

Chairman Ron Wyden:

Question 1

It is critical that our trade agreements be enforceable. But it's not enough to negotiate an enforceable trade agreement; you then have to commit the time, resources and political capital to enforcement for the entire life of the deal.

Too often it appears that we negotiate deals then fail to follow through when our trading partners fall short, whether for lack of resources or because political or ancillary considerations impact enforcement decisions. And our experiences with China, Korea, Russia and others make clear that we lose out if we let agreements go into force before countries are able to comply with their commitments.

What steps does USTR take in the process of bringing an agreement into force to ensure that our trading partners live up to their obligations? What more can USTR do to ensure that implementation issues of the type that have arisen with other trading partners on customs, cross border data flows, and other matters do not arise with respect to future trade deals?

Answer

President Obama has elevated trade enforcement on par with market-opening efforts as a top priority for U.S. trade policy. We will continue to use dialogue when possible and dispute settlement whenever necessary to help preserve and support American jobs threatened by practices that breach international obligations. But before an agreement even enters into force, the United States is working to ensure that American workers will be able to seize all of the job-supporting opportunities we have negotiated under the agreement.

As part of the process of bringing our free trade agreements into force, and as required by the implementing legislation for each free trade agreement, USTR undertakes a detailed review of a trade agreement partner's trade regime to ensure that the country has taken the measures necessary to implement those obligations that come into effect on the agreement's date of entry into force. As part of these reviews, USTR often presses our trading partners to make changes to laws and regulations in order to be satisfied that the partner will meet its obligations. Of course, no regime is ever static and new measures can come into place after the agreement enters into force. If and when we become aware of implementation issues arising after the agreement enters into force, USTR uses the various mechanisms set in place in the agreements – for example, topic – specific committees and Ministerial-level Commission meetings or, if necessary, available dispute settlement mechanisms – to seek a satisfactory resolution to the issue.

No U.S. free trade agreement currently in force has disciplines on cross-border data flows like the ones we are negotiating in TPP. However, this is an example of how we continuously seek to update the disciplines in our trade agreements to address new trade issues and emerging issues.

Question 2

As you know, I think the U.S. should be much more forward-leaning on trade enforcement -- enforcing trade rules to stand up for American workers. Increasingly I hear companies push back on enforcement because they fear retaliation from countries that we may take action against.

How is USTR tackling China's use of its trade remedies laws to apply retaliatory duties to U.S. products, in response to enforcement actions taken by the US? Have last year's WTO wins against retaliatory duties affected China's approach to trade remedies, and what is your strategy going forward for addressing the threat more broadly against U.S. companies?

Answer

At the direction of President Obama, USTR engages in vigilant monitoring and rigorous enforcement of U.S. trade rights to ensure that America's working families are able to seize all of the job-supporting opportunities available under U.S. trade agreements.

China's decision to impose retaliatory antidumping and countervailing duties on U.S. exports had led us to file three WTO disputes: on *Grain Oriented Electrical Steel (GOES)*, *Chicken Broiler Products*, and *Autos*. We prevailed in the first two disputes, and are looking forward to receiving the result in the third shortly.

At the end of its period of time to comply with WTO rules in the *GOES* dispute, 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. USTR will keep pressing for China to change its trade remedies practices that are inconsistent with WTO rules.

If we believe that China or any other WTO Member, has applied trade remedies inconsistently with its WTO obligations, we will not hesitate to challenge that action in the WTO. And, we will continue to work with other WTO Members that share our concern with China's practices. Two other WTO Members (the EU and Japan) have also initiated or prevailed in challenges to China's misuse of trade remedies.

Question 3

State Owned Enterprises and localization barriers to trade are increasingly of concern to our companies.

Beyond negotiating new disciplines in the TPP and elsewhere to address these barriers, how can USTR use existing tools to take on these issues?

Answer

USTR works to address the growing challenge raised by state-owned enterprises and localization barriers to trade through a variety of means.

