Questions for the Record for Committee on Ways and Means Full Committee Hearing on President Obama's Trade Policy Agenda with U.S. Trade Representative Michael Froman

April 3, 2014

Questions from Rep. Dave Reichert:

1. Trade in Services Agreement

The Trade in Services Agreement (TiSA) negotiations have grown to include 50 countries thus far. The services sectors in these countries account for half of the world economy and over 70 percent of global services trade. As such, TiSA has massive commercial potential and must, along with our TPP and EU negotiations, be a top priority for Congress, the Administration, and U.S. industry. Services represent roughly 75 percent of U.S. GDP and 80 percent of U.S. private sector employment, so increasing our services firms' export opportunities promises to be a major source of well-paying American jobs. For my home state, services comprise over 40 percent of the state's GDP but less than a third of exports. To increase these exports, we need new market access commitments and updated rules.

Trade rules on services trade were negotiated over 20 years ago. I am enthusiastic about TiSA's potential to update services trade rules among its members and incorporate protections for U.S. services suppliers that we've developed in our trade agreements and recent bilateral investment treaties. I am concerned, however, that some TiSA countries do not appear wedded to a "best FTA" standard for TiSA. Can you assure us that USTR will be giving a high-standard TiSA the priority that it deserves, pressing to incorporate our best trade agreement protections for U.S. service suppliers?

Answer: In TiSA, USTR is committed to achieving the strongest possible result for U.S. service suppliers both in terms of creating new market access opportunities and establishing new rules to support the expansion of services trade well into the future. We view the high-standard approach we take in FTAs as setting the floor in TiSA negotiations, and will work to achieve ambitious liberalization, while also setting a new standard for the global trading system.

2. Trade in Services Agreement

As you know, TiSA is being negotiated as a plurilateral agreement outside of the WTO because Brazil, India, and some other countries object to services negotiations outside of a single undertaking that includes agriculture and goods. Yet I believe TiSA will help invigorate the WTO system, including by building wide support for services trade advances that can be incorporated into WTO rules at the appropriate time. To maximize this effect, TiSA benefits must be available only to those WTO members that join the agreement, which encourages countries to join rather than try to free-ride. TiSA must also maintain a high standard for liberalization so that the trade benefits that accrue to its members are very commercially significant. Within this context, I want to see TiSA membership continue to grow, with countries that are willing and able to meet the agreement's high standard. Though China is

one of Washington's top destinations for services exports and its membership could be significant, I am concerned that China has not proven that it is willing and able to meet the agreement's high standard in a timely manner. What evidence has China provided you to demonstrate that it can meet this standard? Has it met this test yet?

Answer: We have been engaged with China to assess its ability to meet the standards being sought in TiSA, including its ability to liberalize market access restrictions and to contribute positively to the development of new and better rules. There remain a number of open questions in that regard, including its implementation of the WTO decision regarding access to the electronic payment services market in China, and its contribution to other ongoing negotiations. We will continue to be open to dialogue with China on this matter. We also will continue to actively press for greater openness in China to U.S. service suppliers.

3. Trade in Services Agreement

With respect to financial services, what is USTR seeking to accomplish in TiSA?

Answer: The Administration seeks to secure robust market access commitments for financial services in the Trade in Services Agreement (TiSA) negotiations that would help protect U.S. financial services suppliers from discriminatory treatment in foreign markets.

4. Transatlantic Trade and Investment Partnership

The negotiations for a Transatlantic Trade and Investment Partnership represent a significant opportunity to boost an already considerable trade relationship through the elimination of tariff and non-tariff barriers to trade. A key part of the negotiations will be the removal of regulatory barriers both in terms of specific sectors and horizontally across sectors. How will USTR focus its efforts to address regulatory barriers faced by the pharmaceutical industry? Will part of this effort involve pursuing greater regulatory compatibility between the U.S. Food and Drug Administration and the European Medicines Agency, including but not limited to a mutual recognition agreement for good manufacturing practices (GMP) inspections?

Answer: We are pursuing in T-TIP greater regulatory compatibility in a range of sectors. In terms of pharmaceuticals, we are working together with FDA, the European Commission, and the European Medicines Agency on cooperative technical steps that would decrease costs while ensuring robust health and safety protections. For example, we are exploring the scope for using the results of Good Manufacturing Practice inspection reports from each Party to help secure the drug supply chain on both sides of the Atlantic.

Question from Rep. John Lewis:

1. U.S.-Colombia FTA

In 2012, I asked your predecessor about the inter-agency effort to implement the U.S.-Colombia Free Trade Agreement.

As you well know, I and many other Members of Congress voiced strong concerns regarding labor, human, and civil rights issues in Colombia and serious rule of law challenges.

I continue to believe that a thorough, collaborative, inter-agency effort must exist in order for the implementation of this agreement to meet the promises and goals of the FTA's proponents.

Please may you explain -- in detail -- how USTR is working with the State Department's Race, Ethnicity, and Social Inclusion Unit (RESIUNIT), the U.S. Department of Labor's Bureau of International Labor Affairs (ILAB), the U.S. Department of Justice, and any other relevant agencies to realize the promises of this FTA in protecting, upholding, and improving labor, human, civil rights, and rule of law in Colombia?

Has USTR staff met with RESIUNIT and ILAB staff? If so when, where, and how frequently? Who coordinates the meetings and ensures missions and target goals are established and met?

Additionally, how often do frontline interagency staff meet, exchange information, and coordinate efforts to address the many concerns raised by Members of Congress and human rights advocates throughout the debate and congressional consideration of the U.S. Colombia FTA?

Answer: USTR coordinates directly with all relevant agencies to monitor the implementation of the Colombian Labor Action Plan and address the issues raised by Members of Congress and human rights advocates in connection with the U.S.-Colombia Trade Promotion Agreement (U.S.-Colombia TPA). In particular, USTR works closely with the Bureau of International Labor Affairs at the U.S. Department of Labor (DOL), and the Bureau of Democracy, Human Rights and Labor at the U.S. Department of State (State), as well as the U.S. Embassy in Bogota. Communication with these agencies is constant, often on a daily basis, to exchange information on the labor situation in Colombia, request and receive updates from Colombian officials and labor stakeholders, and respond to inquiries and concerns from Members of Congress and labor advocates in the United States. Staffs from these agencies also frequently travel together to Colombia to conduct on-the-ground fact finding. For example, USTR led a mission to Colombia in January 2014 to monitor implementation of the Action Plan, in conjunction with State and DOL, and three similar visits took place in 2013.

In addition, the ILAB coordinates regularly with the State Department's Bureau of Western Hemisphere Affairs' Race, Ethnicity, and Social Inclusion Unit (RESIU) and Colombia Desk. The ILAB is also an active participant in the United States-Colombia Action Plan on Racial and Ethnic Equality (CAPREE), including the June 2013 plenary

meeting in which the USG shared best practices for developing anti-discrimination policies with Colombian government counterparts and members of civil society. Private sector and civil society participants in the plenary meeting also discussed including more minority owned businesses in trade missions and other meetings with the private sector and government such as CEO roundtables and corporate consultations.

For additional detailed information on the status of the Colombian Labor Action Plan and interagency efforts to monitor its implementation, please visit:

http://www.ustr.gov/sites/default/files/Colombia%20Labor%20Action%20Plan%20update%20final-April2014.pdf.

2. Trans-Pacific Partnership

In many discussions and letters regarding the Trans-Pacific Partnership (TPP) free trade agreement, there are debates regarding access to medicines. I remain very concerned that the provisions under discussion would tip the balance represented in the TRIPS and May 10 compromises away from public health needs in order to further the interests of the pharmaceutical industry.

Many of us were strong supporters of the May 10th Agreement which guarantees that developing nations have access to generic medicines, while simultaneously ensuring that pharmaceutical firms are able to recoup expenses by patenting their innovative drugs in developed countries. As a strong advocate on this issue, I expected that May 10th would be the floor, not the ceiling, as U.S. standard for future free trade agreements.

We consistently hear that TPP will be a high-standard agreement, but how exactly will it be a higher standard on the issues which are the cornerstone of healthcare access and affordability both in the U.S. and with our TPP trading partners?

Answer: The United States is a leading voice both for strong IPR protections and for access to medicines for the world's poor, including in developing country TPP partners. We believe the best approach to pharmaceutical IPR issues in TPP is one that provides countries appropriate flexibility based on their individual circumstances. That is why we are working with TPP partners to identify ways to tailor potential flexibilities based on countries' particular development situations and their existing laws and international obligations.

