Hearing on U.S. Trade Policy Agenda

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Hearing on U.S. Trade Policy Agenda

U.S. House of Representatives,
Committee on Ways and Means,
Washington, D.C.

WITNESS

The Honorable Robert E. Lighthizer
Ambassador, United States Trade Representative
Witness Statement

WAYS AND MEANS
CHAIRMAN KEVIN BRADY

Hearing on U.S. Trade Policy Agenda

House Ways and Means Chairman Kevin Brady (R-TX) announced today that the Committee will hold a hearing on the U.S. trade policy agenda with U.S. Trade Representative Robert Lighthizer. **The hearing will take place on Wednesday, March 21, 2018 in 1100 Longworth House Office Building, beginning at 10:00 AM.**

In view of the limited time to hear the witness, oral testimony at this hearing will be from the invited witness only. However, any individual or organization 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 must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, http://waysandmeans.house.gov, select "Hearings." Select the hearing for which you would like to make a submission, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the formatting requirements listed below, **by the close of business on Wednesday, April 4, 2018**. 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 we reserve the right to format it according to our 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 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. 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.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days' notice is requested). Questions with regard to special 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 at http://www.waysandmeans.house.gov/

U.S. TRADE POLICY AGENDA

Wednesday, March 21, 2018

House of Representatives,

Committee on Ways and Means,

Washington, D.C.

The committee met, pursuant to call, at 10:05 a.m., in Room 1100, Longworth House Office Building, Hon. Kevin Brady [chairman of the committee] presiding.

Chairman Brady. Good morning. The committee will come to order. Before we get started this morning I just wanted to take a moment to express my sincerest condolences on the passing last week of our friend and colleague, Representative Louise Slaughter. She was truly an institution within this body, and her candor, intelligence, her humor, and her passion will be deeply missed.

Today our committee is honored to welcome back U.S. Trade Representative Robert Lighthizer to testify on President Trump's trade policy agenda. Ambassador, thank you so much for joining us.

Our country was born because of trade. We have led the world in commerce and trade for the last century. Trade is part of everything we do as Americans. The freedom to trade is our greatest economic freedom. So freedom to buy, sell, and compete anywhere in the world with as little government interference as possible. Through trade America has built roads and bridges, towns and cities. We have brought peace, freedom, and hope to our people and the nations of the world.

At this moment we stand at a crossroads. If we stand still or worse take the path of isolationism we will abandon our greatest freedom in the very DNA of what makes us Americans. There is a better path. We are already seeing benefits from the historic tax cuts that President Trump just signed into law, which is increasing America's competitiveness and making us the best place on the planet to do business in. Our trade policy must build on that growth.

In the competitive world it is not enough to merely buy American, we have to sell American to billions of customers outside America. That is how we help

our local businesses and farmers create American jobs and spur American economic growth. Mr. Ambassador, America must continue to lead. And we lead and Americans win when we open up markets for our products and services through high standard, ambitious and enforceable trade agreements. This has to be our top priority.

If we don't break open new markets through trade agreements with countries like Japan, the U.K., and the Trans-Pacific Partnership 11 we will be left behind. China and Europe will write the rules, and they will cut American producers and workers out of other markets. We can't wait any longer while others pass us by.

I strongly support President Trump's request for TPA renewal. I look forward to your report showing how you will use it to negotiate agreements that are consistent with congressional objectives and good for America as you have set out to do, Mr. Ambassador.

I am pleased with your progress to modernize NAFTA, the largest and most successful trading relationship in the world. U.S. Trade Representatives' office and you, Ambassador, your team have worked tirelessly to achieve bold and ambitious standards. I am hopeful we will be able to vote on and pass a new modern NAFTA for America by year end.

That said, the road ahead isn't easy. Congress wants strong protections for intellectual property, increased market access for our dairy farmers and an end to Canada and Mexico's harshly restrictive customs barriers, such as unreasonably low de minimis levels. We need workable solutions on rules of origin and procurement that recognize how Americans benefit from global supply chains, otherwise we lose out to China. I also caution that any agreement without a binding dispute settlement, including investor state dispute settlement, won't find sufficient support in Congress. Congress explicitly set out this requirement in TPA knowing it is the only way to hold trading partners accountable to make sure that strong agreement you negotiate,
Mr. Ambassador, our trading partners will be held accountable.

America must also lead on China. China's chronic oversupply in steel and aluminum has put many Americans out of work and companies out of business. It is a blatant theft of our company's technology and intellectual property, and it can't be tolerated. I believe strong enforcement is needed, and I appreciate President Trump's leadership on holding China accountable. But we can't do this alone. If we hurt our allies America will ultimately lose.

Our challenge -- every President's challenge is to target remedies to address true national security risk to eliminate unfair trade and take into account our entire economy. The wrong remedy puts significant American jobs at risk. We have to make sure we don't punish American families and workers for China's misbehaviors. Often times indiscriminate tariffs are not the right approach, and before the administration puts those in place it also should provide a strong opportunity for public comments so the effect of these tariffs on our economy can be properly assessed. It is not about backing down, it is about hitting the target, which is China and its bad practices, not our allies or other U.S. sectors.

And finally, I want to be clear, the Constitution vests Congress with the authority of the U.S. trade policy agenda. The relationship between Congress and executive branch is a true partnership in implementing that agenda. We want to partner with you, Mr. Ambassador, to ensure that America continues to choose the freedom to trade. America must continue to lead the world and to find what it means to have an open and free economy our jobs and our values depend upon it.

Again, Ambassador Lighthizer, thank you so much for being here today on a snow day. We look forward to your testimony.

And I now yield to the distinguished ranking member, Mr. Neal, for the purposes of his opening statement.

Mr. Neal. Thank you, Mr. Chairman, and for those of us from New England, we don't even consider this a snow day.

Thank you, Mr. Ambassador, and I want to welcome you on behalf of committee Democrats. Today's hearing is an opportunity for us to hear from you and you to hear from us about all of the activity that is happening on the trade front.

Over the past year we have seen a great deal of activity and commentary from the administration. We are currently in the process of renegotiating NAFTA to update it, and more importantly, to rebalance it. You are also renegotiating the U.S.-Korea Free Trade Agreement to improve it and to ensure that it delivers more reciprocal outcomes for U.S. workers, exporters, and businesses.

The administration has recently decided to impose tariffs on steel and aluminum imports under Section 232 and is currently in the process of deciding on country exemptions and product exclusions. As we are reading in news reports in a matter of days the administration will announce its findings in the

Section 301 investigation into Chinese intellectual property abuses and may also be prepared to impose substantial tariffs on imports from China.

The President certainly has tapped into raw feelings in some important communities about our economy and trade policies. We have seen in the past months that this administration and you personally, Mr. Ambassador, have not been shy about challenging the status quo.

For many of us we have taken notice of the promises that the administration has made to improve U.S. trade policy and to make it work for all Americans. Many of us in the past have been skeptical about the promises that have been made for better enforcement because often times they are big promises, and we must say we have heard them before. But we have seen evidence of your commitment. For example, we hear that when you say that your task is not just to renegotiate NAFTA but to update it and to fundamentally restructure it to fix important flaws of the original agreement, flaws that prevented Members of Congress like me from supporting it originally.

In the tariffs on steel and aluminum imports we recognize the intention of providing much needed relief to industries and workers that have called for action for a very long time. But we also have a lot of questions, and we are watching closely to determine whether the promises the administration has made will be delivered upon, whether that is in NAFTA, the 232 tariffs, the Korean agreement, or China's 301 investigation.

Finally in the bigger picture, I think it should be clear to all of us that some of the greatest challenges facing our economy and our values are being posed by countries that rely heavily on State intervention and do not operate, despite what they say on market-based principles. We should all be on the same team in talking about these challenges. In fact, if we want to be really effective it seems to me that it will make a good deal of sense that we should build upon what already has been happening between Democrats and Republicans as we address many of these challenges.

I look forward to hearing from you today about your vision and plan for delivering this administration's promises on trade about how we take on global competitive challenges effectively and how the administration partners with Congress.

Thank you, Mr. Chairman.

Chairman Brady. Thank you, Mr. Neal.

Today's sole witness is Ambassador Robert Lighthizer, U.S. Trade Representative. The committee, Mr. Ambassador, has received your written statement. It will be made part of the formal hearing record. We have reserved 5 minutes to deliver your oral remarks. You may begin when you are ready, and again, welcome.

STATEMENT OF THE HONORABLE ROBERT E. LIGHTHIZER, AMBASSADOR, UNITED STATES TRADE REPRESENTATIVE

Ambassador Lighthizer. Thank you very much, Mr. Chairman and Ranking Member Neal, and members of the committee. I'm pleased to be here today.

We at USTR greatly appreciate the expertise of the members of this committee. We're grateful for all the time you give us in working up truly bipartisan trade policy, the efforts you've helped us with on NAFTA and the many issues we face.

Before I continue with my statement let me just say since I generally when I come here complain about the fact that I have no deputies I, in fact, have deputies now. So I thought it would be appropriate since they're all going to be senior members I believe but members of your staffs that I probably ought to at least have you know who's working for you now besides me.

Jeffrey Gerrish, maybe if you would stand up, Jeff, is our deputy for Europe, the Middle East, and Asia. C.J. Mahoney is our deputy for Africa, China, the western hemisphere, and he's also going to do investment and services. And he will be our transparency officer. You'll recall that we selected an appointed official as our transparency officer. So those are the two people that I wanted you to focus on, if you would, since they're brand-new.

First I would like to draw the committee's attention to the fact that this year the trade deficit in goods and services rose to $565 billion and in goods alone it was $811 billion. Of course these numbers there are lots of causes for these numbers, but the President believes and I also agree that longstanding trade deficits to some extent reflect market distortions and that they're having a negative effect on U.S. workers and businesses.

We also, of course, have a massive trade deficit with China which we ought to speak about at some point of $375 billion so the numbers essentially got worse

last year. I know that members have a variety of views on these figures, but the President believes that they raise significant concerns. They indicate that sometimes the global rules of trade make it harder for U.S. companies to compete and specifically to export. Trade deficit also indicate that the United States -- that in the United States the cost of globalization are falling more heavily on blue-collar workers, and this is something that is bad for the economy and bad for the society. Finally, they tend to undermine the support for the global trading system, so trade deficits are a problem.

Quickly I would outline the President's trade agenda. First, we at USTR will support the President's national security strategy. If you haven't looked at that I would recommend it to you. That means that our trade policy will help to build a stronger America, preserve our national sovereignty, respond to hostile economic competitors, recognize the importance of technology and seek opportunities to work with other countries that share our goals.

Second, for U.S. companies and workers to be competitive in overseas markets we need a strong and robust economy at home, and I commend the committee for the work they did on the tax cut bill.

Third, we are negotiating trade deals that will work for all Americans. As members of this committee well know, the President directed us to seek significant changes to NAFTA. We have already had seven rounds with our partners in Canada and Mexico, and I believe that we've made a great deal of progress. We've also begun discussions, as most of you know, with South Korea on updating KORUS. Now that we have a full team of deputies, we intend to aggressively pursue other potential free trade agreements. We have a trade working group with the United Kingdom. We have told Japan that we're interesting in having a free trade agreement with them at the appropriate time. We are prepared to explore the possible countries in Africa and South Asia who might be appropriate for us to enter into free trade agreements, and as you said, Mr. Chairman, the President has asked for the extension of trade promotion authority to accomplish this.

Fourth, we are enforcing our trade laws. The President indicated he would use all available trade laws to defend U.S. workers, farmers, and ranchers against unfair trade, and he is, in fact, doing that.

Finally, we seek to reform the multilateral trading system. For too long the WTO has failed to promote trade liberalization. Too many WTO members view it as a litigation forum and not as a negotiation forum. In short, USTR under the direction of President Trump is seeking to build a better, fairer

system of global trade that will lead to higher standards for all Americans.

Thank you, and I look forward to taking your questions, Mr. Chairman.

TESTIMONY OF AMBASSADOR ROBERT E. LIGHTHIZER
BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS
MARCH 21, 2018

Thank you very much for the opportunity to testify this morning. Mr. Chairman, Ranking Member Neal, I am grateful for the advice and counsel that you have provided throughout my period at USTR. I also want to thank all the Members of this Committee for the time you have given to me and my staff in recent months. We at USTR greatly appreciate the expertise of Members, and the effort you put into working with us on NAFTA and the many other trade issues facing the nation.

Before taking your question, I would like to mention two important topics.

First, I would draw the Committee's attention to the fact that last year, the U.S. trade deficit in goods and services rose to $568.4 billion, while the trade deficit in goods alone rose to $811.2 billion. Of course there are a number of causes for these deficits but the President believes – and I agree – that long-standing trade deficits to some extent reflect market distortions around the world that put U.S. workers and businesses in an unfair position compared to their international competitors. It is widely known, of course, that we have a massive trade deficit in goods with China – $375.2 billion last year. But we also had a goods trade deficit of $151.4 billion with the European Union, $68.8 billion with Japan, and almost $90 billion with our NAFTA partners.

I know that the Members here have a variety of views on these figures. But for the President they raise significant concerns. They indicate that sometimes the global rules of trade make it harder for U.S. companies to export. The trade deficit also indicates that in the United States, the costs of globalization are falling most heavily on blue-collar workers in those parts of

the economy exposed to trade. And they undermine U.S. political support for the global trading system.

I would also like to discuss the President's Trade Agenda, which we released a few weeks ago. We are focused on five major priorities.

First, we at USTR will support the President's National Security Strategy. That means that our trade policy will help to build a stronger America, preserve our national sovereignty, respond to hostile economic competitors, recognize the importance of technology, and seek opportunities to work with other countries that share our goals.

Second, for U.S. companies and workers to be competitive in overseas markets, we need a strong and robust economy at home. The Congress has passed, and President Trump signed, a major tax reform bill. The Administration has also begun making regulatory changes that will strengthen the U.S. economy.

Third, we are negotiating trade deals that will work for Americans. As the members of this Committee well know, the President has directed us to seek significant changes to NAFTA. We have already held seven rounds of talks with our partners in Canada and Mexico, and I believe that we have made a great deal of progress – but we still have a ways to go. I have urged our trading partners to recognize that time is short if we are to complete a deal in time for consideration by this Congress. We have begun talks with South Korea to discuss potential improvements in our free trade agreement with them.

Now that we have a full team of deputies, we intend to aggressively pursue other potential free trade agreements. We have a trade working group in place with the United Kingdom to lay the groundwork for when they are eligible to enter into a free trade agreement following their formal exit from the European Union. We have told Japan of our desire to

negotiate a free trade agreement with them at the appropriate time. We also have hopes for potential FTAs in Africa and Southeast Asia. Given this agenda, the President will soon ask the Congress for an extension of Trade Promotion Authority until 2021. We look forward to working with you on these new deals.

Fourth, we are enforcing and defending U.S. trade laws. During the Presidential campaign of 2016, President Trump said that he would use all available tools to defend our national interest and our national security– including Sections 201 and 301 of the Trade Act of 1974, and Section 232 of the Trade Expansion Act of 1962. Those promises are being fulfilled – and our trading partners are on notice that this President will act when necessary to address unfair trading practices that disadvantage American workers, farmers, and businesses. We are also aggressively defending our trade laws in litigation at the World Trade Organization.

Finally, we seek to reform the multilateral trading system. For too long, the WTO has failed to promote trade liberalization. Too many members remain committed to an outdated Doha Round Agenda that is incapable of addressing modern issues like digital trade. Too many members also think that they can get their way through litigation, rather than negotiation. Perhaps most worryingly of all, the WTO has proven to be wholly inadequate to deal with China's version of a state-dominated economy that rejects market principles.

In short, USTR – under the direction of President Trump – is seeking to build a better, fairer system of global markets that will lead to higher living standards for Americans. I am excited about our efforts, and am happy to take your questions.

Chairman Brady. Thank you, Mr. Ambassador, and thank you for introducing your chief negotiators. Mr. Neal and I did send a letter to the Senate after your last testimony discussion with us urging the Senate to move, so we are pleased to in a bipartisan --

Ambassador Lighthizer. Let me just say that I view that as unprecedented and extremely helpful, so I am very grateful to the committee for intervening in that matter.

Chairman Brady. You need a full team. USTR is a very small and nimble agency. It needs everyone on board at this critical moment. So congratulations on that.

So I am convinced NAFTA done right can create incredible job growth and paycheck growth for America, our farmers, our workers, our local businesses. I think a modern NAFTA is our number one economic priority this year, and I believe not only will it grow jobs in America but when combined with our trading partners can make our American businesses and farmers more competitive as China, Europe, and the rest of the world. I want to ask you a question about that in a moment.

But first let's start with the steel and aluminum tariffs. We strongly support President Trump's efforts to target unfairly traded steel and aluminum, but as you know we have made it clear it is important that we allow fairly traded steel and aluminum to move forward. It is critical for nearly every economic sector in America.

In the President's determination was included an exemption process for countries to negotiate with you, Mr. Ambassador, and the President directly in order to address transshipment issues, multinational efforts against China's unfair trade practices, and strengthening America's national security footprint. Can you give us an update on the exemption process?

Ambassador Lighthizer. Thank you, Mr. Chairman. As you say, the President did set in force a process that would allow products to get out in specific circumstances, and that is something that’s being handled by the Department of Commerce. And then USTR working with all the appropriate agencies including the Department of Commerce is working on this question of country exemptions. So initially the NAFTA countries are out of the 232, subject to certain conditions and subject to a successful NAFTA negotiation, so that’s the first part of it.

We have a similar circumstance with respect to Korea because we're in the process of renegotiating KORUS. I guess I have to be careful because we're not using TPA, I won't say renegotiating but refurbishing, perhaps, KORUS, but we're talking about the Koreans about KORUS.

There have been other countries that have come up and that I believe we are in the process of talking to now, Australia, Argentina and the EU I would put in those categories. There are a couple of other -- there have been a number who have asked -- a great number as you can imagine. Another one that we will I think soon begin talking to is Brazil, but there are a number of countries that have come forward and they're in various levels of the process. The kinds of things we have talked about -- well, maybe I will let it go at that, Mr. Chairman, and then follow up on the criteria later if you --

Chairman Brady. Great. Thank you. What is the timeframe for those discussions and ultimate decisions roughly?

Ambassador Lighthizer. I believe that countries will get out as we come to agreement that some countries will be in a position where the duties will not apply to them during the course of the negotiation just so that you don't have -- for example, Canada and Mexico but others, so that you don't have a situation where you have the status quo, 25 percent tariff and then they get out and there's this kind of bump and it changes real commercial relationships.

So but our hope is that by the end of April we have this part of the process resolved. Having said that, the President has the authority at any time during the course of the program to let people out if he thinks it's in the national economic interest of the United States.

Chairman Brady. And those discussions are ongoing?

Ambassador Lighthizer. Yes, sir they are ongoing.

Chairman Brady. Thank you. So let me turn to NAFTA for a final question. You know, I am confident you and your team are going to negotiate a progrowth NAFTA that makes America stronger economically. To do that and to maximize the economic growth from our now one of the most competitive tax codes in the world to maximize on that we need more customers, and many of those customers live outside the United States. Many of them are in Mexico and Canada and when we compete and win on a level playing field we grow American jobs here, but to do that we often times have to

invest in those home countries to compete and win against China, Europe and the rest of the world.

But if that investment in those countries is to benefit America, our investors have to receive fair treatment from other governments, and many countries don't provide basic, substantive, or procedural protections for American businesses. That means American investors have to rely on the investor-state dispute settlement process to ensure that they are treated fairly and they aren't discriminated against in these other countries, that the rule of law, the property and investment is protected as it is in America and without ISDS Americans' property is left unprotected against discrimination, foreign seizure, regulatory abuses and other forms of unfair action.

This issue is basically a question, when other countries treat American investment unfairly who has their back? The answer should be America has their back. I am deeply concerned about reports Mexico and Canada have begun negotiating bilateral ISDS provisions without us. Because USTR has said it doesn't want to participate in that. Mr. Schweikert from Arizona has wrote a letter that many of us have signed now signed by 103 Republicans affirming that inclusion of a strong ISDS is essential in the NAFTA agreement.

Mr. Ambassador, we have had many discussions about that. This is a key part of passing the strong NAFTA agreement that we are convinced you will negotiate well for us, so how do you square USTR's current proposal against the congressional objectives that are in law and that 103 of us have as of today said are crucial for passage of this agreement?

Ambassador Lighthizer. Well, thank you, Mr. Chairman. Yes, I'm aware that there is some controversy surrounding ISDS.

Chairman Brady. You picked up on that?

Ambassador Lighthizer. Yes, I have picked up on that. I would say this about it, first of all, that whatever happens on ISDS the kinds of issues that members are concerned about in terms of U.S. investment overseas will be able to be handled within the context of what we call Chapter 20 or the State-to-State dispute settlement. So it isn't like we will be in a position where there will be no recourse. So that is the first thing I would say.

The second thing I would say that we have proposed an opt-in-opt-out-proposal. We are skeptical about ISDS for a variety of reasons, which I would like to go into if I have a second to do it.

Number one, on the U.S. side there are questions of sovereignty. Why should a foreign national be able to come in and not have the rights of Americans in the American court system but have more rights than Americans have in the American court system? It doesn't strike me -- it strikes me as something that's at least we ought to at least be skeptical of and analyze.

So a U.S. person goes into a court system, goes through the system, and they're stuck with what they get. A foreign national can do that and then at the end of the day say I want three guys in London to say we are going to overrule the entire U.S. system. So on the inward bound it strikes me as a question of sovereignty, and I view myself as a conservative and a sovereigntist so this is troubling in that respect.

On the outgoing side there are many people who believe that in some circumstances, and I can discuss the varieties of them, in some circumstances it's more of an outsourcing issue. So what is it? It's a situation where somebody says I want to move a plant from Texas and I want to put it in Mexico, and when I go down there I don't want to take the political risk that AMLO is going to win in Mexico and change my bargain, so I want the U.S. Government essentially to buy political risk insurance for me.

Our view tends to be that if you want to move a plant from the United States to Mexico, and the economics suggest that, that you should go with the economics and it's too bad, and your responsibility as a Congress is to make the U.S. more competitive so that that isn't a problem. But if you are going there because we are underwriting the investment, we are putting our finger on the scale, we're encouraging you to move your plant down there that is not the job in my opinion at least of the United States Government.

I would say, also, this is an area that's not without controversy. The National Association of States Attorney General think this is a mistake. The Cato Institute, an issue which I don't always agree with, all indications, they think ISDS is something that we shouldn't have.

The National Association of State Legislatures, which is controlled by Republicans is on record as against ISDS. So there are a whole variety of issues. I can go on and on and on. There are people who respond, well, we haven't lost cases in the United States in our position, and while, in fact, that is the case we have come close to losing some, but more importantly, we've had situations where real regulation which should be in place which is bipartisan and everybody's interest has not been put in place because of fears of ISDS.

So I think it is something we have to think about very carefully. Our view was that rather than have this mandatory ISDS provision, which we think is a problem in terms of our sovereignty in the United States, encourages outsourcing and losing jobs in the United States, and by the way, lowering standards in a variety of places, that we should be very careful before we put something like that into play.

So you say what are the alternatives for these companies? The first alternative, as I say, is State-to-State dispute settlement. The second alternative is if you go to any one of these companies and ask them why do you need this, why don't you put in place an arbitration provision in your contract? They'll all say, well, we can do that, and indeed, they did do it. They did it before we had ISDS. And in a country like Mexico they subscribe to all the conventions, and they have to enforce those.

If they put that contract, an arbitration provision in their contract, these things are then resolved in a similar manner but without the United States ceding sovereignty in order to encourage people to outsource jobs. It's just not a good trade in my opinion. I realize, however, that it is controversial provision and that my view is in the minority in some very intelligent caucuses.

Chairman Brady. Mr. Ambassador, thank you for that defense. A couple quick thoughts before I turn to Mr. Neal.

Secondly, there is no threat to sovereignty. Foreign investors have no more rights than American investors because American -- in our country you have the greatest standards and protections for property rights, investment rights in the world, bar none.

Secondly, your client is Congress in speaking out for our ag community that wants you to have America's back when they have to invest in other countries to win customers, energy, manufacturing, technology services, every key industry in America that has to compete against China and the rest of the world and other countries is saying we need to have their back when they make their investments.

And so you are right there is a disagreement there. We are going to continue to work together with you, Mr. Ambassador, to get to a good place and make sure we are keeping this in the trade agreement and we have the backs of our American investors.

Mr. Neal?

Ambassador Lighthizer. Just briefly the strongest argument in favor of ISDS, Mr. Chairman, is that you're in favor of it. That is the strongest argument in my opinion.

Chairman Brady. Some would disagree with that, Mr. Ambassador.

So Mr. Neal, you are recognized for your questions.

Mr. Neal. Thank you, Mr. Chairman, and thank you, Mr. Ambassador. In Massachusetts and in New England trade and energy with Canada is critical to powering our engines of innovation, manufacturing and indeed people's lives. In renegotiating NAFTA to ensure the reliable and preferential terms of that trade is a priority certainly for communities across New England.

In trade I understand that there are some issues with verifying origin right now that are having the effect of burdening trade and making power more expensive for people across New England. Is this something that is on the radar screen and are you willing to prioritize the resolution of these burdens as part of the renegotiation?

Ambassador Lighthizer. Yes, Mr. Neal, they are, and free flow of energy is something that I've testified about before, and I know -- I believe that the committee is universally in agreement on that provision, and we certainly support it, and we're aware of your situation, and it is something that we're concerned about.

Mr. Neal. Thank you. China. As I mentioned earlier we are reading about substantial tariffs on a wide variety of consumer product imports from China that apparently will be announced before the week is over. Can you talk about the goals of the administration and what you are trying to achieve through Section 301, and do the goals in China's abusive practices correspond to the types of products that you are thinking of subjecting to tariffs.

Whether it is an electronics or toys iconic companies in many of our districts and consumers that rely upon them and enjoy these goods are profoundly concerned that some of these penalties will end up penalizing them as well. And can you talk about from your perspective what makes sense for our economy or are we simply proposing to discipline China?

Ambassador Lighthizer. That is a great question and one that is --

Chairman Brady. Mr. Ambassador, could you touch that microphone?

Ambassador Lighthizer. I am sorry. I am sorry. That is a great question, and one that is quite topical as you suggest. The President is going to make a decision, I believe, in the very near future on this issue of this 301, which we started in August and which we have -- has been very thoroughly examined at USTR. We've studied it. We've had hearings. We've spent thousands of hours reading tens of thousands of pages in Chinese. We have studied with American companies.

And our view is that -- and once again there is no decision until the President makes it, but our review is that we have a very serious problem of losing our intellectual property, which is really the biggest single advantage of the American economy in my opinion is our intellectual property and our ability to generate new intellectual property. We are losing that to China in ways that are not reflective of the underlying economics.

So it's an enormously important issue. I'm happy to talk about it at some length. We think it is perhaps the most important thing that will have been done in a long time in terms of rebalancing trade and trade specifically with China.

This problem of intellectual property with China has been something that has been going on for a long, long time. If you look back in George Herbert Walker's presidency in 1992 -- 1991 there was a 301 on the Chinese basically not protecting intellectual property in China and taking the technology -- 1991. We had another one in the Clinton administration, both of which really didn't amount to much.

We had a third one in the Obama administration where there was cybertheft in an agreement. Of course none of this changed any of the activity in my judgment. So the question becomes, one, do you think there's a problem that strikes me as without question clear that there is. Do you thoroughly study it, which I believe we did. If there is a problem if it's so important to the economy, what are the likely remedies that you would have? The remedies in my judgment at least would be, one, doing something on the tariff front, and, two, doing something on the investment front and then perhaps other things because these are the crucial areas where it comes together.

In terms of what you would do on the -- on the tariff front, which was your specific question, the USTR has the power, at the direction of the President, to raise tariffs in these circumstances. The way we would approach it if the President should make this decision is, one, to study it. We have an algorithm which will decide the extent to which there is a problem among things that are

quantifiable because it is a huge number of things that are not quantifiable but are worth hundreds of billions, but you take what you believe is quantifiable and you come up with a number. Then you apply tariffs to that number.

The process that you would use presumably would be, one, you would develop an algorithm that will put maximum pressure on China, minimum pressure on U.S. consumers and then there are certain products which are clearly high tech products, which are in the focus point of this. And the combination of those two would be the kinds of things that you would decide to put tariffs on if you were going to do it, and then you would take additional action.

Now, I can go through at some detail if the committee wants to do it now or at another time, I know this is a matter of great interest to the committee, and I am happy to talk about it now or just beyond that or just go on and wait for other members to ask questions.

Mr. Neal. Thank you, Mr. Ambassador.

Chairman Brady. Thank you, Mr. Neal. Mr. Johnson, you are recognized.

Mr. Johnson. Thank you, Mr. Chairman.

Ambassador, welcome. As you know, I flew F-86s in Korea and had my share of dog flights over there, and that is a dangerous area of the world, and one of our allies in South Korea needs to know that we have got their back. As you may know, I voted for the U.S.-South Korea Free Trade Agreement back in 2011 and since that time hundreds of thousands of jobs have been created right here in America from the trade agreement. In fact, over 40,000 jobs in Texas are directly tied to that agreement.

By the way, according to your own agency, exports of goods have increased as a result of the agreement. So as the President looks to renegotiate this trade agreement I would like to express my support for doing it in a way that strengthens the alliance with South Korea.

Mr. Ambassador, can you give me an update on the South Korea negotiations and when will they wrap up, do you think?

Ambassador Lighthizer. Thank you very much.

So we are in the process of having discussions, but the President announced his desire to update and rebalance to the extent we cannot using TPA, so it's a

more limited kind of a negotiation. Several months ago we spent the first several months with the Koreans going through their process to get a mandate from their own legislature to discuss it. We've now had several rounds with the Korean minister.

Minister Kim is in town right now. I think we are down to the last few issues. I'm hopeful that we will be able to come to some agreement that will make the committee happy, and in addition to KORUS of course we're also talking about steel and aluminum because it has now come up, and in the opinion of many people Korea is a particular problem in the area of steel primarily. But we're trying to work our way through all of those things.

I'm hopeful that we can make headway on it, and it certainly is my objective would be to get a good agreement -- let me say to have amendments to the agreement that will satisfy this committee, and I think we're moving in that direction right now, Congressman.

Mr. Johnson. Thank you, sir. I would like to take my remaining time to highlight the importance of NAFTA for Texas and the Nation as whole. As you know, over a million jobs in Texas are supported by trade with Canada and Mexico, and nationwide this trade supports nearly 14 million American jobs. That is a lot of American workers, and while I support the efforts to update NAFTA I am concerned by the proposed sunset clause. I don't think that is a good policy necessarily. Businesses need certainty.

Can you tell me what the status of the proposed NAFTA sunset clause is and what are you trying to accomplish with it?

Ambassador Lighthizer. Absolutely, Congressman. So the way the sunset clause works is that at the end of 5 years the President would make a decision as to whether or not the agreement should continue. It would not require congressional action. It would not be a difficult decision. The thought behind it is, number one, we have a number of members in this committee particularly on the Republican side that believe we ought to be sunsetting things, so I would have thought this would have been something that would be consistent with that.

The idea is if it's such a good agreement then we'll naturally roll it over. If it's not a good agreement, we won't. So after a period of time -- the idea is that after a period of time we ought to be sitting down and reviewing what happens to these agreements. There is nothing about trade in my opinion that makes it above all other logic in the way we approach a legislation.

So the basic idea of an agreement like this is that you have baseline WTO trade, and then we're giving someone a benefit, a benefit versus the rest of the world, and they're giving us approximately similar benefits, and that's how you create an FTA. If you find yourself in a position at some point, and I would suggest 5 years is a reasonable period of time, where the -- what we gave and what we got is so out of balance it is reasonable to suggest that we ought to try to rebalance it. Things change, the economy changes.

Indeed, I would think that NAFTA is a classy example of why we have this problem. We have a 24-year -- we have a 24-year agreement and that agreement, the whole economy has changed. We've gotten way out of whack in terms of what our deficits are. It's having a peculiar effect on various industries, and it's reasonable to sit back and take a look at it. But if the agreement is as business people tell me going to be so spectacular it strikes me that the President looking at it after 5 years won't be a particularly large hurdle, but it's a reasonable thing to expect people to do, and that is the nature of it.

Chairman Brady. Mr. Ambassador, I apologize, time has expired. We will be able to discuss I think some of this further as we go through. Mr. Johnson, thank you.

Mr. Levin, you are recognized.

Mr. Levin. Ambassador, welcome. The two major trade issues NAFTA and steel have a major common attribute. The clash over both of them has been decades in the making.

After the failure to act by the U.S. Government and to be acknowledged as a problem by traditional trade theorists. Outsourcing in manufacturing to Mexico increased dramatically lured by Mexico's industrial policy of cheap labor. During much of this same period, as you know so well, China undertook a massive increase in steel production often using state-owned enterprises reaching 10 times that of U.S. production in contrast to their equal amounts of production nearly 20 years earlier.

The impact in the industrial sector from these two developments was loss of middle class jobs and suppression of wages. In both cases the response was the lack of any coordinated action in this country either handcuffed by allegiance to theories ill-equipped for the realities of rapidly advancing globalization by a willingness to settle for talk in conference after conference or by putting profits over the personal impact on working families. This created a vacuum. Like

any problems left to foster it has made it more difficult to remedy them effectively and responsively. They must be.

As to steal and aluminum I suggest we all look at a recommendation in the recent remarks of AFL-CIO president Rich Trumka where he said, and I quote, These tariffs will be most effective if used strategically targeting China and other countries that are the source of the problem.

In fact, instead of retaliating against the U.S. as some have threatened our allies should work together with us to address this global glut that threatens our economic and national security.

As to NAFTA there cannot be a successful renegotiation, Mr. Ambassador, which I believe most Democrats want unless the central problem as we have discussed is fixed. Mexico must tear down its structures of an industrial policy, built on suppressing its workers that impacts American jobs and wages. Instead there is evidence that in its Congress Mexico is now moving backwards.

Mexican workers today often make less in real dollar terms than they did 25 years ago and less on the average now than those in China. I recently met two workers in Mexico from the auto parts industry who said their take-home pay was 75 cents an hour in one case and $1.25 in the other. The President has spoken about this suppression; now he must deliver.

Mr. Ambassador, we have talked about this and are you now addressing this problem? Steel we will talk about tomorrow with the Commerce Secretary, though you are an expert. In terms of Mexico and their industrial policy, their endless so-called protection agreements, where are the discussions?

Ambassador Lighthizer. Well, thank you, Congressman Levin. As you know, every time I've testified here I've taken the position that wage increases in Mexico are in the U.S. interests. It's better for our own competition. It also creates customers for us, so it's something that we have as a priority.

I think that in the Mexican political system there are a number of people who agree completely with that process. So I mean with that thought. We are in the process of having these negotiations really even as of today.

My focus has been on trying to get to a position where Mexican workers actually vote on -- have real secret ballot votes on their collective bargaining agreements, and if Mexican workers have real votes and they decide for bad

contracts that's none of our business, but it's reasonable for American workers to expect that there would be a process whereby Mexican workers have this.

Mr. Levin. Good. Let me just say on ISDS, and I will finish with this and there will be discussion, it is an important issue, and when we raised it in TPP Republicans just sat doing nothing.

But it isn't the basic problem in terms of Mexico. They are using moneys to lure industry, not cracking down on American investment.

Chairman Brady. The gentleman's time has expired.

Mr. Nunes, you are recognized.

Mr. Nunes. Thank you, Mr. Chairman.

Ambassador, welcome and congratulations on finally getting your deputies in place. I want to go first into another region of the world and that is Asia. You have talked a little bit about what you may do in the coming weeks, and I can assure you that we have tremendous concerns about investment that is being made here in the United States buying up companies, stealing our intellectual property. A lot of that is not actually being done through trade it is just the way they make investments into the United States.

And on the Intelligence Committee we continue to investigate that and we have legislation pending in the Congress now on CFIUS reforms as it relates to some of these concerns we have with what China is doing here in the United States.

I would also submit that I heard you -- I think you have talked a little bit about the Philippines, possibly Vietnam, perhaps another direction that we can go in the coming weeks and months would be to look at is it possible to do bilateral agreements with the Philippines, Vietnam, fixing the South Korean agreement possibly Japan, and I don't know if you can comment on any of those negotiations because I know you are in the middle of them, but in terms of planning for the Philippines and Vietnam I would be very interested in.

Ambassador Lighthizer. Thank you, Congressman.

First of all, the issue of Chinese investment in the U.S. is as I say in the 301 is something that we're completely focused on. In my judgment this is going to help to define whether or not we have all succeeded or failed in terms of what we were sent here to do, and any members who are not on the Intelligence

Committee I hope they access themselves of the information the Intelligence Committee has because I think in making these judgments it's really important that you know the basic facts.

Having said that, now that I have a deputy I've spoken generally about the idea of having a bilateral agreement or an FTA with some of these people and that in that part of the world, in the Pacific part of the world. Some of the TPP countries but also some others who weren't in the TPP like the Philippines.

So Ambassador Gerrish, my deputy, is going to undertake to do a thorough study of that both within the administration, but as importantly within Congress to find out where the targets are. We have spoken and thought ourselves about the Philippines as a reasonable first step in that direction. It's extremely important that we have a positive agenda. It's extremely important that we show that part of the world that we're very interested in them.

Besides the Philippines, which is kind of a smaller kind of a deal generally, smaller economy, you mentioned Vietnam, Vietnam is one that there's been a number of members and people in the administration that also thinks we ought to be moving there. Each of these has their own kind of complications, of course.

Japan we have indicated that we are interested in at the appropriate time having an FTA with Japan. Right now I believe is not that time. Japan is in the process of having the TPP become implemented, and it was just signed on the 8th of this month, so there is kind of a process there, but they are very much aware that we think having a closer economic relationship with them is in our interest and is in their interest.

Mr. Nunes. Well, Ambassador, thank you for that, and I appreciate that and I would be willing to work with you on any of the countries in Asia that you would be interested in making bilateral agreements or beginning the discussions at least.

Let me switch quickly to NAFTA. The NAFTA renegotiations, and then the chairman mentioned in his opening statement but for a long time Canada has been getting away with murder in their dairy industry. It is causing tremendous problems for farmers here in the United States. They have a very protectionist program, have for a long time. They are dumping in product into this country and if anything it is one of the reasons why you are trying to update NAFTA.

And I don't know if you can update us on the process and where we are at in the negotiations on specifically on dairy, but we would be interested to hear what you have to say.

Ambassador Lighthizer. Well, this is something that we have focused on. It was one of our objectives, their dairy program but also their agriculture programs and other areas, eggs and poultry is another one where they have what you would consider to be very not market oriented, very protectionist approaches on these things.

It's difficult for them to change their policies in these areas because they're sensitive just like they are in every single district in America. Having said that, it's a very high priority to make changes in the Canadian dairy programs so that we have the kind of access that U.S. farmers did have and even greater access.

So it's a high priority. I am hopeful that when we put the final deal together it's something that we make real headway on.

Mr. Nunes. Thank you, Mr. Ambassador.

Thank you, Mr. Chairman.

Chairman Brady. Thank you, Mr. Nunes.

Mr. Doggett, you are recognized.

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

NAFTA is very important in Texas. It was signed in the district that I currently represent in San Antonio, and I sincerely appreciate your efforts to significantly improve it learning from the experience of the last two decades. Though I personally continue to support more trade through a NAFTA and around the world, one of the major reasons that I have voted against a number of previous trade agreements is the way they have been subverted by various special interests to serve their own selfish agenda to the detriment of our public health.

Big tobacco, Big Pharma have been examples of that in the past, and I am very troubled by this morning's New York Times front page story that advises that your office is currently involved in NAFTA negotiations to serve the obesity lobby. You are aware, Ambassador, that the Center for Disease Control reports that almost a third of American youth between the ages of 17 and 24 are too

overweight to serve in our military, that the defense department reports that one in 13 American servicemembers is clinically obese.

Now, I know there is no panacea for this problem, and I don't endorse every action taken by a foreign government, but I think that it is wrong to limit the power of American States and local governments, as well as foreign governments to address this challenge.

I want to draw your attention specifically to that Times article in which it is said, "The Trump administration's proposal and the corporate pressure behind it hold the potential to handcuff public health interests for the decades. The American provision seeks to prevent any warning symbols, shape, or color that, quote, and this is apparently drawn from the documents you are advancing, "inappropriately denotes that a hazard exists from consumption of the food or nonalcoholic beverages."

Is it correct that your office is urging adoption of that provision as a part of the NAFTA renegotiation?

Ambassador Lighthizer. First of all, I would like to put my office on the record as being against obesity.

Mr. Doggett. I am glad to hear it. The question is whether you are against things that prevent us addressing that problem, and if you are supporting this provision you are certainly not.

Ambassador Lighthizer. Well, I guess I would say, Congressman, that for us it is slightly more nuanced than that.

Mr. Doggett. Well, just answer. First, is this a provision that is being advanced by the American government?

Ambassador Lighthizer. The idea is --yes. The idea of putting limits on the ability of countries to put warning labels or symbols or products is something that we are concerned about --

Mr. Doggett. So it is accurate that this provision, the language that I just read to you, is being advanced by our negotiators?

Ambassador Lighthizer. I mean, I can't comment on the exact language in the statute, I don't have that – I've looked in the article, I don't have the article in

front of me, but the issue is with one that we are concerned about. The other -- your point is an excellent one, and I agree with it.

On the other side of it there are lots of examples of countries that are using this loophole to basically create a protectionist environment. So we have – that's why I say it's more nuanced from our point of view. We have companies that come in with products that literally they're on shelves with no wrapping on them. There is a kind of an extreme between one way or another. This can be used as protectionism. To the extent it's used as protectionism we have to be very careful of it that is --

Mr. Doggett. We certainly do, and I will welcome any further written answer you might have. I want to turn to investor state because there is one that I applaud your answer to the chairman. When he asked the question who has got our back, the corporate lobby basically wants it to be three lawyers operating behind closed doors as much as possible.

We know from the Bilcon case that corporate interests went around Canadian law with rights they couldn't have there, and they are only asking for half a billion dollars now because they were denied the right to expand a quarry. I hope you will stand firm for protection of American investors but not a mechanism that allows them to invade our sovereignty as you correctly noted and to subvert and undermine health and safety regulation.

There is no reason foreigners should be given more rights than American citizens and American companies have, and that is what is happening through the investor state mechanism. You are right to be skeptical on it, and I hope you will continue to urge that position because if we don't see some genuine reform of the investor state mechanism, renegotiation of NAFTA will not have met the objectives that we have set out initially.

Thank you, and I look forward to your further response about this very troubling issue on obesity.

Ambassador Lighthizer. I will do that, sir.

Chairman Brady. Mr. Reichert, you are recognized.

Mr. Reichert. Thank you, Mr. Chairman.

Ambassador, thank you for your time today.

Mr. Doggett. Mr. Chairman, may I just ask unanimous consent to put the Times article into the record, as well as the earlier stories from the times about Mexico and Chile.

Chairman Brady. Without objection.

Mr. Doggett. Thank you.

I am sorry, Mr. Reichert.