In addition to the innovative work we are doing in TPP and other trade negotiations, USTR, in cooperation with other relevant agencies, actively seeks to address the emergent problems associated with SOEs in our bilateral dialogues with China and other major trading partners. In addition, USTR is committed to fully enforcing existing international trade rules and domestic laws to ensure that our stakeholders do not face unfair competition from heavily subsidized SOEs.

On localization barriers, as you noted, USTR has included binding rules prohibiting the use of localization measures in all recent U.S. BITs and FTAs. Where possible, USTR has engaged in enforcement actions under international agreements to challenge the use of foreign country localization measures, such as the India solar cases; and has used bilateral and regional trade dialogues, including APEC and the OECD, to advocate against the use of localization measures, including by seeking political commitments against their use. Finally, in close coordination with other agencies, USTR has worked to ensure that U.S. policy against the use of localization measures is broadly and consistently reflected in decisions relating to countries and sectors in which these measures are harming U.S. export interests.

Question 13

Ambassador Froman, the WTO's Information Technology Agreement has been a tremendous commercial success for American tech companies, and the American economy, by significantly expanding access to markets overseas. I know there have been "on-again," "off-again" negotiations over the past year to expand the ITA for the first time since the agreement was created in 1996, but I also understand China has put up some major roadblocks since joining the talks last year. My home state of Oregon has a large semiconductor industry presence, and semiconductors, which are one of our nation's top manufacturing exports, stand to benefit significantly from an expanded ITA if it includes next-generation chips currently not covered.

What are the prospects for resumption of negotiations to expand the ITA? 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 swiftly? In particular, it seems the APEC trade ministers' meeting in the middle of this month could be a good target for restarting the negotiations.

Answer

We want to conclude an ITA expansion agreement as soon as we can achieve a balanced and commercially significant package of liberalization. In that regard, we held productive talks with China on May 16-18. The United States proposed new ideas on how to press the negotiations forward. We made progress and narrowed our differences with China, and look forward to reengaging 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.

Sen. Debbie Stabenow:

Question 2

I strongly support the Interagency Trade Enforcement Center (ITEC) that President Obama created two years ago by executive order. The recent victory at the WTO in the dispute with China over export restrictions on rare earths is a clear example of the continued need for a strong trade enforcement agenda and the resources necessary to ensure continued successes.

I want to continue to work with you to be sure that the ITEC has the authority and resources it needs to become an even stronger, more permanent, part of USTR and our broader trade agenda. Will you commit to working with me on this? What else can Congress do to support the administration's efforts on trade enforcement?

Answer

ITEC is charged with fighting for American workers, farmers, ranchers, and businesses by bringing a more aggressive "whole-of-government" approach to addressing unfair trade practices around the world. ITEC is supported by the U.S. Departments of Commerce, Agriculture, Justice, State, and the Treasury, as well as other agencies. The personnel from these agencies are enhancing U.S. trade enforcement capabilities and facilitating increased engagement with foreign trade partners at the World Trade Organization (WTO) and elsewhere through the creation of an expanded team of language-proficient researchers, subject matter experts, and economic analysts. ITEC is designed to help leverage and mobilize resources and expertise across the federal government to develop trade enforcement actions that will address unfair foreign trade practices and barriers that could otherwise imperil our nation's export promotion and job recovery efforts. Your continued support of the ITEC's work is appreciated, and I look forward to continuing to work with you and others in Congress to ensure its success.

Question 3

As you know, agriculture is a significant part of the American economy. Farmers and ranchers in Michigan and nationwide continue to find new, innovative ways to meet foreign agricultural demand that results in a consistent trade surplus and good jobs here at home.

Today, one million U.S. jobs depend on agricultural exports. A big part of this success story is agricultural biotechnology, which provides innovative tools for our producers to manage risk and act as better stewards of our land. However, we continue to face regulatory obstacles in foreign markets, including China. Currently, China is one of our most valuable trading partners, and also represents a tremendous opportunity for future growth in American agricultural exports.