3. Trans-Pacific Partnership

TPP is explained to be a "living agreement" and future countries can be added in the future. As I mentioned in my opening comments, I have very strong concerns about the inclusion of Vietnam in TPP given its labor rights and human rights record.

What new mechanism in TPP will ensure labor and human rights standards and benchmarks are an enforceable core of the agreement? How will this method require action by those who

will implement and enforce this agreement in the future?

What steps and standards should be included in any trade discussions to ensure that Congress has some authority over future additions to this "living" agreement?

Answer: In TPP, we are seeking to include strong, enforceable labor obligations in the core of the agreement, including requirements to adopt and maintain fundamental labor rights as stated in the ILO Declaration on Fundamental Principles and Rights at Work subject to the same dispute settlement as the rest of the agreement. The high standards of the TPP Labor Chapter will be extended throughout the region as other countries join TPP.

The United States requires the highest labor standards in the world in its trade agreements. Once we have negotiated these agreements, we monitor the enforcement of those rights vigorously and take action, as necessary, to ensure their full implementation. And, in many cases, we work to provide capacity building assistance. We are closely reviewing the labor law and practice of each TPP country, and seeking reforms where needed to ensure that each country meets the labor obligations in TPP.

Human rights are always an important consideration in our bilateral relationships. While we have seen some positive developments over the past few months, we are continuing to press the Vietnamese government to continue to make progress, including during the recent United States-Vietnam human rights dialogue, which the Department of State chaired for the United States.

As you note, TPP is a "living" agreement, and several countries already have expressed interest in potentially joining the agreement in the future. As we do before launching any FTA negotiation, we will consult closely with Congress as we consider negotiating with additional potential partners.

Questions from Rep. Charles Boustany:

1. Energy/Investor-State Dispute Settlement

Strong investor-state dispute settlement provisions are critical to protecting U.S. investors abroad. Companies that invest in infrastructure or energy projects depend on investor-state provisions to ensure they have access to neutral, third party arbitration in cases where foreign governments take their property without compensation or discriminate against them by giving domestic investors better treatment. A key element is that such provisions cover the so-called "investment agreements" that these firms negotiate with the host government before they invest hundreds of millions or billions of dollars to develop these resources.

In the Trans-Pacific Partnership negotiations, several countries oppose the inclusion of these protections even though they exist in other trade agreements. Do you share my view that TPP investor-state dispute settlement for investment agreements is absolutely essential?

Since the Administration has gone through its own exhaustive review of the U.S. Model BIT and determined the importance of having in place a viable investor state dispute settlement (ISDS) mechanism, do you agree that TPP and TTIP need to include such a mechanism as well? Can you talk about what you are doing about the pushback you are getting from some of our trading partners on ISDS in those negotiations?

Answer: Ensuring that U.S. investors operating abroad receive fair, transparent, and non-discriminatory treatment – the same kind of treatment foreign investors receive in the U.S. under U.S. law – is an important component of our trade and investment policy. In our trade agreements, we advance this objective through rules establishing a level playing field and basic rule of law protections for our investors, and through procedures for neutral, international arbitration of investment disputes. We are seeking in both TPP and T-TIP to establish meaningful investor-state dispute settlement (ISDS) procedures that are in keeping with the goals of fair, expeditious, and transparent dispute resolution. As in the U.S. model bilateral investment treaty (BIT), our approach in these negotiations is to seek a high level of protection for our investors – including with respect to investment agreements– while ensuring that legitimate governmental interests in regulating in the public interest are protected. Through these negotiations, we seek to raise the standards for ISDS, including by adding important procedural safeguards, such as provisions on expedited review of potentially frivolous claims, transparency in investor-state proceedings, and participation of civil society organizations and other members of the public in investor-state proceedings.

2. Trans-Pacific Partnership

As you and I have discussed before, I am very concerned about the growing role of state-owned enterprises in the global economy. Oftentimes SOEs receive unfair advantages from direct and indirect government support and do not act in accordance with commercial considerations. As a result, I fully support USTR's efforts to include strict disciplines on state-owned enterprises in TPP. Not only will such disciplines address SOEs within the TPP region, but I hope they will also set the standard for disciplines on SOEs in other agreements. It is also essential that these disciplines are not weakened by overly broad exceptions.

What is USTR's strategy to ensure that we have meaningful and effective disciplines on state-owned enterprise behavior in TPP?

Answer: Obtaining meaningful and enforceable new disciplines on SOEs is one of our key priorities in the TPP. At the same time, it is also one of the most complex and contentious of the new issues we are seeking to address. It is important to strike the right balance between strong rules on the commercial activities of SOEs and flexibility for SOEs to perform legitimate purposes – for example, to provide public services in domestic markets. Our strategy is to focus on achieving the strongest general rules possible, while addressing country-specific sensitivities through targeted exceptions where necessary.

3. China/Information Technology Agreement

Expansion of the Information Technology Agreement (ITA) to include additional products would have significant benefit for U.S. manufacturers and consumers. By one estimate, updating the ITA would boost global GDP by $190 billion and increase U.S. exports by $3 billion, creating 60,000 American jobs. ITA expansion has strong bipartisan support in Congress, and I hope that you will continue to press for a robust and ambitious agreement as soon as possible.

I'm very frustrated by China's refusal to engage productively in these negotiations. Please provide an update on how those negotiations are going, what we can do about China, and whether you think it is possible to conclude an agreement before China hosts the APEC meeting later this year.

The Chinese government in 2013 committed to resume bilateral investment treaty (BIT) negotiations with the United States using the U.S. approach to BITs – one that uses a negative list and covers both pre- and post-establishment. This is a significant change in approach for China. "Pre-establishment" national treatment means that U.S. investors will be treated like domestic investors when they are seeking to make investments in China, which would eliminate ownership restrictions for them that currently affect foreign investors. The key to that change having real value to U.S. companies will be having a narrow "negative list" – that is, the exceptions that China takes to its broad commitment to equal treatment of domestic and US companies under the treaty.

Ultimately, the deal U.S. negotiators come up with will be evaluated by the Senate when it considers approval of the treaty. We in Congress will be looking for not only a strong agreement with significant market openings for American companies, but also evaluating China's actions to implement such openings in the immediate term rather than waiting for the BIT to be implemented. Such a delay would be interpreted by many of us in Congress as a lack of commitment by China to making the changes that the BIT will require.

Answer: We have been working hard to conclude the WTO Information Technology Agreement (ITA) expansion negotiations as soon as we can achieve a balanced and commercially significant package. In that connection, we held productive talks with China during the APEC Trade Ministers meeting in China on May 16-18. The United States came with new ideas on how to press the negotiations forward, we made progress and narrowed our differences with China, and we are now in a position to continue useful discussions with China in the coming weeks. We will continue our intensified work with the goal of achieving a meaningful, expanded ITA agreement in the near term.

Regarding ongoing bilateral investment treaty (BIT) negotiations, the Administration has made clear to China that, as part of the negotiations, China must commit to significant liberalization of its investment regime, including by negotiating a negative list that is as limited and as transparent as possible. In the immediate term, China must take major steps forward on market access to demonstrate its continuing commitment to

the BIT negotiations and to its domestic economic reform.

4. China

What are your plans to advance the BIT negotiations this year and push China's government to act on market openings now rather than only after implementation of the BIT has begun?

While China's leadership continues to pledge that the market will play a greater role in China's economy, government actions continue to advance industrial policies in a coordinated manner. For example USTR highlighted China's use of the Anti-Monopoly Law (AML) as an industrial policy tool in its 2014 annual National Trade Estimates report.

Given USTR recognizes that China is making competition decisions designed to support industrial policy goals, what is the Administration's strategy for addressing China's use of the AML as an industrial policy tool? It is time for a comprehensive Administration response which leverages the expertise of U.S. trade, competition and commercial diplomacy agencies.

Answer: We are intensifying bilateral investment treaty (BIT) negotiations following the breakthrough reached at the July 2013 S&ED, where China agreed to pursue a BIT with the United States that will provide national treatment during all phases of investment, including the "pre-establishment" phase, and open all sectors of the Chinese economy to investment unless otherwise specifically negotiated as part of a "negative list." We anticipate meeting on a regular basis throughout the rest of this year to continue exchanges on the elements of a BIT text and the details of the development of China's negative list. We continue to stress to China through our high level bilateral interactions, including at the S&ED and JCCT, that in the immediate term, China must take major steps forward on market access to demonstrate its continuing commitment to the BIT negotiations and to its domestic economic reform.

Multiple U.S. government agencies are working together to raise issues in our economic relationship with China, including those regarding enforcement of the Anti-Monopoly Law, in a consistent and coordinated manner. We are pressing China hard, building on China's leaders' stated commitments to a level playing field and the rule of law. We also believe one key to making progress is continued public attention to this issue, including exposure of Chinese agencies' inappropriate actions. We are committed to continued intensive engagement on this important concern.

