As part of enactment, gross wages will be reduced to take into account the shift to S-VAT and CI-VAT, however net income will be increased by the same percentage as the I-VAT. Inherited assets will be taxed under A-VAT when sold. Any inherited cash, or funds borrowed against the value of shares, will face the CI-VAT when sold or the A-VAT if invested.

CI-VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional I-VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.25% to 13%).

**Carbon Added Tax (C-AT).** A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C-AT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels. This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

**Attachment: Asset Value Added Taxes, June 7, 2022**

There are two debates in tax policy: how we tax salaries and how we tax assets (returns, gains and inheritances). Shoving too much into the Personal Income Tax mainly benefits the wealthy because it subsidizes losses by allowing investors to not pay tax on higher salaries with malice aforethought.

**An Asset Value-Added Tax (A-VAT)** is a replacement for capital gains taxes and the estate tax. It will apply to asset sales, exercised options, inherited and gifted assets and the profits from short sales. Tax payments for option exercises, IPOs, inherited, gifted and donated assets will be marked to market, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed.

As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. This change would be counted as a tax cut, giving investors in public stock who make such sales the same tax benefit as those who sell private stock.

The repeal of corporate profits taxes as part of the creation of a subtraction value added taxes and repeal of capital gains taxes in the United States will lead to their repeal worldwide. If Asset Value Added Taxes are adopted, the rate should be negotiated so that investors who are able do not market shop for the lowest rate. The recent OECD compact on minimum rates is an example of how tax cooperation on capital can work for other types of asset taxation. This tax will end Tax Gap issues owed by high income individuals. The base 20% capital gains tax has been in place for decades. The current 23.8% rate includes the ACA-SM surtax), while the Biden proposal accepted by Senator Sinema is 28.8%. Our proposed Subtraction VAT would eliminate the 3.8% surtax. This would leave a 25% rate in place.

Settling on a bipartisan 22.5% rate (give or take 0.5%) should be bipartisan and carried over from the capital gains tax to the asset VAT. A single rate also stops gaming forms of ownership. Lower rates are not as regressive as they seem. Only the wealthy have capital gains in any significant amount. The de facto rate for everyone else is zero.

With tax subsidies for families shifted to an employer-based subtraction VAT, and creation of an asset VAT, taxes on salaries could be filed by employers without most employees having to file an individual return. It is time to TAX TRANSACTIONS, NOT PEOPLE!

The tax rate on capital gains is seen as unfair because it is lower than the rate for labor. This is technically true, however it is only the richest taxpayers who face a marginal rate problem. For most households, the marginal rate for wages is less than that for capital gains. Higher income workers are, as the saying goes, crying all the way to the bank.

In late 2017, tax rates for corporations and pass-through income were reduced, generally, to capital gains and capital income levels. This is only fair and may or may not be just. The field of battle has narrowed between the parties. The current marginal and capital rates are seeking a center point. It is almost as if the recent tax law was based on negotiations, even as arguments flared publicly. Of course, that would never happen in Washington. Never, ever.

Compromise on rates makes compromise on form possible. If the Affordable Care Act non-wage tax provisions are repealed, a rate of 26% is a good stopping point for pass-through, corporate, capital gains and capital income.

A single rate also makes conversion from self-reporting to automatic collection through an asset value added tax levied at point of sale or distribution possible. This would be both just and fair, although absolute fairness is absolute unfairness to tax lawyers because there would be little room to argue about what is due and when.

**Contact Sheet**

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**Committee on Ways and Means**

**Hearing on the Biden Administration's 2024 Trade Policy Agenda**  
**with United States Trade Representative Katherine Tai**  
**Tuesday, April 16, 2024 at 10:00 AM**

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears:

This testimony is not submitted on behalf of any client, person or organization other than the Center itself, which is so far unfunded by any donations.



Engine Advocacy  
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April 15, 2024

House Committee on Ways and Means  
Longworth House Office Bldg. Rm. 1139  
Washington, D.C. 20515

*VIA EMAIL*

Statement of Engine Advocacy re: Hearing on the Biden Administration's 2024 Trade Policy  
Agenda with United States Trade Representative Katherine Tai, April 16, 2024

Dear Chairman Smith, Ranking Member Neal, and Honorable Members of the House Committee on Ways and Means:

We write to urge you to use the upcoming April 16th hearing to probe recent actions by the Office of the U.S. Trade Representative, particularly with regard to digital trade. Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Lowering barriers to trade unlocks markets for U.S. startups to expand, compete, and find success and is a vital part of promoting domestic technology entrepreneurship. Recent backsliding on longstanding digital trade priorities threatens to raise barriers to global success for U.S. startups, and it must be corrected.

Several recent actions by USTR have been alarming for startups that rely on smart digital trade policy to keep barriers low and help them reach markets around the world. In multilateral talks at the World Trade Organization last October, the U.S. Trade Representative retreated from important and long-held negotiating positions on source code protection, antidiscrimination, and free data flows.<sup>1</sup> Shortly thereafter, the trade pillar of the Indo-Pacific Economic Framework was seemingly jettisoned, in part due to the emerging upheaval on digital trade.<sup>2</sup> Last month, in the National Trade

<sup>1</sup> See, e.g., David Lawder, *US drops digital trade demands at WTO to allow room for stronger tech regulation*, Reuters (Oct. 25, 2023), <https://www.reuters.com/world/us/us-drops-digital-trade-demands-wto-allow-room-stronger-tech-regulation-2023-10-25/>.