What specific steps is USTR taking, independently and with the Administration, to promote American agricultural biotechnology with our trade partners as a measure to maintain our position as the strongest agricultural producer in the world?

Answer

Agricultural biotechnology is a technology critical to helping feed the world's growing population and reduce the impact of agriculture on the environment. USTR works closely with other U.S.

government agencies, including the U.S. Departments of Agriculture and State, to ensure export markets are open to U.S. agricultural products derived from modern biotechnology. Central to this effort is a comprehensive strategy to address trade disruptions resulting from differences globally in approval systems for agricultural products derived from modern biotechnology. For example, China, as a major market for U.S. agricultural exports, is a top priority, and U.S. officials regularly pursue biotech issues with their Chinese counterparts in both bilateral and multilateral fora. In December, for example, Secretary Vilsack and I raised the issue of approval delays with Chinese officials at the JCCT. We continue to press the EU to speed up its approval system for agricultural biotechnology after the United States won a WTO dispute on this issue. We have pushed Korea to ensure that its regulations are science based and not overly burdensome. At the same time, USTR recently led the U.S. delegation to a March 2014 Food and Agriculture Organization (FAO) meeting of the United Nations to raise awareness of the trade implications of low level presence issues. In addition, we routinely raise issues related to agricultural biotechnology with other countries in the WTO Sanitary and Phytosanitary Committee and the WTO Technical Barriers to Trade Committee. We also work with like-minded partners and international organizations, such as the OECD, and plurilateral efforts, such as the Global Low Level Presence Initiative, to promote predictable and science-based approvals processes around the world.

Sen. Robert Menendez:

Question 4

My views on the need for vigorous enforcement of intellectual property rights are well known, especially with regards to trade agreements. I'm curious to hear your thoughts on how closer trade relations with Europe could impact global intellectual property (IP) rules, promotion, and enforcement in a positive way?

Using India and China as examples, there are continuing concerns that their IP policies have created challenges for a broad swath of U.S. and European industries, including high-tech, telecom, green technology, and biopharmaceuticals. What steps are you pursuing in concert with our European partners to develop global standards that value innovation and protect American and European IP-related jobs?

Are you working with your counterparts in Brussels to use TTIP to address critical issues surrounding the erosion of IP rights by our trading partners, such as India and China, and potentially Canada?

Answer

The United States and the European Union are global leaders in promoting IPR, and strong IPR protection and enforcement is vital for our economies, 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. TTIP 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.

Sen. Sherrod Brown:

Question 6

The government of China is increasingly using its anti-monopoly laws as a tool for pursuing its nationalist industrial policies. As noted in USTR’s most recent National Trade Estimates report, China’s NDRC has in the past year significantly increased its anti-monopoly activity especially against foreign companies. As the report notes, there is significant concern about abuses of the anti-monopoly law by the NDRC, including intimidation and pressure on U.S. companies to cooperate in the face of unspecified allegations, steep fines, and other forms of coercion. Does USTR have adequate legal authority and tools to address such forms of unfair competition, which do not fall neatly into the categories of prohibited activities embodied in the WTO agreements? What other tools would you find useful to address such practices?

Answer

USTR is working intensively, in cooperation with other U.S. government agencies and key trading partners, via both bilateral and multilateral engagement, to combat China’s use of the anti-monopoly law as a tool for pursuing industrial policies. We are pressing China hard, building on China’s leaders’ stated commitments to a level playing field and the rule of law. We are committed to continued intensive engagement on this important concern.

Question 7

China’s most recent 12th Five Year Plan identifies a broad range of sectors that they intend to promote “national champions” in and strategic industries they will support. Press accounts indicate that the government has allocated \$1.5 trillion to achieving the goals of the Five Year Plan. What actions is USTR taking to monitor the implementation of the Five Year Plan and the impact it has on U.S. exporters to China as well as on Chinese imports into the U.S.?