5. Trans-Pacific Partnership

In early April, Australia and Japan signed a free trade agreement after lengthy negotiations. Just before the close of the negotiations, the Australian Prime Minister had signaled his desire to conclude a bilateral deal with Tokyo in order to secure for Australian exporters preferential access to the Japanese market - essentially creating a Plan B for Australia should the TPP not advance.

What are we doing to counter this? What is our strategy for giving our trading partners the

confidence they need to stay focused on the TPP?

Answer: We are working with all of our TPP partners to conclude the TPP negotiations as soon as possible. We recognize that there are other trade initiatives underway in the region that seek to tap into the Asia-Pacific region's growth and dynamism, including the recently concluded Japan-Australia trade agreement, negotiations of which began in 2007. However, it is clear that the commitments in the Japan-Australia deal are less ambitious than what the TPP countries have agreed to seek in TPP. All TPP countries remain deeply interested in the economic benefits of a comprehensive, high-standard, and 21st-entury regional agreement, and we continue to be focused on conclusion of an agreement that achieves such an outcome.

6. Trade Promotion Authority

In January, both the House and the Senate introduced a bipartisan, bicameral Trade Priorities Act bill. In recent weeks, it seems as if TPA has lost some momentum while trade agreements with our Asia-Pacific and our European partners continue to move forward. Let me echo the importance of passing TPA legislation as a means of reassuring our trading partners that we are supportive of high-standard and commercially-meaningful agreements. TPA also ensures Congress and other stakeholders have input.

Amb. Froman, I commend you on your diligence in working with Congress to pass TPA. However, this is an issue that requires the full backing of the President and his Cabinet. We need to see all Cabinet-level secretaries, i.e. Secretary Vilsack, Secretary Kerry, Secretary Hagel, engaging on this issue to push the trade agenda forward. With that said, I have two questions. How do you see the negotiations progressing in the absence of TPA legislation? How are our trading partners responding to lack of TPA legislation in the U.S.?

Answer: The Administration has been clear that TPA is a critical part of our trade agenda, and will continue to work with Congress throughout the legislative process to pass TPA legislation with as broad bipartisan support as possible. At the same time, we are focused on achieving ambitious, comprehensive, and high-standard TPP and T-TIP agreements in parallel to Congressional consideration of TPA. We continue to make progress in our negotiations.

7. Intellectual Property Rights

Amb. Froman, U.S. companies and workers lead the world in innovation across many sectors, whether that's creating state-of-the art technologies that provide new platforms by which Americans and citizens around the world can connect and share information, or benefiting patients with medicines that improve and save lives. This innovation environment is able to flourish based on the stability of our intellectual property laws, which provide the appropriate balance to encourage investment and research. And globally, the U.S. and other countries have committed to international standards for patent issuance so innovators are able to seek patents on their inventions through a fair and reliable process.

Unfortunately, we have seen a disturbing trend in recent years whereby countries are ignoring these commitments and standards in a veiled attempt to support certain domestic industries and constituencies. These decisions are short-sighted and ultimately discourage innovation, investment and job growth. What is your agency doing to enforce existing intellectual property commitments and deter countries from weakening such standards in their own IP regimes, whether that is in India, Canada or other trading partners? And can you also speak to your agency's efforts to secure IP protections that mirror U.S. law through the Trans- Pacific Partnership trade agreement?

Amb. Froman, I appreciate your time and all that you are doing to move forward on critical market-opening agreements with the Trans-Pacific Partnership and the Trans-Atlantic Trade and Investment Partnership agreement. One issue we've discussed but that I wanted to underscore is the importance of strong intellectual property protections. U.S. companies and workers lead the world in innovation across sectors, whether that's creating state-of-the art technologies that provide new platforms by which Americans and citizens around the world can connect and share information, or benefiting patients with medicines that improve and save lives. This innovation environment is able to flourish based on the stability of our intellectual property laws, which provide the appropriate balance to encourage investment and research.

Will you continue to seek protections in the TPP for our innovators that provide an equal standard of protection to what we have in U.S. law and ensure the negotiations remain ambitious and comprehensive in nature?

Answer: One of our key priorities in trade negotiations is to build a modern legal infrastructure to protect intellectual property rights around the world, and to ensure effective enforcement of IP rights to maintain markets for the full range of job supporting exports of products and services embodying American creativity and innovation. Our IP-intensive exports include not only our advanced business software and popular films, music, books and video games, but also a wide variety of innovative U.S. manufactured goods and trusted brands that benefit from stable protection for and enforcement of patents, copyrights, trademarks, trade secrets, pharmaceutical and agricultural chemical test data, and other forms of intellectual property. Our trading partners are also focused on increasing economic growth, attracting investment, and creating jobs – all of which IP protection and enforcement can play a role in promoting. We continue to engage with other TPP countries on the IP chapter with the goal of developing a text that can stand alongside our other FTAs in the region, while also tackling 21st-century issues, such as theft of trade secrets.

With respect to T-TIP, the United States and EU are global leaders in promoting IPR, including by encouraging innovation in new technologies; promoting creativity; stimulating investment in research and development; and contributing to exports and creating jobs. We have highly-advanced mechanisms in which we work successfully together on IPR matters, including in third countries and international organizations. T-TIP provides a significant opportunity to build on our shared commitment to strong IPR protection – consistent with our respective systems – to enhance our joint

transatlantic leadership in this area and to continue our work to promote those high standards, including in other markets.

Finally, we take very seriously the implementation, monitoring, and enforcement of U.S. trade agreements, and are working closely with our trading partners to identify and address specific concerns that arise under these agreements, including with respect to IP rights. We look forward to continuing to work closely with you and others to uphold U.S. IP rights, including with respect to our existing and future agreements.

8. Transatlantic Trade and Investment Partnership

I want to ask you about the TTIP agreement and, specifically, the treatment of financial services regulatory issues. This agreement is being billed as a new breed of agreement and one that addresses regulatory barriers. It seems that the one sector being left out of these regulatory discussions is the financial services sector.

I find this to be concerning given that the European Commission has expressed reservations with the current bilateral dialogue and has called for a more robust framework to help avoid market disruption and regulatory fragmentation.

Wouldn't the two largest capital markets benefit from having a formal dialogue within the agreement to discuss bilateral regulatory differences? And wouldn't this provide a more focused, outcomes based discussion than other global forums?

Answer: Financial services are a critical part of our transatlantic economic relationship. In T-TIP, as in all of our free trade agreements, the Administration will seek robust market access commitments for financial services. These commitments would help protect U.S. financial services suppliers from discriminatory treatment in foreign markets. At the same time, we believe that our work on financial regulatory and prudential cooperation should continue uninterrupted in existing coordination channels.

Since the financial crisis, the United States has been pursuing a comprehensive agenda, with ambitious deadlines, on regulatory and prudential cooperation in the financial sector – multilaterally, in the G-20, and the Financial Stability Board, bilaterally with the European Union in the Financial Markets Regulatory Dialogue, and in international standard-setting bodies. We are making progress, and will continue to work through these channels, to raise international standards to the levels that U.S. financial regulators are now implementing. These efforts, in parallel alongside the T-TIP negotiations, will help ensure a level playing field for the United States.

Questions from Rep. Mike Thompson:

1. Transatlantic Trade and Investment Partnership

I want to again highlight the immense challenges Napa Valley has faced around the world with counterfeit and imitation wines. Napa is one of the premier winegrowing regions in our country and continues to face problems protecting and registering its GI. What is your office

doing, and what assistance can your office provide to help the Napa Valley wine industry in their effort to protect the Napa name from being used illegitimately on bottles of wine around the world that do not, in fact, come Napa? What opportunities exist via T-TIP or otherwise to assist Napa Valley and other well-known domestic wine regions in assuring their products and brand integrity aren't infringed upon?

Answer: USTR is committed to strengthening global protection of intellectual property, and is working with the Napa Valley wine growers to address their concerns in a variety of markets, including in the EU. USTR is pursuing numerous channels to find ways to advance the interests of U.S. wine growers, including Napa Valley. We are actively pursuing specific trade concerns identified by stakeholders to ensure that trade partners are abiding by their international obligations. In addition, we are working with interagency partners from the U.S. Departments of Agriculture and Commerce, including the U.S. Patent and Trademark Office, to engage in technical cooperation with other countries to improve their ability to combat counterfeiting.