<sup>2</sup> See, e.g., David Lawder, *U.S. suspends Indo-Pacific talks on key aspects of digital trade -lawmakers*, Reuters (Nov. 8, 2023), <https://www.reuters.com/business/finance/us-suspends-indo-pacific-talks-key-aspects-digital-trade-lawmakers-2023-11-08/>.

Estimate, which is supposed to be an accounting of trade barriers faced by U.S. companies, USTR markedly dialed back the number of digital trade barriers they intend to address, especially around data localization.<sup>3</sup>

Barriers encountered by startups dictate the markets where they can reasonably enter, create additional costs that detract from investments in R&D and job creation, and hamper U.S. economic growth by limiting the flow of goods and services across borders. Across administrations, the U.S. has pursued a strong, forward-looking digital trade agenda to address these digital trade barriers like data localization. These measures placing limitations on how and when data can be transferred across borders have particularly negative impacts upon startups. Startup founders have described these restrictions as “very costly,” leading them to “lose prospects and customers,” and forcing them into decisions about what services they can offer.<sup>4</sup>

U.S. startups need strong digital trade policy implemented by policymakers that will fight for their interests on the global stage. To that end, a coalition of over 40 startups, investors, and support organizations penned an open letter highlighting what U.S. trade policymakers must do to support them. That letter is attached below, but in particular, the startups called for policies that:

- Enable cross-border data flows and oppose local storage mandates;
- Foster innovation and regulatory consistency;
- Avoid technology-specific levies and prohibit duties on digital transmissions; and
- Streamline trading processes and support access to resources and digital tools.

Many of the policies needed to support startups are those that the U.S. Trade Representative is actively backing away from. We urge you and your colleagues to examine the recent moves of Ambassador Tai’s agency and to implore her to change course. It is imperative that the U.S. pursues a strong digital trade policy agenda that ensures U.S. startups can thrive and remain global leaders in innovation.

Sincerely,  
Engine

Engine Advocacy  
700 Pennsylvania Ave. SE  
Washington, D.C. 20003  
policy@engine.is

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<sup>3</sup> See, e.g., Ari Hawkins & Doug Palmer, *USTR defends trade report amid industry rebuke*, Politico (Apr. 1, 2024), <https://www.politico.com/newsletters/weekly-trade/2024/04/01/ustr-defends-trade-report-amid-industry-rebuke-00149889>.

<sup>4</sup> See *Letter from Engine to Ambassador Katherine Tai*, (Oct. 30, 2023), [https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/653ab38280bab20aba47a209/1698345894992/S/startups\\_letter+to+USTR.pdf](https://static1.squarespace.com/static/571681753c44d835a440c8b5/t/653ab38280bab20aba47a209/1698345894992/S/startups_letter+to+USTR.pdf).

*Appendix: Open Letter from Coalition of Startups:*

February 7, 2024

To U.S. Trade Policymakers:

We are leading members of the U.S. startup ecosystem—entrepreneurs, startup founders, incubators, investors, accelerators, and support organizations—that serve customers and clients across the country and around the globe. Sound digital trade policy is critical to startups' international competitiveness, and we write to encourage U.S. trade policymakers to aggressively pursue policies that lower barriers to trade and enable startup success.

U.S. startups are at the fore of global innovation and domestic job creation, largely thanks to the Internet, digitization of world economies, and forward-looking digital trade policies that have enabled startups to reach markets beyond U.S. borders. Still, U.S. startups encounter myriad barriers as they grow and scale internationally. Those barriers dictate the markets where startups can reasonably enter and compete, create additional costs that could instead fuel R&D and job creation, and hamper U.S. economic growth by limiting the flow of goods and services across borders.

Startups need smart digital trade policies that promote an open and global Internet to lower and keep low barriers to trade. In 2020, Congress overwhelmingly approved the U.S.-Mexico-Canada Agreement, revealing a broad bipartisan consensus on the forward-looking digital trade provisions included in the deal. U.S. digital trade policy should build on those provisions and other longstanding U.S. trade policies to support the success of U.S. startups looking to expand into foreign markets and engage customers abroad by embodying these principles:

**Enable cross-border data flows and oppose local storage mandates.**

The Internet is inherently borderless and should allow startups to reach foreign markets with little additional investment. Conversely, policies that restrict where data can be stored or how and when data can be transferred across borders erect barriers to trade and increase costs that startups with limited resources have difficulty overcoming, especially compared to their larger rivals.

**Foster innovation and regulatory consistency.**

Different rules about the same issue across jurisdictions create costs and heighten barriers for startups. Regulations adopted in other jurisdictions—including around data privacy, intermediary liability, emerging technologies, and more—can negatively impact startups, especially when they are discriminatory, apply extraterritorially, or require startups to

significantly alter their products, undermine security measures, or compromise proprietary technology.

**Avoid technology-specific levies and prohibit duties on digital transmissions.**

Digital services taxes increase costs for startups regardless of who the taxes are initially levied upon, putting startups at a disadvantage in jurisdictions with them. And the moratorium on imposing customs duties on electronic transmissions has shaped the market, allowed digital trade to flourish, and must be permanently extended.

**Streamline trading processes and support access to resources and digital tools.**

Trade facilitation and capacity building is critical to lowering costs and burdens while opening opportunities for startups. Federal and state governments can play a critical role in helping more startups reach markets abroad through grants, workshops, access to digital services, and other resources.

Trade policy impacts U.S. startups' ability to break into new markets, create domestic jobs, earn investment, and scale their ventures. We encourage you to pursue strong digital trade provisions that open opportunities and defend the ability of U.S. startups to provide their goods and services to customers around the globe.