Answer

USTR closely monitors these areas and regularly engages with the Chinese government to address policies and measures that promote Chinese national champions and create an unfair playing field for U.S. companies, whether these policies are contained in the 12th Five-Year Plan, sector-specific Five-Year Plans or implementing measures at the central and sub-central government levels. With regard to China’s so-called “strategic emerging industries,” through our JCCT and S&ED engagement, we have successfully reversed Chinese government policies that had provided export incentives, accorded preferential treatment to domestic technology or encouraged import substitution. We also have successfully challenged unfair Chinese subsidies at the WTO, and the Administration is rigorously enforcing its U.S. trade remedy laws to protect against unfairly traded imports. We will continue our vigorous engagement and enforcement activities on this important issue going forward.

Sen. Bob Casey

Question 3

The steel industry is gravely concerned with the surge in imports coming into our market. The industry has highlighted that this surge is due to an overcapacity of steel in the world, which appears to be the result of foreign government interference. Imports of steel products into the U.S. have been unacceptably high over the last year and a half, and as a result, since July of last year, five sets of steel related trade cases have been filed with Commerce. For those of us who were around during the last steel crisis in the late 1990s, early 2000s, this is very troubling.

What is the Administration planning to do to address this issue?

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.

Sen. Mike Crapo:

Question 6

A report from the Council for Agricultural Science and Technology concludes there is no science-based reason to single out genetically modified organisms (GMOs) for labeling and finds that GMOs are safe for human consumption. What is USTR doing to protect the interests of U.S. farmers, particularly in regard to normalizing regulatory approval?

Answer

Agricultural biotechnology is a technology critical to helping feed the world's growing population and reduce the impact of agriculture on the environment. USTR works closely with other U.S. government agencies, including the U.S. Departments of Agriculture and State, to ensure export

markets are open to U.S. agricultural products derived from modern biotechnology. Central to this effort is a comprehensive strategy to address trade disruptions resulting from differences globally in approval systems for agricultural products derived from modern biotechnology. For example, China, as a major market for U.S. agricultural exports, is a top priority, and U.S. officials regularly pursue biotech issues with their Chinese counterparts in both bilateral and multilateral fora. In December, for example, Secretary Vilsack and I raised the issue of approval delays with Chinese officials at the JCCT. We continue to press the EU to speed up its approval system for agricultural biotechnology after the United States won a WTO dispute on this issue. We have pushed Korea to ensure that its regulations are science based and not overly burdensome. At the same time, USTR recently led the U.S. delegation to a March 2014 Food and Agriculture Organization (FAO) meeting of the United Nations to raise awareness of the trade implications of low level presence issues. In addition, we routinely raise issues related to agricultural biotechnology with other countries in the WTO Sanitary and Phytosanitary Committee and the WTO Technical Barriers to Trade Committee. We also work with like-minded partners and international organizations, such as the OECD, and plurilateral efforts, such as the Global Low Level Presence Initiative, to promote predictable and science-based approvals processes around the world.

Sen. John Thune:

Question 1

As follow up to my question regarding agricultural biotechnology approvals in China and the current trade disruption, you mentioned that this issue was high on the agenda at the December 2013 plenary. Going forward, it is critical that the U.S. government use all available bilateral mechanisms to work with the Chinese to improve our bilateral relationship on agricultural biotechnology so to ensure the United States can continue to be the primary supplier of grains and oilseeds to China. China is currently the largest buyer of U.S. soybeans, and according to the U.S. Department of Agriculture (USDA), China will soon become the largest buyer of U.S. corn. To ensure this relationship can continue to grow we must find a way to avoid any future trade disruption.

The long term goal is for the regulatory process in the U.S. and China to become synchronized. However, in the near term, I request your leadership in bringing greater predictability to the process, specifically working with the Chinese to return to the practice of accepting and making regulatory decisions three times per year. I am concerned that the U.S. government does not have a coordinated, high level interagency effort to resolve this issue. I am hopeful USTR can play a more central role in advancing this issue in 2014, supplementing USDA's dialogue with MOA.