Mr. Reichert. That is okay, Mr. Doggett.

Ambassador, thank you for being here today, and welcome to Jeffrey and C.J. I look forward to working with all of you and your team.

I know that you and I have a few shared priorities, including successfully updating NAFTA and combatting unfair trade practices, and just I want to continue to work with you to accomplish both. In doing so we should build upon our work done during tax reform to boost the competitiveness of American workers and businesses.

Even though I am very appreciative of your, as some have defined, unconventional approach I still have concerns about several actions that have been taken by the administration that I believe could undermine the good work that we have accomplished through the tax reform effort. To successfully update NAFTA our farmers and manufacturers require certainty. I know you are keenly aware of that and accountability. They need to know their investments will be protected and the agreement will be enforced. They need to know that they can rely on this agreement.

In targeting unfair trade practices we must take a targeted approach and work in cooperation with our global partners. We cannot take actions that put our consumers, manufacturers, and exporters at risk.

I am deeply troubled by the questions that remain with Section 232 exclusion process and the possibility of tariffs from Section 301 investigation. It is American manufacturers and consumers that will be hurt by an ineffective exclusion process and the placement of tariffs on imports.

I implore you to think about my constituents, for example, the family in Maple Valley who will face higher prices, the manufacturer in Auburn who will pay more or will lose access to imported parts, and the apple exporter in Wenatchee who will suffer from retaliation.

We must also begin to focus on opening markets. As our trading partners move forward without us our farmers, workers, and businesses fall behind. Whether it is dairy, wine, potatoes, wheat or tree fruit, Washington's producers will lose market share to their foreign competitors without new trade agreements.

Trade agreements ensure Washington's businesses are treated fairly and can sell their high quality products around the world. I believe the U.S.-Korea Free Trade Agreement is an example of a successful agreement for America and for the State of Washington.

I do agree with you, however, that Korea's implementation of the agreement has been disappointing and that any remaining issues related to Korea's implementation need to be resolved quickly. I am glad to see the KORUS committee system being used for this purpose. Of course the downside to using the joint committee is that there is less transparency surrounding these discussions, and maybe with Jeffrey and C.J.'s help we can lend some transparency to the process.

So I recommend and would strongly suggest, Mr. Ambassador, that USTR publish detailed negotiating objectives in KORUS to signal to the public the changes that you are seeking within that agreement and those talks.

Can you comment on the transparency of the process and maybe providing those detailed negotiating objectives? Do you have a timeline on that?

Ambassador Lighthizer. Well, first of all, I agree that KORUS is an important agreement. On the issue of transparency I guess I would say since we're not using TPA we don't have that statutory umbrella. What I've tried to do is to the extent possible talk to Members, and I'm happy to talk to any Members individually or in groups to talk about this. It's not always a good idea to talk openly about negotiating objectives and certainly negotiating tactics.

But from the point of view of the United States we are troubled by implementing a whole variety of implementing issues. We are troubled by the speed with which some tariffs are going to come off on important products in the automotive industry but also in others. We have issues with currency. We have a variety of issues. I'm happy to talk to Members about this. In terms of publishing something it's probably unlikely that I am going to do it. My hope is what we will do is talk privately to Members and have some kind of an agreement in principle quickly.

My objective is to try to do this as quickly as possible with as little disruption as possible, and it really is why we decided we are better off limiting what we were going to do, not go through the TPA process and overload the system and just try to work with members and deal with this on a smaller level and a smaller way than a normal big agreement would be.

But to the extent members view themselves as not knowing what our specific objectives are I'm happy to talk to the Members and look forward to doing that, and my hope is this is a process that comes to a conclusion fairly quickly because I think it's having negative effects in a lot of different ways.

Chairman Brady. Thank you, Mr. Ambassador.

Mr. Thompson, you are recognized.

Mr. Thompson. Thank you, Mr. Chairman.

Mr. Ambassador, thank you for being here this morning and taking our questions and hearing our concerns.

Mr. Ambassador, I am pleased that you acknowledge not only my colleague Mr. Nunes' issue regarding dairy but also went on to talk about other agricultural problems: eggs and poultry.

I want to ask you, though, about the U.S. wine exports because they continue to face some highly burdensome trade barriers in Canada. Canada's discriminatory policy in British Columbia, Ontario, and Quebec are restricting market access for American wine, and giving Canadian wine producers a real competitive advantage against us.

As you know -- you and I have talked about this before, USTR requested WTO dispute settlement consultations with Canada on the British Columbia matter last year, but that really hasn't yielded any resolve or any benefit. And since then, Australia has also launched its own complaint on discriminatory practices affecting Australian wine exports.

In addition to that, we have another agricultural problem with China. That is our ongoing effort to get exported U.S. rice into the Chinese market. For 10 years, we have been trying to find some equitable resolve to that issue. We have had promise after promise, but still those markets haven't been open to us.

So I would like to know what it is you are doing to make sure that U.S. wine exports are treated fairly in Canada and what you are doing to make sure that U.S. rice exports are treated fairly in China.

Ambassador Lighthizer. Thank you, Congressman.

I would say, first of all, the wine problem is exactly as you say: it's just rank protectionism at the provincial level in Canada. And it is something that, in fact, is spreading.

As you say, we brought a WTO case against them. WTO cases take time, and we're in the process of aggressively litigating that action.

Having said that, we are far better off trying to resolve this issue in the context of a NAFTA negotiation. It's more likely to have a near-term solution that is satisfactory to the industry.

So it is something that we are negotiating on. Our hope is, with respect to that, we can see improvement in the NAFTA talks.

Mr. Thompson. Other than telling us that you are working on it, are there any specifics? Is there any progress that you can report?

Ambassador Lighthizer. Well, it's one of these issues that -- and there are a number of them in this category -- you won't know whether you're making progress until you get to the end.

If you look at the kinds of issues, generally, it's the tough issues – it's IP issues, and it's agriculture issues -- that are sort of brought together at the end of an agreement, because no one is going to say they are going to do anything in that area.

So you go through and you make progress in 30 or 33 chapters, and when you get to the ag one, there's just no progress. You talk it through, and the reason is that no one is going to make any concessions here, other than as part of a final agreement.

Having said that, I believe we will make headway in this area.

Mr. Thompson. How about China and the rice?

Ambassador Lighthizer. Well, on China and rice, we have two WTO cases, as you know, on China and rice. It's another example of both, on the subsidy side, but also on the market access side, they are not doing what they, in our judgment, are obligated to do. We're pursuing those, and we'll retaliate. We'll do whatever is required. There are limitations on the WTO process to solve these kinds of issues, and you are seeing it just heads up in the issue of all of those products.

Mr. Thompson. Well, I guess it is certainly frustrating to have been trying to deal with this for quite some time now, and even more frustrating now to hear that we don't know until we fix it. As I point out, the China problem with the rice has been going on for 10 years. The wine issue has been going on for quite some time too. Both, in my view, are pretty obvious and pretty blatant violations.

I guess I would like to hear more about what we can expect. And if things start to go better in your negotiations, if you could let us know, if you could circle back and let me know how that is going, I would appreciate it. But, to date, it just doesn't look like we are making much progress.

Ambassador Lighthizer. On the wine thing, I'm happy to talk to you.

On the rice and other WTO issues, that's a difficult process. It's a slow difficult process, which is seriously flawed.

Chairman Brady. Thank you. Your time has expired.

Mr. Roskam, you are recognized.

Mr. Roskam. Thank you, Mr. Chairman.

Ambassador, just a personal word and then two questions.

The personal word is: I appreciate the candor with which you approach things. My wife tells me that the older I am getting, the more direct I am becoming. I find your ability to engage us on these things really refreshing. I am not trying to embarrass you, but I just find it refreshing.

Two questions. Let me give them both to you, and then if you could just respond, I would appreciate it.

The first is, shifting gears on 232, and press is reporting -- and I don't need you to comment whether this is true -- but they are saying: Well, there is all this criterion by which you are evaluating these country decisions. And they are all rational, as far as I can tell. You know, a country's participation in other questions as it relates to trade and so forth.

Here is my question: With Ukraine, for example, are you considering the strategic interest of the United States as it relates to changes for Ukrainian steel? Ukraine is in a situation under incredible pressure and incredible

duress. It is a country that has been invaded by Russia. We have got sanctions on Russia. You know the whole story. So is there a national security element to your consideration? That is question number one.

Then shifting gears entirely, question number two is, as it relates to catfish -- this is not an unfamiliar issue to you -- we have got a situation in the United States where there is double evaluation. USFDA has a program, and Ag has a program. It is pretty ridiculous. And there is a number of us that are trying to correct that. So my question is, can you speak to how the catfish issue, in particular, has an impact on the negotiations?

Ambassador Lighthizer. Let me say with respect to the first element, I've outlined -- and we didn't put it on our website. We find that if we say something to anyone, it is in the paper. So it saves the issue of having to actually type things on your website. Everything becomes public in 5 minutes. We have criteria, and one of the elements, of course, is the national security interest of the United States. So we do have that as an issue.

The final criteria is that the President makes that judgment. And that's a kind of a broad decision on his part. He defines national security in the conventional way, but also more broadly, as affecting U.S. economic security as part of national security. You will see that is a theme that runs through the National Security Strategy. It's run through our trade agenda, and it's run through the entire administration. National security is defined broadly, and the United States can't defend its allies or itself unless it has a strong economy. So that's something the President has broadened.

The issue of the Ukraine, specifically, there clearly are national security issues why that would be a consideration. I would say the likelihood at this point right now is that we're starting to focus more on trade and economic issues once you get below a threshold of national security interests. And, of course, it's clear that the Ukraine meets that threshold, but there are a lot of other issues that are probably more difficult for them to do it. So I guess that answers that.

On the question of catfish, catfish is a problem in our trade negotiations in some areas. We do have a complicated regulatory process in the United States. We've had cases involving people critical of our system as being basically a protectionist system. On the other hand, we do have a situation where, in some other countries, there are legitimate health issues. So it's kind of a complicated issue. It is one that we are familiar with. I would be misleading if I suggested it rose to the level of some of these other things. But to the extent it does for you, then it does for us, and we're happy to work on

it. And to the extent we can have influence on your effort to sort your way through this to try to clean it up, we're happy to have our people do it and to work with you on it.

Chairman Brady. Thank you.

Mr. Larson, you are recognized.

Mr. Larson. Thank you, Mr. Chairman.

And thank you, Ambassador.

Along the same lines with respect to section 232, with regard to aluminum tariffs, but, perhaps, as seen through the eyes of people downstream who are impacted, now, I represent a district that hails many manufacturers -- including Pratt & Whitney, Hamilton Standard, Sikorsky, Command, General Dynamics -- and, throughout the State of Connecticut, precision manufacturers to downstream people who will be impacted and have grave concerns about the impending tariffs.

One such manufacturer, Jarvis Airfoil, in my district, makes compressor and turbine blades for jet engines. They were asking me this recently about what can they expect. And here is the questions -- and I couldn't agree more with Mr. Roskam about your candor and your ease of going through a number of these issues -- but from their perspective not only is -- and I appreciated the national security interests when you talked about what is the criteria for exempting countries -- but what is the timeline for exempting countries, and what type of alternative arrangements are you seeking from those countries?

And I say that in perspective of this perspective. Do you plan on making these decisions on all the exemptions by the time the tariffs go into effect, which, if I understand it correctly, will be Friday? And so you can imagine the intensified concern that that creates about that large supply chain, not to mention, of course, the manufacturers themselves, in general. I am wondering if you might give us more clarity on that.

Ambassador Lighthizer. Yes, sir.

First of all, these matters are a balance, in terms of the consumer impact and the producer impact. This is something the President and people in the administration have tried to balance.

In terms of the aluminum, generally, it's a pretty clear case that the U.S. industry is under assault and is really close to being completely destroyed. Ninety percent of the primary aluminum is coming in through imports. It's a very, very serious problem. That's not in any way to minimize the effect it is having on consumers. That is what the President tried to do with balance.

In terms of the timeline, our hope is to get these things resolved by the end of April.

Mr. Larson. So I am to assume from that that, with respect to making decisions on all exemptions, by the time tariffs go into effect on Friday would not be the case, you are shooting for April?

Ambassador Lighthizer. That is correct.

So there will be two categories of countries. And setting aside -- your constituent may very well have a product exclusion issue -- so setting that -- I am sure he knows that. He's doing whatever he is going to do, and he may very well not have a problem on that.

Mr. Larson. I will submit that to you in writing, and, if you can respond on that, I would appreciate it, that specific concern. Thank you.

Ambassador Lighthizer. And that's important. That's being done at the Department of Commerce. But we will certainly be a part of the process to the extent it helps your interest.

So, in terms of the countries, you'll have a certain group of countries, I believe. Now, once again, there has no decision, and there is no decision until the President makes a decision. As far as I am concerned, when he signs something, there's a decision.

But there are certain countries -- the principal examples, of course, which would be Canada and Mexico -- where during the process of this negotiation of trying to decide whether they're going to get out of this -- and I should say "get out" means they can't be in a position where they get out and take advantage of all the benefit. It doesn't go to U.S. producers, so there ought to be some limitation on their own shipments, but, presumably, not one that's a problem.

During the course of that process, with respect to certain countries, the tariffs will not go into effect. That's how I envision it. Now, whether this happens is

up to the President. But I envision it, during the course of this negotiation between now and the end of April, that those countries do not see their tariffs go into effect.

There are other countries who think they should be excluded that it will go into effect, and it will go into effect on Friday. For those people, there'll be more of a disruption.

But in terms of access for your constituent, I don't think you are going to see an enormous shortage of aluminum. Now, once again, I am not an economist, and we can all make our own guesses. But you're going to have a variety of countries -- in the case of aluminum, the very fact you're negotiating with Canada is enormous, right, because they are such an important supplier. And the other countries I also mentioned, those countries will not see an increase, as I believe this will work out.

But with respect to the others, you will see a 10-percent tariff increase as of Friday.

Mr. Larson. Thank you, Ambassador.

Chairman Brady. Thank you. Your time has expired.

Mr. Buchanan, you are recognized.

Mr. Buchanan. Thank you, Mr. Chairman.

And thanks, Ambassador, for being here today. I am excited to see you get some of your team put together. It has been a while, so it is great to have that.

Like many of us, I have two situations in our district that I would like to have you just give some thought to in terms of NAFTA, one good and bad. But, kind of like the chairman, my sense is I want it to be whatever we do pro-growth for the United States and jobs.

But one company is Tropicana. It was founded in my district in the Manatee County, Bradenton area. It creates over 1,000 jobs. It was acquired by PepsiCo. But, in terms of NAFTA, it has been good for them and good for their industry, in terms of eliminating tariffs. So that is one thing I would like to have you just talk about a little bit: Tropicana. Basically, they are, as you know, an orange juice business. You can't imagine Florida without orange juice.

And let me just mention, also, on the second scenario, as you know, we have pretty much the same growing season as Mexico does. So, in terms of the second situation, unfair trade practices, a lot of people feel, in Florida, as it relates to tomatoes, strawberries, and peppers, it has cost that industry, that business, about $2 billion a year, $1 billion to $3 billion, in terms of unfair trade practices.

So I would like to have you take a minute to address both of those, as quickly as you can, because I have got one other question.

Ambassador Lighthizer. I'm not very good at the quick part, but I'll try to be quick.

Mr. Buchanan. I will let you know.

Ambassador Lighthizer. First of all, of course, there's a big advantage in -- I mean, one of the principal advantages in NAFTA is the reduction in those tariffs. I'm not sure exactly which tariff we are talking about and what the numbers are. But the reality is that if we end up with a successful agreement, the tariff benefit will be preserved. So I think that will probably be less of a problem, and it's more in favor of them saying: We want to get NAFTA through. That's a provision that I am aware of.

The seasonality provision is an important, significant, and controversial provision. So I start with the proposition that with all the great things of sales in Mexico of agriculture products -- and there's a lot, whether there is $18 billion or $19 billion worth of sales by the United States in Mexico of agriculture products -- the reality is that we have a trade deficit with Mexico on agriculture products. A good part of that are exactly the ones that you're very familiar with.

So the idea is that these producers, even if they are victims of unfair trade, can't take advantage of the unfair trade laws because they really weren't constructed to deal with products that are perishable. So the idea is to put in place some kind of a provision that shrinks the amount of time you look at, in terms of calculating dumping margins and injury so that these products -- if you spread it out over a year or over three years on injury, are always going to lose -- you give them a shot at proving unfair trade. That is the nature of the proposal. It is extremely controversial with respect to a variety of people who don't like it.

Mr. Buchanan. We will take some time a little bit later and talk a little bit more about that.

Let me just hit you quickly on, because you got some of your team here, your new team, is on TTIP. There was a lot of work that I think, or let's say some work, that was being done by the last administration in terms of Europe. And the thought is there we have a lot of the same values, a lot of the same background; it seems like it makes a lot of sense, and it is a real opportunity for America. Especially as you look at wages and benefits, there are a lot of comparable things with the United States. And, overall, it has been pretty fair both ways. So maybe you can comment on that now that you have got a little bit more of your team in place.

Ambassador Lighthizer. Well, thank you. I will.

It is something that we have looked at. Clearly making headway with Europe is a top priority. We have with the European Union a $150 billion trade deficit. After China, it's literally our biggest problem. And it is, basically, Germany, 60; Ireland, 38; Italy, 30; and France, 15; and then everyone else we are basically, more or less, in balance with. So it is a problem.

Making headway in that area is very important. It is something we are looking at. They're a little bit in flux right now. But I think making headway on Europe is a high priority. It's clearly something the President wants to do. Whether it is in the form of TTIP, which some people think is more cumbersome than we need, or in another form, your point is one that we completely endorse and think that we have to make headway on that front, and I believe we'll make headway.

Mr. Buchanan. Thank you.

I yield back, Mr. Chairman.

Chairman Brady. Thank you, Mr. Buchanan.

Mr. Kind, you are recognized.

Mr. Kind. Thank you, Mr. Chairman.

Mr. Ambassador, thank you for your time here today. I really appreciate it.

Just a word of advice. When it comes to KORUS renegotiation, or however you want to call it, it is much better to have Congress with you on the takeoff rather than just the landing. We know that we are getting into sensitive discussions with them, but there have been many businesses in my district that

have benefited under that agreement, too, and they are getting nervous about where the stage of these talks are going.

And, secondly, I am all for NAFTA modernization and bringing it into the 21st century. The global economy has changed. I am all for aggressive enforcement of our trade agreements, 301 or otherwise.

What I have a problem, with and what I hesitate about, is this go-it-alone attitude with this administration in trying to promote a trade agenda by further isolating ourselves. America First does not mean America alone. There is a huge benefit to having friends and allies around the globe that we can work with in order to establish a trading system that works for all of us at the end of the day.

Either this President, or this administration, has conveniently forgotten, or maybe never learned, the lesson of our preeminence since the Second World War. It was not only our military strength, but it was our willingness to take the lead in shaping a rules-based global trading system with countries across the globe with shared values.

By isolating us and by demonizing many of our friends and allies with a broad scope of retaliatory action, I think makes our trade agenda that much more complicated. I am worried about the potential for retaliation when it comes to the steel and aluminum tariffs. I think the whole approach to that was ill-considered. It was chaotic. It was confusing. Now we are going on a business-by-business exemption basis. And now we are going to allow some of our friends and allies to apply for exemptions without clearly defining criteria.

And I hope this administration is thinking about what plan B is going to look like if there is retaliatory action taken against us. Back home in my State, in Wisconsin, my dairy farmers' backs are up against the wall. If we lose market share down in Mexico, that could destroy our dairy industry in this country overnight because of the number one export market being taken away from us. That could cause a lot of problems in the heartland of our country.

And dealing with steel and aluminum, for every job that is involved in steel or aluminum producing in this country, there are 200 jobs that are involved in consuming this material. As we learned from the 2002 steel tariff case, which was quickly rolled back under the Bush administration, the unintended consequences can be pretty severe for many workers and for many businesses and industries throughout our country. So I ask you to consider that as we

move forward, including the 301 approach to China, and what type of action they could take against us.

But what troubles me, perhaps, more than anything today, sitting here, is this love affair that our President seems to have with Vladimir Putin. And I come to a very fearful conclusion that the President of Russia owns the President of the United States. That manifested itself in a telephone call yesterday, where the President called to congratulate Vladimir Putin on a completely bogus and fraudulent election and then failed to even raise the issue of a chemical weapons attack on one of our allies' soils -- Great Britain -- and failed to raise the issue of Russia's direct meddling in our democratic process as a Nation.

And so it leaves us scratching our heads, just what is going on with this President and this administration in our relationship with Russia. We passed enhanced sanctions last year, almost unanimously, through the House and the Senate, only to see it sat on with the administration for months before any action was taken with it. And that was problematic and very troubling as well.

And, right now, I couldn't think of Vladimir Putin having a better straw man occupying the Oval Office, given all the missed opportunities that this President has passed up when it comes to standing up and defending our values and our strategic interests throughout the globe against Russia, who is not our friend, and they are not our ally, and yet somehow the President misses this important ingredient.

So I was just wondering whether you were part of the economic team involved in the application of sanctions against Russia that was passed almost on a unanimous basis last year by this Congress and why it took so long before any action was taken on it.

Ambassador Lighthizer. Thank you, Congressman.

I only have 18 seconds. So I'll just say: With respect to the stuff you are talking about on trade, yes, we're worried about retaliation, and, yes, we don't want to go it alone. And with respect to all this Russian stuff, I completely disagree with every single thing you said.

Mr. Kind. Were you a part of that decision, as far as the application of sanctions?

Ambassador Lighthizer. I'm the U.S. Trade Representative. I do trade work. I don't do sanctions work. It has nothing to do with me at all -- not for 5 minutes in my entire life. But I appreciate you bringing it up.

Chairman Brady. The gentleman's time has expired.

Mr. Smith, you are recognized.

Mr. Smith of Nebraska. Thank you, Mr. Chairman.

Thank you, Mr. Ambassador, for your time here today, as we have very important discussions, whether it is NAFTA, whether it is KORUS or whether it is various trade issues that we know are important to American producers, particularly Nebraska ag producers. That is my focus. But we know that consumers live in every one of our districts, obviously, and we always want to be mindful of that.

As it does relate to agriculture -- and certainly I have expressed to you and I have expressed to the President, as well -- that as we modernize our trade agreements -- certainly I appreciate that -- if we could also, obviously, do no harm to those areas we have done particularly well with, namely agriculture. Energy has been discussed, as well.

Forty-five percent of Nebraska's agriculture exports go to Canada and Mexico. So it is no surprise that NAFTA is important as we do move forward. And I just continue to strongly urge you to keep this in mind of how important these exports are, especially as I can appreciate the need to close the gap, the trade gaps that do exist. One thing, agriculture exports do help us on narrowing those gaps, and I hope that we can continue to expand our international reach and expand international markets for agriculture.

Briefly, the President touched on the possibility of reengaging the countries in TPP. I have two questions. That would be one of them, is if you could elaborate, perhaps, or reflect on the potential of reengaging a TPP that, as you know, has moved forward without the United States.

And then, also, the President has touched on the bilateral trade agreements that he would like to pursue, perhaps. And if you could also reflect on that and how we might be able to utilize that moving forward, whether it is with Japan or other countries, that we would like to see more exports of U.S. products heading in those directions.

Go ahead.

Ambassador Lighthizer. Thank you, Congressman.

First of all, we appreciate your intervention on this issue of the importance of agriculture. We completely agree with it. Not only have you raised it repeatedly here, but in all other contexts. It's very important to us, both in terms of the consequences of our other action on agriculture, but, more importantly, probably, using the trade agenda to promote agriculture.

So we sit back and we talk about the fact that we have, whatever it is, $140 billion worth of agriculture sales. In most of the markets we go into, we could sell vastly more. And we're really facing protectionism. I mean, Europe is a good example, and China is a good example. There is enormous, enormous opportunity. And a lot of things that we design, we design with that in mind. So agriculture is important. It's crazy to sit back and be defensive in agriculture, however, because the reality is we're being stopped in a lot of places from just local political pressure creating protectionism.

On the issue of TPP, I guess I would say the following: It's complicated to get in and renegotiate that. But if you analyze TPP, you have 11 countries in TPP. With respect to six of them, right now, we already have a free trade agreement. So the idea of upgrading that and getting those in a position where you think that what you want is fine.

With respect to the other five, by far, the most important is Japan, which we already raised. I don't know what the total amount is. Japan is maybe a $5 trillion economy. I bet all the rest of them together weren't $1 trillion. Because the next biggest one is Malaysia, which is just over $300 billion. And then Vietnam is the next one after that.

So I am saying, of the five, if you got an agreement with Japan, you've essentially solved the whole problem. Certainly, if you got one with Japan, Vietnam, which some people have suggested, or Malaysia, you have basically taken care of 95 percent of what is outside of the U.S. albeit right now that's in the TPP sphere.

I think when people think about TPP, sometimes they think of it as something that we are not a part of. We already have FTAs with six of these countries -- not to say that they can't be improved, and they should be improved.

But the way I analyze it, I say, number one, you have a problem because you want to work it out with Japan, because they're, by far, the biggest economy in the world, and by far the biggest of those. And then somebody has got to sit down and decide, do you allocate resources to Malaysia, or do you allocate resources to Vietnam? And there are reasons for that. You can argue all of them. And our view is that that is the job this deputy has to do. We have to come to grips with that. Japan is clear, but the next tier we have to kind of get to that, and we have to get the opinion of this committee.

Chairman Brady. Thank you. The gentleman's time has expired.

Mr. Pascrell, just a reminder, after your questioning, we will go to two to one, so we can balance out the rest of the hearing.

Mr. Pascrell, you are recognized.

Mr. Pascrell. Thank you, Mr. Chairman.

Thank you, Mr. Ambassador.

I think it is clear, after Montreal and Mexico City, and thank you for your indulgences up there, that we are approaching, I think, a culminating part of the negotiations. That is my judgment. We have a lot of tough issues to address. I quickly went through the document that we are supposed to be talking about today. Part of it is NAFTA.

Some of your NAFTA proposals have really challenged the status quo of U.S. trade policy and I think have been creative in trying to make the agreement work for the many and not just the few. All the boats have to rise. And I have confidence, still, that you are working to ensure the labor chapter of NAFTA is fully enforceable, building on the strength of the May 10th agreement as a floor and not a ceiling. And I want you to interrupt me if I say something that is not in place. Please feel free to do that.

Enforceable labor standards alone will not entirely solve the key driver of outsourcing under NAFTA. We all know that.

For 25 years, Mexico has engaged in a purposeful strategy of labor and wage suppression in order to attract investment at the expense of the U.S. and the expense of Canadian workers in ways that have expanded poverty for Mexican families instead of -- the record is clear on this, the numbers are clear -- building a middle class market for U.S. exports.

You identified in the trade agenda report -- you identified. You said this: Since NAFTA went into effect, the gap in Mexican wages and labor productive with the United States has widened. The OECD, the organization that we know about for many years, reports that the average annual wage in Mexico fell from $16,008 in 1994 to $15,311 in 2016, unquote.

I met with the workers in Mexico City just a few weeks ago because reading about it and looking at statistics is very different than hearing anecdotal stories about actual situations that are tangible. And no Democrat and no Republican can deny these.

They are in the auto parts factory, many of them, and were making less than a dollar an hour. No options to bargain for better treatment. Both the labor rules in NAFTA and in Mexico -- Mexico's own labor law and practice -- must be upgraded to make real changes for workers, both in Mexico and my district.

Do you agree that Mexico has failed to live up to its obligations with respect to NAFTA's labor side agreement, yes or no?

Ambassador Lighthizer. Yes.

Mr. Pascrell. So please explain how USTR is working to solve the problem of low wages in so-called protection unions, which you identified yourself -- not I -- you, in Mexico, and I agree with you wholeheartedly. How are we working to get this done? Explain.

Ambassador Lighthizer. I would say, first of all, that while wages have been stagnant -- and that was not our expectation at all when we entered into this agreement. If you look at the way it was sold, it was clearly sold as wages go up in Mexico, they became customers for us and we get to sell a lot more stuff, and that has not happened.

I would say, from the point of view of Mexico, it has created a lot of jobs, though -- low-income jobs, in our opinion, but a lot of jobs. And a lot of those have been in the auto industry. And I would suggest many of those at the expense of U.S. jobs.

Mr. Pascrell. And that is important, isn't it, Mr. Ambassador, to understand the relationship between how low wages -- I am putting it as simple as possible -- in Mexico do affect jobs -- can I at least finish what I am saying?

Chairman Brady. I am sorry, Mr. Pascrell, all time has expired. Maybe another member can yield to you.

Mr. Pascrell. I don't want anyone to yield.

I am asking a question. Can I answer finish my question?

Chairman Brady. I am sorry, Mr. Pascrell.

Mr. Pascrell. Well, do you know what? That stinks.

Chairman Brady. Thank you.

Mr. Pascrell. You are welcome.

Chairman Brady. Ms. Jenkins, you are recognized.

Ms. Jenkins. Thank you, Mr. Chairman.

And thank you, Mr. Ambassador, for being here.

I want to reiterate my support for the continuation of strong investor protections, like Investor-State Dispute Settlement in NAFTA. And I have grown concerned about reports to weaken, remove, or make protections optional.

ISDS ensures U.S. investors in foreign countries benefit from the same process and due compensation rights that foreign investors enjoy in the U.S. under our Constitution. That sounds a lot like the reciprocity and trade deals that this administration wants.

Foreign investment by U.S. companies also creates and supports U.S. jobs. For example, the family farm and ranch operations in my district who depend on exporting their products to Mexico utilize Kansas City Southern Railroad to provide that vital link to reach these crucial markets. This cross-border infrastructure will not be possible without the $4.5 billion in Kansas City Southern invested in Mexico over the past 20 years.

Additionally, when the House and the Senate last passed trade promotion authority, it established ISDS as a negotiating objective. So not including ISDS in NAFTA would be a direct rebuke to Congress' explicit direction and could undermine critical support for a renegotiated NAFTA lacking such protections.

Ambassador Lighthizer, I urge you to reconsider your position on ISDS. Continuing to include ISDS in NAFTA makes good policy and political sense.

And to speak just a little more broadly, Ambassador Lighthizer, I can't overstate the importance of NAFTA for the farmers, ranchers, and manufacturers in my district. In fact, about two-dozen county Farm Bureau members from eastern Kansas were just in my office yesterday to hammer this point home. They depend and rely on being able to sell to Mexico and Canada as though their livelihoods depend upon it, because they do.

The message I received is the need for certainty that NAFTA benefits, which have allowed Kansas exports to surge, remain in place. This certainty is paramount to providing desperately needed assurance to all aspects of the Kansas economy.

The small towns across my district that make up America's agriculture heartland are depending on the administration getting this modernization right and moving on to expanding into new markets and joining new trade deals. That is why I strongly support NAFTA and why I encourage this administration to follow through on its promise of doing no harm.

With that, Mr. Chairman, I yield back.

Chairman Brady. Thank you, Ms. Jenkins.

Mr. Paulsen, you are recognized.

Mr. Paulsen. Thank you, Mr. Chairman.

And thank you, Mr. Ambassador, for being here, and also for your work and progress on the NAFTA renegotiations, particularly in the area of regulatory practices, anticorruption issues, customs issues, and digital trade. Modernizing NAFTA with a digital chapter is essential, not only to protecting American innovation but also access to markets through e-commerce that many of our American products and services are sold from.

But I have got to tell you: The President's decision to invoke a very little used 1962 law to impose these broad tariffs is creating a lot of uncertainty, and it does threaten to derail some of the economic gains and benefits that we have seen recently in our economy. And it seems like every time now that I speak to

a Minnesota company, they have a lot of questions about some of this uncertainty to the current trade climate that we have.

I usually begin the conversation by talking about the real economic benefits that they have already seen right now from the Tax Cuts and Jobs Act. And they tell me how they are investing more in new equipment, they are reinvesting in their employees, and that is a good thing. But then they also will talk about some of the bad news regarding the new tariffs and maybe pulling -- the threat to pull out of NAFTA, for instance.

There was one Fortune 500 company in Minnesota recently that produces engines and generators. They said that half of their economic benefit made by tax reform will be wiped out by the steel and aluminum tariffs that are being imposed.

And it is not just large employers that are being impacted or putting these projects on hold now. We have small manufacturers and small businesses, like R&M Manufacturing that shared their thoughts with me directly, saying they are opposed to the steel and aluminum tariffs that are under section 232, saying it would be disastrous for them as well as other small metal-forming companies, because raising their prices means they are going to no longer be competitive, and they are going to get clobbered.

So I support the President's objective, and your objective, of really fighting for the American worker that needs that support in helping employees of U.S. steel companies. But some of those gains are going to be swamped by some of the larger losses that could be felt by much larger losses at metal-consuming companies and other areas across the economy if we have those retaliation tariffs.

Economists now are saying, with the trade partnership, for instance, the study says, the United States would lose five jobs for every job created in steel and aluminum savings. And that is without retaliatory tariffs. If you take in retaliation, it could be a net loss of 18 jobs for every job gained, and it is not even close. That is 470,000 jobs. Most of those jobs are production. They are blue collar. They are exactly the type of jobs that I think you and the President are intent on protecting.

And I think we are on pins and needles with the upcoming potential announcement later this week because retailers like Best Buy in Minnesota are concerned about the upcoming section 301 tariffs. And I am all for targeting Chinese intellectual property violations and holding them accountable, but let's

be targeted in what we want China to change and let's go after that, because consumer electronics don't have domestic production.

And I hope we won't be seeing tariffs imposed on products that a lot of American families and consumers and small businesses purchase every day. It wouldn't make sense to raise the cost of a laptop for a college student or a couple of hundred dollars on a computer for a small business, for instance. I would say, I would ask: How is that going to help change the Chinese minds?

And I know, in Minnesota, we have got 800,000 jobs now that rely on trade. It is one of the reasons that we weathered the economic storm a lot better than most States: we have a lot of high-value manufacturing. And those jobs, by the way, pay a lot higher than average salaries.

So let's just not shoot ourselves in the foot. I don't believe any country wins a trade war. I think all countries lose. And, Mr. Ambassador, I think every one of the companies I highlighted and I have heard from, they share the exact same goal that you have: to change China's behavior.

I just want to ask, would you be willing to meet with some key industry leaders or make sure some folks are sitting down and we continue to work together on solutions that are really going to be effective in that capacity?

And I will ask some more followup targeted questions that are more specific in the written record, Mr. Ambassador.

Ambassador Lighthizer. Well, there's a lot there.

First of all, with respect to that trade partnership study, I haven't looked at this one particularly. I've looked at those in the past. The accuracy of them is so slow that I wouldn't let it keep me awake at night. That is not to say that the basic point that we have to balance downstream effects is very important, and we understand that.

Nobody wins from a trade war. We certainly don't want a trade war. On the other hand, you have to ask yourself, can we go on with an $800 billion, and growing, billion dollar trade deficit? There is only a handful of countries in the whole world that have a GDP the size of that. So we have to do something.

And the people who are benefiting from the status quo are always going to be against it. And we understand that, and we have to balance their interest. But

the reality is, if you are on a course that is unsustainable, you have to figure out something to change.

Am I willing to sit down and meet with business people? I am happy to do that. And I would say I and my deputies do it every day. We have had an enormous amount of contact with business people, and I think it's an extremely important part of what we do.

Mr. Paulsen. Thank you, Mr. Ambassador.

Chairman Brady. Thank you. The gentleman's time has expired.

Mr. Higgins, you are recognized.

Mr. Higgins. Thank you, Mr. Chairman.

Ambassador Lighthizer, what is your view of the U.S. trade relationship with Canada? Does the United States have a trade deficit or a trade surplus, in your view?

Ambassador Lighthizer. One of the great questions of all times.

This is something on which I have spoken about for years. Here is the situation, and the numbers are all confusing, and when I am finished it will be appropriate to ask, "If you are not confused, then you are not paying attention," all right, so you will be confused.

Mr. Higgins. Quickly. I only have 5 minutes.

Ambassador Lighthizer. I'm sorry. But you can't ask a 2-hour question. I'll give you the shortest version of it.

The fact is that, if you look at goods on a customs basis, yes, we have a $17 billion deficit with Canada.

If you look at a customs basis, what does Canada say their surplus is, which should be the contrary, that turns out to be $97 billion.

So Canada thinks on a customs basis, they have a $97 billion surplus with us whereas the number is somewhere in between. And what's the cause? The cause is a lot of things. But the biggest one is it is products that come into the United States and go up to Canada, in many cases, we count them as a U.S.

export, even though they are not U.S. exports. If they are duty free, they can just be trucked up there and have nothing.

The Canadians, however, look upon it as an import from the appropriate country. Now, if you look at it on a balance of payments basis, then the numbers are different.

And if you look at it on a customs basis for goods only at 17 -- and then people sometimes will say, what's the services surplus, because we do have a services surplus -- but on a customs basis, there is no services number, so you have to take a services number from another dataset. And if you do that and you use our number, then we have a small surplus. If you use that and use their number, we still have an enormous deficit.

Mr. Higgins. Okay. Has the strong-arm tactics of the President as it relates to tariff threats, have they helped or hurt the negotiations?

Ambassador Lighthizer. Well, first of all, I don't buy your premise. I don't think there's been any strong-arm tactics. I would be interested to know specifically what you are referring to.

Mr. Higgins. Specifically, I am referring to tariff threats. In other words, the President in published reports has stated that he is issuing tariff threats against Canada and Mexico as leverage to get a better deal in NAFTA negotiations. It is pretty simple.

Ambassador Lighthizer. Oh, I see what you are saying. You are saying, does the 232 affect the negotiations?

Mr. Higgins. No. I am saying, does the strong-arm tactics of the President threatening tariff threats help or hurt the negotiations? It is a very simple question.

Ambassador Lighthizer. Well, then the answer is I have seen no strong-arm tactics, so they've had no effect on the negotiations.

Mr. Higgins. Ninety-three percent of the heroin seized by the United States Drug Enforcement Agency came from Canada -- or from Mexico -- 81 metric tons of heroin today. The President has demanded that Mexico do more to prevent drugs from entering the United States as a condition for lifting steel and aluminum tariffs. Is that something that has found its way into the negotiations?

Ambassador Lighthizer. Well, in the first place, there is a lot going on between the United States and Mexico to try to deal with the heroin problem. It is a legitimate problem on which no one can disagree. And there is a lot of stuff going on, and it's not something that I am the slightest bit involved with. But I know it's going on. I sort of hear about a lot of important stuff, and I think it will make a significant difference.

Mr. Higgins. So there is discussion going on.

I have a final question because this is important.

What, in your opinion, optimally and realistically, will be in the renewed NAFTA discussion outcome, final agreement? What will it look like as it relates to net benefits to the United States? Specifically, name three net new provisions that will benefit American workers.

Ambassador Lighthizer. Well, I mean, there are so many of them, some of which would be controversial, so I won't mention them.

But, clearly, rules of origin would be an enormous increase in benefit to the United States.

The IP provisions are going to be an enormous and just an unarguable benefit to the United States. Huge improvements will be made in digital trade, which will be extremely important to the United States. And I could literally go down. There is services trade. We have 33 chapters. And of all those chapters, I personally don't think there is a single one that won't be a significant improvement for the United States. And I would say that, of the 33, the members here would agree that 90 percent of them are huge improvements to the United States, assuming we get an agreement. But, yes, I think it's a very powerful, very, very important improvement in a whole variety of areas.

Chairman Brady. Thank you. The gentleman's time has expired.

Mr. Marchant, you are recognized.

Mr. Marchant. Thank you, Mr. Chairman.

Thank you for being here today, Ambassador.

My district is in north Texas. It is the home of the Dallas-Fort Worth Airport. So our area basically is involved more in the administration,

distribution, marketing, and storage of NAFTA goods and services more than the production of the actual product. That has created just a boom-town type economy in Dallas.

And so my home builders have come to me since we gained 90,000 jobs last year. It has put a lot of pressure on our home building and our apartment building and our whole building community. So they are concerned because of the tariffs that are involved in lumber, mainly with Canada, I think, and have provided me with charts that show that the lumber prices have escalated 40 to 60 percent in just the last year.

And I would like to just have a discussion with you about maybe just the purpose of the tariffs. Are they serving a purpose? Is there some relief in sight? Is the NAFTA agreement going to address these tariffs? Are they separate? And just general information for my home builders back home.

Ambassador Lighthizer. Thank you, Congressman.

So, if we are talking about the softwood lumber tariffs between the United States and Canada, those are the result of sometimes people talk about those as if there's some kind of administration policy. There's no administration policy on this, other than the policy that everyone here believes, which is that you have to enforce your laws against unfair trade.

So you have affected U.S. companies, who bring cases. They get duties. They go through and prove what the level of the dumping economy and subsidies are. Then they go and they prove that they've been injured at the ITC, and then they get orders put into effect. That is the process that has gone on, and it will go on.

And then, in the past, and to some except ongoing, there is an effort to try to get the U.S. industry to give up their rights under those in exchange for some kind of a package or something that will sort of smooth things out. That's a process which goes on every now and then. In the past, there have been a number of memorandums of understanding and numerous attempts to kind of work this out, that have worked it out.

Right now, I would say there's probably not much going on in terms of those negotiations. Are they part of NAFTA? Not as far as I'm concerned, they're not part of NAFTA. As far as I'm concerned, this is a function of the trade laws working the way Congress designed them to work. When this happens, sometimes prices go up, and sometimes it's unfair to people, and sometimes the

fact is they were just taking advantage of an unfair situation before and making money on low prices. And I don't know which it is in this case, but they could both be a factor.

But, to me, it is unlikely, I think -- I wouldn't put it at zero -- but it is unlikely that I am going to end up solving this issue or trying to resolve this issue. Right now, the positions are kind of intractable. And the people that brought the litigation have the right, just like anyone else here, and any your constituents are who bring a case and win it, have the right to get the benefit of a lawsuit.

Mr. Marchant. Okay. I appreciate your answer. Thank you.

Chairman Brady. Mrs. Black, you are recognized.

Mrs. Black. Thank you, Mr. Chairman.

And thank you, Ambassador, for being here today.

My district and my State of Tennessee has really benefited greatly from NAFTA because it has helped to bring some of the large-scale manufacturing automobiles to the State of Tennessee. It is quite an operation there across our entire State. These operations are tremendously important to our communities, especially one right there in the middle of Tennessee, Smyrna, which is the home of the Nissan plant that produces more than 150,000 automobiles in that plant annually. So it is a big issue for that middle Tennessee area.

There has been considerable press regarding USTR's auto rules of origin proposal, which, if the press reports are accurate, appears to be wholly unworkable for the industry and could have some perverse effect of costing American jobs rather than creating them, which, again, is a real concern for us there in middle Tennessee, in particular.

I understand that Canada presented a framework of ideas as a counterproposal during round six in Montreal, but that Canada's proposal could result in less regional content than we have now. So can you update us on whether Canada has been able to provide additional details regarding their proposal or whether Mexico has provided its own proposal on the autos rules of origin, because it is really critical for our communities like Smyrna, and we need to get it right?

Ambassador Lighthizer. Thank you, Mrs. Black.