Sincerely,

IHuddle Newark, NJ	ACT   The App Association Washington, DC
Allied for Startups San Francisco, CA	ArchAngels Washington, DC
Arcascope Arlington, VA	Black Women Talk Tech New York, NY
CAPTVR3D Clark, MO	Carefully Brooklyn, NY
Center for American Entrepreneurship Great Falls, VA	Colorado Startups Boulder, CO
Connected Commerce Council Washington, DC	Deltacard Corp Orlando, FL
Engine Washington, DC	Employable, Inc. Tysons, VA

Get Write to Business LLC Belton, TX	Global Innovation Forum Washington, DC
Hacom LLC Santa Ana, CA	hobbyDB Superior, CO
KCRise Fund Kansas City, MO	Ki-Zen Power Systems Portsmouth, VA
Libib Covina, CA	Make Startups Augusta, GA
M1PR, Inc. Roswell, GA	MetaProp New York, NY
PIE Portland, OR	PILOT Inc. New York, NY
pollen.media Austin, TX	Productions.com Atlanta, GA
Pruuvn Inc Atlanta, GA	Retail Aware Omaha, NE
RevUp Capital Providence, RI	Shatterbox Tulsa, OK
Small Business & Entrepreneurship Council Washington, DC	SmarTwin AI New York, NY
TechUnited:NJ Jersey City, NJ	Themis Strategic Partners, LLC Chicago, IL
TheraTec, Inc Horace, ND	TMSOFT Tavernier, FL
Tostie Productions LLC San Diego, CA	Vennitive New York, NY
Voatz Boston, MA	Warmilu Ann Arbor, MI

Response to House Ways & Means Committee's "The Biden Administration's 2024 Trade Policy Agenda with United States Trade Representative Katherine Tai"

## CCIA Statement for the Record

The Computer & Communications Industry Association (CCIA)<sup>1</sup> appreciates the opportunity to respond to the House Ways & Means Committee's April 16, 2024, hearing regarding the Biden Administration's trade policy featuring U.S. Trade Representative (USTR) Ambassador Katherine Tai.

Digital trade is crucial to U.S. economic and global security interests. Exports of digitally-enabled services generated \$626 billion in 2022, which helped to achieve a \$256 billion surplus in the sector.<sup>2</sup> Digitally-enabled services are a critical piece of the overall strength of the United States in the services sector, reflected by the fact that 70% of U.S. services exports were digitally-enabled services in 2022.<sup>3</sup> The digital economy writ large generated \$2.6 trillion worth of value added—which represented 10.0% of Total U.S. GDP—in 2022, which supported 8.9 million jobs in the United States with \$1.3 trillion provided in annual compensation.<sup>4</sup> The export of digital products and services also promote an interconnected world through a free and open internet, support freedom of expression globally, and strengthen U.S. competitiveness in a critical and emerging industry.

To ensure U.S. digital products and services exporters—and the goods and services exporters that are reliant on digital services to reach foreign consumers—are able to access foreign markets, commitments struck in trade agreements and enforcement of those commitments are critical. USTR has historically performed this function, in line with the directives of the 1974 Trade Act and later iterations of delegated responsibility such as the 2015 Bipartisan Congressional Trade Priorities and Accountability Act. However, as highlighted by a bipartisan group of lawmakers in letters and testimony at these hearings,<sup>5</sup> USTR has reversed course on this longstanding U.S. policy, withdrawing core digital trade proposals from the World Trade Organization (WTO) and the Indo-Pacific Economic Framework and removing references to

<sup>1</sup> CCIA is an international nonprofit membership organization representing companies in the computer, internet, information technology, and telecommunications industries. Together, CCIA's members employ nearly half a million workers and generate approximately a quarter of a trillion dollars in annual revenue. CCIA promotes open markets, open systems, open networks, and full, fair, and open competition in the computer, telecommunications, and internet industries. A complete list of CCIA members is available at <http://www.ccianet.org/members>.

<sup>2</sup> Amir Nasr, "New Data Showcase the Strength of Digital Services Exports to Overall U.S. Economy," Disruptive Competition Project (July 26, 2023) <https://www.project-disco.org/uncategorized/strength-of-digital-services-exports-to-u-s-economy/> ("Disruptive Competition Project New Data Post").

<sup>3</sup> Disruptive Competition Project New Data Post.

<sup>4</sup> "How Big is the Digital Economy," U.S. Department of Commerce (last accessed April 22, 2024) Bureau of Economic Analysis (last accessed April 22, 2024) <https://www.bea.gov/sites/default/files/2023-12/digital-economy-infographic-2022.pdf>.

<sup>5</sup> "What Lawmakers Said at the 2024 USTR Congressional Hearings," Computer & Communications Industry Association (April 23, 2024) <https://ccianet.org/library/what-lawmakers-said-at-the-2024-ustr-congressional-hearings/>.

swaths of digital trade barriers from the Congressionally-mandated National Trade Estimate (NTE) for which USTR is directed to identify significant trade barriers in electronic commerce.<sup>6</sup>

Below, we submit a few targeted responses to remarks and claims raised across both the House Ways & Means and Senate Finance Committees' hearings in relation to arguments for why USTR has opted to deprioritize digital trade by ceasing negotiations in multiple fora and scaling back enforcement of existing rules. Attached to this submission is a March 2023 brief<sup>7</sup> that identifies the myths perpetuated by those who argue that the United States should step back from strong digital trade rules globally—myths that should not dictate U.S. trade policy. The broad theme USTR uses to justify its course reversal is a purported need for “policy space” to ensure that that nascent law or regulation can evolve unhindered by binding trade rules. CCIA has written on this false choice in detail<sup>8</sup> as well as about the harms of deprioritizing digital trade barriers in the NTE report.<sup>9</sup> Below are some of CCIA’s key findings.