Specifically, will you commit to opening a direct dialogue with the Vice Premier and the Minister of Commerce and to use the 2014 JCCT and S&ED to secure commitments from the Chinese government to resolve this issue? Will you pursue a solution to this issue by urging its inclusion as a formal JCCT agenda item?

Answer

Agricultural biotechnology is a technology critical to helping feed the world's growing population and reduce the impact of agriculture on the environment. USTR works closely with other U.S. government agencies, including the U.S. Departments of Agriculture and State, to ensure export markets are open to U.S. agricultural products derived from modern biotechnology. Central to this effort is a comprehensive strategy to address trade disruptions resulting from differences globally in approval systems for agricultural products derived from modern biotechnology. For example, China, as a major market for U.S. agricultural exports, is a top priority, and U.S. officials regularly pursue biotech issues with their Chinese counterparts in both bilateral and multilateral fora. In December, for example, Secretary Vilsack and I raised the issue of approval delays with Chinese officials at the JCCT. At the same time, USTR recently led the U.S. delegation to a March 2014 Food and Agriculture Organization (FAO) meeting of the United Nations to raise awareness of the trade implications of low level presence issues. In addition, we routinely raise issues related to agricultural biotechnology with other countries in the WTO Sanitary and Phytosanitary Committee and the WTO Technical Barriers to Trade Committee. We also work with like-minded partners and international organizations, such as the OECD, and plurilateral efforts, such as the Global Low Level Presence Initiative, to promote predictable and science-based approvals processes around the world. 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.

Question 3

Last week USTR released its "Special 301 Report" which details the challenges that American companies face globally in protecting their intellectual property in nations such as China, Russia and India, to name a few. Many of the nations in the report employ measures designed to benefit their local companies at the expense of U.S. businesses, sometimes referred to as "indigenous innovation" policies. Can you comment on the nations where you think we've made the greatest progress in combating these indigenous innovation policies, as well as the nations where the biggest challenges remain?

Answer

USTR works hard to press governments to avoid adopting trade-distortive policies, which are sometimes designed to promote "indigenous innovation" by forcing U.S. companies to transfer their technology or other valuable commercial information. In this year's Special 301 report, we urged that, in formulating policies to promote innovation, trading partners, including India and China, take account of the increasingly cross-border nature of commercial research and development, and of the importance of voluntary and mutually agreed commercial partnerships.

Sen. Rob Portman:

farmers and ranchers, including those in Ohio.

Question 9

I understand that there is intensified activity in the Information Technology Agreement negotiations. The ITA has been an important catalyst for Ohio companies engaged in the IT global supply chain such as Solvay Specialty Polymers in Marietta, Ohio, which directly employs about 300 people and exports virtually every pound of Liquid Crystal Polymers it produces to customers in Asia and Europe. Thanks to your efforts, this important IT product is on the "consensus" list of products that will be added to an expanded ITA products list. This agreement is almost within our grasp and an ITA agreement will provide a boost to our tech exports since the US has low tariffs on these items already compared with our trading partners.

We need the ITA in place on January 1, 2015 to give the global economy and the world trading system a welcome shot in the arm. In any negotiation, there must be give and take. But my understanding is that China refuses to engage seriously with any of its ITA partners. In a little more than two weeks, China will host an APEC trade ministers meeting. I am glad that you will be there for that important meeting which could lead to a breakthrough. Can you update the Committee on the status of these negotiations?

Answer

We want to conclude an ITA expansion agreement as soon as we can achieve a balanced and commercially significant package of liberalization. In that regard, we held productive talks with China on May 16-18. The United States proposed new ideas on how to press the negotiations forward. We made progress and narrowed our differences with China, and look forward to reengaging 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.