I would say this. First of all, the auto plants, particularly what we used to call transplants, coming to Tennessee and other places has been an enormous boon, very important not only to Tennessee but for the country. So I think we have to acknowledge that, number one.

Number two, the rules of origin will have no effect on cars made in Tennessee and sold in the United States. They are kind of irrelevant to that whole equation. They have no effect on them at all.

What Nissan was worried about is that Nissan would say: I have a plant in Mexico that wants also to sell in the U.S., and that plant, in fact, has very, very little U.S. content, so that plant has a problem. But it will have no effect on anybody working in Tennessee for a Nissan plant for any car sold in the United States. I want to make that point because sometimes when they go around and talk about this, they kind of conflate those two things, and they're completely separate.

In terms of our working, we are working with the industry very closely on rules of origin. We want to be in a position where more of these jobs that are in Mexico right now come back to the United States. The basic model that Mexico has had -- and there has been reference to it over here. It is a smart model from their point of view. They want to lure companies to come to Mexico to make cars and sell them in the United States. Take advantage of their low wages, but take advantage of other things, too, like subsidies and like duty drawbacks and the like.

So that's a strategy, which is buy from Mexico, that is not necessarily a strategy that is smart for the United States. So our objective is to have more U.S. content, but even really Canadian content. The idea is it shouldn't just be a model where you come in, you are subsidized, you make stuff in Canada -- I am sorry -- in Mexico, and sell it to 80 percent the United States. That's not a very good model from our point of view.

So our objective is to try to find the line where we can encourage them to move some of that production parts -- cars, but also parts -- back to the United States. And we're in the process of talking to the companies and trying to do that. Our hope is that we get something that at least some of the large manufacturers will find useful.

With respect to others, I suspect they're going to be in a position where any change is going to move them to the point where they will have to pay the 2.5

percent tariff. But none of those will involve companies' workers who are in Tennessee or in the United States. I wanted to make that clear.

If we are going to improve the situation in NAFTA, we have to get rules of origin to get more jobs to come back to the United States. Will they all come back? No, of course not. Not a chance. But a lot of them can come back, and that's our objective.

And the Canadians, to be honest, have a similar objective. They also have been seeing a diminution in their auto industry, and they have a similar objective. And the Mexicans are in a position where they have to balance. But we are trying to work our way through that.

Mrs. Black. Thank you. I yield back.

Chairman Brady. The gentlelady yields back.

Ms. Sewell, you are recognized.

Ms. Sewell. Thank you, Mr. Chairman.

And welcome, Mr. Ambassador. Thank you for joining us.

I want to spend my time, limited time, focusing on the current U.S.-South Korea trade agreement renegotiations. As you know, auto manufacturing is critical in Alabama's economy. I have a Hyundai plant in my district that employs 3,000 workers and provides many of my constituents with high-paying jobs. Therefore, the U.S.-Korean relationship is very important to Alabamians and especially to the Seventh Congressional District.

I understand that this administration has concerns about the implementation of the original agreement, and I can appreciate those concerns. I, like many of my colleagues who have spoken earlier, really just want to reemphasize the importance of transparency. I share with my colleagues the concerns about lack of transparency in this renegotiation process, and my question really is, as I understand it -- the reason why I would assume that you are invoking TPA for NAFTA but not doing so for the KORUS agreement you have stated was because there are only minor amendments, and I guess I am questioning the unilateral decision that the executive branch can make as to, you know, to keeping the legislative branches and Members of Congress out of the loop. Can you talk a little bit about, you know, your ability to not come before us for TPA on KORUS?

Ambassador Lighthizer. Sure. And that's an excellent question. The bottom line is that TPA creates a process that has a number of steps that Congress is involved, as are cleared advisers and the like, and it takes more than a year to do realistically and, in fact, probably a lot more than a year. So, if you are in a negotiation like we had with KORUS -- like we have with KORUS – you're in a position where there is a real price to the uncertainty of waiting for the negotiations to go forward.

Ms. Sewell. Well, I appreciate it takes a lot of time obviously to go through the TPA process. I really was questioning what the ability of this administration or any executive to actually make that decision versus, you know, coming before Congress and asking for our blessings on this renegotiation.

Ambassador Lighthizer. Sure. So there is an amendment process within the agreement, and to the extent you follow the amendment process within the agreement, there are certain things you can do and certain things that you can't do. Things that require changes of law, for example, you probably cannot do, and that is why you would almost in that circumstance say: Okay, fine, we are going to have to go to TPA.

But there are a number of things that you can change. You can speed up tariffs. There is a whole variety of things you can do, and it was I would suggest contemplated by Congress when they passed the law implementing that agreement but also of similar agreements. It was contemplated that this process could be used for certain things and not for other things. So --

Ms. Sewell. Well, I just want to reclaim -- I am running out of time. I wanted to reclaim my time. I just really wanted to reiterate what you have heard from lots of my colleagues that this agreement, the KORUS renegotiation is just as important as NAFTA, and there are lots of Members of Congress who will be directly impacted by any changes in that agreement, like my district, and we obviously would want to be kept abreast and in the loop as to the changes that are going to be made and asked our consideration as to how will it affect our districts.

The other thing I wanted to discuss is this administration has shown a link between national security and trade, and I also sit on the Intelligence Committee, and I see the threats that this country faces every day. I also have commerce -- have seen how commerce can foster international cooperation and bolster national security. So I agree that the trade and national security are linked, but President Trump recently alluded to the possibility of pulling out American troops out of South Korea if South Korea doesn't give into our

demands on the Korea negotiations. I just want to make sure that and know your thoughts about how it is we can threaten strategic allies in the process of this renegotiation. I think that there is a balance, sir, that must be maintained when we are renegotiating with our strategic allies, and threats like that, I don't think help. Your thoughts about that?

Ambassador Lighthizer. Well, I mean, we are in the process of doing a lot of things. We certainly agree with you that South Korea is a very important ally, and they are not only an important ally but an important ally at a particular spot right now where there is a great deal of vulnerability. And in terms of my negotiations with my counterpart on the Korean-U.S. agreement, troops and the like have nothing to do with what I am talking about. I don't get involved with it at all.

Now, there are other people who would say that, in other parts of the strategic relationship, from the point of the United States, that worry about who's paying for what and all these kinds of things, and I know there is a whole world of stuff there that's very important that somebody has to sort out --

Chairman Brady. Mr. Ambassador, I apologize, the time has expired.

Ambassador Lighthizer. I am sorry.

Chairman Brady. Mr. Kelly, you are recognized.

Mr. Kelly. Thank you, chairman. Mr. Ambassador, thanks for being here, and I am glad your team is starting to get filled. I know you have been doing yeoman's work on this. Look, you know, where I am from in western Pennsylvania -- and I am going to go through this as quickly as I can because I know there are others waiting to talk -- but at one time, steel and aluminum were such a big part of that area and now our mills are shuttered; our towns are decimated. And I think the President's talking about putting tariffs on aluminum and steel has been a big boost to those folks that live there, giving them hope again, because for so many years, people talked about it. And if you can repeat, what is the trade imbalance right now, because I think people talk about us getting into a trade war? And the imbalance right now, is it, what, $800 billion?

Ambassador Lighthizer. Correct.

Mr. Kelly. So I guess that is considered a skirmish, not really a war.

Ambassador Lighthizer. $800 billion is the goods numbers, the goods and services number is like 565 or some number like that.

Mr. Kelly. Well, we are in a real battle right now to maintain our jobs. One of the things I understand that you are going to be -- you are going to be leading the country exemption process for the President, and it has been reported that there will be roughly five criteria for granting tariff exemptions for countries related to fighting over capacity, blocking dumped steel from this market, participating in the global forum on steel excess capacity, and supporting antidumping and countervailing duty disputes lodged by the U.S. at the WTO. One of the things I want to bring up, one of the companies in the district that I represent is a company called NLMK. They are in Farrell, Pennsylvania. They have 600 people that work at the Farrell plant, and down in Sharon, they have another 150. And I think they are pretty much on board with what is going on with the tariffs, but they are a Russian-owned company, and I know this disturbs so many people; any time the word "Russia" comes up, we go running around with our hair on fire. What they are feeling is that any of these tariffs should be applied to overseas companies that have been dumping steel or manipulating currency for years, and one of the men up there who represents the steelworkers, Terry Day, has said that let's go after the people that have been the bad actors. They get the Russian steel in, but then they reheat it, and then they roll it out, and they make coils with it. I think that some people put everybody in the same category. So I just want to make sure that, when we go after these folks and these exclusions are granted, there are some people that do have a model already in place; they have not been taking advantage of a bad trade situation, but they have actually, in fact, worked to get through it. These are, by the way, American workers that are actually producing this product. So, if you can, can you just give me an idea on how the country exemption discussions are proceeding at this point, and how would a company like NLMK and the rest of the foraging companies, because we have a lot of foraging companies, too, in Pennsylvania that are looking at all this, so how that would work out and how -- would they or would they not be included in the exclusions, and how would it work?

Ambassador Lighthizer. Let me say, first of all, that there are two levels of exclusion. There are product exclusions, and I don't know if in their case they have a product coming in that is somehow unique in a way that it doesn't reduce the efficiency of the program. So there will be -- there are -- there will be a number of countries, and when we've done this in the past, because I have been around this before, there's always a process where somebody comes in

and says this is a unique process and a unique product and that price should be excluded, so there is that.

With respect to the countries, I would say there is a cognizance on our part that some countries are bigger contributors to the problem than others, and a number of people believe that Russia is in that group of countries that are contributors. So, if you look at when this was originally set up, you had option one, which was 25 percent across the board; you had option two, which picked out 12 countries, and those countries would have gotten higher duties, but others would not. So that's the options; the President went with option number one.

With respect to option number two, one of the countries that was viewed to be a significant contributor to the problem was Russia, so I'm not exactly sure that, in all cases, people would say they are basically operating in clean hands. That is not to say that, in your situation, that it is necessarily reflective of that. So what these countries tended to be were people that imported product from China and exported product to the United States. So you even had basically like Costa Rica, you had places where you think, what, where does that come from? And the presumption was that they were taking in steel from China and shipping either that or their own steel and replacing it with -- to the United States. So I would suggest that Russia is at least, in the opinion of some people, is a problem. I would say -- and there's a number of others who I can go through. I would say that there is an effort made to try to separate out these things. I don't think you are going to see a lot of exclusions done in any event, but I would say this, that to the extent exclusions are offered and product exclusions come in, it does have a dampening effect in terms of the effect on prices and the product, which would have a dampening effect on any negative consequences that go down the road.

Chairman Brady. Time has expired.

Mr. Renacci, you are recognized.

Mr. Renacci. Thank you, Mr. Chairman. Ambassador Lighthizer, from one Ohioan to another, thank you for being here. Ashtabula says hello. And thank you for your testimony. I would like to tell you about two Ohio farmers I have recently spoken to Jerry Bambauer and Dave Dotterer. Jerry and his son farm nearly 900 acres in Auglaize County, Ohio. He is the third generation of his family to farm the land and hopes his grandson eventually steps up to be the fifth generation farming the land. His family started with owning 8 acres back

in the 1930s. Through hard work and dedication, the farm eventually grew to its current size. The main crop farmed on this land is soybeans.

Jerry's friend Dave Dotterer lives over in Wayne County, which is in my district, and also farms soybeans. Dave grew up on a dairy farm but didn't really care for milking cows as much as his older brother. He knew he wanted to farm land and wanted to own his land, so he made it happen. He eventually purchased 1,100 acres that he farms with his son. His current focus is on building up the farm a bit further before he passes it along to his son.

I am telling you about Dave and Jerry because both of these men personally identify the American Dream that many farmers in Ohio can relate to. But I am also telling you about them so you are aware of their concerns.

As you know, U.S. soybean farmers are very concerned about recent suggestions from China that it may target soybeans if trade disputes escalate. Given that the U.S. is one of the world's largest exporters of soy and China is one of the largest importers of soy, their concerns are valid, especially since Ohio is the ninth largest producer of soybeans in the United States. So my questions for you, Ambassador, are threefold.

First, in your conversations with other countries, how are you addressing the devastating effect that these types of retaliatory measures could have on the U.S. farmers? Also, what steps might the U.S. take to prevent this potential issue from becoming a real problem? And, finally, is there any message you would like to relay to all the concerned soybean farmers back in Ohio?

Ambassador Lighthizer. Well, thank you, Congressman. First of all, we're very much aware of the problem, and I made this point from the beginning, not only in the context of the steel and aluminum but in the context of anything we do with China. We clearly have a problem with China. We're clearly going to have to do something to stick up for our own interests and to prevent ourselves from further seeing our national wealth eroded. And when they do, one of the first things they always talk about and what we always think about is $14 billion worth of soybean sales. They are by far our biggest market, and if you look at what they import, even among agriculture product, it is sort of like 14 and then the next -- 14 billion -- the next falls down to about a billion and a half. I mean, it is enormous spike. It's extremely important, and it is a real vulnerability.

I would say also that, even without any of this going on right now, the Chinese are cutting back. They're limiting their soybean imports, nothing to do with

any of this. They're doing it for their own reasons because they find that there are advantages to Brazilian soybeans, and they have their own bureaucracy doing whatever it is going to do.

So it is a major concern. It's something that we worry about. I would say I'm focusing on soybeans because you brought it up, but it is all agricultural products that are vulnerable in this kind of circumstance. So it is something we have to be very, very cognizant of as we take any steps. I don't think it's a sufficient worry that you would say, therefore, we are not going to stand up for American intellectual property or do the kinds of things that we have to do. But we are trying to do everything in a measured -- appropriate and measured way. And if there is retaliation, then the United States is going to have to take action to stick up for our farmers because we can't be in a position where when we do something that is not crazy or radical but is necessary to keep the United States' economy going, that somebody threatens farmers, and therefore, you don't do it. Right? We can't have a $375 billion trade deficit and not do anything to defend ourselves. But I think it's extremely important that we're aware of it and that we have to be prepared, working with Congress and others, to take countermeasures if it turns out that they are acting unfairly with respect to retaliating with respect to soybeans but also other agricultural products and other products too, but we generally tend to focus on agriculture.

Mr. Renacci. Thank you, Mr. Ambassador.

Mr. Chairman, I yield back.

Chairman Brady. Thank you.

The gentleman yields back.

Ms. Sewell, you are recognized.

Excuse me. Ms. DelBene, you are recognized.

Ms. DelBene. Thank you, Mr. Chair.

And thank you, Mr. Ambassador, for joining us today. Digital trade is an important part of our trade agenda and should be a major focus area as we look to modernize our trade agreements. But digital trade is also making trade work for Americans across the country. We know that many small sellers, constituents in my district but across the country, are harnessing the power of the internet to reach customers abroad in ways that were really impossible a

decade ago. In 2015, the U.S. led an effort to expand the information technology agreement, and 53 countries, including China, agreed to remove 201 tariffs on information and communications technologies, ICT, products, products like next-generation semiconductors that are manufactured in America and used in products around the world.

So your trade agenda acknowledges the importance of digital trade. However, the foundation of a strong and a vibrant digital economy includes access to affordable ICT products such as smartphones and tablets. The biggest beneficiaries of low tariffs or low tariffs on ICT products are our students, entrepreneurs and small businesses who use these devices to innovative and to sell their goods and services around the world.

So recent press reports, as we have discussed today, indicate the administration is considering a $60 billion tariff package on consumer products, including consumer electronics from China, as part of the section 301 investigations enforcement actions, and so I wondered if you could explain for us how these tariffs would help make it easier for our businesses and entrepreneurs around the country to compete in a global economy.

Ambassador Lighthizer. So I guess the question is, will the 301 -- because we are not putting tariffs on for any reason other than the assault on the U.S. information technology industry. So we have an issue that China has a policy of, one, forcing technology transfer in the case of inward bound investment; two, forcing companies to license technology at less than the economic value of it; three, state-subsidizing and directing massive amounts, and I think in some of these sectors $300 billion worth of investment to take over U.S. technology firms; and then, four, the absolute theft of technology through cyber theft. So those are kind of the premises of the -- the reason we have launched the 301.

Now, the question is, if you go through this, you have the study, and you decide there's a serious problem there, the issue then is, what do you do? One of the things that you would do is impose tariffs. The way you would impose the tariffs, and I tried to allude to this at the beginning, is there are certain technology products that are under assault. You have to give consideration as to whether or not you would put tariffs on those products. Another issue is you would create an algorithm that would maximize the pressure on China and minimize the pressure on U.S. consumers. And the combination of those two would be the way you would get to the amount you have. So you would come up with the economists' study and say, "Here is a measured amount of what the

relief should be," and then you try to find a system that allows you to impose it in a way that is most rational.

And if the President makes the decision to do this -- and he has not made that decision; we haven't done anything, but it is imminent that he will come to a decision – that's the way we are going to approach it. So you say, how does U.S. technology -- my view is this whole system vastly benefits U.S. technology companies, vastly, because it protects their intellectual property, which is the very heart of what they are. There is no set --

Ms. DelBene. Excuse me, before we run out of time, are you saying then that you are taking into account in any enforcement action that you take that the impact it would have on consumers, the impact it would have on small sellers across the country and on innovation and entrepreneurs across our country?

Ambassador Lighthizer. Yes, we certainly have a logarithm that tries to minimize the negative effect on us and maximize it on them. It is a logarithm that is created, and it is the kind of thing that you would expect us to do, and if we do this, that's the kind of thing we will do. So, for sure, that is right.

Ms. DelBene. Thank you.

Mr. Chair, I yield back.

Chairman Brady. Thank you.

Mr. Meehan, you are recognized.

Mr. Meehan. Thank you, Mr. Chairman.

And thank you, Mr. Lighthizer, for being here today and for all of your continuing work in this space. I want to, for the record, have an opportunity to express an issue. I know we have talked about it, but I represent a district in which QVC is a business which it broadcasts around the country and is able to take advantage of sales of goods. Canada prevents that broadcast from going across the borders using something called a cultural exemption, and it is not clear to me that the basis upon which they claim a cultural exemption would apply to something like this. It looks really more like a way in which they are effectively preventing, you know, what we would hope would be the fair competition working to, you know, the distinct disadvantage of QVC.

I know you have got a lot of big issues with NAFTA, but I hope when we get to the crossing the t's and i's, that something important like this is an issue that is also on the negotiating table, that and the idea that products of small people that have small products, there is a cost associated with moving goods into Canada for the small, you know, producer; somebody in the same way may have a knickknack that they are selling in Canada, but there are exclusions on getting those things in there. I hope those kinds of things will be part of the negotiations but get to conclusions.

Let me just switch, as well. I appreciate the work that you are doing holding China accountable for what they are doing dumping steel on the global stage. What concerns me and I am hoping that, with your language about flexibility, that there is a recognition that there are countries out there who are going to be impacted by the tariffs. And, you know, the EU can speak as a block. We have done things with Mexico and Canada. I do a lot of work with Brazil in the sense of my responsibilities here on the committee and studying their circumstances. I look at that as the kind of a country with a trade surplus with the United States or the United States has a trade surplus with them. This question about the transshipment of steel, you know, this is a country who I do not believe is engaged in that. We have a parallel trade in the sense that a lot of United States coal goes to Brazil in order to be used in some of the, you know, the preparation of that steel, which comes in as a semifinished product which augments manufacturing here. So there are a lot of characteristics which are, I think, speaking to the idea that, even though people have been identified, that these are the kinds of considerations that I would hope would qualify for, you know, exclusions. I know that you said that there was going to be flexibility in that, and so I am asking if you believe that those are the kinds of criteria that will be relevant in the determinations about whether or not there is a basis for exemptions for countries like Brazil.

Ambassador Lighthizer. First of all, on your first point cultural --

Chairman Brady. Mr. Ambassador, if you can hit that microphone.

Ambassador Lighthizer. Sure. On the first point, the cultural exemption really is very often just cultural protectionism, and you noted their de minimis standards are another example of just raw protectionism. And when we talk about wanting to limit people using standards and warning labels and the like, I always think all these things can be -- I mean, there is a legitimate case for some cultural exceptions, but it’s not this kind of thing, and this is another example of protectionism, I fear.

In the case of Brazil, there are a lot of things that would make Brazil an unusual circumstance. As we talked about before, you and I, yesterday and prior, the fact that they are a huge semifinished producer and the fact that they have -- a lot of their production is basically a model, which is they send slab, which we would call semifinished steel, to related countries -- companies in the United States, and then that's made into steel. So there are things that are unique about the Brazilian situation that at least we know is going to be taken into consideration. That isn't to say that they would be successful in getting a remedy, of getting an exclusion. I mean, that ultimately is going to be a question for the President, but there are factors there that are important.

Chairman Brady. Thank you.

Mrs. Noem, you are recognized.

Thank you, Mr. Meehan.

Mrs. Noem. Thank you, Mr. Chairman.

And thank you, Mr. Ambassador, for being here today. I represent the State of South Dakota. And this time of year, there is a lot of snow, it is really cold, and we watch a lot of basketball games, so -- and my son plays basketball, so that is what we end up doing on a lot of winter evenings when I happen to be back in the State. But recently I was sitting at one of those basketball games and I had something happen that has happened all too often recently. A local farmer came up and sat beside me and said: Kristi, do you know what the administration is thinking on trade right now? It seems like every time they take a position, soybeans drops 40 cents a bushel, and we can't hardly pay our bills today.

And so it happens over and over again where a lot of farmers and ranchers are very concerned based on comments that come out of the administration or positions on what could happen to their commodity markets. It is because 73 percent of our commodities that are grown in South Dakota are exported to Mexico or Canada, and times are hard in farm country, a part of America that really strongly supported President Trump. They have endured a 45-percent drop in net farm income over the last 3 years, and its only indication is that it is going to get worse. So these farmers are very worried that the administration that they supported is going to lose them a trade deal over provisions that may be widely unpopular.

A perfect example might be the sunset provision, which requires the deal to be renewed every 5 years. In my opinion, trade deals are meant to foster trust between nations and eliminate uncertainty in order to create more opportunities to sell our goods overseas, and the sunset provision undermines a trade deal's ability to develop necessary certainty to encourage businesses to invest. So I am curious, Mr. Ambassador, if you would accept a final trade deal, a trade agreement without the provision in it?

Ambassador Lighthizer. In the first place, I'm not going to sit here and negotiate with you in public. So that is not going to happen. I don't think that a sunset provision has any negative effect at all on farm sales.

Mrs. Noem. You don't think it creates uncertainty every 5 years?

Ambassador Lighthizer. No, I don't think it has any effect at all. In fact, I think exactly the opposite. I think when you get close to that fifth year, what you're going to see is what you saw this year with Korea. That is to say another billion dollars' worth of sales. So what we did is the President created this so-called uncertainty in KORUS, and you saw a billion dollars of additional sales of agricultural products in Korea and in -- because what they want to do is get the deficit down, and in my opinion, what you are going to see is, as you approach that fifth year, you are going to see additional sales. So I think they are -- the people who say that I think are exactly wrong.

Mrs. Noem. Do you have other examples besides that one instance? Because consistency, and that would be incredibly important that we have a background in historical examples of where -- because all indications historically is, when there is uncertainty in a trade provision, that you have commodity prices fluctuating and uncertainty for producers, and many producers market their grain a year in advance, or they may have to hang on to it waiting for better markets, and uncertainty causes them a lot of heartburn. So is that the one instance that you could point to where it was actually advantageous, or is there more --

Ambassador Lighthizer. Well, to be honest, we have only renegotiated two agreements. We're in the process of KORUS, and we are in the process of NAFTA. So it's a fairly small universe. But clearly there is a desire on behalf of people, when you are going to look at the trade deficit, to get the trade deficit down. That is number one.

Number two, I don't see it as an enormous amount of uncertainty. The idea is to have you look back at an agreement after 5 years and determine whether or

not the agreement is in the interest of the United States. If it is going to be as popular as everyone says that it's going to be, and if it is going to be as great for farmers as everyone says it is going to be, why would we get rid of the agreement?

Mrs. Noem. As far as adding clarity to how important the sunset provision is, you don't want to be more specific on if you would sign an agreement or agree to finalize an agreement that did not have it in it?

Ambassador Lighthizer. I think it is extremely important to me, and I am not going to negotiate with you here in this forum for sure on this or any other provision.

Mrs. Noem. All right. Okay. Thank you.

I yield back, Mr. Chairman.

Chairman Brady. Thank you.

Ms. Chu, you are recognized.

Ms. Chu. Ambassador Lighthizer, I know that you want to close NAFTA negotiations soon, but the IP chapter still has many outstanding issues. Stakeholders are worried that, in trying to quickly close the chapters, the U.S. will not honor its commitments to reform and modernize the IP chapters or that it may even negotiate away some of the key IP provisions for U.S. exporters that would in turn harm the U.S. economy.

Now I represent the Los Angeles area, the heart of the creative industries, and I am co-chair of the Creative Rights Caucus, and so strong intellectual property protections are very, very important to me and really important to the U.S. When movies, television shows, and songs are consumed around the globe, the royalties are injected back into the U.S. economy, and, in fact, the U.S. is widely recognized as the leader for the creative industries, the IP-intensive industries, these particular ones account for $6.6 trillion in value added and more than 38 percent of the U.S. GDP, and it supports 45.5 million jobs.

While, unfortunately, Canada and Mexico don't place the same value on strong intellectual property, particularly copyright protections, as the U.S. does, since the NAFTA IP discussions have remained at an impasse for months now, what

assurance can you give me that USTR is working to ensure Mexico and Canada protect U.S. intellectual property in their markets?

Ambassador Lighthizer. So, first of all, I would say, with respect to what progress has gone on until now, there has been an enormous amount of time spent, people have talked back and forth, so we understand each other. This is one of those issues that is never resolved until the very end of a negotiation, as I am sure you know. The reality is exactly as you say: Canada and Mexico are both takers of intellectual property. They are not protectors of intellectual property. Most people are not surprised about that with respect to Mexico, but it is surprising with respect to Canada. Canada has third world intellectual property protection, and getting them to accept first world is not easy. However, the speed with which we close NAFTA, and many people would say, if we close it in the next few months, it would still not have been fast, but that won't have any effect on where we come out on this. This is a very important issue. We understand it's an important issue.

I believe there are forces in Canada who understand that they have to at some point become a fully developed country on this issue because they certainly have a lot of intellectual property potential. So I am inclined -- there are people there who think they should be on our side of this issue, but I can't give assurances. It certainly is our position that we want to have strong protection for intellectual property. We think it's not only important for the United States but important for all the rest of these countries to do it. It's in their interest to do it.

Ms. Chu. Well, you are saying that this is one of those chapters that might be saved for the last, but can you show me that the intellectual property provisions, historically some of the most technically and politically sensitive free trade agreement provisions, will not be negotiated away or conceded in the final hours of NAFTA renegotiations?

Ambassador Lighthizer. Well, it is certainly not my intention to do that, but I can't very well negotiate with you. I wouldn't negotiate with her; I can't negotiate with you either. It just wouldn't be fair. But this is a very important issue for us. We are completely in your camp, and we hope that you call and say what a great job we did when the time is over. I know you'll call.

Ms. Chu. Okay. Well, on another subject, one of the keys to ensuring our trade agreements is strong enforcement particularly of our labor obligations. Now, we have agreements with Colombia, the Dominican Republic, Peru, and Honduras, and there have been labor violations that have

been filed in each one of these countries. In fact, there are numerous violations that include violence against unionists, inadequate labor inspections and enforcement actions and so forth, and yet, in most of these cases, there hasn't even been an update from the administration. What are you going to do to enforce these labor agreements?

Ambassador Lighthizer. Well, we have provisions in each of the trade agreements with these people that have labor provisions, and we are in the process of following the process that we have to follow for dispute settlement in those cases. It's clearly something that we brought to their attention. It's very troubling. It's a very troubling trend, and unfortunately, it is not just these countries. It's in a lot of other countries in that part of the world. So it's something that we agree with you on, and we are in the process of prosecuting these cases following the process that is set out in the agreement.

Ms. Chu. Thank you. I yield back.

Chairman Brady. Thank you, Mr. Smith. You are recognized.

Mr. Smith of Missouri. Thank you, Mr. Chairman.

Thank you, Ambassador, for taking your time out and being here today. The folks in southeast and south central Missouri are very optimistic about the future. If you look at the past year under President Trump's leadership, we passed a $5.5 trillion dollar tax cut for American farmers and small businesses. We have repealed hundreds of burdensome regulations and created over 1.6 million new jobs. Speaking of new jobs, as of just the day after the President did his tariffs on aluminum and steel, I was in southeast Missouri announcing 450 new jobs with a new aluminum smelter opening up. So these are real changes and real aspects that are affecting real people that have not always been on the right side of victory.

The next step for us is to go out and negotiate the best possible trade deals so that American farmers, businesses, and workers win around the world. We couldn't have a better person leading the way. The President wrote a book on creating great agreements. In the book he quoted: The worst thing you can possibly do in a deal is to seem desperate to make it. The best thing you can do is to deal from strength, and leverage is the best strength you can have -- on page 53, in fact. The President knows where our strengths are. They are in our hardworking people, our superior goods, and our world-leading services.

Mr. Lighthizer, you know this as well, and the task before you in NAFTA and potentially KORUS and other deals is not an easy one. While those are the hot topics, I want to talk to you about some unfair trading practices.

I do want to applaud you and the President for its trade enforcement actions in the World Trade Organization. Like I mentioned before, America is ready to compete as long as the playing field is level. But unfair trading practices disadvantage American farmers. To ignore violations of trade agreements does not strengthen free trade. In fact, it weakens free trade. There has been mounting evidence that certain countries are ignoring WTO obligations by providing price supports to farmers well above the commitments they agreed to. It results in surplus production that ends up in the world markets displacing sales of U.S. farmers. It is not conservative to allow for rampant breaches of contracts. It is just wrong.

In what ways is this administration leaning into the WTO to ensure that these countries play by the rules?

Ambassador Lighthizer. First of all, I agree with everything you've said.

Mr. Smith of Missouri. Well, then I must be right. That is great.

Ambassador Lighthizer. There are some people that disagree with me from time to time in this committee. So I completely agree. You are absolutely right. We are seeing a proliferation of agriculture subsidies. We just have. In the last ministerial round we had in Bueno Aires, I ended up hanging up the round or the negotiations because people wanted to -- their idea of an ag negotiation was a negotiation wherein countries could have more subsidies rather than fewer subsidies. They called this food programs, but the reality is what it was going to do was going do nothing but encourage more subsidies in agriculture. So we have gone all this far to try get ourselves in a market environment, and we said: No, we are not going to be in a position to change that.

And it really was India who was very much a new subsidizer.

Mr. Smith of Missouri. With their rice and the grains?

Ambassador Lighthizer. You're exactly right. And they were very much in favor of having negotiations really, in my judgment at least, about increasing subsidies. So we said: No, we are not going to do that.

Every time we find a situation, we bring a WTO case. The WTO, however, is not the greatest forum for enforcement of these kinds of actions, and it's always a problem if somebody does subsidies or dumps. In our market, we have tools to deal with that. If they're hurting us because they are doing something as a result of subsidies in their market or in a third market, the tools are not that good so you have to go to the WTO, and it is a cumbersome far from flawless forum. So we are aggressively bringing these cases. We completely agree with you. We are using the tools we have at hand, and hopefully we can improve those tools and make a difference.

Mr. Smith of Missouri. Please continue. Thank you.

Chairman Brady. Thank you.

Mr. Rice, you are recognized.

Mr. Rice. Thank you, Mr. Chairman.

Thank you, Ambassador Lighthizer, for being here today. I have told you publicly and privately that your presence in the administration and Mr. Ross' are two of the main reasons I have so much faith in this administration. I appreciate a man of your experience taking on this job, and it is so important for the American worker. I am a big believer in American competitiveness. I think our Tax Code went a long way toward helping our economy be competitive in the world, and trade is very important in American competitiveness; obviously also infrastructure, a lot of the things that the President -- immigration, a lot of the things the President is trying to work on. If we can get two or three more of those notched, our economy would be well poised in the world.

With respect to the tariffs, my opinion is, as you said, nobody wins in a trade war, but nobody disagrees that there are people who have been bad actors in the world, China particularly, and we have ignored it for too long to the destruction of the American middle class, and so we just can't accept that anymore. We have got to respond, and it needs to be targeted, and I appreciate your efforts in that regard.

But I wanted to talk a little bit more about NAFTA. You know, I have been to Montreal. I mentioned Montreal. I have been to Mexico City. I met with Mexican officials and regulatory people and business people and chambers of commerce. And in Canada, the same. And in America, the same. And I haven't met anybody who doesn't think that NAFTA doesn't need to be

continued and that it doesn't need to be modernized. Everybody is pretty much on board. And the same topics are brought up, the same four or five things you have raised today: rules of origin and de minimis rules and all these things. So it sounds like you are making great progress there, and I just am comforted having been in both of those places that everybody recognizes that this modernization process is a good thing and needs to be pursued.

But I wanted to zero in on one question that was asked to you at the American Chamber of Commerce in Canada, and I loved your response to it. And I just wanted to ask you so you could respond publicly to everybody. What would you see as a win in NAFTA? What is your goal? What are you shooting for when you are trying to renegotiate this? Can you explain that to the public?

Ambassador Lighthizer. Can you give me a hint what I might have said? If it was such a good answer, I don't want to change it at this point. Look, from our point of view -- first of all, we have to have -- we have to have an agreement that is good for all three countries, right? I mean, we have to have that.

Secondly, we want an agreement that is going to end up getting these trade deficits down. We have large trade deficits, and it has to move, has to move more jobs to the United States and create better jobs, not only more jobs but higher paying jobs. You know, I am in the group that thinks what we really need is a little bit of wage inflation. So I want to do something -- in the first place, I think it has to be in everyone's interest, or you won't get an agreement, but I want it to be something that gets the trade deficit down. I want it to be something that creates jobs, that moves some of these jobs back to the United States, and they're all not coming back. We all understand that completely. But this notion that none of them are coming back has been proven wrong by all of you because you have seen what happened after your tax bill. It has moved jobs back. It has. So jobs, wages are what the President is focused on, that's what I am focused on, and I think that this agreement will lead to efficiency, and it will lead to higher wages and more jobs in the United States.

Mr. Rice. That is pretty much the same answer you gave in Canada, except you said one other thing: I want to eliminate incentives to offshore.

All those are great objectives. I want to point out one anecdotal thing when we were in Canada having lunch with the Canadian American Business Council. And a tax consultant from Canada said: Where we have clients that have positions in America and in Canada, we are advising them to ramp down

in Canada and ramp up in America because of the tax reform bill; it seems we have lost our competitive advantage.

And under my breath, I said: Yes. So I appreciate very much your efforts to lift the American middle class. It is smaller. It hadn't had a raise since 1990, and I think tax reform and your efforts will change that.

Thank you, sir. I yield back.

Ambassador Lighthizer. Thank you very much.

And I would like to think -- going to get credit, you know, some of the credit for this tax bill. They are going to say: Look, the trade deficit went down, and I am not going to give you any credit when that happens. It will be entirely the trade policy.

Chairman Brady. We know how that works, Mr. Ambassador.

So, Mr. Blumenauer, you are recognized.

Mr. Blumenauer. Thank you, Mr. Chairman.

Mr. Ambassador, thank you. I appreciate your patience here for the last 3 hours dealing with our questions and comments. I must say that I appreciate the role that USTR has assumed on an area that I have been working on for the last 10 years dealing with illegal logging, particularly what is going on in Peru. It has been sort of a struggle. I thought it was harder than it should have been in the last administration, but I appreciate the work that you and your team have done. This, as you know, is not just an issue of enforcing trade obligations. Illegal logging damages the environment. It undercuts the rule of law in developing countries, and it has negative impacts on Americans who play by the rules, and I just wanted to say how much I appreciated that. And I do want to identify myself with comments that my friends Mr. Thompson and Mr. Doggett mentioned earlier. I won't take my time or yours, but I am concerned about having American wine industry, particularly in the Pacific Northwest, on a level playing field, and I am concerned about American interference with the ability of other countries to protect the health of their citizens, and I appreciate there are nuances there, but historically, I think we could have done more to be more open. I think it is a larger issue, and I hope that we can collectively focus on this because I think it is very significant.

I listened to -- my friend from Missouri referenced "The Art of the Deal" or some such publication by the President. I think there is a pretty significant difference when you are negotiating in real estate when you can, as he states in his book, exaggerate as you can go bankrupt and leave other people holding the bag when things collapse and move onto the next project. We are talking about the American economy. We are talking about our role in the world, and I think, for example, exaggerating or making things up in a discussion with the head of the State of an ally and admitting it publicly doesn't help us on the world stage. And I identify with some of my colleagues who say we feel more comfortable knowing that you are in the role that you are in. You have broad experience and I think understand some of these dynamics.

And it is in that context I would like to just raise one point with you, and that deals with some of the impacts of the imposition of tariffs under the 301 with China, particularly as it affects retail trade. And Mr. Reichert and I have some involvement with companies that are involved with apparel and footwear, and we have been working for a long time to try and see if we can have some more rational policy as it relates to tariffs.

As you well know, tariffs are not just magically imposed on somebody else. It is a cost of doing business. It affects what happens with American manufacturers and retail. And they are ultimately paid by the consumer, and we have a system now that is tilted against low- and moderate-income people. When you look at clothing and footwear, the percentage that is paid at the lower end is really quite outrageous, and I am hopeful that we don't rush into something with China that ends up actually making it worse. So I am hopeful that this is an area that can be entered with great sensitivity.

Mr. Chairman, I would request unanimous consent to enter into the record correspondence addressed to the White House but also to the Ambassador and the committee that speaks to this in terms of tariff, understanding the dynamic, and I wondered if you had any observations --

Chairman Brady. Without objection.

Mr. Blumenauer. Thank you, sir.

If you could offer any observations that might make some of my constituents feel better.

Ambassador Lighthizer. I would say, first of all, when you talked about the quote from "The Art of the Deal," all I was thinking was I hope I don't look desperate, so I had a different take on it than you did. We understand and I kind of went through this, if there are tariffs, one, you have to establish through an algorithm what the amount is and use as much science as you can; and, two, when you pick the products on which you would put a tariff, you start with a logarithm that tries to maximize the effect on China and minimize the effect on U.S. consumers. And if you think about products on a -- you have kind of a line over here of products where they are minimally a problem for U.S. consumers and maximally a problem for Canada. Now you can't always follow that, but that is one of the big factors, and that is part of the logarithm, and we are very -- we are aware of that and are cognizant of it. And if we end up doing this, it won't be perfect, but you will see a methodology which you will say, yes, that is a sensible --

Chairman Brady. Time has expired.

Mr. Schweikert, you are recognized.

Mr. Schweikert. Thank you, Mr. Chairman. Mr. Ambassador, first, just a quick comment on sort of a global basis and particularly more for even some of your newer staff. Long term, some of us have a fascination of what worldwide trade can do, particularly considering our demographic issues. You know, as a country, as we are getting much older, we are going to need populations of folks in the prime consumer ages for us to sell stuff to. So that is always in a long term, there are some great articles about, you know, trade actually may help us with some of our demographics that we are facing, and it is just math.

Mr. Ambassador, I first want to thank you on the de minimis. The last time you and I had an opportunity to talk about it, you not only got it; you were an amazing advocate. Particularly, as some of the other countries we are presently negotiating with are listening to this hearing right now, there are many of us on this committee that are absolutely just fixated on the de minimis value with Mexico and Canada and the inequities that creates. Do you think they are hearing that part of the discussion?

Ambassador Lighthizer. I certainly hope so. It's one of those issues where anybody who starts focusing on it, it becomes more and more important to them because it doesn't -- it affects a lot of product, and the more you study it, the more it's bothersome of products coming into other countries in bulk, being broken up into smaller things and being shipped. The fact that most of the Canadian -- one of the articles I read is most of the Canadian online sellers sell far more in the U.S. than they do in Canada, and we can't go in that direction essentially at all. I mean $20 versus $800 is just ridiculous. It's a hugely important issue. It affects an enormous number of sectors. So it is something that is very important to us. And I -- look, everybody knows the right answer is to be above $20. There's no one that can argue that. You can argue 800, but it has to go up.

Mr. Schweikert. And you make a -- look, for those of us being a border State, Arizona, where we are trying to set up trade hubs and inland ports, and yet if you look at the current de minimis, particularly with our trading partner of Mexico, it is all going to be inbound because our ability for small retailers, for high-tech commerce to go upbound, it just doesn't work.

Just because time is so precious, I am one of those States, communities, because being in the desert Southwest, has intense concern on seasonal tariffs just because, if you actually sort of game theory it, it creates distortions and then retributions on the distortions. And if you actually start thinking about when certain crops come in and the seasonalities, it ends up becoming very, very ugly. And particularly for those of us who do a lot of cash crop growing because we -- Arizona provides the winter lettuce crop for the country, and if you are doing seasonal tariffs, the tails of those tariffs end up creating some real pricing distortions, particularly for our consumers on both sides of the border.

Ambassador Lighthizer. So you are against the proposal.

Mr. Schweikert. Absolutely livid.

Ambassador Lighthizer. There are an enormous number of products that would be subject to these that come in from Mexico through Arizona, and so it's basically -- it is the interest of importers in that State, and I just wanted to make sure that I was understanding. I have heard the argument, you know --

Mr. Schweikert. It actually gets a little more complicated. If you are doing certain types of cash crops and you have just had a seasonal tariff that benefitted the growing season in one part of the country and then it falls off, all

of the sudden, you are on the pricing fall side, and so it is just that if you think of that constant moving of that sort of bell curve.

Last thing, and, look, you have spoken about this elegantly, though I substantially disagree with some of the characterization, ISDS. And I know so often rhetorically we have speakers that will say, "Well, it is sovereignty," but if you actually really walk through the mechanisms, it absolutely is not. It is to that issue. It doesn't rewrite our laws or the Mexican laws or the Canadian laws. It is not -- it is not a precedent for the next case. Ultimately, it is -- think of it more like, if we were to ever lose, which we have not, you would have to pay compensation, but it does not rewrite your sovereign statutes. And so when people use the sovereignty quotes, I think it is an absolute distortion of how it actually works.

Thank you, Mr. Ambassador.

Chairman Brady. Time has expired.

Mrs. Walorski, you are recognized.

Mrs. Walorski. Thank you, Mr. Chairman.

Ambassador, it is good to see you. It will come as no surprise to you I want to talk about 232, just a couple of -- point of clarifications. So it is my understanding, and I just wanted you to confirm this, that you are considering participating in the Global Forum on Steel Excess Capacity that is under consideration?

Ambassador Lighthizer. I mean, we do participate, and one of the things we've asked people who might get an exclusion is that they participate and help us with that, and most of these countries do, by the way.

Mrs. Walorski. The recent Global Forum on Steel Excess Capacity held a first minister-level meeting last November, but you were not there, correct?

Ambassador Lighthizer. That's correct. I had no deputies in place at that time, so I was staying here.

Mrs. Walorski. I understand. Will you in the future attend those yourself since the rest of the world is looking at this with incredible significance and bringing their ministerial level folks to the table?

Ambassador Lighthizer. Well, I mean, I wouldn't guarantee -- I would say I think, at that meeting, I think there were maybe three ministers. So it might have been a ministerial level, but I think about 30 countries did not send ministers and about three did. And the three that did --

Mrs. Walorski. But the one that I am concerned about is you and this country.