*Rules Promoting Cross-Border Data Flows Were Never Primarily About Facilitating Goods Trade*

One of the key reasons cited by Ambassador Tai to defend USTR’s digital trade withdrawal is her view that rules promoting cross-border data flows need updating, as they were formed at a time—roughly 30 years ago—as an adjunct to goods trade. Ambassador Tai stated at the House Ways & Means Committee hearing that the rules the U.S. has previously championed on data flows, data localization, and source code were “rooted in our recognition and our understanding 20 years ago that data is just about facilitating traditional trade transactions.” In the Senate Finance Committee hearing, Ambassador Tai elaborated on this, stating that these provisions are founded on an “understanding” of data as “a facilitator of traditional trade transactions, goods transactions, data as a facilitator of e-commerce, data traveling along with the information that has to be traded in order for goods to move across borders.”

This is simply untrue. The roots of data flow rules extend back to 1994 to the conclusion of the General Agreement on Trade in Services (the GATS) where both for financial services, and services generally, disciplines were introduced to ensure that cross-border services trade would not be impeded through restrictions on data. Thus, both the Financial Services Understanding,<sup>10</sup> and the GATS Annex on Telecommunications,<sup>11</sup> contained specific provisions designed to ensure that governments (or telecommunications suppliers) would not use control

<sup>6</sup> 19 U.S.C. § 2241(a)(1)(A)-(B).

<sup>7</sup> “Myths and Facts about Digital Trade Rules,” Computer & Communications Industry Association (Updated March 21, 2023) <https://ccianet.org/library/myths-and-facts-about-digital-trade-rules/>.

<sup>8</sup> Jonathan McHale, “Friendly Fire: The Saga of Trade Policy at an Impasse,” Disruptive Competition Project (Feb. 23, 2024) <https://www.project-disco.org/21st-century-trade/friendly-fire-the-saga-of-trade-policy-at-an-impasse/>.

<sup>9</sup> Amir Nasr, “Why a USTR Report Represents Another Step Back for Digital Trade,” Disruptive Competition Project (April 2, 2024) <https://www.project-disco.org/21st-century-trade/why-a-ustr-report-represents-another-step-back-for-digital-trade/>.

<sup>10</sup> “Understanding on commitments in financial services” World Trade Organization (last accessed April 22, 2024) [https://www.wto.org/english/tratop\\_e/serv\\_e/21-fin\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/21-fin_e.htm) (“WTO Understanding on Commitments in Financial Services”).

<sup>11</sup> “Annex on telecommunications,” World Trade Organization (last accessed April 22, 2024) [https://www.wto.org/english/res\\_e/publications\\_e/ai17\\_e/gats\\_anntelecommunications\\_jur.pdf](https://www.wto.org/english/res_e/publications_e/ai17_e/gats_anntelecommunications_jur.pdf).

over data to “nullify and impair” a service commitment—the ability of a bank, insurance company, travel agency, or computer service supplier to operate globally and serve customers in distant locations. Those concerns remain as valid now as they were then.

Additionally, 30 years ago, trade negotiators recognized the importance of “policy space” by ensuring that commitments were subject to reasonable exceptions, including specifically for privacy. Analogous provisions addressing data flows were included in the first modern Free Trade Agreements (FTAs) struck by the United States, the North American Free Trade Agreement and the subsequent FTA signed by the United States, with Jordan in 2000.<sup>12</sup>

It is further evident from these early FTAs that digital trade was not focused on facilitating traditional goods trade. Consider both the U.S.-Chile FTA and U.S.-Singapore FTAs, which have commitments to refrain from imposing customs duties on electronic transmissions and to not discriminate against digital products from the other Party. Electronic transmissions and digital goods and services were seen as necessary to protect the Parties’ broader interests in an emerging new area—digital trade was not seen as a conduit for the trade of goods.

Charlene Barshefsky, the USTR at the end of the Clinton Administration, described the United States digital trade policy goals succinctly in 2000 that are just as valid today:

*This new initiative will create a lasting set of rules and agreements which help to ensure that the trading system provides for electronic business the same guarantees of freedom, fair competition, respect for intellectual property rights and access to markets that more conventional commerce enjoys.<sup>13</sup>*

*The WTO E-Commerce Moratorium Remains Crucial for U.S. Businesses and Workers; Making it Permanent Should Be a Top Priority for USTR*

At the WTO’s Ministerial Conference 13th Ministerial Conference in late February, WTO Members renewed a crucial commitment for countries to refrain from imposing customs duties on electronic transmissions (the “e-commerce moratorium”). This was a critical achievement—failure to extend a commitment which has been renewed consistently since it was first agreed to in 1998 would have dealt a major blow to the WTO, and the trade flows that depend on this commitment. The moratorium protects firms from what would be onerous and pernicious customs duties, allowing the digital economy to flourish between WTO member countries.

The importance of the moratorium could not be understated—studies consistently show the agreement brings broad benefits to WTO Member economies and that the commitment lapsing would lead to widespread economic losses,<sup>14</sup> and the past two renewals were far from guaranteed. Recently, Dr. Ngozi Okonjo-Iweala, Director General of the WTO, predicted that

<sup>12</sup> <https://ustr.gov/sites/default/files/Jordan%20FTA.pdf>.