2. Trans-Pacific Partnership

I recently received a response letter from you on textiles and apparel and the Trans-Pacific Partnership (TPP). In that letter, you noted that Yarn Forward works because about $13 billion in apparel is imported using Yarn Forward rules.

That may be true, but this amounts to only about 17 percent of total U.S. apparel imports. More than four times that amount of apparel imports are entered outside of the Yarn Forward provisions. Additionally, the percent of apparel entering outside Yarn Forward provisions is growing even though we are adding in more trade agreements. Exports of yarns and fabrics to non-Yarn Forward trade agreement countries have increased 50 percent since 2005 while those to Yarn Forward trade agreement countries have only increased three to four percent during that entire period. Given this data, why are you so convinced that Yarn Forward works when it clearly is not working?

Answer: Due to the large role China plays in the global textile and apparel market, textile and apparel imports from FTA partners represents approximately 14.8 percent ($17.4 billion) of our total imports of textiles and apparel. Of that, some 77 percent ($13.5 billion) are imported under yarn forward rules of origin. This is a very high utilization rate. Further, evidence suggests that the inclusion of yarn forward rules of origin in our FTAs has had a positive and beneficial impact. For example, our exports of yarns and fabrics to FTA partners are nearly double those to non-FTA countries ($9.2 billion versus $4.9 billion).

3. Trans-Pacific Partnership

I understand you have been looking at short supply provisions as one such flexibility for apparel in the TPP. But this will only cover between four to seven percent of trade. Recognizing that other agreements like Dominican Republic- Central America-United States Free Trade Agreement (CAFTA-DR) contained numerous exceptions to the Yarn Forward

rule, what other kinds of flexibilities you are exploring in the context of TPP?

Answer: We have developed the short supply list to carefully balance the offensive and defensive interests of the United States, and to encourage regional integration of TPP textile and apparel markets, expand supply chains in the region, and create new business opportunities for U.S. exporters. We believe an approach that includes a yarn-forward rule of origin with flexibility in cases where commercial realities warrant it, combined with reciprocal market access commitments, will help to achieve these objectives.

4. Trans-Pacific Partnership

Apparel and footwear are important segments of the outdoor economy and a critical issue in the TPP negotiations to American manufacturers, importers, and retailers. These products are complex, high-tech, and innovative; the supply chains and manufacturing techniques are vastly different than basic apparel and footwear. What flexibilities have been proposed that could accommodate the innovation and highly technical nature of outdoor apparel?

Answer: We believe that the flexibilities under our short supply list should address the concern you have identified. We have developed the short supply list to carefully balance the offensive and defensive interests of the United States, and to encourage regional integration of TPP textile and apparel markets, expand supply chains in the region, and create new business opportunities for U.S. exporters. The proposed short supply list reflects much of the input received from the outdoor apparel importers regarding the high-tech products they have shown would be difficult to obtain at present from TPP partners.

5. Trans-Pacific Partnership

The proposed short supply list does not account for future innovation – many fabrics for outdoor apparel have yet to be invented. As such, is a "cut and wholly assembled" rule of origin being considered for these products? Would such a proposal help convince the Vietnamese to move on other U.S. priorities?

Answer: We believe our approach addresses concerns about future innovation. In developing the list, we are defining many of our short supply products in a way that allows for new developments to benefit from the list, including the innovative types of products you raise.

6. Trans-Pacific Partnership

About 99% of U.S. footwear is imported; those pairs that are manufactured domestically often fall within the same Harmonized Tariff Schedule (HTS) classification codes as those that are sourced abroad, even though they are very different products. Congress has passed legislation in the past that distinguishes between import sensitive and non-import sensitive footwear – the same should be done under the TPP. Without negotiating breakouts to differentiate between import sensitive and non-import sensitive footwear products, the TPP will be a tremendous

lost opportunity for the footwear industry and its consumers. How will you differentiate between import sensitive and non-import sensitive footwear products in the TPP?

Answer: USTR has worked closely with footwear stakeholders to develop a comprehensive understanding of sensitive and non-sensitive footwear products, so that we can appropriately address the concerns of both importers and domestic manufacturers in the tariff treatment of footwear. As we negotiate with our TPP partners, we are continuing to consult closely with stakeholders on how to structure tariff elimination offers to balance their needs.

7. Trans-Pacific Partnership

Last year, I asked you about Japan's commitment to including rice as part of the TPP negotiations. It appears that Japan is showing a singular lack of ambition for a range of U.S. agricultural products in TPP, including U.S. rice, refusing to put their best offer forward on tariffs and market access. The TPP provides perhaps a once in a generation opportunity to improve access for U.S. rice and this opportunity should not be traded away just to get a deal, like in the South Korea-U.S. trade agreement. What progress has the administration made in negotiating substantial improvements for U.S. rice market access in Japan? Do you believe that if Japan is not ready to put into practice the principles of a 21st century trade agreement as embodied in the TPP, a "timeout" for Japan to assess its true priorities may be beneficial for all? Is the administration prepared to move forward without Japan and conclude a TPP agreement with the other partners if Japan continues to hold back on market access?

Answer: Japan is currently the United States' fourth largest export market for food and agricultural goods, reaching $12.1 billion in 2013, and was the second largest export market for U.S. rice in that same year. We are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition to which the TPP partners agreed when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the range of individual product lines. In the case of rice, we are engaging with Japan to negotiate substantial new market access for U.S. rice, including seeking improvements to its import administration procedures.

Questions from Rep. Peter Roskam:

1. Information Technology Agreement

Mr. Ambassador, last April, my colleague across the aisle, Mr. Kind, joined me in leading a strong bipartisan letter to the President asking that he make finalizing an expansion of the Information Technology Agreement (ITA) a top trade priority. Increasing export of American tech products and services will benefit this country, not to mention my state and district. Expanding the ITA will provide new opportunities for increased exports, and I believe should be a top priority for USTR. What are the prospects for resumption of negotiations to expand the WTO Information Technology Agreement? More specifically, are there steps the

Administration can take to encourage the Chinese to return to the table with a more ambitious offer so ITA expansion negotiations can conclude while China hosts APEC this year? In particular, it seems the APEC trade ministers' meeting in mid-May in China is a good target for concluding the talks.

Answer: We have been working hard to conclude the WTO Information Technology Agreement (ITA) expansion negotiations as soon as we can achieve a balanced and commercially significant package of liberalization. In that connection, we held productive talks with China during the APEC Trade Ministers meeting in China on May 16-18. The United States came with new ideas on how to press the negotiations forward, we made progress and narrowed our differences with China, and we are now in a position to continue useful discussions with China in the coming weeks. We will continue our intensified work with the goal of achieving a meaningful, expanded ITA agreement in the near term.

2. U.S.-Canada Trade

Mr. Ambassador, Canada's insurance regulators are implementing a new life insurance licensing process that creates a de facto national standard that could run contrary to U.S.-Canadian trade policy. My constituents have expressed concern about this new process unfairly imposing a new trade barrier that will make it harder for life insurance producers serving the middle-class market to export their services to Canada. It is my understanding this new barrier was developed without any transparency, consultation with industry, or market impact analysis.

Would you consider examining this issue as a possible trade irritant to ensure that American agents are not unfairly denied continued access to Canada's life insurance market?

Answer: We are committed to protecting U.S. financial services suppliers from discriminatory treatment in foreign markets and stand ready to discuss our stakeholders' trade concerns and examine potential avenues for resolution.

3. Trade Promotion Authority

Since Congress last debated TPA in 2002, one aspect of our economy and trade has changed dramatically is the use of the Internet for commerce and personal use. In 2002, there were 55 billion Google searches. Last year, Google had 2.1 trillion. In 2002, Facebook and Twitter did not exist. Today, billions the world over are connected through social media. Can you explain how our trade agreements can truly reflect the full balance of U.S. law regarding the Internet?

Answer: USTR sees trade agreements as a vital means for ensuring that the Internet and the commercial ecosystem it supports remains open and can grow and thrive. Specifically, USTR seeks to include a range of provisions in ongoing trade negotiations, including TPP, T-TIP, and TiSA, aimed at enhancing opportunities for digital trade. Chief among these are:

- **A "negative list" approach to services and investment (all sectors are covered unless a Party negotiates to exclude a sector or subsector), critical to innovative and fast-changing services such as Internet-based services;**
- **A prohibition on imposing tariffs on content transmitted electronically;**
- **Non-discriminatory treatment of content distributed electronically into markets of a trade partner;**
- **An affirmative obligation to permit cross-border data flows; and**
- **A prohibition on requiring the use of local computing facilities for covered services.**

4. Transatlantic Trade and Investment Partnership

The U.S. film and television industry comprises 108,000 small businesses, 85% of which employ fewer than 10 people. With a trade surplus of $12.2 billion in 2011, or 6% of the total U.S. private sector exports in services, I am highly concerned by the European Commission's effort to remove this sector from the scope of the TTIP services negotiations. What are you doing to ensure that this critical sector is included within the TTIP services and ecommerce negotiations?