Ambassador Lighthizer. Well, I understand, but I just want to suggest -- the idea was that it was like this ministerial level. So you had Europe send one because it was basically around the corner; you had the German minister who doesn't have competence in the area, but it was good to be there; and I think there may have been one or two others.

Mrs. Walorski. Yes, but the reason I am asking the question, Ambassador, is because while all of those countries have irons in the fire here, you are the Ambassador that is going to go forth under all these rules in 232, and I want you to do as best as you can for our Nation and for my district, and that is my concern. And I believe that you can, and I believe that you will.

I want to switch gears, though, really quickly to this issue of retaliation. In my district in northern Indiana, with the second largest concentration of manufacturing jobs in the country, there is a whole host of ag that I am concerned about: corn, soybeans, dairy, pork, poultry, beef, eggs, tomatoes, and the list goes on.

But half of the soybeans grown in Indiana are exported to China. Honeywell makes brakes and avionics in South Bend that go into Boeing airplanes. China is threatening retaliation against both. In fact, today China's state-run Global Times ran an article alleging that the U.S. is dumping soybeans into China and calling for strong restrictive measures.

Corn and motor boats are exported from my district to the EU. Both of those are the EU's retaliation list.

Setting aside the tariffs, there is an incredible amount of anxiety in my district over the threat of retaliation. That anxiety is shared regardless of industry because manufacturers, suppliers, farmers, and workers will be affected. Are you considering the devastating effect that retaliatory measures could have, especially on small business and family farms that absolutely do not have the resources to absorb big losses?

Ambassador Lighthizer. Yes.

Mrs. Walorski. In what way?

Ambassador Lighthizer. We are gaming out what would happen, what the most likely areas are that you would have retaliation, what kind of things that you would do. We can't be in a position where we take no action because of threats of retaliation. That is how you end up having an $800 billion trade deficit, which cost literally millions and millions of jobs in America.

But there is a legitimate threat. And as I have said a few times here today and many times in the past, agriculture is always on the front line of retaliation. I said that when I first testified. Members would say to me: Do you think we should be concerned? I said: If you're in agriculture, you always have to be concerned.

Anything that happens, they are going to figure we can get it and do something on agriculture.

It's an unfair situation, but it's one that we have to come to grips with. You have to think about counterretaliation. You have to think about programs for farmers who are in this situation. There are a lot of things that are outside of my realm that have to be considered. But it's a serious problem, and we are very aware of it.

Mrs. Walorski. Thank you.

Thank you, Mr. Chairman. I yield back.

Chairman Brady. Thank you.

Ms. Sanchez, you are recognized.

Ms. Sanchez. Thank you, Mr. Chairman, and to Ambassador Lighthizer for joining with us today to talk about the Trump administration's trade agenda.

For many years now, Democrats have been talking about the impacts that trade agreements have on American workers, and we lament the fact that they have caused countless good-paying American jobs to be shipped overseas, most notably in the manufacturing sector. Those jobs are really the bedrock of the American middle class and critical for our economy. Those jobs have been lost

to countries whose labor standards are impossible for our workers to compete with on a level playing field.

I think that a lot of us were really hopeful when the President talked about bringing American manufacturing jobs back and creating new jobs through renegotiating our existing trade deals. This administration time and time again has said that they want a level playing field for American workers, but I have yet to hear the administration lay out a clear vision for how you plan to achieve this goal.

It is no secret that we met with Secretary Ross last year. When I pressed him on that issue, "What is your strategy for bringing back American jobs or maintaining American jobs here," the only answer that he provided us was that they are going to renegotiate the rules of origin for autos. That was it. That was his single sole idea or plan for bringing back manufacturing jobs.

I think we have to do a lot more than that if we are going to create the kind of jobs that we want here and ensure that American workers and industries are not on an unlevel playing field, first of all, and, second of all, in a race to the bottom for wages and working conditions. Workers in Mexico earn a pittance of what U.S. workers make, and is it any wonder that we are losing jobs to Mexico? I think Canada, as well, as a vested interest because their labor standards are similar to ours.

Mr. Ambassador, I would like to know, the President has said that he will bring back jobs through renegotiating trade deals, what pieces of NAFTA specifically are you negotiating that you think is going to deliver on that promise?

Ambassador Lighthizer. Well, first of all, the most important thing that has been done so far is to pass the tax bill, so that was a very important part, in terms of bringing jobs back.

Ms. Sanchez. I am not talking about the tax bill. I am talking about renegotiation of NAFTA.

Ambassador Lighthizer. I understand that.

Ms. Sanchez. I want to know, specifically, what parts of NAFTA would you renegotiate to ensure that U.S. jobs stay in this country or that we bring back jobs that we have lost?

Ambassador Lighthizer. I think the regulatory improvements you have made helped also.

Ms. Sanchez. I am not talking about regulatory -- can we stick to the subject matter of this hearing, please.

What pieces of NAFTA will you renegotiate to ensure that we keep U.S. jobs here and bring back manufacturing jobs that we have lost?

Ambassador Lighthizer. Well, I would say the first thing is the rules of origin. The rules of origin not just for --

Ms. Sanchez. Okay. Aside from auto rules of origin, what is the plan?

Ambassador Lighthizer. We have a plan for labor standards. We have a plan for --

Ms. Sanchez. What is the plan for labor standards? Lay that out for me. Specifics.

Ambassador Lighthizer. Well, in the first place, there is a limit to how much I am going to talk about this in a public forum. I'm sure you can understand that, since I am involved in negotiations with two countries.

Ms. Sanchez. I understand that.

Ambassador Lighthizer. All right. Good.

I have already talked about this a couple of times, but I'll do it again.

It is our view that U.S. workers have the right to expect that collective bargaining agreements in Mexico are the result of secret ballots and legitimately verified to be such. There's a whole series of processes that were involved with in negotiating that element, including even today. So that's a hugely important issue. And the objective is to try to get wages up in Mexico, which makes the United States more competitive, but also creates customers for the United States.

Ms. Sanchez. So would it be fair to say that you are seeking labor standards with our trading partners that are on the level with U.S. labor standards, or do you intend to bring U.S. labor standards down to the lowest common denominator?

Ambassador Lighthizer. Did I say anything at all about U.S. labor standards? If I did, I misspoke. We're doing nothing about U.S. labor standards.

Ms. Sanchez. I am just asking a simple question.

Ambassador Lighthizer. And the answer is we are dealing with the Mexican labor standards. We are not dealing with the United States labor standards.

Ms. Sanchez. So is it fair to say you are trying to raise the standards of our trading partners comparable to that of the United States? Is that what I am hearing?

Ambassador Lighthizer. No. What I'm trying to do is raise the standards in Mexico.

Ms. Sanchez. So you raise it, but not to U.S. standards, not that high, somewhere in between?

Ambassador Lighthizer. It is not my point.

What I'm focusing on is the basic elements of what you expect in basic labor law. That's what I am talking about. I am not talking about U.S. standards.

Ms. Sanchez. ILO conventions of labor law?

Chairman Brady. All time has expired.

Ms. Sanchez. Mr. Chairman, if I could simply just make the request that we receive the answer to the last question in writing.

Chairman Brady. In writing, absolutely.

Ms. Sanchez. Thank you. I yield back. Thank you, Mr. Chairman.

Chairman Brady. Thank you, Ambassador.

I will tell you, I see significant wins for the U.S. in energy, agriculture, telecommunications, digital trade, services, technology, and manufacturing because you are being so aggressive in these areas, and we appreciate the work there.

Mr. Curbelo, you are recognized.

Mr. Curbelo. Thank you, Mr. Chairman.

Welcome, Ambassador. Thank you so much for your time.

I first want to say I was thrilled to hear earlier your statements regarding engagement with Argentina and Brazil. I think that our country, in many ways, has been absent in our own neighborhood over the last few decades. And I think in both those countries, we are seeing very positive developments. This is very exciting for south Florida, as you can imagine, because we are poised to grow and to benefit greatly from further engagement in the region, specifically with countries like Brazil and Argentina.

On a couple issues that have been discussed extensively here, I want to associate myself with the comments made by Chairman Brady and others on ISDS. I think it is an important tool for American companies, for American stakeholders, and also with Chairman Johnson on the sunset clause.

I do believe that one of the major components to a successful business and to enterprise generally is certainty. And I think that if companies are operating under the threat of the expiration of a deal, that could inhibit their ability to invest. And, by the way, it is not just American companies' investments abroad, but the investments of Canadian and Mexican companies in the United States.

So I really hope that we have a strong provision to review the deal, to revisit the deal, to make sure we keep it up to date, which we haven't done over the last 25 years, but certainly not always to have the threat of a potential expiration.

Another issue I wanted to bring up is the effect trade agreements have on the farmers of my south Florida district. Many people not from south Florida might be surprised to know that Miami-Dade County is one of the largest ag producing counties in the State. We have avocados, mangos, tomatoes, and hundreds of specialty crops. And because south Florida is significantly warmer than even central parts of the State, crops can be grown year-round. For example, Ambassador, it is not snowing in south Florida today, something that we are very pleased with.

So, as we renegotiate NAFTA, I am concerned with how the deal will affect the farmers across Florida, but specifically with how it will impact the agriculture community I am honored to represent in south Dade. I know the administration has been advancing a seasonable and perishable proposal that could help

provide relief to our growers from Mexican dumping by making it easier to prove entry.

Could you give us a brief update on where we are and what the nature of the administration's commitment with this provision is at this time?

Ambassador Lighthizer. Well, it is a provision that's very important and not without its controversy.

The point that I try to make is that while we have a lot of agricultural sales in Mexico -- with Mexico, we have an agricultural sales deficit of about $5 billion. So we're not on the positive side of our agricultural sales with Mexico.

The area that is most affected negatively are the seasonable and perishable fruits and vegetables, as you suggest. So we have a provision that we have designed that allows those people, only in cases where there is unfair trade, to take advantage of the unfair trade statutes. Until now, they are essentially precluded by the nature of the way the statutes are taken up.

So we have put forward this proposal. It has not been wildly popular with our trading partners, I would say in all candor at this point. But it's an important provision, and one that we are negotiating on right now.

Mr. Curbelo. Thank you, Ambassador. I encourage you to do the best you can in this area. We know that the specific proposal you have put forward may not be able to make it, but I think anything that improves the status quo for these farmers, which have been decimated, quite frankly, would be something that we would welcome.

And I am more concerned with fairness and less concerned with this deficit issue. I always tell people: I have a deficit. My family has a trade deficit with the supermarket, and we want to keep it that way. We are not interested in changing that.

I think the key question is: Is it fair? And are American companies, in this case American farmers, being given the same opportunities to compete as Mexican farmers and as Canadian farmers? And I think in this area of seasonable products, it is certainly not the case.

So I appreciate your commitment to this provision and your commitment to the farmers of south Florida, which are counting on us to improve the status quo.

Thank you, Ambassador.

I yield back.

Chairman Brady. The gentleman yields back.

Mr. Bishop, you are recognized.

Mr. Bishop. Thank you, Mr. Chairman.

And thank you, Mr. Ambassador, for being here today, and for your time and effort. I know this is a long hearing, and you have waited all this time. I appreciate it.

NAFTA is vitally important to the State of Michigan, the State that I represent. It is important to our economy, and it is important to the U.S. automakers.

I want to applaud your efforts for the way you have conducted yourself. I had the opportunity to attend the last round in Montreal. It is evident to me and to all of us that you have done a spectacular world-class job in representing the United States and in preserving, to the extent that you can, the great relationship that we have with Canada and Mexico, so I want to thank you for that. I also want to thank you for your efforts to update and improve NAFTA so that it better represents the 21st century global economy.

I would like to continue, if I could -- the subject has been raised ad nauseam here, but important -- it has to do with the rules of origin. And the concern I have specifically, on behalf of the U.S. automakers, is that there is substantial concern that the proposed rules of origin will jeopardize their global competitive position and that, furthermore, will likely cost vital U.S. manufacturing jobs. And that is especially true in the State of Michigan.

Now, I know this is high on your mind. You have indicated it in your original testimony. You said that the purpose of the rules of origin proposal was to move more jobs back to the United States. But are you concerned that the aggregate impact of the proposed rules of origin might have the exact opposite effect than what you intended? And also, we are also aware that the Canadian Government introduced, in the last round in Mexico City, a modified version of their proposed rules of origin. I wonder if you might elucidate on that proposal and also whether or not Mexico has its own proposal regarding the rules of origin.

Thank you, sir.

Ambassador Lighthizer. Thank you, Congressman. And thank you for your kind remarks.

The rules of origin are extremely important, as you say. Our objective is to bring more jobs back to Michigan, and we think that the direction that we're moving will have that effect.

The United States had a proposal. Canada had a proposal, I think, and Mexico has been engaged on the issue. And I think we are in a position where we're finally starting to converge. We are working very closely with the U.S. industry. I had people on Monday, and I think maybe even until yesterday, in Detroit trying to work out the details of this kind of an agreement.

Once again, I can't really say exactly what is going to end up happening, but I think we're in a pretty good place. But our objective is to stop the hemorrhage of jobs from the United States and to bring jobs back to the United States. That's our objective.

The way we analyze this thing is that Canada and Mexico basically sell their cars to the United States. So, in the case of the United States, we sell 900,000 cars to Canada, and they sell almost 2 million to us. In the case of Mexico, they sell us, I don't know what the numbers are, but maybe 2.3 million, and we send them 200,000. So basically these are industries that are designed to sell cars in the United States.

It is not unreasonable for us to say: If you are going to do that, we ought to have rules of origin to get some fair share of that manufacturing in the U.S.

So how much are you actually working with? In the case of trucks, it's 25 percent. We have an enormous amount of leverage. In the case of cars, it is 2.5 percent. So that is $900 a car. That is what we are talking about.

Our view is that if you are going to save $900, it is not unreasonable to say some part of that should come back in employment in the United States. At some point – you're right -- you make it to the point where they can't compete, and clearly, we are aware of that. That's not our objective. Our objective is to sort of find that sweet spot where we get some of these jobs back.

We are the market -- we can't forget that -- we are the market for all these cars. It is not like they are going north and south, except in small numbers.

Mr. Bishop. Thank you, sir. I appreciate your sharing that information with us.

I agree with you 100 percent, the goal is to try and get as many jobs back to the United States. We like to hear that in Michigan. The number one part of our economy is our manufacturing sector, especially in autos. So we appreciate your efforts, and we appreciate your attention to this. And I am glad to hear that your team has been in Detroit to talk to our folks.

Thank you, sir.

Mr. Chairman, I yield back.

Chairman Brady. The gentleman yields back.

Mr. LaHood, you are recognized.

Mr. LaHood. Thank you, Mr. Chairman.

And thank you, Ambassador Lighthizer, for your service to our country.

Ambassador, my district is the eighth largest ag district in the country in terms of corn and soybean production. We have some of the most fertile farmland in the entire world.

There is real concern with farmers and agriculture folks on the administration's position on NAFTA and withdrawal. A couple statistics that I think are important: 98 percent of the corn that Mexico imports comes from the United States, much of it from the Midwest; about one-third of the products produced in Illinois go to Canada or Mexico; about 35,000 jobs tied directly to NAFTA. And that is just in agriculture. By the way, agriculture is the number one industry in the State of Illinois.

And when I have heard repeatedly about withdrawal, the groups that I work with -- National Pork Producers Council, American Farm Bureau Federation, National Cattlemen's Beef Association, National Corn Growers Association, Corn Refiners Association, American Soybean Association, Americans for Farmers & Families -- all agree that withdrawal is not an option here.

I guess my question to you, Ambassador, is, do you know any ag groups that think withdrawal is the right approach?

Ambassador Lighthizer. Our objective is not to withdraw. Our objective is to get a good and improved agreement. I don't know of any ag groups that want to withdraw, but I don't know. There may be some out there. I am not aware of them, no.

But our objective is not to withdraw either. Our objective is to get the best agreement we can. It's an important agreement. It's whatever it is -- we always say, Mr. Chairman, it's a tradeoff. The reality is, last year, it was like $1.1 trillion or $1.2 trillion worth of trade. There is an enormous amount of trade between those three countries, and our objective is to figure out a way to have disagreements be more beneficial to the United States, and that certainly means more benefits to American agriculture.

Mr. LaHood. Thank you. I appreciate those comments on that.

And I, for the record, will submit an article from Farm Week in February that is titled "NAFTA is American farmers' Lifeline." And in there, they talk about, if the U.S. quits on NAFTA, it quits on its farmers.

And the other thing is, I know the President recently tweeted: "NAFTA is a bad joke!"

Do you agree with that sentiment?

Ambassador Lighthizer. I have no idea about that quote.

Mr. LaHood. Well, it was a tweet.

Ambassador Lighthizer. I have no knowledge. I didn't see that.

Mr. LaHood. Well, I would just tell you: That causes a lot of concern, Mr. Ambassador, when farmers -- and, by the way, the farmers in my district and in rural America overwhelmingly support the President and continue to support him, particularly in all the things we have talked about today. But I can't emphasize enough the concern with farmers in rural America when it comes to NAFTA.

Let me switch subjects here.

Rules of origin has been talked about a lot here. And when we think about the constituencies that we all deal with, Mr. Ambassador, can you name a

constituency that agrees with your position on rules of origin? For instance, Chamber of Commerce, National Federation of Business, Heritage Foundation.

Ambassador Lighthizer. How about the AFL-CIO, do they count?

Mr. LaHood. Okay. That is fair. So AFL-CIO. Any business groups that you can cite?

Ambassador Lighthizer. Listen, I don't know. There are business groups all over the place. I have no idea where they are on rules of origin.

Mr. LaHood. Could you submit those for the record, whatever those are?

Ambassador Lighthizer. No, I can't. I don't have the resources. If the chairman wants me to go out and have my people use resources to find out where business groups are on rules of origin, I will do it, but otherwise, I won't.

Mr. LaHood. Well, I guess the concern is, as we look at the trade agreements we have in place in FTAs, when we look at these provisions -- ISDS, we have talked about, rules of origin, sunset provision -- these all appear to be very unorthodox and unconventional as we negotiate NAFTA, as we look at our other trade agreements.

And so I think there is real concern, Mr. Ambassador, with the position that we have had there and having a trade policy. With that, I want to just mention, last year, when you had gone through your Senate confirmation, the administration quoted: You will be shocked by the speed at which bilateral trade agreements will begin to materialize.

And so I am a supporter of bilateral trade agreements. Many of us are. But we are 15 months into this administration, and we have not seen a template or a model for bilateral trade agreements. And I understand you haven't had people in place, and I am cognizant of that, but when we look at, well, is there a model, is there a mechanism out there, particularly with your position on ISDS, rules of origin, and sunset, can you comment on that?

Ambassador Lighthizer. Well, I will comment on all of it, but I am not going to do it in 9 seconds, however.

Number one, of course, we are going to have different policies than the Chamber of Commerce. Their policies are what have gotten us $800 billion worth of trade deficits. So, of course, we're going to have unconventional

policies if we are going to have a different result. If we do exactly the same thing, nothing is going to change. This is an unsustainable trade deficit. We have a $560 billion goods and services trade deficit. We have a deficit with China which can't go on. It's $375 billion. We are going to do things differently, absolutely.

I personally believe that these people who voted for the President voted for him because they didn't want it to be exactly like half of those groups want it to be. So, of course, it's going to be different, number one.

Number two, in terms of -- I am out of time.

Chairman Brady. Way out of time.

Thank you, Mr. Ambassador.

Ambassador Lighthizer. Thank you.

Chairman Brady. Mr. Reed, you are recognized.

Mr. Reed. Mr. Ambassador, way over here.

It is a pleasure to have you here today. I want to just follow up.

The unconventional nature of what this administration is doing is something I applaud, and I have stood with, because I agree that we just cannot maintain the status quo, because, as to your point, this policy is unsustainable.

But I think we all want to get to the same outcome, and that is where I think we have broad agreement in regards to the issues before us today.

Mr. Ambassador, I would be remiss not to go on the record to raise the issues of dairy and wine coming from western New York. The Finger Lakes wine industry is blossoming. And the access to -- and our dairy farmers in western New York. The access to Canada, obviously -- and I have shared this with you and I shared this Prime Minister Trudeau directly, is very critical to our future. So I just put that on the record.

But what I want to do is ask some questions that maybe haven't been covered here. And one of the issues that I have been very concerned about in my entire tenure as a Member of Congress on the issue of trade is currency manipulation and state-owned enterprises. And I so my appreciate -- my understanding of

the negotiations that you are having right now with Canada and Mexico are that those issues are being discussed; those issues are being potentially put on the table in regards to updating NAFTA.

And, one, do you agree that there are issues of currency manipulation across the world with other trading partners, such as China, Japan, European Union members, and, if that is the case, how do you see the present negotiations being a tool to put us in a position where we can take on truly what I believe is one of the unfair practices that is out there that has gone unaddressed for decades?

Ambassador Lighthizer. First of all, Congressman, I completely agree with you. I think it's one of the absolutely fundamental problems, is this issue of currency manipulation. And it's China, which everyone agrees to.

If you go to the auto companies, they are going to tell you it is Japan, and it varies, but it's 6, 7, 8, 9 percent. We are worried about 2.5 percent on our auto tariffs. If the currency manipulation is 6 percent, then it is multiples of that.

It's also an issue we believe with Korea.

So the administration is dealing with this on a variety of areas. And I tell you that I sit down with the pros who do this who work for me, my professional people who have done this for 30 years, and I will say: Well, what did you do the last time you had this or that kind of conversation with the Treasury Department on the issue of currency manipulation?

And do you know what they say? "We've never had a serious conversation with any Treasury Department before this Treasury Department."

Secretary Mnuchin is completely engaged on this in a way that no former -- literally, my career people, Republicans and Democrats, are like: We have never had a conversation like this where people really have to come to grips with the issue of currency manipulation.

So we are dealing with it in the context of NAFTA, even though we realize these countries are not really currency manipulators. But they have the same interests we do in tackling this problem.

And where you go, we'll see. Clearly, a huge, huge impact is, or factor, is transparency. We start with the position we don't even know what these people are doing. And competitive currency devaluation is going to be something that is unacceptable.

It is a complicated issue. It is something that we are involved with, but it is a Treasury issue more than it is ours. And we have Treasury officials, besides the Secretary, David Malpass and the Secretary are completely locked in on this issue, and they are going to get absolutely as much as you can get on it.

But I don't think you can overstate how important it is. And I think it will be more important in 10 years than it is now if we don't do something about it.

Mr. Reed. Well, I totally agree with you, Mr. Ambassador. I look forward to working with you, as well as the Treasury Secretary, as I have raised this issue with prior Treasury Secretaries in our tenure here.

The other issue that I wanted to just highlight and stress to you is, as we deal with intellectual property, and I know it has been touched on a little bit here across the panel, but coming from an area with some interests that have really been a bright spot in regards to our innovation economy and the development of technology, I just wondered what your commitment or thoughts are on how we can best protect our intellectual property, our innovation, in the next generation of the economy, opportunities I see coming down the pipeline for us?

Ambassador Lighthizer. First of all, you understate the importance of intellectual property in your district. It is extremely important, and we understand that. Because it is important, those companies -- particularly, one company is important for the whole economy.

So we are completely committed, both in NAFTA, where I have talked about what our provisions are. Until now, there has really been a movement away from protection of intellectual property. In the last administration, there was a movement away from the protection of intellectual property. We are recentering that, in our opinion.

But even more importantly, I would suggest the whole 301, the whole IP protection with China, that is the absolute front line of protection of intellectual property.

Mr. Reed. I appreciate the hard work, Mr. Ambassador. I look forward to working with you.

I yield back.

Chairman Brady. The gentleman yields back.

Mr. Holding, you are recognized.

Mr. Holding. Thank you, Mr. Chairman.

Ambassador, thank you for being here. You have missed an incredible winter wonderland that is going on the outside today. You will be glad you are going down the hill after this, rather than having to come up the hill.

Regarding the tariffs on aluminum steel, I just encourage you to move expeditiously to determine which of our trading partners will be exempt from these new tariffs. There are countries that we, obviously, know are routinely engaged in unfair trading practices, but there are other countries which are undeniable allies to the United States, not only economically but for our national security, as well.

You and I have talked before about the special relationship the United States has with the United Kingdom, and we have discussed the tremendous opportunity that is presented to the United States as the United Kingdom exits the European Union. The United Kingdom and the U.S. have a longstanding relationship. It goes without saying: it is certainly one of our closest allies.

So, as you go through the exclusion process for specific countries, I had hoped that the United Kingdom is quickly identified by your office as being exempt.

And I am sure you are also aware that, on Monday, there was a draft agreement put forward between the United Kingdom and the EU, so they are another step forward to finalizing their exit. And, in my opinion -- and I think the opinion of a number of my colleagues -- this is a time when we need to be encouraging the United Kingdom. They are undeniably a defense partner, they are a NATO partner, and I think not exempting them would be a step in the wrong direction.

A potential free trade agreement would be particularly good at services. But I would say that not only are they a NATO partner, but if you look at how we are aligned with them in the promotion of capitalism, very few countries out that there that promote it the same way the United States and the United Kingdom do. Promotion of free markets.

And perhaps, most importantly of all, is entrepreneurism. Entrepreneurism is alive and well in the United States, and it is alive and well in the United Kingdom, and it is not really alive and well, in our sense of the word, in a lot of other places around the world.

So I would encourage you to work on that as expeditiously as possible. I know that Liam Fox was here last week, the Minister of International Trade. I am sure that you all had several meetings. I will just give you a minute or so if you wanted to recap and have anything to say about those meetings and about any thoughts that you and the administration might have on our potential bilateral trade agreement.

Ambassador Lighthizer. Well, I would say, first of all, it is exactly as you say. I have met many times with Dr. Fox and found them all to be informative and enjoyable. We have an enormous amount in common. They clearly are -- I think that it is probably the universal view in the administration that we should, at the appropriate time, have -- explore the idea of an FTA with the U.K.

When that time is, is more up to them than it is to us. In the meantime, what we are trying to do is do the kinds of things that are in areas where they haven't seen the competence of the EU. So, for example, certifications of professionals. There are a lot of things we can do.

We have a working group that we started, I guess, just about a year ago, that has had a number of meetings, a number of staff-level meetings. So we are getting a lot of the work done that would have to be done in advance of an FTA so that, at the right time, we can move quickly.

The issue of the U.K. and 232 is a complicated one because of the fact that they are in the EU. So that is something that sort of has yet to be worked out. But, clearly, an FTA with them. Clearly other examples of working together or something is very high on our priority list, and I see no impediments at all to moving in that direction at the appropriate time.

Mr. Holding. I am glad to hear you say that. I believe that a bilateral agreement with the United Kingdom could be a signature accomplishment of this administration and would be the first time that we have encapsulated in writing what the special relationship means. It is a great opportunity for this administration to leave a lasting mark, not only on geopolitical politics but on trade and trade policy.

So thank you, Mr. Ambassador.

Chairman Brady. Thank you, Mr. Holding.

Mr. Ambassador, thank you for being our witness today.

Clearly, there is strong bipartisan support that the best way to lower our trade deficits are not to buy less but to sell more. We are confident in your ability in renegotiating NAFTA and other agreements to create a level playing field for American farmers and workers and businesses because when you do, we win. And there is no doubt there is strong support for your very aggressive stance in opening these markets and modernizing NAFTA in a significant way.

That is why 103 Republicans -- your strongest supporters -- are encouraging you, urging you, to include strong accountability provisions because we want your strong new trade agreement for America to be accountable and to be supported here in Congress. We look forward to being your partners and your clients as we go forward.

Ambassador, please be advised, members of the committee 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 record.

With that, Mr. Ambassador, thank you.

The committee stands adjourned.

[Whereupon, at 1:40 p.m., the committee was adjourned.]

MEMBER QUESTIONS FOR THE RECORD

HOUSE WAYS AND MEANS COMMITTEE ON
WEDNESDAY, MARCH 21, 2018.
QUESTIONS FOR THE RECORD

Question from Chairman Brady:

1) The need for binding dispute settlement in our trade agreements

Binding dispute settlement mechanisms in our trade agreements, including the WTO agreement, are a powerful tool when other countries break the rules and seek an unfair advantage over American producers. Dispute settlement has been largely successful for America, and we have brought – and won – more cases against unfair trade than any other nation on earth. I was pleased by your recent decision to use the WTO dispute settlement system to challenge India's export subsidies, which violate WTO rules and hurt American workers and producers. Your action proves just how important it is for America to be able to hold countries accountable for their commitments.

But I can't understand why the Administration would want to take away this important tool in NAFTA. A dispute settlement system that allows a country to "set aside" any decision that it does not like is barely worth the paper that it's written on. I understand your concerns about sovereignty, Mr. Ambassador, but only Congress can change U.S. law. I don't want to ask another country for permission to take action when it violates our rights. A "voluntary" approach weakens every one of the commitments across the agreement and would be a significant step backwards for American workers and producers from the original NAFTA. If we cannot hold Canada and Mexico accountable for the new, ambitious, and high-standard commitments that we are negotiating, then what have we actually accomplished for the American people?

A: Mr. Chairman, I agree strongly with your view that we must hold our trade agreement partners accountable and that trade agreements need to deliver the benefits we obtained through negotiations for our workers and firms. Dispute settlement is one of the tools we have to ensure this is the case. Dispute settle under NAFTA simply has not worked. To be effective, dispute settlement procedures must be timely and efficient, and the results – reports by three-person panels– must be clear, well-reasoned, based on the facts presented, and not add obligations that the parties didn't themselves agree to in the relevant agreement. Unfortunately, the experience of the United States under some of our agreements has been very different. One of our goals in renegotiating the NAFTA has been to strengthen the dispute settlement process so that it operates reliably, and to ensure more accountability for the decisions that the panels render. Ultimately, it is my experience that the resolution of significant disputes that are brought under any trade agreement will be resolved by negotiations between the parties. I believe our approach properly focuses the governments on resolving problems, not playing out the legal process for as long as possible.

Questions from Ranking Member Neal:

1) Consultations with Congress

As you know, consultations between the Administration and Congress are critical not just because of TPA's rules but primarily because of the authority that the Constitution assigns to Congress in matters of trade and international commerce. There continue to be lapses in consultation between the Administration and Congress on important trade matters. For example, in 2017, many Executive Orders and Memos on important trade topics were drafted, signed, and issued that Members of Congress first learned about from the press. Many of the trade-related reports that the President ordered in 2017 have either never been produced or have not been made public – and have never been made available to Congress. This is not how Executive-Congressional consultations on trade are supposed to work. What are you doing, as the U.S. Trade Representative and the statutorily designated principal spokesman of the President on international trade, to address these problems?

A: As the United States Trade Representative, I place great importance on the both the history of the agency's relationship with Congress and its requirements under statute. This Administration is committed to following the guidelines for consultations with Congress for trade agreement negotiations that were developed in 2015.

As the USTR, I have made it a habit of personally calling the Chairman and Ranking Member, or in some circumstances their senior staff, to deliver news on upcoming actions, and it is my intent to continue personally relaying important messages in this way. Furthermore, by my own approximation I have personally conducted over 85 meetings and calls with Congressional members, while my staff has conducted over 649 such meetings and calls. In total, we estimate that USTR has spent over 2,496 man hours in consultations with Congressional staff and members. Moving forward, I can assure you that USTR will continue to consult with Congressional members and staff in a timely fashion.

2) KORUS Consultation

The Administration has chosen to forgo the consultation and transparency requirements of TPA with respect to the renegotiation of KORUS. Under what authority is USTR invoking to renegotiate KORUS without TPA? What authority will USTR use to implement the outcome of the renegotiation? Please provide the legal citations and/or references to the particular provisions in the existing free trade agreement, implementing legislation, or other sources of authority.

A: USTR has been completely transparent with Congress on this issue. We have given numerous briefings, presented text for review, and kept Members and Trade committee staff up to date on KORUS. And, most importantly, we have achieved an improved agreement. As a result of the negotiations, the United States and Korea have agreed in principle to modifying six tariff lines in the U.S.-Korea Free Trade Agreement (KORUS). Authority to proclaim such modifications is provided to the President by Section 201(b) of the KORUS implementing legislation, subject to the consultation and layover provisions of Section 104 of the implementing legislation. USTR has recently

begun this consultation and layover process, which includes obtaining advice from the International Trade Commission and appropriate advisory committees, as well as submitting a report to and consulting over a 60-day period with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

3) U.S.-China Dialogue

It is my understanding that the Administration has not met with China in a formal economic dialogue since 2017. As a result of the recent actions on the Section 232 steel and aluminum investigations and Section 301 intellectual property and forced technology transfer investigation, the U.S.-Chinese economic working relationship appears to be deteriorating. Will USTR be launching a formal economic dialogue with China in 2018? If not, what is USTR's plan to resolve the longstanding, systemic challenges posed by China that underlie the global overcapacity and intellectual property abuses that led to these investigations and enforcement actions?

A: As explained more fully in USTR's 2017 Report to Congress on China's WTO Compliance, the Administration has carefully reviewed the past 15 years of the United States' formal high-level trade dialogues with China, including the newest one launched by this Administration in 2017, the U.S.-China Comprehensive Economic Dialogue. The Administration has found that these dialogues did not lead to fundamental changes in China's trade, investment and intellectual property rights regimes. Through these past dialogues, although China made commitments for changes in Chinese policies and practices, it repeatedly failed to deliver on those commitments. Currently, despite the absence of a formal high-level dialogue, the Administration is communicating with China about the systemic problems that have given rise to enforcement actions such as USTR's section 301 investigation and the types of steps that China needs to take to make the U.S.-China trade relationship fair, balanced and reciprocal.

4) U.S.-EU Covered Agreement

On September 22, 2017, the United States and EU signed the U.S.-EU Covered Agreement. Please provide an update on implementation of the Agreement.

A: The United States and the EU held the first meeting of the Joint Committee, established by the U.S. – EU Covered Agreement on Prudential Measures Regarding Insurance and Reinsurance, in early March 2018. This meeting was largely organizational and provided an opportunity for both Parties to provide updates on the steps being taken to implement the Agreement's provisions. Both Parties have completed their domestic procedures and the Agreement entered into force as of early April 2018. Both the United States and the EU are making good progress in implementing the Agreement's provisions within the relevant timeframes established by the Agreement.

5) Steel and Aluminum Tariff Exemptions

The Administration has temporarily exempted Canada, Mexico, South Korea, Brazil, Argentina, Australia, and EU countries from the Section 232 steel and aluminum tariffs until May 1. USTR recently announced that South Korea will be permanently exempted from the tariffs as long as Korean imports do not exceed 70 percent of the average annual total from the past three years. The President has also linked Canadian and Mexican exemptions to a successfully renegotiated NAFTA. The proclamations also provide that any other countries that agree to "satisfactory alternative means" to address the national security threat may also be exempted in future. The Administration appears to be considering a wide range of factors in determining whether a country will be exempt from the steel and aluminum tariffs. Please provide further clarity regarding how the Administration is analyzing which countries it will exempt from the steel and aluminum tariffs.

A: In recent proclamations, the President identified criteria for determining whether to exempt a country from the tariffs he proclaimed pursuant to Section 232 of the Trade Expansion Act of 1962, as amended. These criteria include whether the United States has an important security relationship with a country, and whether the United States and that country can arrive at satisfactory alternative means for addressing the threatened impairment of national security caused by imports from that country. The President's recent proclamations relating to Section 232 describe the issues the United States is discussing with partner countries relating to satisfactory alternative means, including measures to reduce global excess capacity by addressing its root causes, and to increase domestic capacity utilization.

6) NAFTA Energy Trade

In Massachusetts and New England, trade in energy with Canada is critical to powering the engines of innovation, manufacturing, and people's lives. Renegotiating NAFTA to ensure the reliable and preferential terms of that trade should be a priority for the modernization agenda in the NAFTA renegotiation. In the trade of oil and gas, there are issues with verifying origin right now under the current NAFTA's rules that are having the effect of burdening this trade and making power more expensive for New England. Are you optimistic that these issues can be successfully resolved in the NAFTA renegotiation? Are the NAFTA partners and your U.S. interagency partners providing the cooperation you feel is needed to successfully resolve these issues as part of the NAFTA renegotiation?

A: USTR is aware of the issues the oil and gas trade are having with the current NAFTA rules and the verification of origin. USTR has been working with the trade and U.S. Customs and Border Protection (CBP) to address these issues in the NAFTA renegotiation. We will continue to work with our NAFTA and interagency partners to address these issues in the NAFTA renegotiation.

7) Africa

You noted the Administration's desire to launch bilateral trade negotiations with an African country in your testimony. The United States already has one bilateral trade deal with an African country—Morocco—and it also has the African Growth and Opportunity Act, which allows for

duty-free treatment of particular goods from eligible Sub-Saharan African nations. Have you identified with which African country the Administration intends to pursue a bilateral agreement? What is the timeline for the launch of those negotiations? What criteria is the Administration considering in determining which African country trade relationship is ripe for FTA negotiations? What are the advantages to a trade agreement with an African country? What special challenges do you anticipate in the negotiation of such a trade agreement?

A: The Administration is still at an early stage of identifying a potential African partner with which to negotiate a free trade agreement. Any such negotiations would be preceded by exploratory talks to clarify mutual expectations and, of course, by consultations with Congress. We have no set timeline for this initiative, as that will be dictated by the circumstances. We are also in the process of defining the range of criteria for selecting an African negotiating counterpart, and we welcome your views. The advantage of such an FTA to the United States would be ensuring free, fair, and reciprocal access to a growing African market, and for the African partner it would represent an important step beyond the African Growth and Opportunity Act. In terms of challenges, we are likely to face some capacity issues on the part of the African partner.

8) U.S.-EU Trade Agreement

During your testimony, you described a trade deal with Europe as a top priority since the U.S. has trade deficits with many European countries. Could you provide an update on how you plan to proceed with negotiating a trade agreement with the EU and your timeline for doing so?

A: Reducing barriers to U.S. exports to the EU is a priority of this administration. We continue to reflect on whether T-TIP is the appropriate vehicle for addressing our concerns in the EU, and note that the European Commission has made clear that it is not interested in a renewal of those negotiations at this time. Before we decide whether to resume negotiations on a comprehensive trade agreement, we will want to be confident that there are promising paths to resolution of the most sensitive issues. In the meantime, we are actively engaging with the EU and its member states to address EU-level barriers that contribute to our longstanding deficits with certain member states and strengthen our cooperation on global issues of common concern.

9) The WTO and Multilateral Institutions

In the 2018 Trade Agenda Report, the Administration noted the importance of the World Trade Organization and at the WTO 11th Ministerial Conference in Buenos Aires last December, the Administration joined other WTO members in a dialogue on digital trade. What is the Administration's view on reengaging in other plurilateral negotiations? Over a year ago, you testified that the Administration was considering the Trade in Services Agreement (TiSA). Could you please update the Committee on whether USTR will reengage in that negotiation and also, in particular, the Environmental Goods Agreement (EGA)?

A: USTR continues to evaluate the various options available to pursue these objectives and looks forward to continuing to consult with you as we chart the best course forward. Specifically with regard to the TiSA and EGA, the Administration's review is ongoing and we will continue to evaluate it and other initiatives, ultimately seeking to advance the interests of manufacturers, service providers, and workers that produce environmental goods nationwide.

10) Other U.S. FTA Renegotiations

In 2017, the Administration initiated the renegotiation of both the NAFTA and the U.S.-Korea trade agreement (KORUS). Last October, in comments at the Latin American Summit in Florida, you noted that many of the U.S. trade agreements with countries in Latin America need to be modernized and that those trade agreements have not worked in favor of U.S. interests. For many Congressional Democrats, the performance and implementation by many U.S. trade agreement partners in Latin America (including CAFTA-DR countries, Peru, and Colombia) of their labor and environmental commitments has been sorely disappointing. As you make plans for the trade agenda in 2018, do you intend to look at modernizing and rebalancing any of the existing U.S. trade agreements in Latin America? Which ones would be priorities for a renegotiation?

A: This Administration is committed to maintaining and expanding export markets for our farmers, ranchers, and food processing industries. The President has stated that the United States is open to negotiating trade agreements with any like-minded country that is willing to trade on fair and reciprocal terms. USTR has begun a process of identifying candidate countries. I look forward to working with you, other Members of Congress, and agricultural stakeholders, consistent with Trade Promotion Authority, to identify priorities for opening new markets or updating other existing agreements, including those in the Western Hemisphere. I expect provisions on labor and environment would be among those most important in any new or updated agreements. Regarding CAFTA-DR, we had a goods trade surplus of over than $7 billion last year. We're exploring ways of strengthening our trade relationship and improving the Agreement to address the next wave of 21st century issues such as digital trade, state-owned enterprises, small and medium enterprises and good regulatory practices.

11) Other Chinese Industrial Policies

In the context of the Section 301 investigation on China's abusive intellectual property, forced tech transfer, and cyber intrusion practices, USTR has identified a number of Chinese industrial policies aimed at disadvantaging, exploiting, or ripping off U.S. IPR holders. In proposing products to be subject to Section 301 tariffs, USTR has focused on sectors identified by the Made in China 2025 industrial strategy. However, China's industrial planning reaches nearly every aspect of China's economic and strategic development goals. Even China's recently implemented import ban on waste, scrap, and recyclable materials—which has led to significant backups for waste disposal in the United States, as well as Canada and Europe—is part of a strategy to develop more advanced Chinese technologies and facilities for recycling. How does

the Administration intend to tackle Chinese industrial policies in other sectors that are leading to negative consequences for U.S. economic interests?

A: In the Federal Register notice setting out the list of Chinese products proposed to be subject to section 301 tariffs, USTR explains that the Administration is targeting products that benefit from China's industrial plans. Sectors of China's economy that produce these goods include industries such as aerospace, information and communication technology, robotics and machinery. While many of the targeted products are manufactured by industries supported by China's Made in China 2025 industrial plan, other products that benefit from Chinese industrial policies are targeted as well.

In the section 301 report that USTR posted on its website on March 22, 2018, USTR makes clear that while Made in China 2025 is emblematic of the problematic industrial plans being pursued by China, it is by no means the only one. The Administration is focused on securing systemic changes to China's trade, investment and intellectual property rights regimes that will benefit industries, companies and workers across the U.S. economy. We are also actively reviewing other practices, such as the import bans you mention.

<u>Questions from Trade Subcommittee Chairman Reichert:</u>

1) Vietnam

In October, I chaired a Subcommittee on Trade hearing on U.S. trade policy in the Asia-Pacific. One of the markets that featured prominently in that discussion was Vietnam. In particular, we had one witness who discussed the challenges U.S. suppliers of electronic payment services are facing when doing business in Vietnam.

When President Trump visited Vietnam last November, the Government of Vietnam agreed to suspend the most problematic provision of their new payments regulation and to revise their policies so that U.S. suppliers could continue to operate without any advantage given to NAPAS, a state-owned Vietnamese payments company. But since then, Vietnam has not fulfilled that commitment to President Trump. Instead, NAPAS is moving full speed ahead with its plans to cut off U.S EPS suppliers as soon as the suspension expires at the end of this year.