<sup>13</sup> <https://usinfo.org/usia/usinfo.state.gov/topical/global/ecom/00102301.htm>.

<sup>14</sup> Andrea Andrenelli and Javier López González, “Understanding the scope, definition, and impact of the WTO e-commerce moratorium” Vox EU Center for Economic Policy Research (March 26, 2024) <https://cepr.org/voxeu/columns/understanding-scope-definition-and-impact-wto-e-commerce-moratorium>.

the e-commerce moratorium would not be renewed when next scheduled for review—in two years when the current agreement ends—and that companies should prepare for that event.<sup>15</sup>

Despite this near-term threat, Ambassador Tai would not commit to seeking the most obvious solution—making this moratorium permanent. Instead, Ambassador Tai argued that the e-commerce moratorium was “developed at a time when we talked about electronic transmissions because the relevant transmission was about fax transmissions,” and the world currently is “so far advanced,” it renders the debate about the moratorium as “stuck in time.”

The world is indeed very different from the time the e-commerce moratorium was struck, but it is simply not true that negotiators in 1998 were focused on tariffs on fax transmissions.<sup>16</sup> Rather, they understood perfectly well that physical goods, subject to tariffs, were increasingly being digitized and that this burgeoning trade of e-books, music, videos and software would be significantly impaired if subject to tariffs.<sup>17</sup> Indonesia has set up a framework to do just that,<sup>18</sup> so the threat is no longer hypothetical. A firm, clear U.S. position is a top priority.

*Canada’s Digital Services Taxes Warrant USTR Intervention*

Ambassador Tai provided a strong commitment to continue pursuing U.S. interests in pushing back on digital services taxes (DSTs) as they spread internationally, stating that USTR is “prepared to use the tools that we have.” We appreciate USTR’s efforts on this front, particularly as Canada—one of the closest trading partners of the United States—is in the process of passing Bill C-59, a discriminatory DST which may soon become law. USTR should commit to expeditiously addressing the harms presented by Canada’s DST, which would cost hundreds of millions of dollars a year for U.S. companies and thousands of jobs for U.S. full-time employees. A commitment to initiate a formal investigation and consider action using existing tools such as Section 301 and USMCA dispute resolution is now fully warranted.

*Discriminatory Streaming Policies Require USTR Engagement*

In April 2023, Canada passed the Online Streaming Act, which requires all foreign online content providers to fund arbitrarily-defined “Canadian content” and to “clearly promote” Canadian programming.<sup>19</sup> The law discriminates against U.S. film, television, and music content on streaming services, as it gives preferential treatment to Canadian content, violating

<sup>15</sup> Andy Bounds, “Ecommerce tariffs will kick in from 2026, says WTO chief,” Financial Times (March 27, 2024) <https://www.ft.com/content/aea64aa4-fde2-46f3-9376-c56b8e94263b>.

<sup>16</sup> [https://one.oecd.org/document/TAD/TC/WP\(2023\)6/FINAL/en/pdf](https://one.oecd.org/document/TAD/TC/WP(2023)6/FINAL/en/pdf) (“[a] majority of delegations agreed that a majority of electronically transmitted products were indeed services. However, there was still a lack of clarity with regard to the classification under GATT or GATS or certain products which can be delivered both in electronic form and on a physical carrier.”).

<sup>17</sup> The GATT had grappled with this issue as early as 1984, when considering the treatment of software delivered over satellite networks. See [https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/valuation/instruments-and-tools/decisions/wto\\_val\\_decision\\_4\\_1.pdf?la=en](https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/valuation/instruments-and-tools/decisions/wto_val_decision_4_1.pdf?la=en).

<sup>18</sup> [https://insightplus.bakermckenzie.com/bm/consumer-goods-retail\\_1/new-regulation-on-the-import-of-consigned-goods-gives-clarity-and-guidelines-for-e-commerce-transactions](https://insightplus.bakermckenzie.com/bm/consumer-goods-retail_1/new-regulation-on-the-import-of-consigned-goods-gives-clarity-and-guidelines-for-e-commerce-transactions).

<sup>19</sup> <https://www.parl.ca/legisinfo/en/bill/44-1/c-11>.

Article 19.4 of the U.S.-Mexico-Canada free trade agreement (USMCA).<sup>20</sup> Further, U.S. suppliers are subjected to requirements to fund local competitors in a discriminatory manner that implicates investment commitments in Article 14.10.1 (b) of USMCA.<sup>21</sup>

CCIA appreciates Ambassador Tai's clear commitment to ensure that, as Canada amends its definition of Canadian Content, USTR will advocate for "fair outcomes for U.S. stakeholders." USTR should also consider addressing the underlying discriminatory nature of the law using the tools available. For example, under USMCA's implementing legislation, USTR is obligated to investigate any discriminatory measures sought under Canada's Cultural Industries exception, and consider subsequent actions to compensate for any harms. USTR should, pursuant to its legislative mandate, proactively address the harms that could cost U.S. businesses, content creators, and workers hundreds of millions of dollars annually.

Further, in line with Ambassador Tai's commitment to protect U.S. content creators and streaming suppliers in Canada, it is important for USTR to remain vigilant regarding similar discriminatory proposals that are being developed in Australia despite clear rules in the U.S.-Australia Free Trade Agreement (AUSFTA) constraining such actions. The proposals, which the Australian Government seeks to have in force by July, would likely violate Article 16.4 of AUSFTA's E-Commerce Chapter—Non-Discriminatory Treatment of Digital Products—and Article 11.9 of AUSFTA's Investment Chapter.<sup>22</sup> As USTR engages with Canada, the agency must monitor, deter, and ultimately investigate and act upon this policy if Australia passes the law to ensure the policy does not spread to other jurisdictions.