Answer: Several EU member states support policies designed to promote national content in television, film, and radio programming. These policies have not prevented U.S. content providers from being very successful in Europe because of strong consumer appetite for these products. We continue to raise these issues with our EU counterparts to find ways in T-TIP to accommodate EU sensitivities without unnecessarily restricting trade in a sector in which both the United States and European Union are globally competitive.

5. Trans-Pacific Partnership

Mr. Ambassador, U.S. companies and workers lead the world in innovation across many sectors, whether that's creating state-of-the art technologies that provide new platforms by which Americans and citizens around the world can connect and share information, or benefiting patients with medicines that improve and save lives. This innovation environment is able to flourish based on the stability of our intellectual property laws, which provide the appropriate balance to encourage investment and research. And globally, the U.S. and other countries have committed to international standards for patent issuance so innovators are able to seek patents on their inventions through a fair and reliable process.

Unfortunately, we have seen a disturbing trend in recent years whereby countries are ignoring these commitments and standards in a veiled attempt to support certain domestic industries and constituencies. These decisions are short-sighted and ultimately discourage innovation, investment and job growth. What is your agency doing to enforce existing intellectual property commitments and deter countries from weakening such standards in their own IP regimes? And can you also speak to your agency's efforts to secure IP protections that mirror U.S. law through the Trans-Pacific Partnership trade agreement?

Answer: One of our key priorities in bilateral, regional, and multilateral engagements with our trading partners is to advance the protection of intellectual property rights around the world, and to ensure effective enforcement of IP rights to maintain markets for the full range of job supporting exports of products and services embodying American creativity and innovation. Our IP-intensive exports include not only our advanced business software and popular films, music, books and video games, but also a wide variety of innovative U.S. manufactured goods and trusted brands that benefit from stable protection for and enforcement of patents, copyrights, trademarks, trade secrets, pharmaceutical and agricultural chemical test data, and other forms of intellectual property. Our trading partners are also focused on increasing economic growth, attracting investment, and creating jobs – all of which IP protection and enforcement can play a role in promoting. We continue to engage with our TPP partners on the IP chapter with the goal of developing a text that can stand alongside our other FTAs in the region, while also tackling 21st-century issues, such as theft of trade secrets.

We take very seriously the implementation, monitoring, and enforcement of U.S. trade agreements, and work closely with our trading partners to identify and address specific concerns that arise under these agreements, including with respect to IP rights. We look forward to continuing to work closely with you and others to uphold U.S. IP rights, including with respect to our existing and future agreements.

6. Transatlantic Trade and Investment Partnership

Mr. Ambassador, I am a strong supporter of the TTIP negotiations and appreciate your leadership to move these discussions along. I do have concerns, however, that we may exclude the more difficult issues, which would limit the economic growth, innovation and job creation we agree is possible to achieve through successful talks. For example, why would we not want to have a dialogue on how to better enhance our financial services regulatory system on a transatlantic basis, where often divergent regulations harm both of our economies and raise costs for consumers? We have an opportunity to create a framework for greater cooperation on financial services, which is a priority for one of our major trading partners, and I urge you to address this issue.

Answer: Financial services are a critical part of our transatlantic economic relationship. In T-TIP, as in all of our free trade agreements, the Administration will seek robust market access commitments for financial services. These commitments would help protect U.S. financial services suppliers from discriminatory treatment in foreign markets. At the same time, we believe that our work on financial regulatory and prudential cooperation should continue uninterrupted in existing coordination channels.

Since the financial crisis, the United States has been pursuing a comprehensive agenda, with ambitious deadlines, on regulatory and prudential cooperation in the financial sector – multilaterally, in the G-20, and the Financial Stability Board, bilaterally with the European Union in the Financial Markets Regulatory Dialogue, and in international standard-setting bodies. We are making progress, and will continue to work through

these channels, to raise international standards to the levels that U.S. financial regulators are now implementing. These efforts, in parallel alongside the T-TIP negotiations, will help ensure a level playing field for the United States.

Questions from Rep. Earl Blumenauer:

1. Trans-Pacific Partnership

It is in the United States national security interests to maintain a robust and stable domestic titanium market. A strategic metal critical to our defense industrial base, titanium is used in the most demanding military and aerospace applications. Through the Trans-Pacific Partnership (TPP), the U.S. titanium market could be severely weakened if the tariffs and rules of origin for this specialty metal are not properly structured. Titanium producers closely associated with their governments in Russia, China or Kazakhstan, for example, could export titanium to the U.S. duty free after minimal processing in a TPP country if we allow for minimal rules of origin. The degree and timeline by which tariffs are reduced would also negatively impact the U.S. titanium market by aiding Japan, whose titanium market is greatly oversaturated.

The U.S. has long recognized titanium as critical for its defense applications, with policy makers consciously choosing to maintain a 15 percent tariff on imports and a robust specialty metals law to promote a vigorous domestic market. The KORUS FTA deviated from that model, phasing out all titanium tariffs within three years, and allowing for the very low metric of "milling" to qualify titanium products for preferential treatment within the FTA. Should a similar approach be taken for TPP, U.S. suppliers could be sidelined by cheaper, subsidized producers in China or Russia, increasing our dependence for this critical metal on those abroad, not at home. Before removing titanium from the Generalized System of Preferences in 2004, that's exactly what we saw happen as Russia, who has little interest in strengthening our defense industrial base, flooded the U.S. market.

How does USTR plan to address titanium in the TPP? After entering into force, what will the tariff rates be for titanium, and what is the timeline by which they will be phased out, if at all? Will USTR use a more stringent and thoughtful metric for determining whether titanium products meet the rule of origin requirements, such as "melting" or "smelting" instead of "milling," which is a basic process replicable by any industrialized country?

Answer: We will continue to treat titanium as import sensitive in TPP and work with you and the titanium industry to address tariffs and rules of origin for these products.

Questions from Rep. Adrian Smith and Rep. Aaron Schock:

1. US-China Trade

As follow up to the question regarding resolving the gridlock in China's import approval process for biotechnology products, we wanted to reiterate concern about the negative economic effect this breakdown has had across the U.S. agricultural value chain.

Technology providers invest significant time and capital introducing a new product to the U.S. market for our farmers. A good amount of this research and development is conducted in our Congressional Districts. This work will help address some of the toughest challenges facing farmers around the world, including greater tolerance of drought conditions.

Because of the importance of the Chinese market, most companies refrain from offering new products to our farmers until the Chinese government approval is secured. Every subsequent year of delay in obtaining an approval in China is another year farmers have fewer choices and another year technology providers face erosion of their patent durability.

While China's approval system has historically been disruptive, the system had been to some extent predictable. Unfortunately, for the last two or three years, the system has become even less functional.

We appreciate USTR, USDA and the Department of State raising this issue at various times with their Chinese counterparts but remain concerned there is not a concerted, high-level interagency effort to resolve this issue. We are hopeful USTR can play a more central role in seeking to advance solutions through for a such as the U.S.-China Joint Commission on Commerce and Trade (JCCT) and the U.S.-China Strategic and Economic Dialogue (S&ED).

We understand that the Biotechnology Industry Organization has requested USTR and the Department of Commerce engage on this issue in the 2014 JCCT cycle. We have included a copy of this request for your review and encourage USTR to take more of a leadership role on this issue.

Finally, we would very much appreciate clarification as to whether USTR will lead efforts within the JCCT and S&ED processes to address this very important aspect of the Chinese market.

Answer: China, as a major market for U.S. agricultural products, is a top priority to address trade disruptions resulting from differences in approval systems for agricultural products derived from modern biotechnology. In December, for example, Secretary Vilsack and I raised the issue of approval delays with Chinese officials at the Joint Commission on Commerce and Trade (JCCT). We will continue to pursue an active agenda with China to promote a predictable, science based and timely approval system, using all appropriate mechanisms, including the S&ED and JCCT.

Questions from Rep. Aaron Schock:

1. U.S.-Canada Trade

One concerning market access barrier is the Canadian judiciary's creation of a heightened standard for patentable utility for pharmaceutical patents. This heightened standard is inconsistent with common practice in other countries, and has done great damage to the ability to obtain and enforce patent rights in Canada. It is also inconsistent with Canada's international trade obligations because it inappropriately narrows the scope of inventions that

should receive patent protection and discriminates against innovative pharmaceutical companies. What should the United States be doing to urge Canada to utilize patentability standards that are in line with its international obligations and encourage innovation?