This is deeply troubling. I appreciate the work you and your team have done already on this issue, and I am committed to supporting you further in your efforts to address the actions of NAPAS.

How do you plan to ensure that U.S. EPS suppliers can continue to operate on a level playing field in Vietnam?

A: The Administration recognizes the seriousness of this issue and continue to engage the government of Vietnam to try to find a solution that ensures U.S. electronic payment companies are not disadvantaged and are permitted to build their overseas businesses without disruption or harm to their existing commercial arrangements.

2) Korea

I congratulate you and your team on your work to improve the U.S.-Korea free trade agreement, or KORUS. I look forward to continued work to ensure this agreement is fully implemented. Currently, there are still some remaining implementation issues in the services sector that must be addressed. For example, U.S. electronic payment services (EPS) companies continue to face persistent regulatory discrimination that has significantly diminished their market position over the past five years. This issue has been raised in USTR's National Trade Estimate Report for the past several years but the pattern continues.

How can we best help you to keep the pressure on Korea to make progress on outstanding implementation issues moving forward?

A: The Administration has a number of KORUS implementation concerns, including on electronic payment services as well as other issues pertaining to financial services. USTR and the Treasury Department continue to press Korea on these issues under our KORUS Financial Services Committee, as well as through ongoing work through the KORUS Joint Committee. As we move toward finalizing the KORUS modification and amendment outcomes, with respect to both these and other implementation concerns, we have made clear that continued, meaningful progress on U.S. concerns remains of vital importance.

3) NAFTA

While U.S. dairy producers have long faced prohibitive tariffs in Canada, they now must deal with Canada's Class 7 dairy pricing program. This program is distorting global markets and severely cutting into certain U.S. dairy exports.

How do you plan to eliminate these trade barriers through the NAFTA negotiations, so that U.S. dairy can finally enjoy the full benefits of NAFTA and have its global markets restored?

A: The Administration understands that Canada's pricing policy (Class 7) is harming U.S. dairy exports and is working at the highest levels to address this critical issue in NAFTA renegotiation. The Administration is also seeking to open up Canada's market to the full range of U.S. dairy (and poultry and egg) products through NAFTA renegotiation. These are both high priorities for the United States.

<u>Questions from Trade Subcommittee Ranking Member Pascrell:</u>

1) Labor

How are you ensuring that the labor language in the May 10th Agreement is fully enforceable, and is a floor -- not a ceiling -- in NAFTA?

What is the Administration doing in the NAFTA renegotiation to ensure that Mexico will actually comply with the labor obligations in the agreement and that workers in Mexico have rights and the ability to see their wages rise over time?

Given that Mexico has taken no effective actions in the past 25 years to live up to its obligation even to adequately enforce its own labor laws, please explain USTR's strategy to improve monitoring and enforcement of labor obligations. In particular, how can I explain to my constituents, some of whom believe NAFTA is dirty word, that a new NAFTA will actually stop outsourcing, support their jobs, and raise their standards of living?

A: Among our top priorities for NAFTA are improvements that create incentives to increase manufacturing in the United States, lower our trade deficit, and improve exports opportunities for U.S. producers and workers. To support these priorities in our negotiations, we are ensuring that the updated NAFTA strengthens our trading partners' labor standards. In accordance with the objectives Congress set out in TPA, we are modernizing and incorporating labor obligations into the core of the agreement rather than in a side agreement, and are working to ensure that the labor obligations are subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement.

Regarding labor standards in Mexico, we are closely monitoring the implementation of Mexico's landmark constitutional reforms that will overhaul the system of labor justice. NAFTA provides an opportunity to lock in this progress. We understand the concerns that have been raised regarding the pending legislative package Mexico has proposed, particularly on collective bargaining and protection contracts. We are consulting with Mexico on these issues and on ways to address these concerns.

2) Currency

Last year, you came before the committee and said, "If you are negotiating with someone who really isn't a currency manipulator it is easier to get a high standard on currency and then set the standard." Mexico and Canada do not have problems with manipulating their currency, correct? So wouldn't NAFTA be a good opportunity to get a high standard on currency? What are you going to propose to make sure the currency provisions in a renegotiated NAFTA have teeth and, in your words, "set the standard"?

A: Currency manipulation is an issue on which President Trump campaigned, and this Administration remains focused on this issue. The Administration, with the Department of the Treasury in the lead, is examining the full array of policy tools available to combat currency manipulation, including trade commitments. I fully support that effort and believe in the NAFTA renegotiation we have an opportunity to work with strong partners and allies to set a very powerful standard going forward.

3) NAFTA Timing

You originally hoped to have negotiations wrapped up by the end of March. Can you update us on what your expected timeline is for completing these negotiations, and what does that mean in terms of compromising on some of your unconventional proposals? Can you tell us specifically if you are compromising on ISDS, or rules of origin, for instance?

I think it's critical to have a "rebalancing" and new NAFTA, not just tweak around the edges, not just an expedient deal. How will you measure the success of a new NAFTA agreement – by what metrics and on what timeline will you judge its success?

A: We are seeking to conclude a modernized and rebalanced NAFTA as soon as possible. However, the substance will determine the pace of this negotiation. We will not conclude a bad deal for the sake of expediency.

4) NAFTA Hearing

I have called on the committee multiple times both publicly and privately to hold hearings on NAFTA. On February 22nd, fifteen of us Democrats on the committee sent a letter to the Trade Subcommittee Chairman calling for NAFTA hearings.

We have had seven negotiating rounds and no public meetings with witnesses from the Administration. Would you commit to coming before the hearing to testify in a NAFTA-specific hearing?

A: Since the Trump Administration gave its 90-days' notice before the negotiations began, my staff and I have completed hundreds of hours of consultation meetings, seeking Congressional guidance on specific objectives and proposals. In November, USTR also updated its negotiating objectives outlining the Administration's priorities for the NAFTA negotiations, the first time USTR has revised its objectives document after negotiations began. Furthermore, during my public hearing before the Ways and Means Committee last month, a vast majority of the questions pertained to the ongoing negotiations. I take the transparency guidelines as laid out in TPA very seriously and am committed to following TPA requirements.

5) Labor enforcement

I am interested in hearing your thoughts about enforcement of the Labor obligations. Under the US Dispute Settlement proposal, especially Section 18 et seq (Set Aside, Implementation, Non-Implementation), how do you foresee labor disputes will be settled?

A: I am committed to vigorously enforcing our trade agreements, including by incorporating high standard labor provisions into the core of the agreement rather than in a side agreement as is currently the case with the NAFTA. In consultation with Congress, we are considering a number of options in NAFTA 2.0 that will allow us to enforce vigorously the new labor obligations, as well as ensuring that the obligations are subject to the same dispute settlement mechanisms and trade sanctions as the rest of the agreement. We will also ensure that U.S. sovereignty is respected in NAFTA trade disputes.

6) Cross-border Trucking

Last year, I asked you about national treatment for cross-border long-haul trucking services and my concerns about safety standards, certifications, and the potential impact on jobs and wages in the U.S.

I want to commend you for the language you tabled in Round Six – a creative Annex II NCM that invites Congress to protect highway safety and American long-haul truckers. What assurance can you provide that this proposal will survive in the final NAFTA deal?

A: The Administration continues to prioritize its recent proposal on cross-border trucking services in the NAFTA negotiations, which was developed after consulting widely and hearing significant concerns from the Congress and stakeholders, including on the protection of U.S. jobs, small business, and highway safety, as well as ensuring efficient distribution networks for U.S. firms. We continue to work with our Canadian and Mexican counterparts to ensure that the updated NAFTA gives the United States sufficient flexibility to address these concerns.

7) China 301

There has been concern raised by stakeholders of the possible downstream effects of the tariffs on consumers and retaliation by China. What is the rationale and evidence that implementing tariffs will have the effect of pressuring China to change its unfair trade policies?

Have you considered cooperating with like-minded partners in addressing the ongoing issues in China? What effort has been made to work with trading partners on this effort? What kind of responses have you received from our trading partners?

A: We have made it plain to China that we have serious concerns about the matters disclosed in our investigation. The imposition of tariffs is a statutorily authorized action under section 301 of the Trade Act and has been used numerous times in the past. China should take steps to address these serious concerns.

Most of our allies and trading partners share the same concerns about China's state-driven, mercantilist policies on trade and technology transfer.

Many countries also agree that China continues to game the WTO's international rules-based trading system and the openness of our economies in ways that threaten all of our economies and our long-term competitiveness.

In addition, we have maintained a sustained engagement effort with our allies and other like-minded countries in confronting China.

8) Plan for China

The Trump Administration has suspended the high-level bilateral dialogues between the U.S. and China. Does the Administration plan to engage in an economic dialogue with China? When?

What is this Administration's vision for the future of US-China trade relations? How does the 301 investigation and/or the 232 investigation figure into that plan?

A: As explained more fully in USTR's 2017 Report to Congress on China's WTO Compliance, the Administration has carefully reviewed the past 15 years of the United States' formal high-level trade dialogues with China, including the newest one launched by this Administration in 2017, the U.S.-China Comprehensive Economic Dialogue. The Administration has found that these dialogues did not lead to fundamental changes in China's trade, investment and intellectual property rights regimes. Through these past dialogues, China repeatedly failed to deliver on its commitments. Currently, despite the absence of a formal high-level dialogue, the Administration is communicating with China about the systemic problems that have given rise to enforcement actions such as USTR's section 301 investigation and the types of steps that China needs to take to make the U.S.-China trade relationship fair, balanced and reciprocal.

9) Intellectual Property

1. The U.S. is widely recognized as a leader in innovative and creative industries. Our artistic and cultural products, as well as information technology and pharmaceutical products, are widely consumed around the globe. I am concerned that Canada and Mexico may seek weaker intellectual property (IP) protections than the U.S. What is USTR doing to ensure Mexico and Canada protect U.S. intellectual property in their markets?

A: I understand that innovation and creativity are key drivers of productivity, employment, and economic growth in the United States, and provide a comparative advantage in many sectors. We are aggressively pursuing high standards of IP protection and enforcement in Canada and Mexico, including through the negotiations of the IP chapter of the NAFTA. This includes commitments on disciplines that are essential to innovative and creative industries, including patents, trademarks, copyright, trade secrets and commitments to provide a full complement of enforcement mechanisms for intellectual property rights.

2. One of the President's first official acts was to pull the United States out of the Trans-Pacific Partnership (TPP) agreement. In many ways, the IP chapter of TPP was weaker than prior FTAs and U.S. law. I believe that part of the problem was that the IP chapter was one of the very last chapters to close and the U.S. evidently did not have enough leverage left to get the best deal. I am concerned you may be setting up the same dynamic in NAFTA – the IP chapter will be one of the last to close and we won't have enough leverage to get a good deal. IP-intensive industries account for over 27 million jobs, almost 40% of U.S. GDP, and over $800 billion in merchandise exports and another $115 billion in licensing revenue. Will you commit to ensuring the U.S. thoughtfully and carefully negotiates with its Canadian and Mexican colleagues to craft an IP chapter with strong copyright and enforcement protections?

A: I have personally and repeatedly made it clear to Canada and Mexico that a robust IP Chapter is essential to having a successful Agreement. I understand the importance of IP-

intensive industries to the U.S. economy and I am aggressively pursuing a high standard of IP protection and enforcement in the NAFTA negotiations. This includes, but is not limited to, protections related to trademarks, patents, copyright and related rights, undisclosed test or other data, and trade secrets.

3. According to IIPA's 16th Economic Study, in 2015 the value added by the total copyright industries to the U.S. GDP approached $2.1 trillion, accounting for 11.69% of the U.S. economy; and employed nearly 11.4 million workers, accounting for 7.95% of all U.S. employment and nearly 10% of all private employment in the U.S. Increasingly these industries are digitally distributing their works to consumers. At the same time, infringing commercial streaming is growing in popularity, undermining these new online business models. What is the U.S. government doing to protect American workers in these industries?

A: Combatting infringing streaming and other forms of piracy is a top priority of our intellectual property trade agenda. With respect to infringing streaming of U.S. copyrighted content in foreign markets, USTR encourages our trading partners to make available civil and criminal tools to combat online piracy. USTR also conducts an annual out-of-cycle review (resulting in the Notorious Markets List) that identifies trends in online piracy, good practices that governments can employ to address these challenges, and specific examples of pirate sites. Our most recent Notorious Markets List, for example, included an issue focus on illicit streaming devices, highlighted voluntary initiatives to cut-off advertising funding to pirate sites, and included some of the most popular illicit streaming sites in the world in the List, one of which has since shut down.

4. This Administration has made reducing trade deficits a priority. The U.S. television and film industry is one of the most highly competitive around the world—one of the few that consistently generates a positive balance of trade in virtually every country in which it does business. In 2015, the industry had a positive services trade surplus of $13.3 billion, or 5% of the total U.S. private-sector trade surplus in services. Despite this success, this surplus is being chipped away at by weak copyright protections abroad as well as the export of loopholes. Can you commit that the U.S. will protect American property abroad and work toward more robust protections for creators in a renegotiated NAFTA?

A: Yes. USTR is committed to protecting American intellectual property abroad, and recognizes the contribution of this and other creative industries to U.S. exports in goods and services. We are seeking a robust IP outcome in NAFTA, including protections for copyright and related rights and civil, criminal, administrative and border enforcement of these rights.

5. An important aspect of copyright law is "secondary liability" imposing liability on entities that do not directly infringe, but induce or actively facilitate infringement by others. Secondary liability has been critical for copyright enforcement on the Internet. Without it, notorious piracy platforms like Grokster, Limewire, and Grooveshark would still be in business. Despite the critical importance of secondary liability, and widespread online piracy stealing from America's creators, our free trade agreements have not explicitly required our trading partners to enact it. I know America's creative industries

have asked you to put secondary liability in NAFTA modernization. Will you commit to including explicit secondary liability provisions in the NAFTA modernization?

A: I understand the importance of ensuring effective enforcement of copyright and related rights, including in the online environment. One of our negotiating objectives in NAFTA is to seek provisions governing intellectual property rights that are similar to the standards in U.S. statutes, including protections related to copyright and related rights. We are seeking a robust outcome for the IP Chapter in the NAFTA negotiations.

6. USTR will soon release its first Special 301 Report under your leadership. Special 301 gives the Administration a critical tool to resolve intellectual property and market access barriers abroad. But USTR has not named a Priority Foreign Country since 2013. There are plenty of candidates this year – from Canada and Korea to Malaysia and Saudi Arabia. Under your leadership, can we expect USTR to deliver a strong report that fully leverages Special 301 to level the playing field for American innovators?

A: Ensuring that U.S. owners of intellectual property (IP) have a full and fair opportunity to use and profit from their IP around the world is one of the trade priorities outlined in the President's trade agenda. Toward this end, the Special 301 Report reflects the resolve of the Administration to call out foreign countries and expose the laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers. The identification of the countries and IP-related market access barriers in the Report and steps necessary to address those barriers are a critical component of the Administration's aggressive efforts to defend Americans from harmful IP-related trade barriers. This year's Report will be a product of a robust review process undertaken by the Trade Policy Staff Committee, led by USTR, that takes into account numerous U.S. stakeholder contributions, as well as information collected by Embassy-based personnel around the world.

10) Role of Services

The *New York Times* recently published an article[1] outlining the United States' surplus in services trade, a helpful reminder about the role of services. How does your office take into account the role of United States' services firms, which represent approximately 75% of US economic output and about 80% of US private sector employment?

A: The U.S. service sector is highly innovative and a key driver of the U.S. economy. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy economy and a core objective of U.S. trade policy. USTR is pursuing robust services outcomes in the ongoing NAFTA negotiations and other ongoing bilateral efforts. USTR is also evaluating the various options available to pursue these objectives in other forums and will continue to consult with you as we chart the best course forward.

[1] Irwin Neil. 2018. Most Americans Produce Services, Not Stuff. Trump Ignores That in Talking About Trade. *The Upshot*.

11) E-commerce & WTO

Can you provide a status update and list your priorities on the e-commerce discussions in the WTO?

A: Australia, Japan and Singapore have organized a group of 70 WTO Members to explore the possibility of negotiations in the WTO of trade provisions relevant to digital trade. Discussions are at a very preliminary stage, so it would be premature to predict how this initiative will unfold. The United States is an active participant, and last week made an initial contribution to the group, outlining our views on the range of elements that we view as helpful to achieving a comprehensive, high-standard agreement. Key elements articulated in the U.S. submission include rules relating to cross-border data flows, location of computing facilities, discrimination against digital products distributed electronically, and other provisions similar to those tabled in the NAFTA 2.0 negotiations.

12) NAFTA & customs (including de minimis)

Can you talk about your plans surrounding high-standard customs policies with a NAFTA modernization, including how you plan to build on existing provisions in earlier U.S. free trade agreements by ensuring that electronic transmissions and the value of data being transmitted remain free of customs duties and customs formalities? Can you also share your views on Canada's and Mexico's de minimis thresholds for low-value goods and how you intend to work with those countries to achieve de minimis parity with our $800 US threshold?

A: The United States put forth very ambitious negotiating objectives in the Customs Administration and Trade Facilitation Chapter and is seeking commitments that meet this level of ambition. We have been seeking new commitments on faster and less burdensome release of goods, transparency and automation in customs procedures; and in how the government works with and interacts with traders. By meeting the chapter objectives, the Administration will level the playing field for U.S. exporters and companies, as we are seeking from the other NAFTA Parties the same fundamental fair and efficient border treatment that our partners experience at the U.S. border for our U.S. companies. Included among the very detailed objectives is an increased de minimis value offered by our trading partners, so that U.S. exporters and companies will also benefit from increased opportunities and new job growth.

13) TiSA

The United States has driven the effort for governments to adopt new rules for trade in services and provide market access through the Uruguay Round under the General Agreement on Trade in Services (GATS), and subsequently through our FTAs and the Trade in Services Agreement (TiSA) negotiations. Eliminating services barriers could increase U.S. services exports by as much as $1.4 trillion, supporting as many as 3 million new jobs in the United States. What are your plans for TiSA?

A. The U.S. service sector is highly innovative and a key driver of the U.S. economy. Maintaining a vibrant U.S. services sector and expanding U.S. services exports is vital to a healthy economy and a core objective of U.S. trade policy. USTR is currently pursuing robust services outcomes in the ongoing NAFTA negotiations and other ongoing bilateral efforts. More broadly, USTR is evaluating the various options available to pursue these services trade objectives and will continue to consult with you as we chart the best course forward.

14) The WTO and Multilateral Institutions

In the 2018 Trade Agenda, the Administration noted the importance of the World Trade Organization and at the Ministerial Conference -11 in Buenos Aires, the Administration joined other WTO members in a dialogue on digital trade. What is the Administration's view on reengaging in other plurilateral negotiations? Over a year ago, you testified that the Administration was considering the Trade in Services Agreement (TiSA). Could you please update the Committee on whether USTR will reengage in that negotiation and also, in particular, the Environmental Goods Agreement (EGA)?

A. USTR continues to evaluate the various options available to pursue these objectives and looks forward to continuing to consult with you as we chart the best course forward. Specifically with regard to the EGA, the Administration's review is ongoing and we will continue to evaluate it and other initiatives, ultimately seeking to advance the interests of manufacturers and workers that produce environmental goods nationwide.

15) Africa

You noted the desire to launch bilateral trade negotiations with an African country in your testimony. The United States already has one bilateral trade deal with an African country, Morocco, and it also has the African Growth and Opportunity Act, which allows for duty-free treatment of particular goods from eligible Sub-Saharan African nations. Have you identified with which African country the Administration will pursue a bilateral agreement? What is the timeline for the launch of those negotiations? What criteria is the Administration considering upon determining which African country trade relationship is ripe for FTA negotiations?

A: The Administration is still at an early stage of identifying a potential African partner with which to negotiate a free trade agreement. Any such negotiations would be preceded by exploratory talks to clarify mutual expectations and, of course, by consultations with Congress. We have no set timeline for this initiative, as that will be dictated by the circumstances. We are also in the process of defining the range of criteria for selecting an African negotiating counterpart, and we welcome your views. The advantage of such an FTA to the United States would be ensuring free, fair, and reciprocal access to a growing African market, and for the African partner it would represent an important step beyond the African Growth and Opportunity Act. In terms of challenges, we are likely to face some capacity issues on the part of the African partner.

16) Asia Pacific

With the recent signing of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) by the remaining 11 TPP Parties and the continuation of the Regional Comprehensive Economic Partnership (RCEP) negotiations led by China, the Asia Pacific region is moving on without the United States. What is this Administration doing to ensure that the United States stays not just relevant, but leads in the Asia Pacific region, particularly at a time when the United States seems to be isolating ourselves from our allies?

A: Strong relationships with the countries of Southeast Asia and the Indo-Pacific region are economically and strategically important to the United States. The United States will continue to lead in this important region by working to combat unfair trade practices and by building our trade relationships with countries bilaterally and through our engagements with APEC and ASEAN. With regard to FTAs, the President has made clear the willingness of the United States to engage with interested countries on terms that will lead to free, fair, and reciprocal trade and significantly improved market outcomes.

17) Colombia

The AFL-CIO and a number of Colombian unions filed a petition highlighting a number of areas in which Colombia was still falling short of its commitments under the U.S.-Colombia Trade Promotion Agreement. After reviewing the petition, the Department of Labor highlighted "significant concerns" with Colombian labor practices. Yet, to date, the current Administration has failed to take meaningful action on this petition or on Colombian labor issues generally. In January the Department of Labor issued a three-page progress report noting that much work still remained to be completed, while your office sent a letter to the Colombian government regarding its attempt to accede to the OECD that failed to even mention labor rights. Moving forward, what is your office's plan for ensuring that the Colombian government lives up to its labor commitments?

A: USTR works closely with the U.S. Departments of Labor and State, as well as other agencies, to monitor labor practices in all trading partners, including Colombia. The Administration, including USTR, has engaged closely with Colombian officials on their efforts to address labor concerns. With regard to the OECD, while USTR is the lead for the OECD Trade Committee, the U.S. Department of Labor leads the Administration's efforts on the OECD Employment, Labor and Social Affairs Committee (ELSAC) and is the interlocutor with Colombia on OECD labor issues. At its meeting on March 21 and 22, the ELSAC formulated a unanimous recommendation concerning accession to the OECD Council of Ministers that advocates putting into place regular and rigorous post-accession reporting requirements for key labor issues. We intend to continue close engagement with Colombia on labor issues and look forward to consulting with you and your colleagues on Colombia issues in the future.

18) Softwood Lumber

Is it not true that the largest lumber producing companies now operate mills on both sides of the U.S.-Canadian border? Are these companies reaping the benefits of higher lumber prices, brought on by tariffs on Canadian softwood lumber, at the expense of the American consumer?

A: The Administration is committed to the robust enforcement of U.S. trade remedy laws. Ensuring that U.S. softwood lumber producers compete on a level playing field against the injurious effects of unfairly subsidized Canadian imports is an important priority for the Trump Administration. In November 2017, the U.S. Department of Commerce imposed antidumping and countervailing duties on imports of Canadian softwood lumber, following a petition from U.S. softwood lumber producers and a full investigation of the complaint by the U.S. International Trade Commission and the Department of Commerce.

These tariffs are in place to remedy the harm that was caused by the unfair trade practices of the Canadian industry. In the United States, the majority of timberlands are privately owned. In contrast, 90 percent of timberland in Canada is owned by provincial governments, most of whom set the price for harvesting timber rather than allowing the market to determine such prices. Unfair trade practices such as this are harmful to U.S. jobs and impose high costs on the economy.

<u>Questions from Rep. Nunes:</u>

1) NAFTA Sunset Clause

On NAFTA, you and your team have proposed an automatic sunset clause that would terminate NAFTA after 5 years absent re-approval by each country. It is my understanding that both Canada and Mexico are opposed to this proposal, and that most members of our committee are opposed. Given Congress must approve a renegotiated agreement, can you explain why you are continuing to pursue an automatic sunset given the opposition?

A: Given its wide-ranging effects on the U.S. economy, it is important that a renegotiated NAFTA include a robust mechanism to ensure that all three Parties assess its benefits on a periodic basis and affirmatively agree to continue it. If we achieve an agreement that is better for America, there will be an incentive to keep it in place. We have addressed this important issue in our proposals, and in the detailed summary of our negotiating objectives.

2) Tariff and Non-Tariff Barriers

Over the last few months, I have heard that the Administration may consider NAFTA withdrawal should renegotiation fail. Can you explain what would happen to tariffs and non-tariff barriers should the US withdrawal from NAFTA?

A: The Administration has been clear about the problems with NAFTA -- and we are doing something about it. We are committed to successfully concluding the NAFTA renegotiation, and to improve the NAFTA by: (1) rebalancing it to address the United States' trade deficit and manufacturing losses; and, (2) updating it to reflect 21st century

standards—for digital trade, intellectual property, labor, environment, financial services and more.

<u>Questions from Rep. Lewis:</u>

1) Protecting Marginalized Communities in U.S. Trade Policy

Congress expects for the U.S. Trade Representative (USTR) to collaborate with the Department of Labor's Bureau of International Labor Affairs (ILAB); the Department of State's Race, Ethnicity and Social Inclusion Unit (RESIU) and Bureau of Democracy, Human Rights, and Labor (DRL); the Department of Justice; and other appropriate agencies on the questions of labor, human and civil rights, and the rule of law with our trading partners.

Sadly, Afro-Colombian, Indigenous, labor, civil, and human rights leaders continue to face threats and violent attacks.

Please detail how and when USTR coordinated with RESIU, ILAB, DRL, and the Department of Justice to address ongoing labor, human, and civil rights challenges that face Afro-Colombians and Indigenous communities under the U.S.-Colombia Free Trade Agreement.

A: USTR works closely with the U.S. Departments of Labor and State, as well as other agencies, such as the U.S. Department of Justice, to monitor labor practices in trade partner countries, and to document any potential breaches of FTA obligations, as necessary. When DOL receives a public submission regarding labor concerns under a trade agreement, as it did in the case of a Colombia submission in 2016, the Bureau of International Labor Affairs (ILAB), in coordination with USTR and State, is responsible for reviewing, reporting on the issues raised, and participating in dialogues with the country in question to address the issues. The Administration has engaged closely with Colombian officials on their efforts to address labor concerns, including issues affecting Afro-Colombians and indigenous communities, and we look forward to consulting closely with you and your colleagues on Colombia issues in the future.

2) Protecting Marginalized Communities in U.S. Trade Policy

Please explain how USTR collaborates with these offices in ensuring that U.S. labor, human and civil rights, and the rule of law are core components of U.S. strategy in the North American Free Trade Agreement (NAFTA) renegotiations.

A: USTR works closely with the U.S. Departments of Labor and State, as well as other agencies, to monitor labor practices in trade partner countries, and to document any potential breaches of FTA obligations as necessary. When DOL receives a public submission regarding labor concerns under a trade agreement, as it did recently in the case of a Mexico submission in January, the Bureau of International Labor Affairs, in consultation with USTR and State, is responsible for reviewing, reporting on the issues raised, and participating in dialogues with the country in question to address the issues. Since the start of the NAFTA renegotiations, the Administration has engaged

closely with Mexican officials on their efforts to address labor concerns, including Mexico's pending legislative reforms to revamp the entire system of labor justice administration. NAFTA 2.0 is an opportunity to lock in these reforms and incorporate high standard labor provisions into the core of the agreement rather than in a side agreement as is currently the case with the NAFTA. We look forward to consulting closely with you and your colleagues on Mexico issues in the future.

3) Buenaventura and labor rights

Buenaventura is the major port city that is central to Colombian trade. Last year following strikes that received international attention, there was finally progress on an agreement to improve the labor and living standards of port workers – and especially Afro-Colombian, Indigenous, and other marginalized workers in Buenaventura.

Given the central role of Buenaventura to international commerce and the historic, gross denial of basic worker's rights, please explain how USTR is working with Colombian authorities to ensure that full and timely implementation of the 12-point June 2017 agreement.

A: USTR is in close and continual contact with the U.S. Departments of Labor and State on the overall situation in Colombia, including the situation in Buenaventura. The U.S. Department of Labor has a Labor Attaché based in Colombia who has been working closely with labor leaders and civil society stakeholders on the situation, including meeting with members of the Afro-Colombian Labor Council. USTR is coordinating with the U.S. Departments of Labor and State to monitor developments, and we will consult with you and key stakeholders here and in Colombia, including with relevant Colombian government officials, as implementation of the June 2017 agreement continues.

4) Buenaventura and labor rights

Did USTR visit Buenaventura, Colombia in the past year, meet with labor and civil rights leaders, and raise these concerns directly with the Colombian government and port officials and companies?

A: USTR has not visited Buenaventura in the past year but has met with labor and civil rights leaders and has raised concerns on the situation in Buenaventura and on working conditions and workers' rights in all of Colombia's ports directly with the Colombian government.

5) Colombia's Accession to the Organisation for Economic Co-operation and Development (OECD)

Colombia's application to join the OECD is another opportunity to make meaningful progress in the many labor, civil, human rights, and rule of law challenges. The USTR plays a key role representing U.S. interests and concerns at the OECD.

Please may you provide an update on USTR's work regarding outstanding labor issues and Colombia's accession to the OECD?

A: The U.S. Department of Labor leads the Administration's efforts on the OECD Employment, Labor and Social Affairs Committee (ELSAC) and is the interlocutor with Colombia on OECD labor issues. At its meeting on March 21 and 22, the ELSAC formulated a unanimous recommendation concerning accession to the OECD Council of Ministers that advocates putting into place regular and rigorous post-accession reporting requirements for key labor issues. USTR is the lead for the OECD Trade Committee and is working with Colombia on issues it needs to address to secure U.S. support to close the Trade Committee's review.

6) Labor Enforcement and Trade Agenda Strategy

Last year, USTR conducted a comprehensive review of U.S. trade agreements. One of the challenges of U.S. trade policy is the need for strong enforcement especially as it relates to labor and human rights. The CAFTA-DR panel in the Guatemala labor dispute was extremely disappointing. Similarly, many continue to believe that an updated plan to address Colombia's ongoing labor, human, and civil rights challenges is necessary.

Following the review, how did USTR adjust its labor enforcement strategy and the NAFTA renegotiations to build upon the lessons of the Guatemala labor dispute and the Colombian Labor Action Plan? How does the 2018 U.S. Trade Agenda reflect the review's findings?

A: Enforcement is a key aspect of this Administration's trade agenda. This includes ensuring that trading partners comply with the labor obligations in our trade agreements. USTR works closely with the U.S. Departments of Labor and State, as well as other agencies, to monitor labor practices in countries with which we have FTAs and to work with those countries where labor practices have fallen short of expectations. That work can include negotiating action plans, engaging in consultations with high-level officials, and undertaking monitoring trips to meet directly with stakeholders, among other actions. Through actions like these, my staff works to ensure that all of our trading partners maintain fair labor practices to help level the playing field for American workers.

With regard to Guatemala, we strongly disagree with some of the interpretations developed by this panel, including with respect to whether Guatemala's failures affected trade. In NAFTA 2.0 we intend to address the Guatemala panel's erroneous interpretation of CAFTA labor obligations, and will continue to consult closely with you on this issue.

7) Trade, Jobs, and Outsourcing

Following the adoption of NAFTA, my home state of Georgia, Metro Atlanta, and other communities across the country lost many quality jobs to outsourcing. It is critically important that workers, in the United States and in the countries with which the U.S. trades, earn living

wages in safe working conditions, with protection from discrimination and abuse. The most direct way to address these trade-related issues is in the text of any agreement.

How are you working to develop new bold solutions on enforceable labor and human rights within the text of any proposed NAFTA renegotiation?

A: Among our top priorities for the NAFTA, are improvements that create incentives to increase manufacturing in the United States, lower our trade deficit, and improve exports opportunities for U.S. producers and workers. We are vigorously pursuing these goals throughout the Agreement, including by re-thinking rules of origin and bringing strong labor and environment provisions into the core of the Agreement and subjecting them to the same dispute settlement mechanisms as other provisions in the Agreement.

With respect to labor specifically, we are addressing this serious issue. Lower labor standards in Mexico, including wage issues, affect American workers and businesses. I am committed to ensuring that NAFTA strengthens our trading partners' labor standards and meets the negotiating objectives that Congress has set out in TPA. I will continue to work with you and other Members of Congress as we update and NAFTA.

8) U.S.-Africa Trade Agenda

Your testimony briefly mentioned the possibility of free trade agreements with countries in Africa, and the 2018 U.S. Trade Agenda referenced extending economic "partnerships to countries that are committed self-reliance."

Please may you explain what "self-reliance" entails and which African countries are under consideration for a possible bilateral or multilateral free trade agreement?

A: The Administration is still at an early stage of identifying a potential African partner with which to negotiate a free trade agreement. Any such negotiations would be preceded by exploratory talks to clarify mutual expectations and, of course, by consultations with Congress. With respect to self-reliance, we intend to work with countries that seek to move beyond assistance to partnerships that promote prosperity, including free, fair, and mutually beneficial trade.

9) Protecting Access to Medicines

A key component of the May 10th Agreement is ensuring that U.S. trade policy does not undermine access to medicines and health care systems both in the United States and especially in the countries with which the U.S. trades. There are recent reports that the administration is attempting to shift the balance away from supporting country's public health care systems and ensuring continued access to affordable medicines.

Please explain how USTR incorporates and applies the principles of the May 10th Agreement into preserving access to medicines in U.S. trade policy -- especially in countries like Colombia and South Africa – through both bilateral and multilateral fora discussions

A: The President's goal to rationalize drug prices in America is completely consistent with our international obligations. USTR is firmly of the view that international obligations such as those in the TRIPS Agreement have sufficient flexibility to allow trading partners to address the serious public health problems that they may face. USTR and other U.S. government agencies work to ensure that the provisions of its bilateral and regional trade agreements, as well as U.S. engagement in international organizations, including the UN and related institutions such as WIPO and the WHO, are consistent with U.S. policies concerning IP and health policy and do not impede its trading partners from taking measures necessary to protect public health.

Question from Rep. Roskam:

1) Rules of Origin for NAFTA

Ambassador Lighthizer, as you know the rules of origin within NAFTA for heavy-duty trucks are different than those for passenger cars. To qualify for preferential treatment, the largest commercial vehicles are required to contain North American content equal to at least 60% of their value. Light duty vehicles must meet a 62.5% benchmark. The 2.5% variance reflects the significant differences between the two industries. For example, in 2017, when passenger cars and light duty trucks sold a combined 17 million new units, the market for new heavy trucks was a mere 300,000 vehicles. The average sale price of such trucks is approximately three times that of passenger vehicles. And due to their robust manufacture and challenging service lives, heavy trucks include significantly more steel than their smaller counterparts.

Would you please assure this committee that, when you have concluded renegotiating the rules of origin provisions with our North American partners, the new rules will continue to reflect the differences between the heavy truck and passenger car industries, including a lower regional value number for trucks?

A: USTR understands that there are differences between the heavy truck and passenger car industries and we are working with our heavy truck industries to understand how such differences should be reflected in the rules of origin provisions. Our understanding is that heavy trucks often contain greater amounts of U.S. and North American content than passenger cars.

Question from Rep. Larson:

1) Section 232

My district is home to a large manufacturing base that is comprised of hundreds of small and medium sized manufacturers who make up the supply chain. Many of these companies are downstream users of steel and aluminum. One such supplier, Jarvis Airfoil in Portland, CT, manufactures fan, compressor, and turbine blades and vanes for jet engines. They currently buy aluminum from the United Kingdom and have expressed concerns about the effect the tariffs will

have on their company. These manufacturers are anxious for clarity on the timeline for when the tariffs will take effect and how the exemption process will work.

During the hearing, Mr. Ambassador, you testified that it was your hope that all of these issues would be resolved by the end April. Since the hearing, the tariffs went into effect on March 23rd, but were suspended for Canada, Mexico, Australia, South Korea, Argentina, Brazil, and E.U. countries until May 1st.

Can you provide additional details on how the exemption process will proceed moving forward? In particular, will the Administration continue to negotiate country exemptions after May 1st? How will the Administration ensure that the tariffs are continuing to provide relief to the steel and aluminum industry after longer-term country exemptions are issued?

How does the Administration plan to address tariff exemptions for the United Kingdom over the long term? If European Union countries receive a tariff exemption beyond the May 1, 2018 suspension, how will the U.S. approach the U.K. after they leave the E.U. in March of 2019?

A: The tariffs proclaimed by the President under Section 232 of the Trade Expansion Act of 1962, as amended, entered into effect on March 23 for all countries other than Argentina, Australia, Brazil, Canada, Mexico, South Korea, and the member countries of the European Union. For these countries, the President has proclaimed that the tariffs will enter into effect on May 1, unless the President determines by further proclamation that the United States has reached satisfactory alternative means to remove the threatened impairment to the national security posed by the imports from those countries. USTR is in contact with these countries on the Section 232 tariffs. The President has noted that in the event he decides to exclude a particular country from the tariffs on a long-term basis, he will consider whether it is necessary and appropriate in light of our national security interests to make corresponding adjustments to the tariffs as they apply to other countries.

With regard to discussions between the United States and the European Union (on behalf of its member countries, including the United Kingdom), I would refer you to the Department of Commerce.

<u>Questions from Rep. Paulsen:</u>

1) India's Price Controls on Medical Devices

Over the last 12 months the Government of India has imposed deep price controls on coronary stents and artificial knees sold in India. The Government of India has not worked in good faith with the medical device industry to implement a framework that achieves the twin objectives of making healthcare more affordable while preserving the environment for innovation. How will this Administration work with the government of India to ensure that US companies are not driven out of the market by arbitrary price caps that make it impossible for innovative companies to compete?

A: The United States has repeatedly stressed to the Government of India the importance of responding to U.S. concerns regarding the lack of differentiation in its price controls for coronary stents and knee implants and has highlighted the potential negative implications for India in discouraging medical device companies from offering the most innovative products in the Indian market. With the USTR acceptance of the GSP petition on medical devices, our engagement on this issue will include a public GSP review process.

2) India's GSP Status

The Advanced Medical Technology Association currently has a petition pending at the USTR to withdraw India as a beneficiary country from the GSP, which allows developing countries to benefit from duty free imports on thousands of products. Given India's behavior as an unfair trading partner, what steps are you willing to take to utilize existing tools to address this untenable situation?

A: USTR announced on April 12th that it has accepted the petition and will be launching a public review of India's GSP eligibility based in part on the concerns raised in this petition. USTR has also raised this issue bilaterally with the Indian government in the context of the U.S.-India Trade Policy Forum.

3) WTO Cases Addressing Indian Export Subsidy Programs

I applaud the WTO case USTR filed last week against India on that country's export subsidy programs. There have been concerns for years with respect to India's protections on intellectual property, tariff increases on technology products in violation of the Information Technology Agreement, draconian price controls on medical devices, and other issues. I appreciate the attention the Administration is paying to India's unfair trade practices, but I would be curious to know why the Administration chose to move forward with this action first and whether we can expect to see other actions against India's unfair trade practices, either in the WTO or through other means?

A: The Administration's filing of a request for consultations in the WTO on export subsidies followed years of engagement with India on this issue multilaterally in the WTO Subsidies and Countervailing Measures Committee and bilaterally in the Trade Policy Forum (TPF). We moved forward with this action because India is providing over $7 billion in annual export subsidies, advantaging thousands of Indian companies across a wide spectrum of industries including producers of steel products, pharmaceuticals, chemicals, information technology products, textiles, and apparel. Instead of removing these subsidies to address the concerns the United States expressed, India continues to expand the size and scope of these programs.

We intend to continue to address our concerns with India on a range of trade restrictive measures through the TPF and the WTO and will also consider additional tools, as appropriate, such as the GSP review that was announced on April 12.

4) Support for ISDS & Agriculture Exporters

Even though NAFTA promises free trade for most goods, NAFTA partners sometimes put erroneous anti-dumping or countervailing duties on US exports. NAFTA currently allows illegally targeted industries to fight these duties under Chapter 19 dispute resolution. However, USTR has proposed to eliminate Chapter 19 in the NAFTA negotiation. Is this still the position of USTR, and if so, what are my food and agriculture-producing constituents supposed to do the next time Mexico slaps illegal or politically-motivated duties on them? Do you expect them to go to court in Mexico?

A: The Chapter 19 dispute resolution mechanism that applies to the AD/CVD proceedings ("Chapter 19") of the NAFTA Parties is something we have not replicated in any free trade agreement since NAFTA. This Administration does not believe that Chapter 19 is an appropriate mechanism to resolve issues that arise in trade remedy proceedings. Chapter 19 is a mechanism that is outside of our judicial system and has often been utilized by parties to try to undermine or weaken the application of U.S. trade remedy law. This should not be a position that the United States should continue to support. We have a fundamental interest in maintaining a strong, robust trade remedies regime so that when U.S. industries are being injured by dumped or subsidized imports, an appropriate remedy can be put in place to address the situation.

As for Mexico, the Chapter 19 system was created prior to the creation of the dispute settlement system at the WTO. Today, if U.S. producers/exporters believe that another country's investigating authorities have imposed a remedy that is inconsistent with its WTO obligations, they can approach their government to challenge the measure before a WTO panel. The United States has already demonstrated that it would pursue such challenges when warranted, as evidenced by our recent victory involving China's imposition of WTO-inconsistent measures on U.S. exports of chicken broiler products.

5) Support for ISDS in NAFTA Negotiations

One of USTR's principal negotiating objectives under Trade Promotion Authority is "*to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by… providing meaningful procedures for resolving investment disputes*." However, USTR is reportedly pursuing the opposite of "meaningful procedures for resolving investment disputes" such as in NAFTA renegotiations, where USTR has advanced proposals to significantly weaken Investor-State Dispute Settlement (ISDS) and to eliminate Chapter 19. How can American producers export effectively if they do not have meaningful procedures for resolving disputes? And why is USTR reportedly advancing a proposal that is completely opposed to your Congressionally-mandated negotiating objectives?

A: The Administration is committed to pursuing an outcome in the NAFTA negotiations that puts the interests of American farmers, ranchers, workers and businesses. The Administration is advocating for an approach to ISDS in the NAFTA that safeguards U.S. sovereignty and avoids incentivizing the off-shoring of U.S. jobs and manufacturing. I look forward to continuing to work with the Congress on this issue, consistent with the negotiating objectives set forth in the 2015 Trade Promotion Authority legislation.

6) NAFTA Re-Negotiation & Its Effects on the Economy

Many of us agree very much with the importance of updating and modernizing NAFTA. It was an agreement completed more than two decades ago. Not only has the world changed a lot since then, but we have also learned a lot in our trade negotiations about what works and doesn't. NAFTA has produced a North American commercial environment that supports a lot of good-paying American jobs. There are more than 12 million jobs tied to NAFTA and more than two million of them are good paying manufacturing jobs across the country. Our common objective is to use these NAFTA talks to grow the U.S. economy and grow good-paying jobs. Mr. Ambassador, is your goal in these talks actually to grow the U.S. economy and good-paying jobs? And how will creating uncertainty, adding to the cost to manufacture in the United States and weakening the ability to hold Canada and Mexico accountable for unfair actions, actually promote that goal?