*Securing Strong Digital Trade Rules Ensures that U.S. Leadership and Values not those of Adversaries, are Reflected on Global Stage*

Finally, a theme emerged from the hearings regarding the harms of the United States withdrawing from digital trade commitments on the global stage and how such a move would benefit the Chinese or Russian view of digital governance. While digital trade rules are criticized as an ineffective mechanism for advancing our values relating to democracy, free expression, and rule of law, such criticism misses the point—no one disputes that. However, if the United States is not leading discussions and advocating for digital trade rules with the values of the free flow of commerce and freedom of expression, China will fill the vacuum and more easily advocate for third party nations to adopt China's vision of digital authoritarianism domestically. A Digital Silk Road, the antithesis to a free and open internet, is not in our interest, but without robust engagement, its reach will only grow.

The spread of China's repressive model of digital oversight has already begun. Both Cambodia and Nepal have in recent years sought to implement "National Internet Gateways" which filter

<sup>20</sup> Computer & Communications Industry Association, "CCIA White Paper on Canada's Online Streaming Act (Bill C-11)" (Jan. 19, 2023) <https://ccianet.org/library/ccia-white-paper-on-canadas-online-streaming-act-bill-c-11/> ("CCIA Online Streaming Act White Paper").

<sup>21</sup> *Id.*

<sup>22</sup> Amir Nasr, "Australia Pursues Streaming Obligations That Would Harm U.S. Service Suppliers and Workers" Disruptive Competition Project (Dec. 19, 2023) <https://www.project-disco.org/21st-century-trade/australia-pursues-streaming-obligations-that-would-harm-u-s-service-suppliers-and-workers/>.

the internet and create a government-owned intranet.<sup>23</sup> Similarly, Vietnam passed its own version of data localization requirements in the mold of China's approach.<sup>24</sup> U.S. leadership in digital can combat the spread of similar efforts in the Indo-Pacific region—a key piece of U.S. diplomatic and security policy objectives—while abandoning the issue could give time for these policies to proliferate widely.

#### CORRECTING THE RECORD

## Myths and Facts about Digital Trade Rules

**Myth: Digital Trade Rules Only Benefit ‘Big Tech’.**

**Fact: Digital trade rules benefit firms from all sectors of the economy, especially SMEs.**

Small and medium-sized enterprises (SMEs) are prime beneficiaries of digital trade rules, which facilitate their ability to reach foreign markets online:

- More than 80% of top grossing apps are made by small companies.
- Over 300,000 companies are active in the mobile app market in the United States, participating in an “app economy” estimated to be worth \$1.7 trillion.
- SMEs comprised 70% of the companies using Privacy Shield, a key mechanism allowing U.S.-EU data transfers.

All these firms need to transfer data, and few can afford to invest in computing facilities in every market they serve - issues that trade rules address.

By preventing a range of discriminatory barriers, digital trade rules help small businesses “achieve scale without mass” and expand their footprint with fewer resources. Foreign markets represent a key area for growth for small businesses enabled by digital services—the U.S. Census Bureau has estimated that 97.4% of the more than 277,000 U.S. companies that exported goods in 2021 were SMEs, which in turn contributed 34.6% of the country’s \$1.5 trillion merchandise exports. These firms typically use digital technologies to access foreign

<sup>23</sup> Adrian Wan et al., “Internet Impact Brief: Nepal’s Proposed National Internet Gateway” Internet Society (Feb. 19, 2024) <https://www.internetsociety.org/resources/2024/internet-impact-brief-nepals-proposed-national-internet-gateway/> (“The Cambodian government claims this will bolster national security and help crack down on tax fraud. However, the impact on Cambodian network connections will affect anyone who connects to these networks, which could have serious consequences for social and economic life and endanger privacy and security.”).

<sup>24</sup> Justin Sherman, “Vietnam’s Internet Control: Following in China’s Footsteps?,” The Diplomat (Dec. 11, 2019) <https://thediplomat.com/2019/12/vietnams-internet-control-following-in-chinas-footsteps/>.

markets and thus distortive foreign policies can have a disproportionate effect on their growth and job-creating potential.

**Myth: Digital Trade Rules Hurt U.S. Workers.**

**Fact: Digital trade rules sustain broad-based, high-quality U.S. jobs.**

Quality jobs supported by digital trade permeate the U.S. economy, encompassing firms both large and small. Some of the [biggest beneficiaries](#) of the digitalization of the economy are traditional sectors—pharmaceutical development, health care, transportation, travel, and agriculture—supporting technology workers whose wages are [125% higher](#) than the median national wage in the U.S. The export potential of digitally-intensive industries, and the employment they support, benefit from a fair and predictable rules-based framework for trade: [government data](#) indicates that the digital economy in 2021 generated \$3.70 trillion in output, or 10.3% of total U.S. GDP, accounting for 8 million jobs, over \$1.24 trillion in total compensation, and a persistent trade surplus (most recently of \$300 billion). It is in our national interest to leverage this strength, not constrain it.