Answer: As detailed in the 2014 Special 301 report, we are actively engaging Canada on our concerns related to Canada's patent utility standard, as well as in other areas, including copyright and border enforcement. We are closely monitoring developments, consulting with affected stakeholders, and pressing Canada to address these concerns, strategically tailoring our approach and using all appropriate trade policy tools and opportunities that will allow us to make constructive progress. As the United States' largest bilateral trading partner, it is critical for Canada to promote innovation through strong intellectual property rights protection, which is essential to economic growth throughout North America.

2. Transatlantic Trade and Investment Partnership

One issue that has come up in the T-TIP negotiations is the EU's agenda on geographical indications. If allowed to stand, the EU's position would especially impact the dairy industry and make common cheese names like parmesan, feta, asiago, cheddar, and mozzarella unavailable to domestic cheese manufacturers, giving huge commercial advantages to certain EU manufacturers. Can you report on the discussions you've had so far with the EU on this issue and your strategy moving forward to address it?

Answer: The United States and the EU have long-standing differences over the scope and level of intellectual property rights protection for GIs. We have raised our strong concerns regarding the impact of the EU's GI policies on made-in-America products. Within the T-TIP negotiations, we have been clear with the EU regarding our strong opposition to existing and future barriers. We will continue to press the EU to expand market access for U.S. producers into the EU and third country markets, including through the removal of barriers such as overly broad GI protection for EU products.

3. Trans-Pacific Partnership

Regarding market access negotiations for dairy with Japan and Canada, Japan has claimed dairy as one of its sensitive products. Dairy was excluded from the U.S.- Canada portion of NAFTA 20 years ago when the U.S. was a net importer of dairy products. Now, the U.S. has a dairy trade surplus of over $3 billion, which, if you take the Dept. of Commerce's numbers, would equal 16,800 American jobs. If Japan is able to exclude certain products, like dairy, in TPP, our neighbors to the north will surely follow suit. What is being done to ensure that the U.S. dairy industry will gain meaningful access to these two markets and not be excluded from the deal?

Answer: We are looking to Japan and Canada, like all TPP partners, to provide comprehensive and meaningful access to their agriculture market – including dairy – consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP

agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual products lines. Regarding Canada, the United States is seeking to open the Canadian dairy market to U.S. dairy exports.

4. Anti-Dumping and Countervailing Duties

Recently, a few U.S. sugar processing companies filed anti-dumping and countervailing duty complaints against Mexico, blaming low sugar prices on imports from that country. Given the long history of trade disputes involving sweetener trade between the U.S. and Mexico, how will these most recent complaints impact our bilateral trading relationship with Mexico? Do you share my concerns that this dispute could spill over and affect corn farmers in Illinois and other states, as in the past when Mexico placed restrictions on American exports of high-fructose corn syrup?

Answer: The U.S. sugar industry has the right, under U.S. law, to petition the U.S. Department of Commerce and the U.S. International Trade Commission concerning imports of sugar into the U.S. market. USTR is not involved in that process. USTR will continue to work with Mexico to make progress on a range of trade issues and advance our robust trade relationship.

Questions from Rep. Erik Paulsen and Rep. Ron Kind:

1. Healthcare Trade

Since 2004, the global medical technology market increased by more than 50% to nearly $250 billion and is expected to grow in the coming years. Today healthcare accounts for almost $6 trillion of $63 trillion in 2010 global GDP and is expected to grow to $8.5 trillion by 2015.

Moreover, healthcare is a vital part of the global economy, with an estimated 59.2 million employed by the sector across the globe. In fact, healthcare is the largest private sector employer in the United States, is one of the largest and fastest growing sectors of the world economy, and is also one of the United States' key economic drivers of innovation and cutting edge research.

The breadth and complexity of the health sector is considerable, and healthcare exports go far beyond pharmaceuticals and medical devices. The United States is a leader in healthcare service delivery, from doctors and nurses to insurance companies, health IT systems, logistics and express delivery, and even hospital design. To fully benefit from our capabilities, trade agreements must address a large set of issues including cross-border data flows, regulatory transparency provisions, government procurement, and more.

Considering the size, complexity, and export potential of the U.S. healthcare system, do you believe it's worth creating a position in USTR dedicated to healthcare trade? This position would be responsible for coordinating policy with industry, other offices within USTR, and agencies in the U.S. government. The position would lead on trade issues related to

healthcare, especially within trade agreement negotiations.

Answer: We very much understand the importance of the healthcare sector to the U.S. economy both in terms of the jobs it supports, the innovation and research it drives, and the contribution it makes to U.S. economic growth. That is why we have dedicated resources across the agency to break down barriers U.S. healthcare companies face in foreign markets. We are open to discussing with U.S. industry and other stakeholders, as well as Congress, on how we can better utilize our resources to address issues of priority to U.S. healthcare exporters.

Questions from Rep. Tom Reed:

1. Transatlantic Trade and Investment Partnership

One issue I did not have an opportunity to raise during the hearing was the importance of including a framework for discussing financial services regulatory matters within the Transatlantic Trade and Investment Partnership (TTIP) negotiations. U.S. companies, like those headquartered in my home state of New York, provide services to millions of people living and doing business in the EU, investing some $2.2 trillion, and we welcome the investment in the U.S. by European banks, as well. As you know, regulatory barriers are among the most significant barriers to U.S. exports. USTR's notification letter for the negotiation with the European Union states that the Administration will "seek greater compatibility of U.S. and EU regulations…with the objective of reducing costs associated with unnecessary regulatory differences and facilitating trade." I firmly believe that our negotiators should seek to address all regulatory sectors and not, ahead of time, seek to exclude certain sectors. I am very concerned that the Administration is excluding financial services regulations from the scope of the negotiation. How does the Administration plan to address financial services barriers in Europe?

Answer: Financial services are a critical part of our transatlantic economic relationship. In T-TIP, as in all of our free trade agreements, the Administration will seek robust market access commitments for financial services. These commitments would help protect U.S. financial services suppliers from discriminatory treatment in foreign markets. At the same time, we believe that our work on financial regulatory and prudential cooperation should continue uninterrupted in existing coordination channels.

Since the financial crisis, the United States has been pursuing a comprehensive agenda, with ambitious deadlines, on regulatory and prudential cooperation in the financial sector – multilaterally, in the G-20, and the Financial Stability Board, bilaterally with the European Union in the Financial Markets Regulatory Dialogue, and in international standard-setting bodies. We are making progress, and will continue to work through these channels, to raise international standards to the levels that U.S. financial regulators are now implementing. These efforts, in parallel alongside the T-TIP negotiations, will help ensure a level playing field for the United States.

2. State-Owned Enterprises

I am very concerned about the growing role of state-owned enterprises (SOEs) in the global economy. SOEs, especially those that operate outside of their home markets, often do not act on market principles, but rather based on the strategic interests of the state. Such anti-competitive behavior can create significant imbalances that harm U.S. companies and workers, distort markets, and affect U.S. national security. As a result, I fully support USTR's efforts to include strict disciplines on state-owned enterprises in both the TPP and TTIP negotiations. Not only will such disciplines address SOEs within the TPP and TTIP regions, but I hope they will also set the standard for disciplines on SOEs in other agreements. It is also essential that these disciplines are not weakened by overly broad exceptions. What is USTR's strategy to ensure that we have meaningful and effective disciplines on state-owned enterprise behavior in TPP and TTIP?

Further, I have heard from industries, such as the domestic steel industry, that the Administration is not seeking SOE disciplines in the bilateral investment treaty (BIT) with China. Can you also describe for me USTR's strategy with China on this topic?

Answer: Obtaining meaningful and enforceable new disciplines on SOEs is one of our key priorities in the TPP. At the same time, it is also one of the most complex and contentious of the new issues we are seeking to address. It's important to strike the right balance between strong rules on the commercial activities of SOEs and flexibility for SOEs to perform legitimate purposes – for example, to provide public services in domestic markets. Our strategy is to focus on achieving the strongest general rules possible, while addressing country-specific sensitivities through targeted exceptions where necessary.

We are pursuing a high standard U.S.-China Bilateral Investment Treaty (BIT) that would play a significant role in addressing key concerns of U.S. investors, including the need to level the playing field and ensure that domestic companies, whether privately or state-owned, do not benefit from unfair advantages. We are analyzing all the opportunities for ensuring that the BIT text, as well as the negotiation of a limited, transparent "negative list" of any exceptions to core BIT rules, provides these protections, including assessing valuable stakeholder input on SOEs.