A: Absolutely. The Administration's priority in the NAFTA renegotiations is maintaining and expanding markets for U.S. farmers, ranchers, and agricultural processors, and fair treatment of their products by our trading partners. Our aim is improve the NAFTA by: (1) rebalancing it to address the United States' trade deficit and manufacturing losses; and, (2) updating it to reflect 21st century standards—for digital trade, intellectual property, financial services and more.

7) Canada's Unfair Dairy Policies & NAFTA

Canada's unfair dairy trade policies are harming American dairy producers and suppliers. How are these concerns being addressed in the ongoing NAFTA negotiations?

A: The Administration understands that Canada's pricing policy (Class 7) is harming U.S. dairy exports and is working to address this critical issue in NAFTA renegotiation. The Administration is also seeking to open up Canada's market to the full range of U.S. dairy (and poultry and egg) products through NAFTA renegotiation. These are both high priorities for the United States.

8) 301 Tariffs & Supply Chains

Has USTR conducted any kind of analysis of the supply chains that will be affected by the 301 tariffs, and did this analysis include an evaluation of available capacity in other markets to produce covered goods?

A: The proposed list of products was based on an extensive interagency economic analysis that targeted products that benefit from China's industrial plans while minimizing the impact on the U.S. economy. The list of products covered by the proposed action was developed using the following methodology: Trade analysts from several U.S. Government agencies identified products that benefit from Chinese industrial policies, including Made in China 2025. The list was refined by removing specific products identified by analysts as likely to cause disruptions to the U.S. economy, and tariff lines that are subject to legal or

administrative constraints. The remaining products were ranked according to the likely impact on U.S. consumers based on available trade data involving alternative country sources for each product. The proposed list was then compiled by selecting products from the ranked list with the lowest consumer impact.

9) Economic Concerns regarding 232 Tariffs

I am concerned that the tariffs could potentially wipe out the benefits of the recently enacted tax reform. Has USTR undertaken any economic analysis to analyze this potential impact?

A: Concerning the benefits of the tax reform, please refer to chapter 1 "Taxes and Growth" of the Economic Report of the President. CEA estimates that "by lowering the cost of capital and reducing incentives for corporate entities to shift production and profits overseas, the corporate provisions of the Tax Cuts and Jobs Act will raise GDP by 2 to 4 percent over the long run, and increase average annual household income by $4,000." (pg 18).

On the impact of the effects regarding the section 232 tariffs on steel and aluminum, I would refer you to the U.S. Department of Commerce.

10) NAFTA Rules of Origin Consultation

As USTR has developed its proposed Rules of Origin framework within NAFTA negotiations, did it consult with representatives of affected industries in the United States? If so, which industries and which companies? And if not, why did you not consult with them?

A: Throughout the NAFTA renegotiating process USTR has consulted extensively with stakeholders in our formulation of the Rules of Origin framework. This began with a public hearing last June where 142 witnesses testified over three days, and over 12,000 public comments were received. We have sought guidance and consulted with all of our advisory committees, including the Industry Technical Advisory Committees, which include autos, aerospace, chemicals, and other industry sectors affected by the ROO negotiations. We have also, where appropriate, consulted with industry stakeholders to understand their supply chains and relevant processes for Rules of Origin compliance. This is particularly true with respect to the auto and auto parts industry.

11) NAFTA Rules of Origin & Economic Effect on Supply Chains

In developing the Rules of Origin proposal, did you conduct any analysis or develop any economic modeling to evaluate how that proposal would affect current supply chains and employment for American factories?

A: Yes. USTR has been analyzing rules of origin and their effects on automotive supply chains in all three NAFTA countries and closely analyzed the potential effects of the improvements to the rules of origin.

<u>Questions from Rep. Black:</u>

1) Proposed Rules of Origin Requirement for Autos

Ambassador Lighthizer:

I wanted to follow-up on a question I posed to you during the House Committee on Ways and Means hearing March 21, 2018 regarding changes to NAFTA's Rules of Origin (RoO) and the impact it could have on auto manufacturing.

Auto manufacturing has been a success story in Tennessee, and I am concerned by potential changes to NAFTA's RoO that would disrupt the North American supply chains that make auto manufacturing in my state competitive.

During the hearing, you stated that the proposed RoO will have no effect on cars made in Tennessee and sold in the United States. This seems to directly contradict the sentiment of domestic automakers. For example, at a Senate Finance Committee field hearing in San Antonio, the CEO of the Alliance for Automobile Manufacturers noted the following:

> "*With regards to rules of origin, it warrants emphasizing that the existing rule (62.5 percent regional vehicle content requirement) is the highest of any free trade agreement in the world. It has been effective in striking the right balance to ensure there are no free riders and that to take advantage of the NAFTA tariff preferences, manufacturers must source significantly from the North American region. During the previous round, it is our understanding that this Administration proposed the following changes to the auto rules of origin:*
>
> *1) Increasing the RVC requirement from the existing 62.5 percent to 85 percent.*
> *2) Establish a U.S. content requirement of 50 percent.*
> *3) Expanding the "tracing list" to include all parts and materials using in the production of a vehicle or part.*
>
> *Each element alone would have a negative impact on the auto sector. But, taken in its entirety, this proposal is unprecedented and would have significant ramifications on our industry and the U.S. economy, as a whole. No vehicle produced today could meet such an onerous standard. It is unlikely that any vehicle ever could, even if sourcing changes were made in an attempt to do so. Adding to the compliance challenge is the insufficient two-year phase-in of the requirements. Auto manufacturing is a very capital-intensive process with long lead-time requirements for production changes. Sourcing new components and implementing the necessary changes would certainly be a lengthy, multi-year process.*
>
> *Rather than attempt to comply with such stringent rule of origin requirements, it may make more economic sense for manufacturers to pay the 2.5 percent vehicle tariff when exporting within NAFTA and/or shift production to other low-cost regions. This will*

increase an automaker's vehicle costs, but that increase is less than the cost of complying with the proposed U.S. rule of origin.

While we wholeheartedly support this Administration's goal of growing U.S. manufacturing and jobs, making NAFTA's auto rules of origin more stringent will have the opposite effect. By increasing vehicle costs and/or causing production to shift, the proposed rules of origin would reduce demand for U.S. built vehicles. This shift will have a cascading effect – leading to reductions in U.S. production, component sourcing, investment, exports and auto jobs, and ultimately increase vehicle costs for American consumers."

Ambassador – I know you are keenly aware of the impact changes in trade policy can have on the everyday lives of workers and families. I share your desire to create economic growth here at home. But I am concerned for the 134,000[2] workers in Tennessee who are employed in the automotive industry when the stakeholders who have made significant investments in plants and infrastructure raise these kinds of concerns – concerns that directly contradict your remarks on the impact the RoO proposals you have tabled in the NAFTA negotiations.

How do you reconcile your position on this issue with the concerns that have been raised by automakers? Please provide specific examples of steps you are taking or plan to take to modify your RoO proposal to make it more consistent with the interests of U.S. automakers and the 134,000 workers they employ in my state? Thank you in advance.

A: Autos that are built and sold in the United States are not subject to U.S. import tariffs. Our aim is to ensure that rules of origin under the NAFTA only benefit vehicles and parts that are genuinely made in Tennessee and in the United States and that support good jobs here, rather than provide benefits for producers to outsource production and send jobs to other countries. While we respect AAM's concerns, we have not received supporting data or analysis to back up their claims, and stronger rules of origin are highly unlikely to have such drastic effects. We understand that many U.S. vehicle and parts companies in fact meet higher thresholds and stronger rules than what is sufficient under the current rules, and we have been working with such companies on developing a revised rules of origin proposal that would balance the interests of our domestic producers and our desire to ensure that rules primarily benefit production and jobs in Tennessee and in the United States.

2) Digital Trade – Electronic Payments

I understand that the CPTPP appears to include language that would expressly allow Vietnam to disconnect U.S. payment companies from their customers in Vietnam, and replace U.S. companies with a domestic competitor. This kind of measure would not have been permissible under the Trans-Pacific Partnership (TPP). When the Administration withdrew from TPP, it said that it was doing so because it would allow the United States to negotiate a better deal with the TPP countries. Can you tell me how the Administration intends to recapture the benefits that the

[2] Source: Tennessee Department of Economic and Community Development

United States had under TPP, and expand those benefits, with respect to electronic payment services?

It is vitally important that the Administration address barriers in digital trade. New rules are needed to prevent our trading partners from requiring data to be stored in their country and creating obstacles for cross-border data flows, and new commitments are needed on related services, such as electronic payments. In your testimony last year, you indicated that addressing barriers to digital trade, such as restrictions on cross-border data flows and other data localization requirements by foreign governments, can help achieve the objectives of maintaining a vibrant U.S. services sector and expanding U.S. services exports. Can you please explain what progress has been made in addressing barriers to digital trade, and what is the Administration's current strategy for dealing with those issues?

I appreciate your attention to this important issue and look forward to your response.

A: The Administration recognizes the seriousness of government policies in Asia to limit competition in the area of electronic payment services and will continue to engage with the governments of the Association of Southeast Asian Nations (ASEAN) including Vietnam to try to find a solution that ensures U.S. electronic payment companies are not disadvantaged and are permitted to build their overseas businesses without disruption or harm to their existing commercial arrangements.

The Administration is addressing barriers to digital trade in a robust and multifaceted manner, reflecting its high priority on this important aspect of trade. For example, the Administration is pursuing high standard digital trade rules in ongoing negotiations in NAFTA and exploring the possibility of initiating digital trade negotiations in the WTO. The Administration is also prioritizing the monitoring and enforcement of digital-trade related provisions in existing trade agreements, engaging in policy development on digital trade issues in fora such as the OECD and APEC, and conducting regular, bilateral engagement with trade partners whose practices undermine or threaten to undermine digital trade opportunities for U.S. suppliers.

3) US-China solar/polysilicon trade

Chinese antidumping and countervailing duties on U.S. polysilicon block exports to the Chinese market, which constitutes 80-percent of global demand. According to industry stakeholders, the U.S. polysilicon industry has already lost several-hundred high-skilled manufacturing jobs in Tennessee, Michigan, Montana, and Washington, along with billions of dollars in cumulative exports.

Tennessee is home to hundreds of workers in high-tech manufacturing of polysilicon. However, Chinese duties on U.S. exports of polysilicon pose a significant competitive challenge and failure to reopen the Chinese market places these workers at risk.
As part of his decision in the Section 201 solar case, the President has directed you to engage in discussions to resolve the U.S.-China solar/polysilicon trade disputes, which would reopen the Chinese market to U.S. polysilicon.

I would like to hear what remedies are being discussed to promptly fulfill this directive and help the workers in Tennessee and across the country. I appreciate your attention to this important issue and look forward to your response.

A: When President Trump announced safeguard relief for U.S. manufacturers of solar cells and modules, he committed that "[t]he U.S. Trade Representative will engage in discussions among interested parties that could lead to positive resolution of the separate antidumping and countervailing duty measures currently imposed on Chinese solar products and U.S. polysilicon. The goal of those discussions must be fair and sustainable trade throughout the whole solar energy value chain, which would benefit U.S. producers, workers, and consumers." The Office of the U.S. Trade Representative has been engaged in such discussions with U.S. stakeholders in an effort to find a solution that is beneficial to both the U.S. solar industry and the U.S. polysilicon industry, and which would be acceptable to China. Those discussions are ongoing.

<u>Questions from Rep. Sanchez:</u>

1) Labor Standards

Will you commit to holding other countries to the highest labor standards so that American workers can compete fairly?

A: Enforcement is a key aspect of this Administration's trade agenda. This includes ensuring that trading partners comply with the labor obligations in our trade agreements and trade preference programs, such as GSP. USTR works closely with the U.S. Departments of Labor and State, as well as other agencies, to monitor labor practices in trade partner countries and to work with those countries where labor practices have fallen short of expectations. That work can include negotiating action plans, engaging in consultations with high-level officials, and undertaking monitoring trips to meet directly with stakeholders, among other initiatives. Through actions like these, my staff work to ensure that all of our trading partners maintain fair labor practices to help level the playing field for American workers.

2) Labor Standards

How are you going to ensure that other countries are raising their labor standard and we are not lowering ours?

A: Trade partners should be held to their obligations; lower labor standards in other countries affect American workers. My team works daily with Labor Secretary Acosta's team to monitor and engage with FTA countries that have been identified through submissions as allegedly falling short of their of labor commitments. For example, the Administration has had and continues close engagement with Colombia on concerns related to its FTA labor obligations. We also continue to work closely with Honduras on implementation of a monitoring and action plan that was agreed to and signed in the

context of its labor submission. These countries have significantly increased resources to enforce their labor laws and/or implemented new laws and regulations to address concerns raised by labor unions in the United States. I look forward to consulting closely with you and your colleagues on these issues in the future.

<u>Questions from Rep. Sewell:</u>

1) Section 301

I am concerned about this Administration's Section 301 investigation into Chinese intellectual property practices, and President Trump's decision to unilaterally impose tariffs. Our country needs to take a strong stance against dishonest Chinese trade practices; however, I am concerned that Chinese retaliation will hurt American families, farmers, and businesses. Is this Administration accounting for the possible negative impacts this action may have on our farmers? Are you accounting for the possible negative impact this will have on the American footwear and apparel industries? Have any efforts been made to protect the American consumer from the possible effect these tariffs will have on their pocketbooks?

A: The proposed tariff list was developed using a methodology designed to balance maximum pressure on China and minimizing economic impact on the United States. Footwear and apparel are not on the proposed list.

Specifically, trade analysts from several U.S. Government agencies identified products that benefit from Chinese industrial policies, including Made in China 2025. The list was refined by removing specific products identified by analysts as likely to cause disruptions to the U.S. economy, and tariff lines that are subject to legal or administrative constraints. The remaining products were ranked according to the likely impact on U.S. consumers, based on available trade data involving alternative country sources for each product. The proposed list was then compiled by selecting products from the ranked list with lowest consumer impact.

The Federal Register notice issued by the USTR identifies the imported products on which these proposed tariffs may be imposed, and provides an opportunity for the public to comment and testify at a hearing. We welcome any additional information on the proposed tariff list, including whether maintaining or imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

2) African FTA's and AGOA

You have indicated that this administration is interested in entering into bilateral trade negotiations with an African country. Do you have any specific countries in mind? What criteria will you be using to determine which African country is best suited to entering into a Free Trade Agreement with the United States? Also, I have always been a strong supporter of the African Growth and Opportunity Act, or AGOA. Since its inception, AGOA has helped a number of Sub-Saharan African countries open their markets, reduce poverty, combat corruption,

and improve worker rights. Can you confirm that AGOA will continue to be supported by this administration? How will AGOA interact with any other possible free trade agreements this administration will pursue with African countries?

A: The Administration is still at an early stage of identifying a potential African partner with which to negotiate a free trade agreement. Any such negotiations would be preceded by exploratory talks to clarify mutual expectations and, of course, by consultations with Congress. We have no set timeline for this initiative, as that will be dictated by the circumstances. We are also in the process of defining the range of criteria for selecting an African negotiating counterpart, and we welcome your views. The Administration fully supports AGOA, and intends to continue to implement fully the AGOA statute. Whether an AGOA beneficiary would continue to receive benefits under the program upon entry into force of an FTA with the United States is a matter the Administration would discuss with Congress.

<u>Questions from Rep. Meehan:</u>

1) NAFTA - Rules of Origin

Can you please provide an update on the status of negotiations regarding potential changes to the rules of origin that would or could affect chemicals and U.S. chemical manufacturing?

A: We are continuing to discuss proposed changes to the rules of origin for chemicals with the other NAFTA countries that would promote more U.S. production and jobs, and ensure that only chemical products that are genuinely produced in North America are eligible for preferential tariff treatment.

2) NAFTA - Rules of Origin

What actions are you taking to ensure that any potential changes to existing rules of origin do not negatively affect U.S. chemical manufacturers, particularly U.S. manufacturers of benzoyl peroxide? (This would include any potential adoption of a chemical reaction rule or other new changes to the rules of origin that may be applicable in this regard.)

A: We have been working closely with U.S. chemical manufacturers, including U.S. manufacturers of benzoyl peroxide, to help ensure that any changes to the rules of origin would not negatively affect our manufacturers and would promote more U.S. production and jobs.

3) NAFTA - Sunset Provision

I support expanding free trade and long term reliability for US companies operating on the world stage, however installing a “performance review” every five years is contradictory to long term stability. This seems particularly relevant as we’ve watched the current modernization process take much longer than expected. Can you detail why the Administration is pushing this proposal

and what evidence there is to support the position that a sunset would not create uncertainty for American businesses?

A: Given its wide-ranging effects on the U.S. economy, it is important that a renegotiated NAFTA include a robust mechanism to ensure that all three Parties assess its benefits on a periodic basis and make an affirmative decision to continue it. We have addressed this important issue in our proposals, and in the detailed summary of our negotiating objectives.

4) NAFTA – Dairy

I have been hugely appreciative of USTR's objectives to expand market access in Canada for U.S. dairy products. Has Canada been willing to negotiate this issue? Do you expect any progress to be made in a final agreement?

A: The Administration is seeking to open up Canada's market to the full range of U.S. dairy (and poultry and egg) products through NAFTA renegotiation, and will continue to press Canada on this high priority.

5) NAFTA – Cultural Exemptions

As a part of the NAFTA agreement, Canada is able to discriminate against American producers under the guise of "cultural" exemptions. This provision has been extremely harmful to QVC, a broadcasting company in my district. QVC is unable to broadcast into Canada, but Canadian teleshopping companies face no such restrictions in the U.S. Can you commit that the U.S. will resist any attempts by Canada to expand cultural exemptions in a renegotiated agreement? Furthermore, how can USTR address the specific problem that QVC is facing within a new agreement? Will USTR commit to negotiating a proposal that would fix this problem?

A: The Administration is working very hard to achieve improvements in NAFTA, including with regard to services like those offered by QVC. U.S. television programming, movies, music, and other audiovisual services are a key export for the United States, and open markets help ensure that the demand for U.S. creative content is not met through piracy. We have prioritized addressing Canada's traditional approach to cultural exemptions in order to provide more fairness for U.S. companies. We are optimistic that we will be able to achieve U.S. objectives.

<u>Questions from Rep. DelBene:</u>

1) Tabled Trade Initiatives

In addition to new deals there were a number of important initiatives such as the Transatlantic Trade and Investment Partnership (T-TIP), and the Trade in Services Agreement (TiSA) that have been suspended. Your Trade Policy Agenda states that you would look at restarting these negotiations. When do you expect to make a decision on possibly pursuing these negotiations?

I also noticed that the Trade Agenda made no reference to the Environmental Goods Agreements (EGA). This is an important initiative that seeks to eliminate tariffs on products that can help the United States and countries all around protect the environment and combat climate change. Are you considering restarting talks on EGA? If not, why not?

A. We continue to reflect on whether T-TIP is the appropriate vehicle for addressing our concerns in the EU, and note that the European Commission has made clear that the EU is not interested in negotiating a comprehensive agreement at this time. Before we decide whether to resume negotiations on a comprehensive trade agreement, we will want to be confident that there are promising paths to resolution of the most sensitive issues.

As for TiSA, USTR continues to evaluate the various options available to pursue its objectives for services. And with regard to the EGA, the Administration's review is ongoing and we will continue to evaluate it and other initiatives, ultimately seeking to advance the interests of manufacturers and workers that produce environmental goods nationwide. I look forward to continuing to consult with you as we chart the best course forward on these and other initiatives.

2) Canada Dairy

As you know Canada introduced a Class 7 dairy pricing program last year. Last month, I met with dairy farmers throughout my district and they all cited this system as one of the biggest challenges they have to deal with. Already, we have seen that this system has led to a 200% surge in Canadian skim milk powder exports to markets around the world, and severely undercut U.S. exports of several dairy products in 2017.

Have you or your team made any progress resolving this issue with Minister Freeland in the NAFTA renegotiation? This is a critically important issue.

A: The Administration understands that Canada's pricing policy (Class 7) is harming U.S. dairy exports and is working at the highest levels to address this critical issue in NAFTA renegotiation.

Question from Rep. Chu:

1) U.S.-Armenia Double Tax Treaty

In the wake of the 2015 signing of a U.S.-Armenia Trade and Investment Framework Agreement, there was an increase in U.S. commercial engagement in Armenia - including, as reported by U.S. Ambassador, Richard Mills, upwards of $500,000,000 in new American investments in Armenia's energy and mining sectors.

Similarly, a new U.S.-Armenia Double Tax Treaty would facilitate the further expansion of U.S.-Armenia economic relations by eliminating the threat of double taxation and creating a clear legal framework for investors and individuals who have business activities in both jurisdictions.

On February 6, 2018, Treasury Secretary Steven Mnuchin agreed to commit Treasury Department officials to pursue a new U.S.-Armenia Double Tax Treaty while testifying before the House Foreign Affairs Committee

Mr. Lighthizer, will you commit to engaging with the Secretary of the Treasury to ensure that our government negotiates a U.S.-Armenia Double Tax Treaty?

A: The U.S. Department of Treasury is responsible for tax treaties, and, as noted, Treasury Secretary Mnuchin has agreed to pursue a new U.S.-Armenia Double Tax Treaty. USTR does not have executive authority to negotiate tax treaties, so I cannot commit our resources to engaging in this matter. However, I will raise this matter with Secretary Mnuchin.

Questions from Rep. Jason Smith:

1) AUSFTA

Ambassador Lighthizer, I understand that your office has formally requested consultations with Australia under Australia – United States Free Trade Agreement (AUSFTA) on behalf of aggrieved U.S. investors. Since the agreement was entered into in 2005, this is the first time that the investor state dispute settlement provisions have been invoked by either party, which is truly a milestone. Given this historical significance, which will have a profound impact on any future disputes arising under the treaty, particularly state-sponsored expropriations, how does your agency intend to continue to pursue this matter?

A: The Administration places a high priority on ensuring full compliance with the obligations in our trade and investment agreements, including the Australia-United States Free Trade Agreement. Accordingly, we initiated consultations under the Investment Chapter of that Agreement to address a discrete investment dispute in the energy sector involving U.S. investors. We are continuing to engage with Australia regarding this ongoing matter.

2) Electronic Payment Services

Ambassador Lighthizer, the recent Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) includes language that would expressly allow Vietnam to disconnect U.S. payment companies from their customers in Vietnam, and replace U.S. companies with a domestic competitor. In what ways, will your office be working to eliminate trade barriers with respect to American electronic payment services in southeast Asia and elsewhere?

A: The Administration recognizes the seriousness of government policies in Asia to limit competition in the area of electronic payment services and will continue to engage with the governments of the Association of Southeast Asian Nations (ASEAN) individually and as a group to try to find a solution that ensures U.S. electronic payment companies are not disadvantaged and are permitted to build their overseas businesses without disruption or harm to their existing commercial arrangements.

<u>Questions from Rep. Walorski:</u>

1) Canadian Dairy in NAFTA

Agricultural trade is critical to the economy of the United States, especially dairy exports to Canada which is our second largest trading partner. However, Canadian provincial policies for ingredient class milk pricing, adopted last year, are displacing U.S. exports in third-country markets and costing American jobs. USDA estimates that each $1 billion of U.S. dairy exports generates over 20,000 U.S. jobs and almost $3 billion of economic output, and U.S. dairy suppliers are reporting that they are losing business because of these programs. Enforcement of current trade agreements, whether bilateral or multilateral in nature, is central to strengthening the U.S. economy. How are these concerns being addressed in the ongoing NAFTA negotiations?

A: The Administration understands that Canada's pricing policy (Class 7) is harming U.S. dairy exports and is working at the highest level to address this critical issue in NAFTA renegotiation.

2) Bilateral Trade Agreements

USDA projects that U.S. milk production will grow by 23 percent (about 48 billion pounds) over the next 10 years. Given that today we are exporting 15% of our total production (about 30 billion pounds), between exports and rising production, there needs to be increased export opportunities for approximately 80 billion pounds of milk over the next ten years. Free trade agreements that open markets and lower trade barriers are crucial to support the growth of U.S. dairy exports. With more than 95 percent of our potential customers living outside our borders, expanding access to international markets is essential for our future success. The Asia-Pacific region is one such market that is critical if we are to attain our future export potential and continue to support American jobs. Therefore, the U.S. should pursue bilateral trade agreements with key markets in the region. Our competitors in the European Union (EU), New Zealand and Australia are already negotiating with key export markets like China and Japan. Has USTR prioritized which countries it intends to begin bilateral negotiations with and when will those bilateral negotiations begin?

A: USTR is currently exploring potential bilateral deals with several countries in order to secure greater market access for American farmers, workers, ranchers and businesses. As you know, USTR frequently explores these options through our Trade and Investment Framework Agreements as well as through discussions that are more informal. Before USTR begins any bilateral negotiations, we will ensure to consult closely with you and your staff.

3) Geographic Indicators

As negotiations with Canada and Mexico continue, it is essential that the NAFTA modernization efforts incorporate text on the issue of geographical indications (GIs) and common names. The

trade agreement between Canada and the European Union was implemented last year. The protections the EU demanded from Canada impair market access for cheese and other food products from third countries and are in complete disregard of Canadian intellectual property laws. In addition, Mexico has been negotiating a FTA expansion with the European Union which will incorporate GI provisions. As the European Commission seeks to incorporate GI provisions in all its FTAs, it has been attempting to use the negotiation with Mexico to impose de facto barriers to trade and competition on various common name products that the EU falsely claims as GIs. It is critical that the U.S. continue to reinforce that GIs are a type of intellectual property. Will GI provisions similar to those in TPP that require due process procedures like opposition and cancellation of terms be incorporated into NAFTA and future U.S. trade deals?

A: We are aware of and also have significant these concerns about the EU's promotion of GIs. In the NAFTA renegotiation, a key objective is to ensure that market access for U.S. products is not undermined through the improper use of Mexico's or Canada's system for protecting or recognizing geographical indications. We are seeking to ensure that such GI systems are transparent, have fair procedures, and adequately preserve the ability of U.S. producers to continue to use common names in those markets.

4) NAFTA Intellectual Property Chapter

Ambassador, when the former Administration was negotiating TPP, officials decided to leave the IP chapter to last, which seemed to weaken our leverage on ensuring the strongest possible protections for innovators by precluding trading on other items. What is your strategy for closing out the toughest chapters and delivering a strong IP chapter for U.S. innovators?

A: I have personally and repeatedly made it clear to Canada and Mexico that a robust IP Chapter is essential to having a successful Agreement. I understand the importance of IP-intensive industries to the U.S. economy and I am aggressively pursuing a high standard of IP protection and enforcement in the NAFTA negotiations. This includes, but is not limited to, protections related to trademarks, patents, copyright and related rights, undisclosed test or other data, and trade secrets.

5) Canadian Intellectual Property

Canada is a good partner for the US, but we have disagreements on a number of fronts, including how to best protect intellectual property in a way that rewards and incentivizes innovators. I'm concerned that they are undervaluing U.S. innovative medicines, by comparing pricing to less developed economies as a reference for their own. Should Canada pay their fair share?

A: I agree that Canada should pay its fair share for innovative medicines. In addition to pursuing high-standard disciplines to stimulate and protect innovation in the NAFTA IP Chapter, I have directed my staff to also seek standards to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide fair market access for U.S. products.

6) Special 301 Report Status

USTR will soon release its first Special 301 Report under your leadership. Special 301 gives the Administration a critical tool to resolve intellectual property and market access barriers abroad. But USTR has not named a Priority Foreign Country since 2013. There are plenty of candidates this year – from Canada and Korea to Malaysia and Saudi Arabia. Under your leadership, can we expect USTR to deliver a strong report that fully leverages Special 301 to level the playing field for American innovators?

A: Ensuring that U.S. owners of intellectual property (IP) have a full and fair opportunity to use and profit from their IP around the world is one of the trade priorities outlined in the President's trade agenda. Toward this end, the Special 301 Report reflects the resolve of the Administration to call out foreign countries and expose the laws, policies, and practices that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers. The identification of the countries and IP-related market access barriers in the Report and steps necessary to address those barriers are a critical component of the Administration's aggressive efforts to defend Americans from harmful IP-related trade barriers. This year's Report will be a product of a robust review process undertaken by the Trade Policy Staff Committee, led by USTR, that takes into account numerous U.S. stakeholder contributions, as well as information collected by Embassy-based personnel around the world.

<u>Questions from Rep. LaHood:</u>

1) U.S.-China Trade Relations

Much has been said about China's lack of commitment to world economic policies championed by the World Trade Organization (WTO), and many have been rightfully critical of US-China trade relations when it comes to manufacturing, intellectual property, and technology. However, I would like to know how the Administration views China's efforts to open market access to US companies in other sectors, such as financial services? Is it possible to increase investment flows between the two countries in these sectors, while continuing to challenge negative practices in other sectors?

A: The Administration continues to be concerned about severe restrictions that China maintains on foreign companies seeking to access its services market, which contrasts with the high level of access that Chinese services suppliers enjoy in the U.S. market. Financial services is just one of many areas where U.S. companies continue to face market access barriers in China. The Administration will to continue to press China to take concrete actions to address all of these barriers.

2) Thai Restrictions on Imports of U.S. Pork

Thailand maintains an effective ban on the import of most US pork products, based on completely unjustifiable import restrictions. Thailand maintains these restrictions while at the same time being the second largest beneficiary of US Generalized System of Preferences (GSP) tariff preferences in the world, with the US importing $4.1 billion of Thai products under the

program in 2017. GSP statutes call on beneficiary countries to provide the US with "equitable and reasonable access" to their markets. What actions is the Administration taking to eliminate longstanding Thai restrictions on the import of US pork?

A: Thailand's continued ban on ractopamine is unacceptable. During our TIFA meeting with Thailand on April 10, my team pressed the importance of Thailand adopting Codex standards for ractopamine. During the TIFA, we agreed with Thailand on a bilateral dialogue to exchange technical information and assess Thailand's stated intent to establish an acceptable ractopamine tolerance on pork, and we hope to see favorable results in the upcoming months. In addition, USTR has received a petition from the National Pork Producers Council asserting that Thailand should be removed in whole or in part from the GSP program, because it is not meeting the GSP criterion, which requires GSP beneficiary countries to provide equitable and reasonable access to its markets. USTR will be making a decision in the coming weeks whether to accept this petition for review. USTR will continue to work with other U.S. agencies to resolve this issue as soon as possible in a manner consistent with international standards.

PUBLIC SUBMISSIONS FOR THE RECORD

Statement of the American Farm Bureau Federation

Statement to the House Committee on Ways and Means regarding the hearing:

The Trade Policy Agenda

March 21, 2018

Submitted By:
The American Farm Bureau Federation

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The American Farm Bureau Federation (Farm Bureau) offers the following statement for the record on the hearing: 'The Trade Policy Agenda '.

Trade is critical to the livelihood of the U.S. agricultural sector because it spurs economic growth for our farmers, ranchers and their rural communities. Agriculture supports jobs in the food and agricultural industries and beyond. The fact is that ninety-five percent of the world's consumers live outside of the United States and over twenty percent of U.S. farm income is based on exports. Expanding opportunities for U.S. crop and livestock producers to access international markets will boost farm income in the United States, while preserving existing access is critical to maintaining farm income at current levels. U.S. agricultural exports amounted to $140.5 billion in 2017. Imports, critical for certain products, especially out of season produce, totaled $119 billion in 2017.

Trade agreements have significantly contributed to the decades-long positive growth in trade by U.S. agriculture. Between 2003 and 2017, U.S. agricultural exports to countries we have trade agreements with increased from $24 billion to $63 billion annually, forty-five percent of all agricultural exports. Existing trade agreements have proved successful in tearing down tariff and non-tariff trade barriers that hinder U.S. farmers' and ranchers' competitiveness and prevent us from taking advantage of consumer demand for high-quality U.S. food and agricultural products throughout the world. For consumers, trade agreements provide access to new varieties of food products and off-season supplies of fresh produce.

NAFTA

One of the most talked about trade agreements, the North America Free Trade Agreement (NAFTA), has been overwhelmingly beneficial for farmers, ranchers and associated businesses all across the United States,

Canada and Mexico for decades. With NAFTA, U.S. farmers and ranchers across the nation have benefited from an increase in annual exports to Mexico and Canada from $8.9 billion in 1993 to $39 billion in 2017.

The NAFTA negotiations between the U.S., Canada and Mexico seek to modernize the agreement and provide greater benefits to the economics of North America. Despite these numerous benefits, there are reasons to update and reform NAFTA from agriculture's perspective. Improvements that eliminate and reduce tariff barriers, eliminate redundant regulatory costs, expedite transit across borders and hasten the resolution of disputes between members would go a long way towards more efficient trade between NAFTA partners. The rules related to biotechnology, sanitary and phytosanitary measures and geographic indicators need to be improved in order to reflect the progress that has been made in these areas over the decades since NAFTA was enacted.

U.S. agricultural exports to Canada would grow if tariff barriers to dairy, poultry and eggs were reduced or eliminated. The recent Class 7 pricing program instituted by Canada has eliminated an important export market for U.S. dairy producers of ultra-filtered milk products and needs to be removed.

While there are several areas where the NAFTA agreement could be modernized to improve trade in agricultural goods, however, it is critical that the modernization effort should recognize and build upon the strong gains achieved by U.S. agriculture through the tariff eliminations, the recognition of equivalency of numerous regulatory issues, and the development of integrated supply chains that have arisen due to the agreement.

Trade in goods consists of not only final consumer products but also intermediate inputs and raw materials, as firms reorganize their activities around regional markets for both inputs and outputs, spurred in part by greater foreign direct investment (FDI).

This integration enables agricultural producers and consumers in the region to benefit more fully from their relative strengths and to respond more efficiently to changing economic conditions. The creation of a larger, single market has given producers access to cheaper suppliers of inputs, which allows U.S. producers to be more price competitive domestically and abroad.

U.S. agriculture depends upon a growing international economy that provides opportunities for farmers and ranchers to sell their products. Modernization of NAFTA will expand market opportunities for U.S. agriculture.

Trans Pacific Partnership

The eleven countries of the Trans Pacific Partnership, after the U.S. withdrawal in January, 2017, have agreed to form a new agreement. The CPTPP (Comprehensive and Progressive Trans Pacific Partnership) was recently signed and will be ratified by the participating countries in the next months.

Farm Bureau was a strong supporter of the TPP and we encourage the Administration to engage with the TPP countries to discuss joining the CPTPP. Our analysis of the TPP found that U.S. agricultural trade would increase by over $5.5 billion annually due to the removal of tariff and non-tariff barriers in the TPP region.

Japan

Farm Bureau supported the Trans Pacific Partnership (TPP) agreement due to the gains for U.S. agricultural exports from the lowering of tariff and non-tariff barriers with the TPP partner countries. The majority of the export gains were with Japan, due especially to the lowering of Japanese tariffs on beef, pork, dairy and other products. We encourage the discussions by the Administration with Japan about trade concerns. We also support efforts by the U.S. to rejoin the TPP, now called the CPTPP (Comprehensive and Progressive Trans Pacific Partnership.

China

The U.S. exported over $22 billion in agricultural products to China in 2017, ranking as the #2 export market for U.S. farmers and ranchers. This market in China is especially critical for U.S. soybean growers as $14 billion of the $22 billion of soybean exports in 2017 went to China.

Any effort to impose tariffs on Chinese imports by the U.S. runs the risk of retaliatory measures against U.S. agricultural exports. Previous U.S, government action against China on tires resulted in China retaliating against U.S. poultry exports. The impact on American farmers and ranchers, and the associated businesses, must be considered when pursuing trade actions. U.S. agriculture has strongly supported, for decades, efforts to open the world to our agricultural and other trade products.

AFPM
American
Fuel & Petrochemical
Manufacturers

House Committee on Ways and Means

"Hearing on U.S. Trade Policy Agenda"

Statement for the Record, American Fuel & Petrochemical Manufacturers

March 21, 2018

The American Fuel & Petrochemical Manufacturers ("AFPM") appreciates the opportunity to provide a statement for the record on the U.S. Trade Policy Agenda. AFPM is proud to represent 97 percent of the nation's refining and petrochemical manufacturing capacity, including 118 refineries and 248 petrochemical manufacturing facilities. Our members are high-tech American manufacturers of virtually the entire U.S. supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of vital products in daily life. The refining and petrochemical industries support more than 3 million U.S. jobs and add $568 billion each year to the U.S. economy. Our comments will focus on both global and North American trade.

Free trade is a key element for continued growth in U.S. refining and petrochemical manufacturing. The U.S. imports significant volumes of crude oil from Canada and Mexico and exports substantial volumes of refined petroleum products and petrochemicals to those countries. In addition, with access to abundant feedstocks and the lifting of the export ban, U.S. global trade of natural gas, crude oil, and petrochemical product has increased drastically.

As a result of the North American Free Trade Agreement ("NAFTA"), the U.S. enjoys reduced costs on imported energy products such as crude oil, as well as billions in annual export revenues. The growth of energy infrastructure such as cross-border pipelines from the U.S. into Canada and Mexico has allowed for expanded market access for U.S. companies, greater investment, job growth and affordable energy costs.

Trade policies that could upend the existing integrated North American energy market could greatly increase the costs of U.S. imports of key energy products from Canada and Mexico, driving up energy costs for consumers and impacting job growth and investment.

Additionally, broadly applied trade restrictions, such as the recently announced Section 232 steel tariffs under the 1962 Trade Expansion Act, could compromise the economic benefits of expanded market access the U.S. refining and petrochemical manufacturing industry has experienced under NAFTA.

Increased costs on steel would significantly undermine the supply structure and potentially compromise AFPM member companies' oil and natural gas production, and the refining and transportation of energy to consumers, including the U.S. military.

I. North American Trade in Energy and Petrochemicals Under NAFTA is Significant and Growing

North American trade in energy and petrochemicals plays an integral role in securing and preserving energy security and economic growth for the United States as well as for our trading partners, Canada and Mexico. Bilateral energy trade between the United States, Canada and Mexico centers largely on crude oil, refined products, and natural gas.

Cross-border trade of energy and petrochemical products between the United States, Mexico, and Canada has enhanced market access and bolstered the competitiveness of our domestic refining and petrochemical industries. Canada is the United States' largest energy trading partner and Mexico is the United States' second largest energy trading partner.

Crude Oil. The North American supply of crude oil is vital for U.S. energy, economic, and national security. Canada and Mexico combined to supply 48 percent of the U.S. imported crude supply needs in 2016. More specifically, in 2016, the U.S. imported 3.3 million barrels of Canadian crude oil per day, making Canada the largest supplier of imported crude oil to the U.S., representing 41 percent of U.S. crude oil imports. Similarly, the U.S. imported 582,000 barrels of crude oil per day from Mexico, making Mexico the fourth largest source of imported crude oil, representing 7 percent of U.S. crude oil imports.

Petroleum products. In 2016, the U.S. exported 4.7 million barrels per day of refined petroleum products, and one-third of those exports went to Canada and Mexico. Products include transportation fuels such as gasoline, diesel, and jet fuel, as well as heating oil, and other products such as naphtha, a petrochemical feedstock, propane that is used for heating and cooking, and light oils used to dilute heavy crude oils, which both Canada and Mexico produce.

Both Canada and Mexico are vital markets for U.S. refined products. Mexico is the single largest export market for the U.S. refining industry; in 2016, almost 20 percent of U.S. petroleum product exports were delivered to Mexico. In fact, U.S. exports of gasoline to Mexico supplied more than half of Mexico's gasoline demand in 2016.

Natural Gas. Natural Gas trade between the United States and Canada is dominated by pipeline shipments. In 2016, natural gas imports from Canada averaged 8.0 billion cubic feet per day (Bcf/d) (equaling 97 percent of all U.S. natural gas imports), and U.S. natural gas exports to Canada averaged 2.1 Bcf/d, (equaling 33 percent of all U.S. natural gas exports).

Mexico is the U.S.'s largest recipient of natural gas exports. U.S. exports of natural gas to Mexico have increased dramatically as U.S. production of natural gas has increased. In 2016, U.S. exports of natural gas to Mexico totaled nearly 4 Bcf/d (equaling 60% of total U.S. natural gas exports) and are expected to increase in 2017 as pipeline infrastructure expands. Natural gas pipelines currently under construction or in the planning stages are expected to double the pipeline natural gas exporting capacity from the U.S. to Mexico in the coming years. The U.S imports very small volumes of natural gas from Mexico into Southern California and Texas.

U.S. natural gas trade with Mexico and Canada is vitally important to balancing U.S. natural gas demand and supply. In 2016, the U.S. consumed more than 75 Bcf/day of natural gas, more than 10 percent of which was imported from Canada and Mexico.

Petrochemicals. In total, trade in all chemicals, including substances outside of the petrochemical portfolio, many of which are made from petrochemical building blocks, has more than tripled over the last two decades since the enactment of NAFTA from $20 billion in 1994 to $63 billion in 2014. Petrochemical imports from Canada and Mexico totaled around $419 million in customs value, while exports to both countries totaled around $749 million in customs value.

II. North American Trade in Energy and Petrochemicals Enhances the Competitiveness of U.S. Fuel and Petrochemical Manufacturers

North American energy trade has led to significant and innovative changes in the energy and petrochemical sectors of the U.S., Canada, and Mexico. Innovation and technology have increased crude oil production in the U.S., leading to the lifting of the U.S. ban on crude oil exports in 2015. Likewise, in 2013, Mexico changed its constitution to begin liberalizing its energy sector, allowing for direct investment by foreign companies for the first time.

As a result of increased energy production and the increasingly integrated North American energy market, the International Energy Agency (IEA) now projects that North America will be energy secure by 2020. North American energy security reduces U.S. reliance on unstable and volatile sources of energy, benefiting U.S. national security. Continued cross-border energy trade will only add to the increases in productivity and innovation that has played out the last two decades.

With the liberalization of the Mexican energy sector, significant investments are now being directed from the U.S. into the Mexican energy infrastructure. For example, Andeavor, formerly Tesoro Corporation, was recently awarded a contract to lease storage and pipeline capacity in northwestern Mexico from Mexico's state-run oil and gas company Pemex. Andeavor will supply refined products produced from their U.S. West Coast refineries to consumers in Mexico, providing an important market for U.S.-produced refined products.

Andeavor is currently the first company to integrate sales of U.S. manufactured fuel at U.S. branded (ARCO) stores in Mexico. Andeavor has seen sales volumes at these stores exceed expectations. By 2020, Andeavor projects sales of 30,000 barrels per day in Baja California and Sonora, and the potential for an additional 20,000 barrels of sales per day in Chihuahua, Sinaloa and Baja Sur.

Likewise, Valero Energy Corporation and Exxon Mobil recently announced hundreds of millions of dollars in investment in fuels logistics, product inventories, and marketing in Mexico. Exxon has said the company plans to invest $300 million over the next decade and is opening the first series of Mobil-brand stations in Mexico this year. Similarly, BP launched its first Mexican service station in March of 2017 with plans to have 1,500 in operation over the next five years.

In August, Valero Energy Corporation signed a long-term supply agreement with IENova to supply gasoline, diesel and jet fuel to terminals operated by IENova at the Port of Veracruz on the Gulf of Mexico and inland in Puebla and Mexico City. Supply to the terminal at the Port of Veracruz will begin in 2018 with products moving inland by rail through a separate, long-term Valero agreement with rail operator Ferromax. The Puebla terminal and Mexico City terminal is scheduled to begin operating in early 2019. These investments will provide an important and growing market for U.S. refined products.