**Myth: Digital Trade Rules Undermine Countries' Right to Regulate in the Digital Space.**

**Fact: Digital trade rules do not prevent governments from regulating effectively and appropriately.**

Governments' right to regulate is explicit in trade agreements, with rules affecting not whether a country can regulate but how. Digital trade rules developed to date in agreements like USMCA (support of data flows, constraints on localization and discriminatory treatment) are narrowly targeted to provide guardrails around only the most unreasonably trade-restrictive practices, leaving most economic activity wholly in the domain of domestic regulation. Such a targeted approach avoids governments pursuing policies that unfairly discriminate in favor of local suppliers, while taking into account national policies and practices. Trade rules include flexibility based on legitimate exceptions (privacy, security, public morals, etc.). In the face of a country invoking such an exception, a trading partner must demonstrate that there is a reasonably available approach that achieves the regulatory goal – goals that a country independently sets. Thus, the key effect of a negotiated trade rule is a level of accountability between trading partners based on shared values and ensures that regulation in narrowly identified areas is developed pursuant to fair and transparent processes.

**Myth: Digital Trade Rules Undermine Consumer Privacy and Consumer Protection.**

**Fact: Digital trade rules can enhance consumer protection and privacy rights.**

A key innovation in recent U.S. digital trade policy is undertaking binding obligations to protect consumers generally and privacy in particular—putting this goal front and center as not only a legitimate regulatory objective, but one that countries must implement. The USMCA and the U.S.-Japan Digital Trade Agreement each included such provisions, incorporating into trade rules a binding obligation as well as [OECD guidance](#) on how to implement an effective privacy regime. In USMCA, the Parties expanded on this by also referencing the U.S.-championed [APEC Privacy Framework](#).

At the heart of the traditional U.S. approach has been the well-established norm that privacy protections do not depend on location, and that protections can, with the right mechanisms, travel with data, minimizing the need for overly restrictive constraints on cross-border data flows. Not only are private sector entities fully capable of instituting mechanisms that can reflect the highest levels of protection different countries may set, but democratic governments have also developed principles governing governmental access to data, such as the OECD [Declaration on Government Access to Personal Data Held by Private Sector Entities](#). Such principles can be incorporated into trade frameworks (e.g., ongoing IPEF negotiations) demonstrating that trade rules can enhance, not undermine privacy.

**Myth: Data Localization Rules are Needed to Protect Privacy and Ensure Government Access.**

**Fact: Data localization mandates do not strengthen privacy or security and can actively undermine these goals.**

Data localization requirements do not, in and of themselves, enhance data privacy or security. While certain sensitive data (e.g., national security data, health data, and financial information data) merits additional safeguards, such safeguards (e.g., encryption, multi-factor authentication) can be applied irrespective of location and do not require data localization. To the extent that governments need access to data for regulatory or law enforcement purposes, and where the U.S. cannot be ensured such access, identifying specific unacceptable locations would be consistent with the rule. But, a general prohibition on foreign storage is unnecessary.

Data localization requirements in specific markets often have a direct and negative impact on U.S. suppliers: such requirements typically result in superfluous investment, often in countries with less robust cybersecurity practices than performed in the United States. Accordingly,

forced localization can demonstrably weaken security, since the proliferation of redundant facilities opens an additional “attack surface” for bad actors.

Apart from the security, the [economic impact](#) is obvious. The United States leads the world in data processing and storage capacity, so any requirement to move such capacity to a foreign location to serve that market undermines the clear competitive advantage enjoyed by U.S. exporters of services based on secure processing and storage.

**Myth: Digital Trade Rules Will Hurt U.S. Jobs.**

**Fact: Jobs in digitally-intensive industries are growing.**

Over the past decades, digitally-intensive job growth is responsible for a [net gain](#) of over 15 million jobs. This growth remains strong, with unemployment rates [half those](#) of the economy generally—supported by robust digitally-enabled exports. Even the one target of trade critics, call-center jobs, do not support the offshoring narrative: call center jobs have actually increased in the past decade, from [2.3](#) to [2.8 million](#). In short, trade rules that support the U.S. competitive advantage in the digital economy will help ensure strong U.S. job growth going forward; and a turn to localization and other protectionist measures (as seen in the EU and China) will only diminish it.

**Myth: Digital Trade Rules that Prohibit the Disclosure of Source Code Undermine a Regulator’s Ability to Investigate Harms.**

**Fact: Digital trade rules strike the right balance between protecting trade secrets and the public interest.**

Regulators may need access to source code in limited cases, and these cases can be addressed in trade rules, as was done in USMCA, balancing such access against the harms to trade secrets and cybersecurity protections. Rules limiting access to source code are not designed to, and do not in practice, protect companies from regulatory oversight or enforcement actions. Those goals generally can be addressed through robust testing, and does not require access to source code. Regulating against commonly identified harms (bias, inequity, and other forms of discrimination) is fully consistent under digital trade rules. And, where evidence of harms emerges, particularly when it is intentional (e.g., in the motor vehicle emissions cases of a decade ago, or financial market manipulation), the rules accommodate such need for access—subject to requirements under the law to protect the trade secrets and other confidential business information. Expanding the scope of regulatory access to source

code puts U.S. companies at significant risk in many markets that do not have the robust trade secret protections of the United States. To this end, trade agreements should not create new access rights to governments or third parties that are not available under existing Parties' law.

**Myth: Non-Discrimination Rules Hinder Enforcement of Existing and New Anti-Monopoly Laws.**

**Fact: Prohibiting discrimination on the basis of nationality is a worthy goal that does not implicate robust competition enforcement**

Critics of digital trade rules have asserted that a 20-year-old rule preventing discrimination against digital products undermines efforts to enforce or enhance competition law. The digital products rule<sup>25</sup> extends a 75-year-old "national treatment" rule common in trade agreements,<sup>26</sup> that is applicable to physical products, to their digital counterparts. Based on this rule, a country would be prohibited, for example, from imposing a tax on foreign software that was downloaded from abroad that it does not also impose on domestic software (i.e., creating a preference for domestic software). This rule has no more bearing on legitimate competition law than its older goods-rule analogue. Critics are erroneously conflating how a government treats a supplier generally with how that supplier's products are treated in comparison to those of its competitors.