3. Intellectual Property Rights

The Internet has been an amazing engine for economic growth and a platform for creativity, innovation and free expression in the United States. The free flow of information is crucial for U.S. companies to sell goods and services over the Internet, with many companies relying on this tool for their day to day operations.

Protection for cross-border data flows as well as intellectual property rights is critical not just to services companies but to any globalized company in any sector. Unfortunately, some foreign governments block those flows, require online service providers to process data locally, or require that servers be located domestically. Within the IPR space, I have heard

concerns expressed that the intellectual property provisions of U.S. free trade agreements only reflect part of U.S. law -- strong protection and enforcement. While that is a critical piece, many are still concerned that previous free trade agreements did not go far enough when it comes to copyright laws that are necessary for freedom of expression, creativity and innovation on the Internet.

Can you describe for me how USTR will be approaching IP within TPP and TTIP to reflect the full balance of U.S. law regarding the Internet?

What is USTR doing to ensure that the TPP, TTIP and other agreements include strong provisions ensuring the free flow of electronic information without broad carve-outs?

Answer: To further foster our companies' competitiveness, the United States has made negotiating strong provisions on cross-border information flows a priority from the beginning of the TPP negotiations. TPP partners all recognize that information storage, processing, and cross-border flows are at the heart of international trade and a 21st-century global economy. We are negotiating enforceable trade rules to facilitate cross-border data flows and address local infrastructure requirements.

We are also seeking to establish in TPP, for the first time in any U.S. trade agreement, a balance in partners' copyright systems by means of limitations or exceptions; to provide stronger criminal penalties against intellectual property theft; to provide protections for patents, trademarks, and trade secrets, and safeguards against new forms of crime like cyber theft; and, to support strong and balanced Internet service provider liability and "safe harbor" provisions that benefit 21st-century e-commerce and internet businesses. Finally, we want TPP to allow for the free flow of information across borders and prevent TPP partners from requiring firms to locate servers or build other internet infrastructure in a country in order to serve that country's market.

In T-TIP, we are in a unique and fortunate position, especially regarding copyright. As you know, the United States and the EU have among the most mature, strong, and balanced copyright protection and enforcement systems in the world, which promote diverse interests and priorities, including those you mentioned, in mutually reinforcing ways. To date, our discussions with the EU on copyright have focused principally on a detailed review of all of the facets of our respective systems. We will continue to pursue these and other priorities to advance U.S. interests in this sector as negotiations continue in TPP and T-TIP.

Questions from Rep. Mike Kelly:

1. Intellectual Property Rights

It is absolutely essential that the international trade rules ensure the free flow of data across borders. With respect to the commitments on cross border data flows that the United States is negotiating in TPP, it has been reported that some countries are seeking exceptions to U.S. proposed language that are broader than the standards for domestic regulation under Article

VI of the WTO General Agreement on Trade in Services (GATS), to which all TPP countries are signatories. As you move toward concluding the TPP negotiations, are you committed to robust TPP protections for cross-border data flows and to ensuring that exceptions do not go beyond those in the GATS? Are you also committed to the same in the TiSA context?

Answer: USTR is committed to obtaining robust provisions in TPP, T-TIP, and TiSA ensuring that data integral to commercial activity can flow freely between trading partners. While we and other trade partners seek to ensure that such provisions do not prevent the exercise of legitimate regulatory functions, we believe that the GATS-based General Exceptions that we incorporate into these agreements will ensure that governments can exercise these functions.

Questions from Rep. Allyson Schwartz:

1. Anti-Dumping and Countervailing Duties

Ambassador Froman, I have heard from both Pennsylvania workers and manufacturers that South Korean steel companies are creatively skirting our trade laws and dumping steel pipes and tubes into the United States. This is unacceptable and threatens American jobs and businesses.

Do you believe that American manufacturers currently have the ability to prevent dumping of foreign products in a timely fashion? Do you agree that the requirement of an "injury" finding before dumping can be addressed delays action until American businesses are threatened? Are there steps we can take without running afoul of the World Trade Organization to ensure a fair and level playing field? Are there additional remedies that we should be pursuing in our current trade negotiations?

Answer: The timelines and processes in an antidumping and/or countervailing duty investigation are established both in U.S. laws and regulations, consistent with WTO guidelines. The U.S. Department of Commerce (DOC) and the U.S. International Trade Commission – the entities responsible for actually administering our AD/CVD laws – expend significant resources to complete these investigations in a timely manner in order to provide relief to American businesses and workers being hurt by dumping and unfair subsidization.

At the same time, USTR and DOC are working together to strengthen and defend the effectiveness of trade remedies. For example, USTR and DOC worked together to obtain statutory authority to allow the CVD law to continue to be applied to imports from non-market economy (NME) countries – including China – after an unfavorable U.S. court ruling, and were successful in defending this action at the WTO.

DOC also has developed a number of other initiatives to strengthen the administration of the nation's trade remedy laws, including those applicable to NME cases. DOC and U.S. Customs and Border Protection are also working closely together to address issues of circumvention and evasion when they arise to ensure that antidumping and/or

countervailing duty orders are properly enforced when in place.

Questions from Rep. Tim Griffin:

1. Trans-Pacific Partnership

Japan is showing a singular lack of ambition for a range of U.S. agricultural products in TPP, including U.S. rice. Any TPP agreement that does not provide for a substantial improvement in the amount of U.S. rice that can be exported to Japan, along with a significant reduction in the interference of Japan's Agricultural Ministry in the administration of imports, is unacceptable. What progress has the Administration made in negotiating substantial improvements for U.S. rice market access in Japan?

Is the Administration prepared to move forward without Japan and conclude a TPP agreement with the other partners if Japan continues to hold back on market access?

Answer: Japan is currently the United States' fourth largest export market for food and agricultural goods, reaching $12.1 billion in 2013, and was the second largest export market for U.S. rice in that same year. We are focused on having a TPP agreement with all 12 TPP partners. Towards that end, we are looking to Japan, like all TPP partners, to provide comprehensive and meaningful access to its agriculture market consistent with the level of ambition that the TPP partners agreed to when joining the TPP negotiations. Our negotiations continue, and our objective remains to secure a TPP agreement that excludes no products and results in commercially meaningful market access for U.S. exports across the wide range of individual product lines. In the case of rice, we are engaging with Japan to negotiate substantial new market access for U.S. rice, including on seeking improvements to its import administration procedures.

2. Anti-Dumping and Countervailing Duties

I've heard from several steel producers in my state about a looming crisis they are facing. The United States is being flooded by dumped and subsidized steel imports resulting from massive excess foreign steel capacity. These unfairly traded imports are injuring our steel industry, its workers and their communities. This problem is systemic, and individual trade cases will not solve the problem if the Administration goes light on enforcement. If this Administration does not address this issue now, it will become an even bigger problem that you have to solve at great cost.

For example, Turkey and Mexico have taken over 20 percent of the U.S. reinforcing bar market since 2010, and U.S. producers of oil country tubular goods (or pipe) are not getting the relief they need. Imports in these and other product lines are flooding the market at levels that are killing U.S. jobs and taking away any benefit from the modest growth of our domestic economic recovery.

What can you, working with Commerce and the White House, do to address this excess foreign steel capacity and the resulting unfairly traded flood of steel imports? What actions

are you presently taking to level the playing field for U.S. workers?

Answer: The Administration is actively engaged on enforcement and trade policy initiatives to level the playing field for U.S. steel producers and workers. The U.S. Department of Commerce (DOC) and the U.S. International Trade Commission (ITC) are currently conducting 56 trade remedy investigations; 41 of those, or approximately 73 percent, involve steel products. Steel-related products account for 117 AD/CVD orders in place, approximately 40 percent of all current AD/CVD orders.

At the same time, USTR and DOC have worked together to strengthen and defend U.S. trade remedy laws. For example, we worked together to obtain statutory authority to allow the CVD law to continue to be applied to imports from non-market economy (NME) countries – including China – after an unfavorable U.S. court ruling, and were successful in defending this action at the WTO. DOC also has developed a number of other initiatives to strengthen the administration of the nation's trade remedy laws, including those applicable to NME cases.

As you know, we have also been the most active U.S. administration on WTO enforcement activities. Many of our trade enforcement actions are of particular interest to the steel industry. We have addressed some government policies that provide unfair advantages to foreign steel industries through WTO dispute settlement, including against China. On both the offensive and defensive sides, we are fighting back against distortive policies such as export restrictions on raw materials, misuse of trade remedies, dumping, and subsidization.