III. Future Opportunities for Growth and Investment Presented by North American Trade in Energy and Petrochemicals

In addition to the current economic benefits of cross-border energy trade, opportunities for sustained trade benefits as well as future growth and investment between the United States, Canada and Mexico will continue.

Exports to Canada of natural gas and other refined products will remain strong thanks in part to investments in energy infrastructure, primarily cross-border pipelines. Additionally, Mexican demand for U.S. exports of natural gas has grown and is expected to continue trending upward through 2030.

In Mexico natural gas is the country's largest source of electricity generation, accounting for 54 percent of the country's generation in 2015, up from 34 percent in 2005. According to Mexico's national energy minister (SENER), more than 60% of Mexico's electric capacity additions between 2016 and 2020 are projected to come from natural gas-fired power plants, and significant natural gas capacity additions are expected to continue through 2029. SENER projects natural gas-fired capacity will account for 24.9 gigawatts (GW) of total capacity additions from 2016 to 2029, with 14.7 GW of new gas-fired capacity coming online by 2020.

New natural-gas fired plants will increase Mexico's natural gas demand, specifically a projected increase from the power generation sector from 3.6 billion cubic feet per day (Bcf/d) in 2015 to 5.4 Bcf/d in 2029. This expected demand growth will be met primarily by increasing imports of natural gas from the United States and by large expansions of both cross-border U.S.-Mexico pipeline capacity and Mexico's domestic natural gas pipeline networks.

In 2017 and 2018, natural gas pipelines currently under construction or in the planning stages are expected to nearly double the pipeline natural gas exporting capacity from the United States to Mexico. The expansion of U.S. pipeline export capacity to Mexico has been matched by a five-year plan to expand Mexico's domestic pipeline network, which includes 12 additional pipelines with a total capacity of 9.7 Bcf/d currently in development. The plan will expand existing networks and add more than 3,200 miles of new pipeline through Mexico that will create new markets for natural gas in currently supply-constrained regions.

IV. Broad Trade Restrictions, such as Tariffs on Steel, will have Detrimental Impacts on U.S. Manufacturing and Infrastructure, Energy Security and American Competitiveness.

The recently announced tariffs on steel imports, under Section 232 of the *1962 Trade Expansion Act,* could result in adverse economic impacts including loss of jobs, increased new construction costs, delayed or cancelled projects, delayed maintenance, and potential service disruptions.

AFPM members own and operate pipeline infrastructure and rail tank cars that transport crude, gas, and petroleum products to and from their refineries and facilities. In recent years, approximately 77 percent of the steel used in line pipe was imported as there is currently limited domestic production availability of the high-quality pipeline quality steel required under U.S. safety laws. Trade restrictions such as these would significantly undermine that supply structure of this important steel without viable alternatives and potentially lead to delay or canceled infrastructure projects.

U.S. steel manufacturers have moved towards higher margin steels and away from high grade pipeline steels. As of March 30, 2017, there are 38 mills able to produce API Specification 5L Line Pipe (the required standard) in the United States whereas there are 536 worldwide. The availability of multiple domestic and foreign sources of steel has provided supplies that have led to the United States becoming the world's largest producer of oil and natural gas. In 2017 alone, the oil and gas industry accounted for 10 percent of steel demand.

While a steel tariff would likely positively impact the steel employment rates, it would be far off-set by losses in steel-using industries. Most recently the U.S. found this out in 2002 after former President George W. Bush imposed similar tariffs on imports of certain steel products. A 2003 study on the unintended consequences of the 2002 U.S. steel import tariffs found: 200,000 Americans lost their jobs to higher steel prices during 2002; more American workers lost their jobs in 2002 to higher steel prices than the total number employed by the U.S. steel industry itself; and every U.S. state experienced employment losses from higher steel cost, with some of the highest losses occurring in California (19,392), Texas (15,828), Ohio (10,553), Illinois (9,621) and Pennsylvania (8,400).

Tariffs on steel imports could lead to potential trade retaliation and set a dangerous precedent for future trade policy. The U.S. trade deficit in goods and services was $566 billion last year, and in December widened to its highest since 2008. This deficit would have been much worse had we not seen the boom in U.S. energy production and significant gains in crude oil and petrochemical product exports. The U.S. trade deficit indicates the high level of exposure the U.S., and the energy industry, has to retaliatory policies that could be pursued by countries adversely affected by U.S. domestic content policies.

Furthermore, following passage of the Tax Cuts and Jobs Act (H.R. 1), a number of AFPM member companies have announced billions in investments to build out operations, production, and increase employment. However, such investments could be compromised as a result of increased construction and material costs that could result from tariffs on steel imports.

V. Recommendations

An increasingly integrated North American energy market is a win for the U.S. refining and petrochemical industries, the environment, and energy consumers. Strong trade relationships between the United States, Canada and Mexico have led to reduced costs on key imported energy products, robust export markets in Canada and Mexico, and expanded market access. This in turn has allowed for greater industry investment and job growth, affordable energy costs and increased global competitiveness.

AFPM appreciates the role North American free trade has played in fostering energy security, economic growth and American competitiveness, and support the continuation of NAFTA. As NAFTA negotiations continue in 2018, AFPM offers the following recommendations for modernizing the free trade agreement.

NAFTA investment protections should be strengthened consistent with other U.S. free-trade agreements, or at the very least preserved. This specifically includes the Investor-State Dispute Settlement (ISDS) enforcement mechanism, which protects and promotes U.S. investments.

AFPM also recommends that the U.S. support policies that enhance and modernize NAFTA, including those that streamline and modernize customs procedures to reflect the way modern energy and petrochemical trading moves across borders, and increase regulatory cooperation.

Finally, AFPM recommends policies that help ensure we have modern and updated infrastructure in place to safely and efficiently move our products across the borders and further strengthen our integrated energy markets. AFPM strongly opposes a broad 25 percent steel tariff and recommends that

the Department of Commerce implements a flexible and fair exclusion process from the steel tariffs that acknowledges the complex multi-modal supply chains of the U.S. energy sector. Any such exclusion process should recognize the need for specialty steel not available domestically. Broadly applied trade restrictions without a robust exclusion process would significantly undermine the supply structure, without viable alternatives, and potentially lead to delay or canceled infrastructure projects that are essential for energy production, processing, refining, transportation, and distribution.

Policies such as broadly applied trade restrictions like tariffs on steel imports are counterproductive to this goal and could have a regressive impact on the growth in market access and resulting economic benefits the U.S. fuel and petrochemical manufacturing industry has enjoyed under NAFTA.

* * *

Thank you for the opportunity to provide a statement for the record on the U.S. Trade Policy Agenda. Please contact Justin Sykes, AFPM Government Relations Manager, with any questions you may have.

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NOTE: AS OF MONDAY, APRIL 9TH, WE WILL BE RELOCATING TO NEW OFFICES. WHILE OUR MAIN OFFICE PHONE NUMBER AND PERSONAL EMAIL REMAINS UNCHANGED, OTHER CONTACT INFORMATION IS LISTED BELOW:
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March 20, 2018

The Honorable Kevin Brady
Chairman
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman and Ranking Member:

On behalf of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) I am writing in reference to the committee hearing on Wednesday, March 21, 2018 regarding the U.S. trade policy agenda with U.S. Trade Representative Robert Lighthizer. AHRI is the trade association representing over 315 manufacturers of residential, commercial, and industrial air conditioning, space heating, water heating, and commercial refrigeration equipment and components for sale in North America and around the world. The heating, ventilation, air-conditioning, refrigeration (HVACR), and water heating industry employs 1.3 million people and generates $257 billion in economic activity annually.

Please find attached AHRI's comments regarding the National Trade Estimate on Foreign Trade Barriers (NTE) that were submitted on October 25, 2017.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Joe Trauger
AHRI Senior Vice President
Policy and Government Relations

National Trade Estimate on Foreign Trade Barriers (NTE)

Comments Regarding Foreign Trade Barriers to U.S. Exports for 2018 Reporting

October 25, 2017

Mr. Edward Gresser
Chair, Trade Policy Staff Committee (TPSC)
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Ref: Docket No.: USTR-2017-0013

Introduction to Air-Conditioning, Heating, and Refrigeration Institute (AHRI)

The Air-Conditioning, Heating, and Refrigeration Institute (AHRI) is pleased to submit comments to the United States Trade Representative (USTR) regarding the TPSC's request for information to consider in preparing the Annual National Trade Estimate on Foreign Trade Barriers as required by Section 181 of the Trade Act of 1974 and Section 1377 of the Omnibus Trade and Competitiveness Act of 1988.

AHRI is the trade association representing manufacturers of heating, cooling, water heating, and commercial refrigeration equipment. With more than 300 members from North America[1], Europe and Asia, AHRI member companies produce more than 90 percent of the residential and commercial air conditioning, heating, water heating, and commercial refrigeration equipment made in North America.

AHRI is:

- an advocate for the Heating, Ventilation, Air-Conditioning and Refrigeration (HVACR), and water heater industries at the global, national, state/provincial, and local levels;
- an accredited (by the American National Standards Institute (ANSI) and the Standards Council of Canada (SCC)) Standards Developing Organization (SDO), producing over 100 standards that define testing and rating (for energy efficiency) practices;
- a voluntary, industry certification body that verifies the claimed efficiency of HVACR and water heater products in 44 certification programs with nearly 900 participants. This global program provides publicly available information that helps equipment and component manufacturers differentiate their products from competitors, and comply with government requirements. As the program administrator, AHRI is accredited as a Certification Body (CB) by the U.S. Department of Energy (DOE), the California Energy Commission (CEC), Natural Resources Canada (NRCan) and COFRAC (the national accreditation body of France), as well as by the Environmental Protection Agency (EPA) for the ENERGY STAR® program; and
- a robust pre-competitive research sponsor with programs that provide test data relevant to AHRI's three primary areas of activity.

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[1] For purposes of this submission, North America will refer only to Canada, Mexico, and the United States unless otherwise stated.

AHRI Comments

AHRI's members either seek to actively compete fairly in global markets or, if they are not actively competing in those markets, they are affected by international trade issues. AHRI's members also understand that despite the intent of provisions of the World Trade Organization (WTO) and various United States bi- and multi-lateral trade treaties, trade barriers continue to confront our members and other parts of the U.S. industry. It is AHRI's understanding that in general, trade barriers are still being initiated, amounting to about 11 new trade barriers per month.[2]

AHRI's comments will address two categories of issues. The first is standards, conformity assessment and foreign regulations. Second, AHRI will identify emerging issues that may require greater attention in the following months.

Standards

Trade barriers related to standards, conformity assessment, and foreign regulations are increasingly important to this industry, and presumably others. Because of the technical nature of this category, trade barriers are not easily discernable, but because of that, they can be even more damaging than other, more easily noticeable types of non-tariff barriers. In addition, for the HVACR and Water Heating industry, governments are increasingly relying, in their regulations, on results of testing the energy efficiency of our industry's equipment to determine if imported equipment meets Minimum Energy Performance Standards (MEPS). For example, in the United States residential and some commercial HVACR and water heater equipment has to meet minimum U.S. Department of Energy (DOE) standards to be sold.[3]

The HVACR and water heating industry is global, operating in many countries and regions. In that context the industry often needs to use and comply with many different technical standards whose origin may be, for example, AHRI, ISO (The International Organization for Standardization), CEN (The European Committee for Standardization), China's GB standards, or Indian standards required by the Indian Bureau of Energy Efficiency. In this situation, industry must have the freedom of choice to use or comply with the standard best fit for purpose. This requires that a level playing field be available to the industry in order to make the best choices. Standards capture, convey, and promote technology transfer and there is no single standards body globally that has the breadth of standards to meet all of the industry's needs. When appropriate, the industry works diligently to harmonize differing standards to reduce the cost of multiple compliance, and to prevent government mandated standards from impeding technology innovation and from being a barrier to trade.

In this context, AHRI believes that a serious non-tariff barrier to its members is presented by the European Union's policy of allowing the use of only CEN and ISO standards to be referenced in its directives and regulations, thus un-leveling the playing field and preventing our industry the freedom to choose the most advanced and fit-for-purpose standards. The EU then seeks to exploit its special relationship with ISO to export Eurocentric standards through the Vienna Agreement[4].

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[2] World Trade Organization (WTO), "Trade Policy Review Body - Report to the TPRB from the Director-General on Trade-Related Developments (Mid-October 2016 to mid-May 2017)," August 10, 2017. Accessed at https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=@Symbol=%20(wt/tpr/ov/w/11)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#

[3] Code of Federal Regulations: 10 CFR 430, Subparts A, B, & C and 10 CFR 431, Subparts C, D, E, F, G, H, & R.

[4] Agreement on Technical Co-operation Between ISO and CEN (Vienna Agreement).

The Vienna Agreement allows the EU's standards body, CEN, and ISO to engage in the joint development of standards and the fast-track adoption of CEN standards by ISO and vice versa. Those CEN standards adopted by ISO often are implementation tools for EU Directives and Regulations. Thus, the EU has a ready mechanism to advance its industrial, technological and regulatory "products" quickly into world markets and to non-EU regulators and legislators.

Because no other region or country has such a relationship with ISO, the EU enters the ISO standards development arena in a favored position that severely inhibits effective participation by non-EU participants in developing ISO standards.

Concurrently the EU complements this approach by attempting to discredit any non-ISO standards by erroneously insisting that only ISO standards are bona fide international standards. This assertion is incorrect. The WTO has given additional, definitive guidance[5] which lists the characteristics of international standards. These characteristics are consistent with ANSI's (American National Standards Institute) "Essential Requirements"[6] policy with which ANSI accredits standards, including AHRI's.

When the EU's erroneous characterization of ISO standards is successfully advocated, especially in developing economies, it puts non-EU standards bodies e.g. ASTM, ASME, AHRI, whose standards are globally used, in a weakened position regarding the promotion and use of standards that reflect the latest advances in American technology and expertise, and this mis-characterization can exclude them from regulatory reference in regulations pertaining to our industry.

The effect of this approach by the EU is that the EU thus successfully links its regulatory and standards processes, and exports those standards and concepts while not allowing the use of non-CEN standards in the EU.

At issue is the need for a global understanding of the definition of an "international standard" and the elimination of the EU's favored relationship with ISO. AHRI believes that the USTR and other U.S. government bodies, e.g. the Departments of Commerce and State, should work to eliminate the Vienna Agreement, and further, ensure that any trade treaties, bi-or multilateral, specifically stipulate that any technical standard meeting the requirements of the Agreement of Technical Barriers to Trade (TBT) and its relevant Decisions of the TBT is an international standard.

Absent agreement on this definition, AHRI members will continue to face, for example in Mexico, resistance to citing AHRI standards in regulations on energy efficiency that is based on the *Mexican Law on Federal Metrology and Standardization* (LFMN) that considers U.S. domiciled standards developers as "foreign standards developers", whose standards are not "international standards."

Conformity Assessment and Regulations

Aligning conformity assessment (testing and certification) procedures with trading partners is vital to eliminating the costs associated with expensive, unnecessary, and duplicative testing of equipment by importing countries in order to assure compliance with the importer's regulations. These costs include those related to equipment testing, the shipping of samples, inventory costs, administrative costs, and certification costs under the parallel regime. These costs are first borne by the manufacturer of equipment, and eventually by consumers of the imported products.

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[5] Agreement of Technical Barriers to Trade (TBT) and its relevant Decisions of the TBT Committee.

[6] ANSI Essential Requirements: Due process requirements for American National Standards

Although Canada and the U.S. have had success in aligning conformity assessment procedures in the HVACR industry[7], Mexico has largely maintained a parallel conformity assessment system since the inception of NAFTA, which has led to a technical barrier to trade for Canadian and U.S. companies.

The path to alignment of conformity assessment procedures begins with harmonization of technical standards for testing the efficiency of HVACR and water heater equipment. Mexico has created several Official Mexican Standards (Norma Oficial Mexicana, or NOM) for the rating of energy efficiency performance, some of which are based on AHRI standards. But even in these cases where a specific NOM is based on an AHRI standard, Mexican law dictates that equipment must be tested using the NOM, and a duplicative product performance test is performed, when in fact it is a redundant test, since equipment has already been tested before entering Mexico. Therefore, AHRI believes that in certain cases the foundation to realize the full potential of Article 908[8] in fact already exists, and the Parties of the NAFTA agreement should act accordingly to prevent that redundant conformity assessment procedures continue to act as technical barriers to trade.

Developed and developing economies are rightfully insisting that HVACR and water heater equipment become even more energy efficient. AHRI members do provide such equipment and support the concept of regulations such as Minimum Energy Performance Standards (MEPS) to meet energy efficiency goals.

To avoid the expense of duplicative testing, as mentioned above regarding Mexico, the Kingdom of Saudi Arabia (KSA) recently issued regulations regarding the energy efficiency of commercial air conditioning equipment. Those regulations stipulate that products covered by its regulations and tested and certified as meeting or exceeding the KSA's efficiency levels in AHRI's Certification Program can enter into the Kingdom's commerce without additional testing. Non-AHRI certified equipment has to be tested and must provide the authorities with proof of compliance. This regulation and its recognition of the integrity and rigor of the AHRI certification program demonstrate the value of being able to reference all applicable standards, not just ISO's. The KSA's regulation references both AHRI and ISO standards and offers a more efficient, less costly testing regime for AHRI certified equipment to enter the Kingdom.

The KSA's recognition of the broader definition of an international standard as defined by the TBT allowed it to successfully build a regulatory regime that cites <u>all</u> relevant standards. This is the model that best allows the regulator to access the latest innovations in the HVACR and water heater industry and therefore avoids creating non-tariff barriers to trade.

<u>Emerging Issues</u>

AHRI has identified emerging issues – issues that are in their nascent stage and as they mature may offer challenges in the trade arena. AHRI notes them here as issues AHRI is involved in and that may provide trade related issues in the future.

1. The Kigali Amendment to the Montreal Protocol.
    a. In October 2016, the 28th Meeting of the Parties to the Montreal Protocol adopted the Kigali Amendment on hydrofluorocarbons (HFCs), which commits the world's nations to significantly reduce consumption and production of HFCs. HFCs are the key components of refrigerants used by the HVACR industry. The Amendment provides a schedule for the

[7] Evidenced by AHRI's accreditation by the SCC as an SDO in Canada, and AHRI's accreditation as a CB by NRCan.
[8] North American Free Trade Agreement, Part Three: Technical Barriers to Trade, Chapter Nine: Standards-Related Measures, Article 908: Conformity Assessment.

phasing down of HFC, and predecessor HCFC's usage as refrigerants by developing and developed economies. These refrigerants will be replaced by a new generation of refrigerants, many of which are flammable, toxic, and corrosive.

b. Industry has been preparing for this transition for a long time and many alternatives have already been developed, to be phased in as availability, training, and revised laws, regulations, standards, and codes will allow. This transition may reveal issues such as intentional mislabeling, unnecessarily restrictive tariffs, or safety regulations that will have a negative trade effect.

c. The recent court decision[9] regarding EPA's Significant New Alternatives Policy (SNAP) program leaves the U.S. without a refrigerant management program. How this issue develops may have negative trade implications.

2. Intellectual Property Issues in a Changing Industry

   AHRI members have a history of vigilance and action to stop the theft of equipment designs. Increasingly members' equipment is refined to deliver better and more efficient heating and cooling by incorporating proprietary, innovative, new electronic technologies. It will be important to be alert to the theft of intellectual property related to those systems.

AHRI appreciates the opportunity to comment on the National Trade Estimate. It will be happy to answer any questions arising from its submission and to provide additional information.

Best Regards,

James K. Walters
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[9] *Mexichem Fluor Inc., v. Environmental Protection Agency*. No. 15-1328. United States Court of Appeals for the District of Colombia Circuit. August 8, 2017.

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Letter for the Record of the U.S. House of Representatives Committee on Ways and Means Hearing on U.S. Trade Policy Agenda

Berry Global, Inc. ("Berry") is writing to express our concerns about the trade policy actions being taken by the current administration that impose additional costs on our manufacturing inputs and reduce our global competitiveness.

Berry is a manufacturer of packaging products supporting the consumer and industrial markets. Berry was established in 1967 and employs over 24,000 workers in 31 states and 20 countries. Our customers rely on our ability to provide high-quality cost-competitive packaging solutions. In order to maintain our competitiveness and continue investment in U.S. manufacturing and employees, we rely on the availability of a global market for sourcing raw materials and industrial machinery.

Any changes to the trade laws, done for the supposed purpose of protecting our national security or used as leverage when re-negotiating existing Free Trade Agreements, has unintended consequences that must be considered and weighed against any potential benefit.

For example, Berry uses significant amounts of ultra-thin gauge aluminum foil in many products, including adhesive tapes and food packaging, and is being negatively affected by the imposition of Anti-dumping and Countervailing duties imposed on China. We are similarly affected by the Section 232 tariffs on imports from many countries.

Additionally, Berry purchases steel products used in injection-molding and other molding machinery. These purchases are significant investments in our U.S. plants. Berry's suppliers for these steel products and machinery require access to specific grades of steel not available in the U.S., yet likely subject to the Section 232 tariffs on steel. As a result, the tariffs impose hardship on our suppliers and us as we struggle to identify alternate sources for these unique steel products.

Manufacturing companies develop their supply chains over time while considering many market and regulatory factors. Disruptions and uncertainty can detract from focus on investment and growth. The haste with which these actions have been implemented, the uncertainly around how they will be applied, and the mechanisms for exclusion are causes of great concern for us.

Without a clearly articulated, measured and sustained trade policy, Berry may hesitate to invest or may look toward other countries as potential sources for products currently manufactured in the U.S. In particular, the Section 232 tariffs on steel and aluminum, with their potential for abundant exclusions extended to our most significant trading partners seem to undermine the tariff's very intent. These tariffs do not apply for our largest trade partners. Instead of guarding against threats to our national security, they function as a tax on U.S. manufacturers who source from countries where the exemptions do not apply.

Berry, along with many companies in the $30 billion U.S. flexible packaging industry strenuously oppose these additional tariffs on aluminum foil and steel and request they be reconsidered in light of their negative impacts. More broadly, we hope that any future consideration for imposition of tariffs be more selective and targeted, considerate of the impacts on the domestic industry, and given ample time to address the underlying trade concern before resorting to punitive tariffs. We believe every side and every party can win in an environment of fair and open trade.

Comments for the Record
United States House of Representatives
Committee on Ways and Means
Hearing on U.S. Trade Policy Agenda
Wednesday, March 21, 2018, 10:00 A.M.
1100 Longworth House Office Building

By Michael G. Bindner
Center for Fiscal Equity

Chairman Brady and Ranking Member Neal, thank you for the opportunity to submit these comments for the record to the Committee on Ways and Means. This largely mirrors our comments from last year. As usual, we will preface our comments with our comprehensive four-part approach, which will provide context for our comments.

- A Value Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure very American pays something.
- Personal income surtaxes on joint and widowed filers with net annual incomes of $100,000 and single filers earning $50,000 per year to fund net interest payments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates between 5% and 25%.
- Employee contributions to Old Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), which is essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age 60.

Far be it from the Center to interfere with a dispute between the Committee and the White House over Steel Tariffs and NAFTA. Such arguments are like those over immigration, where some business owners want employees to stay in the shadows and be abused, others want legal employees (though non-union – repealing right to work laws would end illegal immigration because no one would hire an undocumented worker with union representation) and still others in the conservative camp simply hate the illegality or the ethnicity of the immigrants (speaking of the White House).

The real similarity in the short term is that attacking unions for the past 30 years has taken its toll on the American worker in both immigration and trade. That has been facilitated by decreasing the top marginal income tax rates so that when savings are made to labor costs, the CEOs and stockholders actually benefit. When tax rates are high, the government gets the cash so wages

are not kept low nor unions busted. It is a bit late in the day for the Majority to show real concern for the American worker rather than the American capitalist or consumer.

Reversing the plight of the American worker will involve more than trade, but I doubt that the Majority has the will to break from the last 30 years of tax policy to make worker wages safe again from their bosses. Sorry for being such a scold, but the times require it.

Some of our prior comments to the Trade Subcommittee from June of 2016 on our standard tax plan still apply, even though that hearing was on agricultural exports. Allow us to repeat them now:

The main trade impact in our plan is the first point, the value added tax (VAT). This is because (exported) products would shed the tax, i.e. the tax would be zero rated, at export. Whatever VAT congress sets is an export subsidy. Seen another way, to not put as much taxation into VAT as possible is to enact an unconstitutional export tax.

The second point, the income and inheritance surtax, has no impact on exports. It is what people pay when they have successfully exported goods and their costs have been otherwise covered by the VAT and the Net Business Receipts Tax/Subtraction VAT. This VAT will fund U.S. military deployments abroad, so it helps make exports safe but is not involved in trade policy other than in protecting the seas.

The third point is about individual retirement savings. As long as such savings are funded through a payroll tax and linked to income, rather than funded by a consumption tax and paid as an average, they will add a small amount to the export cost of products.

The fourth bullet point is tricky. The NBRT/Subtraction VAT could be made either border adjustable, like the VAT, or be included in the price. This tax is designed to benefit the families of workers, either through government services or services provided by employers in lieu of tax. As such, it is really part of compensation. While we could run all compensation through the public sector and make it all border adjustable, that would be a mockery of the concept. The tax is designed to pay for needed services. Not including the tax at the border means that services provided to employees, such as a much-needed expanded child tax credit – would be forgone. To this we respond, absolutely not – Heaven forbid – over our dead bodies. Just no.

The NBRT will have a huge impact on 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.

Over time, this 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 other's. 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.

If Senator Sanders had been nominated and elected, this is the type of trade policy you might be talking about today. Although the staff at the Center supported the Senator, you can imagine some of us thought him too conservative in his approach to these issues, although we did agree with him on the $15 minimum wage. Economically, this would have had little impact on trade, as workers at this price point often generate much more in productivity than their wage returns to them. This is why the economy is slow, even with low wage foreign imports. Such labor markets are what Welfare Economics call monopsonistic (either full monopsony, oligopsony or monopsonistic competition – which high wage workers mostly face). Foreign wages are often less than the current minimum wage, however many jobs cannot be moved overseas.

As we stated at the outset, the best protection for American workers and American consumer are higher marginal tax rates for the wealthy. This will also end the possibility of a future crisis where the U.S. Treasury cannot continue to roll over its debt into new borrowing. Japan sells its debt to its rich and under-taxes them. They have a huge Debt to GDP ratio, however they are a small nation. We cannot expect the same treatment from our world-wide network of creditors, an issue which is also very important for trade. Currently, we trade the security of our debt for consumer products. Theoretically, some of these funds should make workers who lose their jobs whole – so far it has not. This is another way that higher tax rates and collection (and we are nowhere near the top of the semi-fictitious Laffer Curve) hurt the American workforce. Raising taxes solves both problems, even though it is the last thing I would expect of the Majority.

We make these comments because majorities change – either by deciding to do the right thing or losing to those who will, so we will keep providing comments, at least until invited to testify.

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.

Contact Sheet

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Committee on Ways and Means
Hearing on U.S. Trade Policy Agenda
Wednesday, March 21, 2017, 10:00 A.M.
1100 Longworth House Office Building

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.

Consumer Technology Association™

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CTA.tech

March 19, 2018

The Honorable Orrin G. Hatch
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Kevin Brady
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
House Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Chairman Hatch, Ranking Member Wyden, Chairman Brady and Ranking Member Neal,

In advance of upcoming hearings on the president's 2018 Trade Agenda with United States Trade Representative Robert Lighthizer, the Consumer Technology Association (CTA) urges you to consider how President Trump's possible imposition of Section 301 tariffs on Chinese imports might affect the consumer technology industry.

CTA is the trade association representing the $351 billion U.S. consumer technology industry, including manufacturers, retailers, component suppliers and service providers. Every day, our more than 2,200 member companies – 80 percent of whom are small businesses and startups – are innovating, introducing extraordinary products and supporting 15 million American jobs.

At a time when the economy is growing and tax reform is taking hold – more companies are hiring and paying higher wages – the U.S. risks reversing its recent successes with high tariffs. According to CTA's latest economic study on the consumer technology sector, our industry makes up 10.3 percent of U.S. GDP and 17 percent of total U.S. exports in 2015. Imposing broad tariffs against China would be highly detrimental to the tech sector, U.S. jobs and the economy. Tariffs, no matter how well-intended, function as taxes on U.S. consumers and businesses.

Additionally, according to CTA's semi-annual *U.S. Consumer Technology Sales and Forecasts* report, our industry's 2018 domestic revenue will reach a record-breaking $351 billion — 3.9 percent higher than 2017. The top five revenue categories – smartphones, laptops, televisions, tablets and automotive electronics – alone contribute more than half of that revenue. If the U.S. targets these popular products, consumers would be forced to pay more and companies could not hire as many American workers.

Importantly, broad reaching tariffs on China would undoubtedly bring retaliation against other sectors, creating a dangerous race to the bottom in the global trading system and wreaking havoc on global supply chains. And these retaliatory measures would almost certainly include tariffs on products made by American companies.

Rather than imposing tariffs against China, the United States should work with China to achieve a more balanced bilateral relationship. As you prepare to question Ambassador Lighthizer, we encourage your committees to explore the negative impacts tariffs would have on the consumer technology sector and consumers, and what other remedies the administration has studied to protect our national security without harming the U.S. economy.

Thank you for helping to promote free trade principles that will spur economic growth, deliver more American jobs and create a brighter future for our children.

Sincerely,

Gary Shapiro
President and CEO
Consumer Technology Association

cc: Senate Finance Committee Members
House Ways and Means Committee Members

Flexible Packaging Association
Connecting. Advancing. Leading.

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Flexible Packaging Association (FPA)

Statement for the Record

House Ways and Means
Hearing on U.S. Trade Policy Agenda
Wednesday, March 21, 2018
and
Hearing with Commerce Secretary Ross
Thursday, March 22, 2018

My name is Alison Keane, and I am President and CEO of the Flexible Packaging Association (FPA). FPA is the voice of U.S. manufacturers of flexible packaging and their suppliers. The association's mission is connecting, advancing, and leading the flexible packaging industry. Flexible packaging represents over $30 billion in annual sales in the U.S. and is the second largest and one of the fastest growing segments of the packaging industry. The industry employs over 80,000 workers in the United States. Flexible packaging is produced from paper, plastic, film, aluminum foil, or any combination of these materials, and includes bags, pouches, labels, liners, wraps, rollstock, and other flexible products. With respect to aluminum foil, this packaging includes everyday food and beverage products such as candy, salty snacks, yogurt, and beverages; as well as health and beauty items and pharmaceuticals, such as aspirin, shampoo and shaving cream. Aluminum foil provides the barrier protection from oxygen, light and bacteria that these products need to ensure stable shelf-life and freshness. Aluminum foil is also used by the flexible packaging industry for medical device packaging to ensure that the products packaged,

source reduction
less waste in the first place.®

such as absorbable sutures, human tissue, and artificial joints, maintain their efficacy at the time of use.

This Section 232 investigation, that was initiated under the Trade Expansion Act of 1962, was to determine what, if any, effects imports of aluminum have on national security. FPA is not aware of any impacts aluminum foil imports for use in the packaging industry has on U.S. national security and the Department of Commerce Report entitled "Effects of Aluminum Imports on the National Security," (Report) did not specify any. FPA supports efforts to protect domestic manufacturing and ensure national security, however, these efforts must consider the impact and consequences on all U.S. manufacturing industries, and the recently imposed 10% tariff on aluminum imports does not. Aluminum foil imports necessary for the packaging industry, and without application for national defense, should have been excluded from the tariffs. In its investigation, the Administration was to consider a range of factors related to national security, including the economy and the effects of foreign competition on the economic welfare of domestic industries, including impacts on employment. However, this does not appear to have been the case. These import restrictions on aluminum will have a significant negative impact on the flexible packaging industry and its employment in the U.S with regard to aluminum foil converting.

FPA was pleased to see that one aspect of the Report was adopted in the Administration's proclamation instituting the aluminum tariffs – the process for exclusions from the tariffs "upon request of affected parties if the steel or aluminum articles are determined not to be produced in the U.S. in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security considerations." However, according to the direct-final regulations implementing the exclusionary process (83 FR 12106, March 19, 2018), trade organizations, such as FPA, can not petition on behalf

of their respective members, even though our members would all be making the same request – that aluminum foil is exempted as it is not make domestically in the quantities and quality needed for the packaging industry. Many manufacturers, particularly small businesses, rely on their trade associations to assist them in responding and negotiating solutions to government regulations. By not allowing trade associations to file on behalf of their industries, this rule is encouraging excessive and duplicative filings and will disproportionately impact small businesses. And, the tariffs went into effect on March 23, 2018, when the earliest possible date Commerce could grant an exclusion would be May 18, 2018, when the exclusions will "generally" be approved. So, there is no guaranteed timeframe in which petitioners will know whether or not their petition has been approved and they will have already been paying the tariff for at least 90 days. The damage to U.S. flexible packaging jobs may very well already be done after 90 days of this tariff, and once again, this process will certainly disproportionately disadvantage small converting businesses that cannot afford to front these costs.

Further, there is little to no clarity on the petition process from the rule. Commerce must supply FAQ's answering such questions as how confidential business information (CBI) can be submitted. Right now, there is simply a check box on the form where businesses can state that they have CBI information and there is no indication of the process for submitting such; whether or not the petition is incomplete without the information and if so, what the timeline for completion would be; nor if the arbitrary 25-page limit of the petition includes or does not include this CBI. Similarly, the rule states that Commerce may approve a broader exclusion request to apply to multiple similarly situated importers but gives absolutely no information on how groups of companies can apply for this broader exclusion. Again, as trade associations such as FPA, do not "use

aluminum in business," we can not file on behalf of multiple companies. If a product exclusion is granted because it is not manufactured domestically in quantities and quality necessary for the industry – why wouldn't that exclusion be granted to all users of the product? Lastly, the exclusion process, if granted, would only be applicable for one-year. Will companies have to petition for the exclusion every year? If the product is not available domestically now, why does Commerce believe it will be available next year, or the year after, or ever? It should not be up to individual companies to prove to the Administration that these products do not exist domestically, this should have been part of Commerce's analysis before instituting the overly broad tariff in the first place. Even if the domestic aluminum foil suppliers guaranteed to start making the aluminum foil gauges flexible packaging manufacturers need tomorrow – it would take several years for the mills to produce the quantity and quality of the foil our companies need. Further, under Federal Food and Drug Administration regulations, substitution of the foil substrate could take two to ten years for approval, depending on use in packaging for food or medical devices.

FPA is also concerned about the lack of transparency with regard to the Section 232 remedy and the process Commerce will use to monitor and report on its effects. As stated above, while the investigation was supposed to take into consideration the effects of foreign competition on the economic welfare of domestic industries, including impacts on employment; the Report failed to address downstream industries dependent on aluminum or steel. How will Commerce monitor and report on the effect of this tariff on the primary manufacturers of aluminum in the U.S.; let alone downstream industries, which were ignored in the Report? Commerce must be accountable to show the impacts to all affected industries and ultimately work towards alleviating the devastating impacts of these tariffs on downstream users of aluminum products and mitigating the burdensome and

unnecessary paperwork this exclusionary process would apparently mandate on an annual basis.

The Section 232 investigation and proposed remedy is paralleling an International Trade Commission (ITC) investigation and remedies for Chinese aluminum foil imports. Thus, FPA members are being penalized twice – first with the ITC anti-dumping and countervailing duties that in some cases exceed 140%, and then with the new 10% tariffs on other imports of aluminum foil, which are applied on top of the duties already in place. The consequences of the tariff under this investigation, combined with the duties from the ITC probe, , is the loss of flexible packaging jobs in the U.S. The negative impact on American jobs by cutting off the supply of aluminum foil for flexible packaging manufacturing will far outweigh any job benefits that are envisioned by the ITC and Section 232 taxes. These duties and tariffs are leading to U.S. companies sourcing aluminum foil from other non-U.S. manufacturers at a much higher cost; Chinese suppliers of printed or otherwise converted aluminum foil products entering the U.S. market, since this bypasses the duties; and/or U.S. companies moving flexible foil packaging production outside the U.S., thereby reducing the amount of U.S. foil converting jobs. There is simply no scenario where the benefits to the U.S. aluminum manufacturers outweighs the detriment to the U.S. flexible packaging industry.

Aluminum foil used by the flexible packaging industry is not manufactured in the U.S. in the quantities and qualities needed. Failure to invest, and quality lapses, including gauge, width, and lack of appropriate alloys all contribute to the fact that the U.S. producers of aluminum foil are not able to serve the U.S. flexible packaging industry. In fact, the ITC, at its preliminary hearing on March 30, 2017, found that domestic ultra-thin foil production "may be limited or nonexistent." Thus, the packaging industry in the U.S. should be granted

an exclusion for aluminum foil imports from the Section 232 tariff. Since FPA is not eligible to petition on their behalf, Commerce should recognize the broad-based exclusion the rule mentions to reduce the repetitive and burdensome petitions it will received with regard to this foil for flexible packaging manufacturers.

FPA shares the same goal as the domestic aluminum foil producers who want more American jobs and understands the importance of protecting national security. This tariff is not the answer. The Administration should find ways to work together to improve our country's competitiveness. Everybody loses in unfair trade cases, especially the American consumer.

Thank you.

Statement of Richard Woldenberg on Possible Chinese Toy Tariffs

Submitted to the
House Committee on Ways and Means
The United States House of Representatives

March 20, 2018

My name is Richard Woldenberg, and I am CEO of Learning Resources, Inc. located in Vernon Hills, Illinois. I am submitting this testimony on behalf of our company. Our company is a family business which develops and markets educational products and educational toys in the United States and dozens of other countries. We outsource the manufacturing of our products overseas, and as a result, we are a significant importer (of our own products) into the United States. Many of our products are made in China under our control.

We have grave concerns about reports that the President intends to impose high tariffs on toys made in China by the end of March. The imposition of tariffs on toy imports is completely unrelated to allegations of Chinese theft of intellectual property and forced technology transfers in other industries, and is rife with risk and unintended consequences. Our industry is highly dependent on China as a manufacturing hub, and thus an easy target in trade disputes with China. I fear that the future of our company, and the many jobs we provide, are at stake here. We are a small business under the Federal government definition and believe that the problems we will face under a harsh import tariff regime will be experienced by many other small business importers in the United States.

Our Company:

Learning Resources, Inc. (LR) was founded in 1984 and is located in Vernon Hills, Illinois and has about 150 employees in the U.S. and U.K. The company is part of our family business group which turned 100 years old in 2016; I am the third generation of my family to run this business, and we were proud to welcome the first member of the fourth generation into our business last year. LR develops and markets proprietary educational toys and materials in Vernon Hills but has manufactured most of its 1,200 products overseas since the late 1980's. Jobs at our company pay well, turnover is low and we are an important member of our community, injecting many millions of salary and benefit dollars into the local economy annually. In 2013 and again in 2016, LR tried and failed to find factories located in the United States interested in making our products. In other words, we know from recent experience that we have no realistic option to make our products in the United States, with or without the coercive pressure of tariffs. High tariffs will just shrink our business and impoverish our consumers.

Toy Tariffs Will Hit the Wrong Target:

Our China factories are not State-owned:

Our business largely depends on factory relationships in China. To my knowledge, we do not do business with any Chinese government-owned or controlled entities. The factories that we use are

private businesses, typically family businesses like ours. These businesses are subject to law, and pay fair wages to make our products in a responsible manner. The factories are subject to Code of Conduct audits and certifications, and must also pass compliance audits by local authorities. The high quality products we make in our Chinese factories satisfy U.S. safety standards and other international safety standards. We do good business in China with good people.

Losses by our partner factories will hurt us. Our partners are hard working and honest people who do a great job making consumer goods for Americans to buy and enjoy. They do not have deep capital reserves, however. Their economic suffering at the hands of U.S. tariffs will come out of our pockets, in the form of higher costs, lost production capacity, ruined teams or forgotten know-how, weakened balance sheets and broken trust. When the President pushes Humpty Dumpty off the wall, we know he cannot be put back together again.

Chinese enforcement of our property rights has been reliable:

We have never experienced intellectual property theft by our factories. We register our intellectual property in China, as elsewhere, and rely on Chinese lawyers and Chinese courts to enforce our rights in our innovations. We have been successful in enforcing our rights in China, in part because of our legal ability to close the U.S. market to infringers. We are not confident we will have the same leverage when the President closes U.S. markets to all Chinese toy companies preemptively.

In fact, a greater issue in our business is the economic health of our factories, which can be shaky at times. We have seen factories go out of business, leaving our U.S. business endangered. In one notorious case, a big factory closed overnight, leaving our business exposed with many important proprietary molds in legal limbo. However, within a short period of time, a Chinese judge ruled in our favor in the local insolvency proceeding and allowed us to recover our molds in time for Christmas toy production. The Chinese judge's decision to uphold our property rights in the molds saved our holiday selling season. In our experience, Chinese courts and Chinese judges have been respectful of our property rights even though we come from another country.

Our company has no realistic ability to move its supply chain to another country:

We have business reasons for the assignment of products to specific factories, whether in the U.S. or in other countries. There are many considerations for these decisions. Based on our market knowledge, we locate our manufacturing in the most efficient way possible. We know of no other markets where we can get the range of services and skills necessary to make our products at the best possible cost. We have also made repeated attempts to develop a U.S.-based supply chain but cannot do so on any basis, even inefficiently. We have no known realistic alternative to our current supply chain.

Our products are used in American Schools:

Toy tariffs will harm American schools because many toy companies cross over into school supply. Notably, our company was formed to supply schools with hands-on learning tools in 1984. U.S. Customs regulations treat our educational products as "toys", which means that the cost of tariffs will force us to

raise the cost of school products. The big losers will be poorly-equipped American schools, and the American families depending on them. This is yet another example of the self-destructive nature of import tariffs aimed at the wrong target.

Our industry is greatly weakened right now:

The demise of Toys R Us is a material event in the American toy industry. Not only did TRU have U.S. market share of 20-25%, leaving a huge hole for many companies in the wake of its liquidation, but it also played a special role in the market for the introduction of hot new toys. The absence of TRU from the marketplace removes a critical industry marketing vehicle, not to mention a brand ambassador and a critically important source of revenue. Notably, TRU inflicted massive losses on many toy companies in September 2017 when it sought Chapter 11 bankruptcy protection, and again in March 2018 when it announced plans to fully liquidate. This was a kind of a "Double Indemnity" event for the toy industry. Adding tariffs at this time will devastate the health of an already weakened American toy industry employing hundreds of thousands of Americans.

The vast majority of imports are made by Small Businesses:

It is well-known that 97% of U.S. importers are Small Businesses (U.S. Census data, 2014). The average import value per annum per congressional district is about $1.5 billion from Small Business alone. The annual import value (2015) for the U.S. Small Business community was a very healthy $631 billion (https://www.census.gov/foreign-trade/Press-Release/edb/2015/exh1d.pdf). Toy tariffs will certainly be a Small Business tax. According to the U.S. Census Bureau, there were more than 191,000 small business importers in 2015 in the United States. Toy tariffs will put many small business jobs at risk and there should be no presumption that those jobs will come back if Mr. Trump later reverses course.