Regardless of whether new competition-inspired regulation is justified, measures seeking to constrain the behavior of specific suppliers (e.g., Europe's Digital Markets Act, Korea's App store legislation) do not typically result in creating explicit "preferences" for domestic products, the target of digital non-discrimination rules.<sup>27</sup> Rather, these regulations typically seek to constrain specific conduct of specific firms.

CCIA has raised compliance concerns with the digital product rule in the context of efforts to impose payment obligations on U.S. digital platforms for hosting or indexing news content in Canada and Australia. The problematic discrimination identified in these instances is not vis-a-vis the internet platforms but, rather, competing foreign news products. None of this is relevant to any U.S. domestic conversation, since trade rules do not constrain burdens that the United States may choose to apply to its own suppliers.

<sup>25</sup> e.g. USMCA 19.4, available here: <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/19-Digital-Trade.pdf>

<sup>26</sup> i.e., Article III-4 of the General Agreement on Tariffs and Trade, available at [https://www.wto.org/english/docs\\_e/legal\\_e/gatt47\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/gatt47_01_e.htm)

<sup>27</sup> There is a separate question of whether competing domestic firms as a whole gain preferential treatment by virtue of being excluded from the scope of such regulations. That is a legitimate inquiry under the analogous national treatment rules for services, but such inquiry does not require analyzing treatment of those domestic firms' products.





April 15, 2024

The Honorable Ron Wyden  
Chairman  
Senate Finance Committee  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Mike Crapo  
Ranking Member  
Senate Finance Committee  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Jason Smith  
Chairman  
House Committee on Ways & Means  
Longworth House Office Building 1139  
Washington, DC 20515

The Honorable Richard Neal  
Ranking Member  
House Committee on Ways & Means  
Longworth House Office Building 1139  
Washington, DC 20515

**RE: Statement for the Record – Hearing on the Biden Administration’s 2024 Trade Policy Agenda**

Dear Chairman Wyden, Ranking Member Crapo, Chairman Smith, and Ranking Member Neal,

The Society of Chemical Manufacturers & Affiliates (SOCMA) appreciates the opportunity to submit comments regarding the hearings on the Biden Administration’s 2024 Trade Policy Agenda with United States Trade Representative Katherine Tai.

SOCMA is part of a \$300 billion industry that’s fueling the U.S. economy. Our members play an indispensable role in the global chemical supply chain, providing specialty chemicals to companies in markets ranging from aerospace and electronics to pharmaceuticals and agriculture. As the only U.S.-based trade association solely dedicated to the specialty and fine chemical industry, our industry network extends to more than 20,000 influencers and decision makers in the specialty chemicals supply chain.

**Section 301 Tariffs**



SOCMA is not seeking the elimination of the Section 301 Tariffs. China's unfair policies and practices towards intellectual property have had a range of negative effects on the American economy and have significantly undermined American manufacturing. Many SOCMA members have been victimized by IP theft in China – theft that is particularly hurtful to an industry that thrives on innovation. We respect the administration's need for a full range of options to deal with China's unfair practices and understand that tariffs are an impactful tool that should remain at the Administration's disposal.

Nevertheless, the Section 301 tariffs have placed burdens on domestic specialty chemical manufacturers that have placed them at a competitive disadvantage. In many cases, China is the only or predominant source of inputs and raw materials for the specialty chemical industry and there is a need to alleviate the tariffs on those products.

**Reinstatement of Section 301 Exclusion Process**

SOCMA encourages a three-step approach to 301 tariff exclusions:

1. Reopen the exclusion process for previously extended exclusions (already completed by USTR).
2. Open the exclusion process for all previously granted, now expired exclusions.
3. Re-open the exclusion process to all 301 tariffs.

SOCMA strongly believes any exclusion process must be transparent and inclusive for all stakeholders, apply consistent procedures and processes for all tariff exclusion applications, and base decisions on clear evidence and consistent criteria.

There are a number of reasons to re-open the exclusion process, not the least of which is that tariffs on products that are not competitively available outside of China have a compounding effect on the US economy of which the chemical industry is a net exporter. The tariffs that are being paid by US companies hinder their production and growth opportunities, and because it increases the cost of US products it makes them less competitive in the global market, which in turn inhibit reductions in the US trade deficit.

**Support for Legislation to Amend USMCA Implementation**

SOCMA also requests the support in amending USMCA implementing legislation to allow duty drawback for 301 surtaxes. The collection of these levies places SOCMA members at a severe disadvantage for exports to Mexico and Canada since international competitors do not have the



25% surcharge included in the cost of raw materials. The implementing legislation of USCMA will need to be amended to resolve this trade imbalance. SOCMA's hope is that this is a unilateral change and does not require the participation, nor negotiation with, Mexico or Canada.

**Conclusion**

SOCMA has appreciated the opportunity to provide input and looks forward to continued engagement with the Committees. If you have any questions about these comments, please feel free to contact me at [gstrand@socma.org](mailto:gstrand@socma.org) or 571-348-5123.

Respectfully submitted,

A handwritten signature in black ink that reads "Genevieve Strand".

Genevieve Strand  
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