The Obama administration won a challenge to China's restrictions on exporting raw materials, which includes important steelmaking inputs like coke, bauxite, silicon, and zinc. These restrictions both hurt U.S. manufacturers who rely on those materials and artificially supported China's domestic industry – at the expense of U.S. producers. We followed this up with a second challenge covering more raw materials, including rare earths, molybdenum, and tungsten. We won that dispute before the panel, and are now pushing back on China's appeal.

Following our win in the first raw materials dispute, we have been actively monitoring China's changes to its restrictions. China removed the WTO-inconsistent quotas and duties, and the Interagency Trade Enforcement Center (ITEC) has been analyzing the market for normal export flows. Our WTO win has had real world impacts for users of those raw materials, and if we prevail in the second dispute, we will again push China to comply with WTO rules.

Another area in which we are actively enforcing WTO rules is on China's misuse of trade remedies. China's decision to impose retaliatory antidumping and countervailing duties on U.S. exports led us to file three WTO disputes, including one against China's imposition of duties on U.S. exports of Grain Oriented Electrical Steel (GOES), which we also won. In the GOES dispute, at the end of its period of time to comply with WTO rules, China issued a redetermination continuing to impose the duties. We weren't

satisfied, and the United States became the first WTO Member to challenge a compliance action by China as inconsistent with WTO rules.

Litigation may not always be the most appropriate or effective means of addressing certain issues, so we are also working closely with industry to step up our trade diplomacy on steel excess capacity issues.

While excess capacity is a global problem, we are concerned that China, which currently accounts for 48 percent of global steel production, is continuing to increase its steel capacity, despite slowing demand in China and globally. The resulting excess capacity hurts not only weak and inefficient steel producers; it also undercuts the ability of efficient producers in the U.S. market to compete. China acknowledges that it has an excess capacity problem, which is only getting worse. We are concerned that China's excess capacity is leading to significant increases in exports of low-priced Chinese steel to global markets, including the United States where steel imports from China increased 15 percent in 2013 over 2012 levels, and have increased 25 percent in the first few months of 2014 over the same period last year.

The Administration has been engaging with China in an effort to address this serious problem, and I raised our concerns in this area during my recent meetings with my Chinese counterparts in Beijing. We will continue to press China on this issue in the future and we are working with like-minded countries, including the European Union, Canada, and Mexico in upcoming multilateral meetings of the WTO, OECD Steel Committee and North American Steel Trade Committee to press other governments to avoid policies that support excess steel capacity and distort steel trade.

3. Country of Origin Labeling

In July 2012 a WTO Appellate panel ruled that the existing U.S. COOL program was discriminatory against Canadian and Mexican products. The U.S. was given until May 23, 2013, to implement changes to COOL. Unfortunately, instead of taking this opportunity to engage all stakeholders, USDA chose to implement a new regulation which has not only imposed direct costs on U.S. packers, but has resulted in a new challenge from Canada and Mexico at the WTO.

The new regulations, which were put into place last November, eliminated the "commingling" labeling category, which disadvantages U.S. packing facilities that depend upon a percentage of Canadian and Mexican cattle to operate efficiently. This provision is especially damaging at a time when the U.S. cattle herd is the smallest it has been in nearly seventy years. This new policy threatens to contract the U.S. beef processing industry.

The new regulations have also angered the Canadians and Mexicans and they have asked a WTO compliance panel to determine whether or not the U.S. has complied with the 2012 WTO ruling. A decision at the WTO is expected this summer and if the U.S. loses, we could ultimately be facing billions of dollars in retaliatory tariffs from Canada and Mexico.

If we lose this next round at the WTO, will you work with USDA to implement a regulation on COOL that's compatible with the ruling and not an undue burden on the meat industry?

Answer: USDA's May 2013 final rule requires the origin designations of muscle cut meats to include information about where each of the production steps (i.e., born, raised, slaughtered) occurred. The final rule thus ensures that U.S. consumers are provided with more detailed and accurate origin information for muscle cut meats to allow them to make informed purchasing decisions. As the U.S. Federal Courts have consistently held, the final rule is entirely consistent with the COOL statute. While we are disappointed that Canada and Mexico have decided to litigate this matter further, we believe that the final rule brings the United States into compliance with U.S. WTO obligations.

Questions from Rep. Jim Renacci:

1. Transatlantic Trade and Investment Partnership

Overall, as you negotiate TTIP, what do you see as the most significant regulatory barrier to U.S. manufacturers and how are you seeking to address it?

Answer: Through T-TIP, we are seeking where appropriate greater transparency, participation, and accountability in the development of standards and regulations in the EU. We believe that improvements in these areas would facilitate regulatory convergence, and reduce unnecessary costs and barriers to U.S. producers. This would also be consistent with what are already considered best practices globally, such as notice and comment on the proposed text of a draft regulation.

Further, we are proposing that through T-TIP, there should be greater use of international standards that are responsive to global market forces, embody technical merit, are "fit for purpose," and are relevant to regulator needs.

Lastly, U.S. producers cite costs and delays attributable to unnecessary and duplicative testing and certification requirements – as well as local testing requirements in China, India, and elsewhere – as a key concern. T-TIP can reduce these unnecessary costs, including through provisions on national treatment for conformity assessment bodies and support for international systems of conformity assessment.

2. Transatlantic Trade and Investment Partnership /Financial Services

As a former member of the Financial Services Committee, I am very concerned that the Administration is excluding financial services regulations from the scope of the TTIP negotiations. While it is important that safeguards remain in place, we must ensure that we do not stall our financial system. To remain competitive globally, U.S. financial institutions need a level playing field, which only results when appropriate coordination of regulations in the U.S. and overseas exists. Market access issues in the financial services sector between the U.S. and E.U. are few, so enhanced coordination on financial services is a key to this

agreement. The reduction and elimination of transatlantic regulatory divergences can help create a more efficient market, lower costs, and increase financing for U.S. companies. What are your views on this issue and how does the Administration plan to address any financial services barriers in Europe?

Answer: Financial services are a critical part of our transatlantic economic relationship. In T-TIP, as in all of our free trade agreements, the Administration will seek robust market access commitments for financial services. These commitments would help protect U.S. financial services suppliers from discriminatory treatment in foreign markets. At the same time, we believe that our work on financial regulatory and prudential cooperation should continue uninterrupted in existing coordination channels.

Since the financial crisis, the United States has been pursuing a comprehensive agenda, with ambitious deadlines, on regulatory and prudential cooperation in the financial sector – multilaterally, in the G-20, and the Financial Stability Board, bilaterally with the European Union in the Financial Markets Regulatory Dialogue, and in international standard-setting bodies. We are making progress, and will continue to work through these channels, to raise international standards to the levels that U.S. financial regulators are now implementing. These efforts, in parallel alongside the T-TIP negotiations, will help ensure a level playing field for the United States.

3. Trans-Pacific Partnership/Transatlantic Trade and Investment Partnership

Because of the global steel overcapacity problem and because the industry has so many pending trade cases, strong and aggressive enforcement of our trade remedy laws couldn't be more important. While I recognize that this is a function of the Commerce Department, as the lead negotiator on all trade agreements, it is critical that the U.S. continue to insist that our trade remedy laws remain strong in all future trade agreements. Also, in order to gain greater support from Congress and the American people, I would suggest that the U.S. government should be looking for ways to strengthen enforcement of rules that these trade agreements put into place when they are broken, as they often are. What are your plans in this regard, and in particular, as it relates to the TPP and TTIP, the two current ongoing trade negotiations?

Answer: For both TPP and T-TIP, we are seeking to negotiate a high-standard, comprehensive agreement. In doing so, we are fully committed to maintaining our strong trade remedies laws. This has been and will continue to be the U.S. position in both of these negotiations. We will continue to closely consult with both Congress and stakeholders on this issue as these negotiations progress.

4. Nicaragua One-for-One Program

The Nicaragua one-for-one program, negotiated under DR-CAFTA, is set to expire on December 31, 2014. The program is an example of trade policy that has worked. It has been a great success for U.S. apparel and uniform companies, retailers, and textile producers – supporting American exports and jobs, as well as jobs in the CAFTA-DR region. U.S. fabric

exports to Nicaragua reached nearly $110 million in 2013. Nicaragua is now the third largest market for U.S. exports of woven fabrics, behind only Mexico and Canada. In turn, Nicaragua is now the 12th largest supplier of apparel products to the United States. This growth strengthens the hemispheric sector, benefitting companies in the United States and across the region and serving as an important bulwark against rising competition from Asia. Is the Administration supportive of this program and of it being extended?

Answer: While the Administration has not taken a position on extending the Nicaragua one-for-one program, your views on this issue are appreciated. We will also continue to consult with Congress and the various stakeholders on this provision.