Just Because We Start a Fight Doesn't Mean We Will Have the Power to End it:

The effect of toy tariffs is unknown and may be irreversible:

Our industry has never experienced high tariffs. The burden of toy tariffs was last felt in the early 1990's and the removal of those small tariffs led to dramatic industry growth. In that same time period, retail prices have fallen on an adjusted basis while innovation has skyrocketed. It is reasonable to assume that high tariffs will sharply reverse that progression. The cost of tariffs will have to be passed on to American consumers, and the financial burden of the tariffs will drain cash availability at victimized toy companies. The outcome of this grand trade experiment cannot be foretold but it is certainly not going to be pleasant. Jobs lost because of this ill-considered policy may never return. The historic lessons of Smoot-Hawley need to be taken seriously.

Retaliation may leave a permanent mark on certain industries owing to lack of trust:

The imposition of tariffs on our industry has no precedent. No one has a plan to deal with it, and our factories will immediately become financially sick. Under these circumstances, when the U.S. government demonstrates a willingness to act capriciously and unpredictably, trust can be forever damaged. Who will be willing to invest in reliance on prevailing trade practices after that? We will have to deal with this externality for years to come. That's a cost we will never get back.

Retaliation will be followed by reinvigorated foreign competition:

The likelihood of retaliation for high tariffs is great. Market access removed because of aggressive trade actions may cede market control to foreign competition. As everyone knows, it's easier to retain a customer than to win one back. The government is playing with our life's work with these tariffs, and the future is murky. We will have no control over the removal of measures taken in response to the President's provocative tariff plan.

Conclusion:

Regardless of the justifications supporting toy tariffs, no one is going to miss the point that costs are going to skyrocket. In the wake of tax reform designed to improve corporate competitiveness, the high toy tariffs will come as a shock to an unsuspecting corporate community preparing for expansion. The voters' anger will only mount as job losses pile up and prices rise.

There must be another, better way to fix trade imbalances with China, and it is Congress' responsibility to find it. Thank you for considering my views.

Post-ABW Price increase	34.0%
Post-ABW Vol Reduction	-40.0%
ABW Plan Tax Rate	25.0%

	Model Company, 38% GPM								
	Current Tax Law (A)		"A Better Way" Blueprint (B)		Post-ABW Blueprint, Adjusted for Price Increase and Volume Reduction (C)		Economists' Optimstic Scenario (D)		
Revenue									
Current Revenue	$26,000,000		$26,000,000		$26,000,000		$26,000,000		
Post-ABW Plan Price increase					$8,840,000				
Post-ABW Plan Volume Reduction (Proj.)					($13,936,000)				
Net Revenue		**$26,000,000**		**$26,000,000**		**$20,904,000**			**$26,000,000**
COGS									
Current COGS	$16,120,000		$16,120,000		$16,120,000		$16,120,000		
Post-ABW Plan Volume Reduction (Proj.)					($6,448,000)		($3,878,520)	-24%	
Net Cost of Goods		$16,120,000		$16,120,000		$9,672,000			$12,241,480
Gross Profit		**$9,880,000**		**$9,880,000**		**$11,232,000**			**$13,758,520**
Selling Expenses	$2,000,000		$2,000,000		$2,000,000		$2,000,000		
Post-ABW Cost Reduction (1/2 vol reduction)					($400,000)				
Fully-loaded Payroll (including temps)	$4,500,000		$4,500,000		$4,500,000		$4,500,000		
Post-ABW Cost Reduction (1/2 vol reduction)					($900,000)				
D&A expenses (business investment)	$300,000		$300,000		$300,000		$300,000		
Other G&A Expenses	$1,500,000		$1,500,000		$1,500,000		$1,500,000		
Post-ABW Cost Reduction (1/2 vol reduction)					($300,000)				
Total SG&A Expenses		$8,300,000		$8,300,000		$6,700,000			$8,300,000
Operating Income		**$1,580,000**		**$1,580,000**		**$4,532,000**			**$5,458,520**
Interest Expense		$200,000		$200,000		$200,000			$200,000
Net Taxable Income		**$1,380,000**		**$1,380,000**		**$4,332,000**			**$5,258,520**
Add back to Taxable Income									
COGS			$16,120,000		$9,672,000		$12,241,480		
Interest Expense			$200,000		$200,000		$200,000		
Total Taxable Adjustments				$16,320,000		$9,872,000			$12,441,480
Adjusted Taxable Income		**$1,380,000**		**$17,700,000**		**$14,204,000**			**$17,700,000**
State Tax (IL 3.75%)		$51,750		$51,750		$51,750			$51,750
Federal Income Tax (39.6% pre-ABW)		**$546,480**		**$4,425,000**		**$3,551,000**			**$4,425,000**
Net Income after Taxes		**$781,770**		**($3,045,000)**		**$781,000**			**$833,520**

Post-ABW Price increase	34.0%
Post-ABW Vol Reduction	-40.0%
ABW Plan Tax Rate	25.0%

	Model Company, 25% GPM								
	Current Tax Law (A)		"A Better Way" Blueprint (B)		Post-ABW Blueprint, Adjusted for Price Increase and Volume Reduction (C)		Economists' Optimstic Scenario (D)		
Revenue									
Current Revenue	$26,000,000		$26,000,000		$26,000,000		$26,000,000		
Post-ABW Plan Price increase					$8,840,000				
Post-ABW Plan Volume Reduction (Proj.)					($13,936,000)				
Net Revenue		**$26,000,000**		**$26,000,000**		**$20,904,000**			**$26,000,000**
COGS									
Current COGS	$19,500,000		$19,500,000		$19,500,000		$19,500,000		
Post-ABW Plan Volume Reduction (Proj.)					($7,800,000)		($4,755,640)	-24%	
Net Cost of Goods		$19,500,000		$19,500,000		$11,700,000			$14,744,360
Gross Profit		**$6,500,000**		**$6,500,000**		**$9,204,000**			**$11,255,640**
Selling Expenses	$1,300,000		$1,300,000		$1,300,000		$1,300,000		
Post-ABW Cost Reduction (1/2 vol reduction)					($260,000)				
Fully-loaded Payroll (including temps)	$2,600,000		$2,600,000		$2,600,000		$2,600,000		
Post-ABW Cost Reduction (1/2 vol reduction)					($520,000)				
D&A expenses (business investment)	$200,000		$200,000		$200,000		$200,000		
Other G&A Expenses	$1,040,000		$1,040,000		$1,040,000		$1,040,000		
Post-ABW Cost Reduction (1/2 vol reduction)					($208,000)				
Total SG&A Expenses		$5,140,000		$5,140,000		$4,152,000			$5,140,000
Operating Income		**$1,360,000**		**$1,360,000**		**$5,052,000**			**$6,115,640**
Interest Expense		$200,000		$200,000		$200,000			$200,000
Net Taxable Income		**$1,160,000**		**$1,160,000**		**$4,852,000**			**$5,915,640**
Add back to Taxable Income									
COGS			$19,500,000		$11,700,000		$14,744,360		
Interest Expense			$200,000		$200,000		$200,000		
Total Taxable Adjustments				$19,700,000		$11,900,000			$14,944,360
Adjusted Taxable Income		**$1,160,000**		**$20,860,000**		**$16,752,000**			**$20,860,000**
State Tax (IL 3.75%)		$43,500		$43,500		$43,500			$43,500
Federal Income Tax (39.6% pre-ABW)		**$459,360**		**$5,215,000**		**$4,188,000**			**$5,215,000**
Net Income after Taxes		**$657,140**		**($4,055,000)**		**$664,000**			**$700,640**

Statement for the Record

National Association of Home Builders

United States House of Representatives
Committee on Ways and Means

Hearing on
U.S. Trade Policy Agenda

March 21, 2018

The National Association of Home Builders (NAHB) represents more than 140,000 members involved in the home building, remodeling, multifamily construction, property management, subcontracting and light commercial construction industries. NAHB is also affiliated with more than 700 state and local home builder associations throughout the United States. Since its inception in 1942, NAHB's primary goal has been to ensure that housing is a national priority and that all people in the U.S. have access to safe, decent and affordable housing, whether they choose to buy or rent a home.

NAHB recognizes that with a global economy, many products and materials used in the residential construction industry may frequently be sourced from outside the United States. Therefore, NAHB supports a robust trade policy agenda that ensures products and materials are readily available. Additionally, NAHB supports government policies that encourage the removal of barriers to free trade in lumber and other building materials.

Building safe, decent and affordable housing depends in large part upon a stable and affordable supply of quality softwood lumber, steel, and aluminum. Unfortunately, even modest price increases in the cost of these materials can deny many American families an opportunity to achieve homeownership. There are currently several building materials that are of concern to NAHB and its members as the spring building season ramps up.

Lumber accounts for a larger share of the cost of a home than any other building material. It is used for wood-frame residential construction and is common for interior and finishing purposes, such as windows and doors. NAHB research shows that, at current prices, lumber accounts for approximately $18,000 of the cost of constructing a typical single-family home. As such, lumber price increases have severe effects on our nation's housing market.

The price of lumber has soared as the housing recovery has gained momentum. For example, softwood lumber prices are up over 43%[1] since January of 2017 and reached an all-time high of $512 per thousand board feet the last week of February 2018; most of this increase is directly attributable to the ongoing trade dispute between the U.S. and Canada over softwood lumber.

In another move that will have far ranging consequences in the housing sector, particularly for multifamily building, the administration announced this month tariffs on steel and aluminum imports. These materials are used extensively in building for everything from roofing and flooring to structural framing. The artificially higher prices paid for these materials will necessarily drive up the cost of construction further.

[1] Random Lengths, NAHB calculations

The rising cost of these critical inputs drives up the cost of construction, which in turn, drives up the price of a new home. The impact is of particular concern in the affordable housing sector where relatively small price increases can have an immediate impact on low- to moderate-income home buyers who are more susceptible to being priced out of the market. Even a small change in home prices or interest rates can determine whether they can buy a home.

A 2016 analysis by NAHB illustrates the number of households priced out of the market for a median priced new home due to a $1,000 price increase. Nationally, a $1,000 increase in the median new home price will leave 152,903 households priced out of the market.[2]

Resolving the long-running dispute with Canada over the trade in softwood lumber and addressing the newly announced steel and aluminum tariffs must be a top priority of Congress and the Administration.

Making homes more affordable, however, is not a purely charitable endeavor. Reducing the cost of lumber and, by extension, the price of the average single-family home adds fuel to the economy.

In 2017, reducing the price of the average new single-family home by $1,000 would have generated $719.9 million in additional single-family construction, $363.4 million in wages and salaries, 6,313 full-time-equivalent (FTE) jobs,[3] and an additional $243.9 million in taxes and fees for federal, state and local government. If the $1,000 reduction (indexed to inflation) remained in place for five years, the effect would have been even more pronounced: $4.457 billion in single-family construction, $2.250 billion in wages and salaries, 39,082 FTE jobs, and $1.510 billion in taxes and fees for various levels of government.[4]

Conclusion

There is mounting evidence that we are entering a housing affordability crisis in this country. Protectionist trade policies that artificially increase the cost of key building materials exacerbate the problem while doing little to expand economic opportunity. Congress must

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[2]Natalia Siniavskaia, Metro Area Median New Home Prices and Households Priced out of the Market (NAHB Housing Economics 2016) (available at www.nahb.org).

[3] Full-time equivalents represent enough work to keep one worker employed for a full year based on average hours worked per week in the relevant industry

[4] Measured in 2017 dollars

work to ensure our trade policy agenda is both fair to domestic industry and considers the potential impacts on American consumers.

Thank you for allowing the National Association of Home Builders this opportunity to share our views on America's Trade Policy Agenda. We look forward to working with the committee to ensure U.S. trade policies are beneficial to consumers and businesses alike.

March 20, 2018

Senator Orrin Hatch
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Kevin Brady
Chairman
Committee on Ways of Means
United States House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Senator Ron Wyden
Ranking Member
Committee on Finance
United States Senate
221 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Neal
Ranking Member
Committee on Ways of Means
United States House of Representatives
341 Cannon House Office Building
Washington, DC 20515

Dear Chairmen and Ranking Members:

As your committees prepare to conduct hearings this week on the trade policy agenda, we would like to share with you our organization's views about the Administration's Section 301 investigation into China's acts, policies and practices related to technology transfer, intellectual property and innovation.

The National Foreign Trade Council (NFTC) member companies have significant concerns about China's growing use of trade and investment policies, including those designed to promote "indigenous technologies." These practices deny national treatment and create discriminatory burdens that are unreasonable for American companies, innovators and workers.

While NFTC supports efforts to investigate and address these discriminatory practices, the NFTC and its member companies are interested in a strong, multi-pronged effort aimed at improving the ability of U.S. companies to compete in China rather than making things worse. Our observations are directed at this fundamental goal.

The overall focus of the Section 301 investigation should be to bring China to the negotiating table for a meaningful resolution of specific, sector-by-sector issues with the ultimate goal of removing the offending practices and policies. Premature, unilateral sanctions alone are unlikely to achieve this objective. It is critical that the United States work with our allies and major trading partners to identify and outline the specific actions we seek from China, and to devise a strategy to increase pressure in order to guarantee all of our exporters and investors fair treatment in these areas. Multilateral pressure and a consensus with our allies will be key to maximizing leverage over China's practices.

The NFTC is particularly concerned with reports that the Administration is considering immediate imposition of tariffs on up to 100 categories of products including consumer electronics, toys, IT products, furniture and sporting goods, as a potential remedy prior to any

coordinated negotiating effort. This runs contrary to the long history of successful use of Section 301 as a carefully managed device to obtain foreign compliance rather than a pretext for import protection.

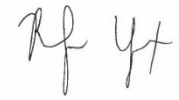
Unilateral imposition of tariffs prior to any meaningful negotiations with China will raise charges that the U.S. has ignored its WTO commitments and will turn the focus from China's unjust behavior to the legitimacy of our own action. This will, in turn, alienate many of the trading partners we are relying upon to support our cause and may embolden China to resist our efforts. It will provoke retaliation by China against major U.S. exports, causing significant harm to key U.S. industries and agricultural interests and increasing the likelihood that competitors from Europe, Japan and elsewhere supplant American businesses, innovators and farmers as suppliers in China's market.

Higher tariffs on a broad range of consumer goods will increase the shopping bill for all Americans, while tariffs on components will harm U.S. productivity in all sectors and U.S. manufacturing exports by making it more expensive and challenging to procure key inputs. At a time when the U.S. economy is enjoying a resurgence thanks to tax and regulatory reform, these tariffs run the risk of stifling our own growth while making our exporters less competitive in the global economy. In combination with the tariff increases already announced on steel and aluminum, these additional taxes will be even more harmful to domestic manufacturers.

Finally, it is reported that the Administration is also considering measures to impose "reciprocal investment restrictions" on Chinese investors in the United States as part of its response under Section 301. Efforts to develop new investment restrictions on China should be the subject of extensive consultations with U.S. companies, as it is vital to consider existing U.S. investment interests that could be adversely affected if the matter is not handled appropriately. Furthermore, as with other possible Section 301 remedies, proposed investment restrictions should not be imposed immediately, but should be used as leverage to obtain the far more desirable goal of fundamental changes in China's investment and IP regimes.

We urge your committees to impress upon USTR the importance of a strategy to address Chinese policies and practices in a manner that will achieve maximum benefits for U.S. trade and investment interests and avoid unintended effects that may cause greater harm than good to U.S. economic interests.

Sincerely,



Rufus Yerxa
President

Statement of the

National Lumber and Building Material Dealers Association

on

U.S. Trade Policy Agenda

April 4, 2018

2025 M Street, NW, Suite 800 * Washington, D.C. 20036 * 202-367-1169 * www.dealer.org

Statement of U.S. Trade Policy Agenda

The National Lumber and Building Material Dealers Association (NLBMDA) represents over 6,000 building material retail locations nationwide operating lumberyards and component plants serving homebuilders, subcontractors, general contractors, and consumers in the new construction, repair, and remodeling of residential and light commercial structures.

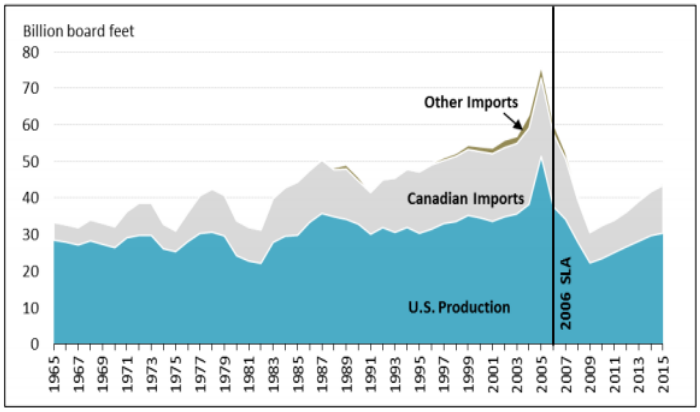
NLBMDA remains concerned about the softwood lumber dispute between the U.S. and Canada and its effects on residential construction. Failing to resolve the dispute has increased the price of softwood lumber and consequently the cost of new home construction. In addition, NLBMDA is concerned about the new tariffs on imported steel as it increases construction costs, decreases housing affordability, and can cause an unnecessary trade war that harms consumers.

U.S. – Canada Softwood Lumber Dispute

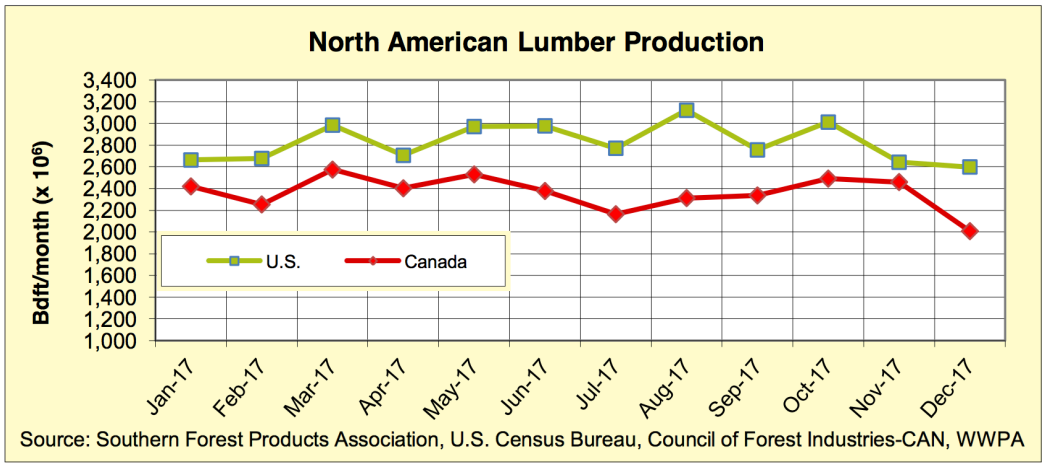
American consumers and homebuilders rely on a stable, predictable supply of softwood lumber for residential remodeling and construction. In the U.S., softwood lumber is essential for many products and accounts for 10.3 percent of the overall cost of housing.

Both countries have benefited from previous Softwood Lumber Agreements (SLA). The U.S. relies on Canada for a stable supply of softwood lumber, with roughly one-third of the lumber used in the U.S. in 2017 being imported, and more than 95 percent of those imports coming from Canada. Additionally, there are numerous parts of the U.S. that require softwood lumber known as Spruce, Pine, Fir (SPF), of which there is a limited supply produced in the U.S. Even if domestic producers were to increase their production beyond capacity, there is not enough forest of SPF lumber to meet this need; therefore, the U.S. still needs imports from Canada.

Under the last SLA (Lumber IV), which lasted from 2006 to 2015, the Canadian share of the U.S. softwood lumber market averaged 28 percent annually. U.S. market share during that period averaged 71 percent annually. There is relatively little softwood lumber imported into the U.S. from countries other than Canada. Included is a graph from the Congressional Research Service visually illustrating domestic lumber consumption by source.



According to the Western Wood Products Association, in 2017, U.S. softwood lumber production increased by 4.2 percent, to 33.8 billion board feet (BBF) compared to 32.5 BBF in 2016. Softwood lumber production in Canada remained flat in 2017 at 28.3 BBF. Forisk Consulting estimates that U.S. softwood lumber consumption was 48.1 BBR in 2017. There is simply not enough softwood lumber produced annually in the U.S. to meet demand in the domestic market, and imports—primarily from Canada—are needed.



Moreover, despite the duties places on Canadian softwood lumber, sawmill utilization has increased only marginally. For 2017, U.S. sawmill capacity utilization rates improved by 1 percent to 87 percent.

On November 25, 2016, the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations (COALITON), an ad hoc association of American softwood lumber producers, petitioned the U.S. Department of Commerce and the U.S. International Trade Commission (ITC) to restore what it considers to be the conditions of fair trade in softwood lumber between the U.S. and Canada. Overall, the COALITION represents nearly 70 percent of softwood lumber produced in the U.S. In its petition, the COALITION requested the imposition of duties to offset the harm caused by Canadian softwood lumber production subsidies.

On November 2, 2017, the Department of Commerce finalized AD and CVD on Canadian softwood lumber. The ITC on December 7, 2017, upheld the Commerce Department's decision concerning duties.

Most Canadian firms are paying a combined AD/CVD rate of 20.83 percent. For the five companies (Canfor, J.D. Irving, Resolute, Tolko, and West Fraser) directly involved in the investigation, the rates vary between 9 percent and 23 percent. Duties do not apply to softwood lumber harvested in the Atlantic Provinces of Newfoundland and Labrador, Nova Scotia, and Prince Edwards Island.

Below is a table detailing the current tariffs on Canadian softwood lumber producers.

Company	Countervailing Duties (CVD)	Antidumping Duties (AD)	Overall Duties
Canfor	13.24%	8.89%	22.13%
J.D. Irving	3.34%	6.58%	9.92%
Resolute	14.70%	3.20%	17.90%
Tolko	14.85%	7.22%	22.07%
West Fraser	18.19%	5.57%	23.76%
All Others	14.25%	6.58%	20.83%

The Canadian government has responded on several fronts in the ongoing dispute. On November 14, 2017, it requested the establishment of a NAFTA dispute resolution panel to review the final CVD rates. Subsequently, on December 5, Canada also requested the establishment of a NAFTA dispute resolution panel to review to final AD rates. Finally, on November 28, 2017, Canada took the first step toward bringing a WTO case by requesting consultations with the U.S.

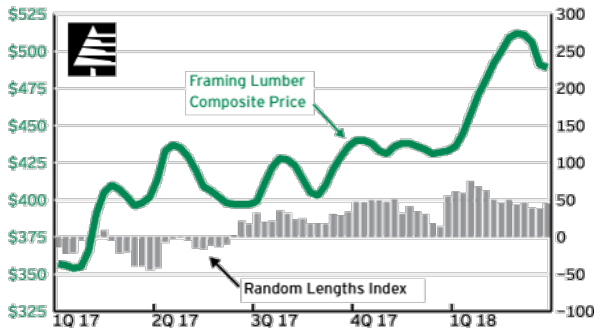
A North American Free Trade Agreement (NAFTA) dispute resolution panel—allowed under NAFTA Chapter 19— is brought to assess whether a country's investigating authorities are following its own laws. Under NAFTA Chapter 19, a party can seek a binational review panel to assess whether a party's investigating authority's decision is consistent with its trade remedy laws. The U.S. has proposed eliminating Chapter 19 as part of NAFTA renegotiations, a position Canada opposes.

A challenge at the WTO is brought to determine whether a trade action is compatible with the country's agreements, in this case the Antidumping Agreement and the Agreement on Subsidies and Countervailing measures. Canada maintains that the Commerce Department impermissibly used certain methodologies in calculating the dumping duties, and also used the practice of zeroing, which the WTO has ruled impermissible. It also requested consultation on CVD duties, which it claims the U.S. improperly described its timber programs as subsidies.

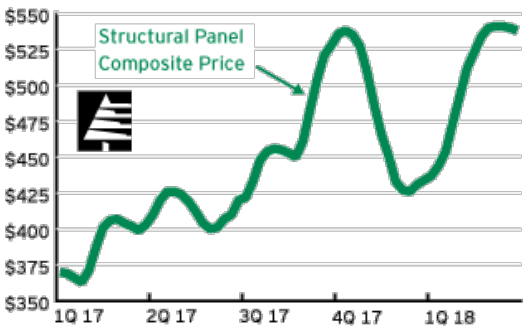
Domestic softwood lumber prices have increased 23.9 percent since the investigation started in November 2017 according to the Producer Price Index published by the Bureau of Labor Statistics.

The Random Lengths Framing Lumber Composite price has increased 21.6 percent in the past year, and the Random Lengths Structural Panel composite price has increased 33.5 percent in the past year. These price increases are ultimately passed on to consumers.

Random Lengths Framing Lumber Composite Price



Random Lengths Structural Panel Composite Price



Officials from the U.S. and Canada continue to publicly express support for a new SLA. However, Canada has transitioned to a path of litigation. Experts believe a protracted legal battle is likely and will ultimately be resolved utilizing third-party arbitration. The last time a trade case was brought by the U.S. lumber industry in the dispute, it took several years to resolve and $5 billion in duties were placed on Canadian imports until a new agreement was reached.

The ongoing to dispute is harming residential construction and ultimately consumers. The Department of Commerce and Office of the United States Trade Representative should renew their efforts in reaching a new agreement that helps meet domestic demand for softwood lumber, does not put U.S. lumber producers at a competitive disadvantage, unnecessarily restrict the availability of products, or increase the cost of housing to the detriment of prospective home buyers and U.S. consumers.

U.S. Steel Tariffs

The U.S. Department of Commerce has imposed a 25 percent tariff on steel imported to the United States effective March 23. Steel imports from Argentina, Australia, Brazil, Canada, the European Union, Mexico, and South Korea are exempt from the tariffs. Approximately one-third of steel imports are still subject to the tariffs.

NLBMDA opposes the tariffs recently enacted by the Trump Administration. The construction industry is already besieged with high costs from land, labor, and increased prices for building materials, and the steel tariffs are the latest headwind. Residential construction is a driving force for economic growth. Moreover, the tariffs could lead to a broader trade war that would dampen economic growth and increase prices for American consumers.

Conclusion

The Trump Administration and Congress have improved the tax code and streamlined regulations to make American businesses more competitive. However, duties on softwood lumber imported from Canada and tariffs on imported steel are undermining some of that great work.

NLBMDA supports reaching a new agreement in the longstanding U.S.-Canadian softwood lumber dispute that brings stability and predictability to pricing and availability without the imposition of duties. Additionally, the association strongly urges Commerce Secretary Wilbur Ross and Ambassador Robert Lighthizer to consult with all stakeholders, including retailers and consumers of lumber products, in future discussions regarding any terms of trade in softwood lumber between the U.S. and Canada.

In addition, the Trump Administration should remove tariffs on imported steel. The action hurts U.S. consumers and could spark a broader trade war with far-reaching negative effects for the nation's economy.

Submitted by:
Ben Gann
NLBMDA
Vice President of Legislative and Political Affairs

Written Testimony of
Scott Smith
President
Precious Metals Association of North America

Before the

House Committee on Ways & Means

Hearing on "U.S. Trade Policy Agenda"

Wednesday, March 21, 2018

Chairman Brady and Members of the Committee,

My name is Scott Smith and I am the CEO of Pyromet, which is a privately owned precious metals manufacturer and refiner of silver, gold, and platinum group metals. Since 1969, Pyromet has been a reputable name in precious metals and precious metals management. I also serve as President of the Precious Metals Association of North America (PMANA) and am submitting this written testimony on behalf of our members. It is our traders, distributors, and authorized purchasers of the United States Mint that are particularly concerned with counterfeit bullion produced in the People's Republic of China, and subsequently sold on e-commerce platforms.

Background

According to the Organization for Economic Cooperation and Development (OECD), the trade of fake goods represents 2.5 percent of global trade, or $461 billion every year. Among the many counterfeits traded globally each year are fake precious metals bullion coins and bars – most of which are produced in China and easily distributed through e-commerce platforms. Additionally, estimates show over 85 percent of U.S. counterfeit goods originate in China.

Precious metals bullion has been introduced by numerous national governments and private mints around the world for nearly fifty years. The U.S. began production of its own bullion in 1986 with the introduction of the American Eagle Gold coin. Since then, the American Eagle family has since expanded to include silver, platinum, and palladium bullion coins.

U.S. Mint bullion coins are not sold directly to the public. Instead, authorized purchasers that satisfy stringent financial and professional criteria buy bullion coins and sell them at a premium to investors. Precious metals bullion can also take the form of bars – or ingots – and are usually produced by private mints from around the world and are sold by domestic traders and distributors. This network of bullion distributors, many of whom are members of the PMANA,

includes some of the most trusted names in the precious metals industry. When investors are deceived by counterfeit bullion, distributors' brands, and jobs all along the precious metals supply chain, are significantly affected.

The problem has grown in recent years with the explosion of e-commerce trading and its ability to connect consumers to the worldwide market. At the same time, e-commerce has also given Chinese manufacturers, with the backing of their government, greater access for selling fake goods.

Chinese law requires truth in advertising, which also means that counterfeit bullion products be sold as such. However, the law does not require that counterfeits be physically marked accordingly. With this legal shortcoming, e-commerce sites such as Alibaba are flooded with posts that advertise counterfeit bullion as "replica", "copy", and "fake." While this is completely legal in the People's Republic of China, it gives government-sanctioned manufacturers the ability to manipulate vulnerable American consumers and those looking to defraud consumers in the future. In other words, if they are not deceiving American consumers directly, they are providing domestic criminals with the necessary tools to do so in the future. On their web profiles, Chinese manufacturers often tout the ability of their counterfeit bullion to pass as the real thing. Answers to "frequently asked questions" make potential buyers aware that counterfeit coins are non-magnetic, weigh almost identical to authentic coins, and pass most authentication tests. Clearly, their intent is to deceive consumers in one way or another.

Whether in coin or bar form, it is relatively easy to pass off counterfeit bullion as authentic. Manufacturers will often coat, or "plate", tungsten in a thin layer of gold. Since tungsten and gold have nearly the same weight and density, plated coins can pass a novice investor's basic tests. Even the most experienced precious metals traders require spending as much as $100,000 on innovative technology to detect fake bullion. Unsuspecting consumers do not have access to such technology which make them easy targets for criminals who can easily leverage a 400% return on their investment. Recently, the PMANA met with several offices on the Ways & Means committee, and we showed staff two bullion coins – one fake, one genuine. Out of all the staff we met with, no one was able to identify the genuine coin. Our point is that these fakes are exceptional, and we need to do more to protect consumers and jobs all along the precious metals supply chain. While criminals profit, our traders and distributors are affected with damaged brands, falling revenues, and less capital to purchase additional bullion for investors. Furthermore, the decrease in demand for bullion causes refiners and manufacturers along the supply chain to suffer.

The PMANA has been working with the United States Trade Representative to address concerns with Chinese-produced counterfeit bullion coins. In February of this year, the PMANA submitted public comments for the United States Trade Representative's (USTR) Special Review in which we recommended that the USTR continue to include the People's Republic of China on its Priority Watch List for 2018. The rationale for our recommendation is the lack of physical marking requirements for fake bullion, whether it be coins or bars, produced in China. The implementation and enforcement of such requirements would go a long way in preventing further consumer deception for items imported into the United States.

Policy Proposal

To address the issue of counterfeit bullion, the PMANA strongly suggests a two-pronged approach with Congress and the USTR. First, to lessen the already significant burden placed on law enforcement, the PMANA urges Congress to amend 15 U.S. Code § 2101 to expand marking requirements to include bullion investment coins and bars. Doing so would require any imitation or replica item manufactured or imported into the United States to be plainly and permanently marked "Copy" or "Replica". This would provide transparency for consumers and weaken the ability for domestic and international criminals to take advantage of them.

Second, the PMANA urges the USTR to include language in future trade agreements that holds all parties to the same marking requirements as U.S. citizens under 15 U.S. Code § 2101, as amended with language relating to investment bullion. This trade provision would protect jobs along the precious metals supply chain, provide transparency for investors, and generate tax revenue for both the U.S. and our trading partners.

Thank you for giving the PMANA the opportunity to submit these comments to the Committee. If you or your staff have any questions, please do not hesitate to reach out to us. We are more than happy to discuss our concerns with you or your staff and look forward to working together to protect consumers and businesses from counterfeit products.

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March 21, 2018

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Neal,

On behalf of our nationwide membership of entrepreneurs and small businesses, the Small Business & Entrepreneurship Council (SBE Council) is submitting this letter for the record on the Hearing on U.S. Trade Policy Agenda, hosted by the Ways and Means Committee on March 21, 2018. Thank you for hosting this important hearing as certainty and U.S. leadership on trade is vital to ensuring strong U.S. economic growth, small business growth, quality job growth and the health of U.S. entrepreneurship.

Since U.S. small businesses are very involved in global trade and integrated into the global marketplace, our entrepreneurial sector has a strong stake in trade policy – namely, opening markets that allow our small businesses to grow and expand. Small businesses and their employees are deeply involved in foreign trade in terms of both exports and imports. Looking at employer firms directly involved in trade, according to the U.S. Census Bureau, **76.2 percent of U.S. exporters have fewer than 20 employees, and 86.7 percent fewer than 50 workers; while 75.2 percent of importers have fewer than 20 workers, and 85.5 percent fewer than 50 workers.**

Unfortunately, trade has been stuck in a no-growth gear for too long. **According to the latest trade data** from the Bureau of Economic Analysis, January 2018's numbers on both imports and exports were poor. On a seasonally-adjusted basis, exports in January actually declined by 1.3 percent versus December. In effect, from November to January, exports were flat. Meanwhile, imports experienced a slight decline in January, and that was after four months of growth. But to put this in perspective, the January 2018 level of $200.9 billion in U.S. exports was, in effect, the same level registered in October 2014 ($200.1 billion). That's no effective growth for over three

years. As a side note, these numbers do not factor in inflation, so in real terms, there has been a decline.

Weak growth, or no growth, on exports means U.S. businesses are losing ground overseas. This hurts the economy and small business growth, as 95 percent of the world's consumers are outside U.S. borders. Our small businesses desperately want to tap into the explosive growth of wealth and middle-class disposable income overseas. These global consumers want U.S. products and services, and our small businesses want to compete for their business. Given innovative technologies and the growth and convenience of the platform-based economy, tapping into these markets *should* be easy. However, high tariffs and other barriers often make the pursuit of doing business overseas complex and not cost-effective.

That is why SBE Council would like to see the U.S. return to its global leadership role on trade and aggressively pursue new agreements.

In terms of going global, entrepreneurs are also concerned about the potential theft of their intellectual property (IP). SBE Council was pleased that the Trans Pacific Partnership (TPP) zeroed in on the issue of protecting IP along with its other chapters to ease small business access into every market involved in the agreement. Unfortunately, the U.S. pulled out of TPP, which we believe is a setback for the U.S. and our small businesses.

On NAFTA re-negotiations, we are also pleased to see a focus on strengthening IP. SBE Council feels strongly that NAFTA modernization should be about expanding trading opportunities, strengthening IP and addressing other issues that make the agreement work better for all parties when it comes to increasing cross-border commerce. It would be a very bad move for the U.S. to pull out of NAFTA.

As the negotiations proceed to modernize NAFTA, it is critical to keep in mind that since the agreement went into effect in 1994, it has been very positive for the U.S., Canada and Mexico. NAFTA has also been positive for U.S. small businesses.

In a recent analysis on NAFTA, SBE Council chief economist Raymond Keating crunched the numbers, using U.S. Census Bureau data, on its beneficial impact for the U.S. economy and our small businesses. He noted:

"Since free trade accords went into effect with Canada, Mexico and the U.S., export growth from the U.S. to both nations has been strong. The U.S. entered in a free trade agreement with Canada first, taking effect in 1989. From 1988 to 2017, U.S. goods exports to our neighbor to the north increased by 294.3 percent. (Over the same period, inflation - as measured by the GDP price index - increased by 82.8 percent.)

But export growth has been particularly strong with Mexico since NAFTA took effect in 1994. U.S. goods exports to Mexico grew by 484.4 percent from 1993 to 2017. That was more than double the growth in U.S. exports to the world, which registered a 239.5 percent increase over the same period. (Inflation increased by only 56.9 percent over this period.)

Import growth was even more robust. Goods imports from Canada grew by 268.6 percent from 1988 to 2017, and goods imports from Mexico expanded by 686.7 percent from 1993 to 2017."

As noted time and again by Keating, imports *are not* economic negatives:

"To the contrary, growing imports reflect an expanding domestic economy, with imports including consumption products as well as capital goods used by U.S. businesses. For good measure, many U.S. firms are involved in the importation of goods from other nations. In the end, U.S. consumers and small businesses benefit from the expanded choices and lower costs that come with lower barriers to imports."

In 2015, there were 89,106 firms that were exporters to Canada, as well as 59,428 firms exporting to Mexico. These firms, according to the U.S. Census Bureau, are overwhelmingly small and mid-sized businesses. For example, **75.4 percent of firms exporting to Canada and 72.7 percent of firms exporting to Mexico have fewer than 50 employees**.

The growth in the number of U.S. firms exporting to both Canada and Mexico has been dramatic. From 1992 to 2015, there was an 81.4 percent increase in the number of U.S. exporters to Canada and a dramatic 365.5 percent increase in those exporting to Mexico. NAFTA has been a growth engine for small business**.**

As for imports, in 2015, there were 16,799 U.S. firms that were importers related to Canada, and 15,290 U.S. firms were importers related to Mexico. Again, the vast majority were small and mid-sized businesses. For example, 54.8 percent of Canada importers and 67.5 percent of Mexico importers have fewer than 50 employees.

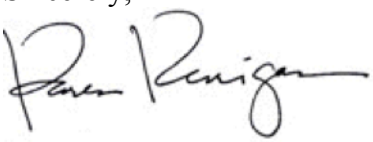
The bottom line is that small businesses are winning with NAFTA and in the global marketplace. With expanded opportunities made possible through more trade agreements, U.S. entrepreneurs will continue to excel and dominate, which means they will contribute even more to America's innovative and competitive capacity.

That is why SBE Council is urging the Administration to positively engage with all our trading partners. Fixing outdated agreements or flawed trading practices can be achieved through strategies that do not hurt the U.S. economy or our small businesses and their employees (by imposing tariffs, for example.)

An agenda that takes the U.S. down a protectionist path on trade is not a productive one or a strategy for economic growth. Reclaiming the mantle of leadership on free trade will expand opportunity for U.S. entrepreneurs, businesses, workers and consumers, as well as for those in nations with which we have free trade agreements.

Thank you for your leadership and for hosting this hearing to explore the direction of U.S. trade policy. Please let SBE Council know how we can help the Committee better understand the small business stake in this important issue.

Sincerely,



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Protecting Small Business, Promoting Entrepreneurship

STATEMENT FOR THE RECORD
March 19, 2018
U.S. House Committee on Ways and Means
Hearing on U.S. Trade Policy Agenda

On behalf the Association for Accessible Medicines (AAM), the leading trade association for manufacturers and distributors of generic prescription drugs and biosimilar therapies, manufacturers of bulk active pharmaceutical chemicals, and suppliers of other goods and services to the generic drug and biosimilar industry, thank you for the opportunity to submit this statement for the record on the U.S. trade policy agenda.

As the NAFTA negotiations continue, AAM and its Biosimilars Council urge Congress and the Administration to keep in mind the carefully balanced intellectual property rights objectives set out in previously enacted legislation providing for Trade Promotion Authority (TPA), which call for the U.S. Trade Representative (USTR) to (1) ensure implementation of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, including the 2001 World Trade Organization (WTO) Doha Declaration on TRIPS and Public Health; (2) secure market access opportunities for exporters of all pharmaceuticals, including biosimilars; and (3) promote ***both*** innovation and patient access to medicines via competition.

AAM's core mission is to improve the lives of patients by advancing timely access to affordable FDA-approved generic and biosimilar medications. The story of the U.S. generic industry is one of success for American patients based on a healthy domestic market characterized by strong competitive bidding. Since 1984, when the Drug Price Competition and Patent Term Restoration Act (Hatch-Waxman) was adopted, generic pharmaceuticals have grown from just under 20 percent of prescriptions filled to 89 percent of the prescriptions dispensed in the United States today. At the same time, generics represent just 26% of total drug expenditure and saved the U.S. health system $253 billion in 2016. For the past 30 years, the generic industry has played a vital role in ensuring patients' access to more affordable drugs and lowering health care costs.

Generic drug companies have also been a steady source of new manufacturing jobs in the U.S. In 2016, the generic drug industry manufactured over 61 billion doses of medicines in the U.S. and employed over 36,000 U.S. workers and contract manufacturers. However, the generic and biosimilar industry now faces several, severe headwinds that jeopardize the savings and uninterrupted access historically provided to patients.

Access to new markets is critical to the development of biosimilars and policies that delay their introduction in a market will impact consumers both abroad and in the United States. Increased patient access to biosimilars means manufacturers are incentivized to develop these cost-effective medicines and provide competition in the market. Should the USTR negotiate a mandatory years-long period of exclusivity for biologics within NAFTA – an internationally binding treaty that will be incredibly difficult to change – patient access to more affordable,

FDA-approved biosimilars will be curtailed. NAFTA should be an opportunity to increase competition and should not be used to extend government-provided monopolies for blockbuster brand drugs. Rather than extend exclusivity periods for brand biologics, the U.S. government should advance policies that promote patient access to generic and biosimilar medicines in Canada and Mexico.

Moreover, a NAFTA outcome that increases protection for high-cost brand drugs does not increase access to affordable medicines is inconsistent with the TPA mandate. Additional brand name pharmaceutical exclusivity is unnecessary in NAFTA and will hurt patients in the United States.

Further, *Inter Partes Review* (IPR) frameworks must address and equally support public health needs and industry interests in fostering innovation, while ensuring patients' access to more affordable drugs. AAM believes that the standard of balancing innovation and access to medicines set forth in the TRIPS Agreement, the bipartisan May 10th Agreement of 2007, and the 'Bipartisan Congressional Trade Priorities and Accountability Act of 2015' reflect the appropriate balance.

USTR should pursue an intellectual property framework that provides governments with the flexibility to adapt national policies that maintain the balance between fostering innovation and generating robust biosimilars competition both in the U.S. and with its trading partners. Allowing each NAFTA partner to adopt its own policies on exclusivity for biologics – and to change them as patient needs arise – will best achieve this balance in a sector that is still young and evolving.
Access to safe, effective and affordable generic and biosimilar medicines improves people's lives and provides significant savings. The biosimilars industry in the U.S has been projected to create as much as $250 billion in additional savings in the U.S. over the next decade.[1] However, these savings are only possible if a robust biosimilars market exists globally.

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[1] *The $250 Billion Potential of Biosimilars*, Express Scripts. April 2013. http://lab.express-scripts.com/lab/insights/industry-updates/the-$250-billion-potential-of-biosimilars