

**NOMINATION OF HON. ROBERT J. PORTMAN**

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**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE**

**UNITED STATES SENATE**

**ONE HUNDRED NINTH CONGRESS**

FIRST SESSION

ON THE

NOMINATION OF

HON. ROBERT J. PORTMAN TO BE U.S. TRADE REPRESENTATIVE

APRIL 21, 2005



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# CONTENTS

## OPENING STATEMENTS

|   | Page |
|---|------|
| Grassley, Hon. Charles E., a U.S. Senator from Iowa, chairman, Committee on Finance ..... | 1    |
| Baucus, Hon. Max, a U.S. Senator from Montana .....                                       | 2    |
| Bunning, Hon. Jim, a U.S. Senator from Kentucky .....                                     | 5    |

## ADMINISTRATION NOMINEE

|   |   |
|---|---|
| Portman, Hon. Robert J., a U.S. Representative from Ohio, nominated to be U.S. Trade Representative ..... | 7 |
|---|---|

## CONGRESSIONAL WITNESSES

|   |   |
|---|---|
| Voinovich, Hon. George V., a U.S. Senator from Ohio ..... | 4 |
| DeWine, Hon. Mike, a U.S. Senator from Ohio .....         | 6 |

## ALPHABETICAL LISTING AND APPENDIX MATERIAL

|   |     |
|---|-----|
| Baucus, Hon. Max:<br>Opening statement .....          | 2   |
| Bunning, Hon. Jim:<br>Opening statement .....         | 5   |
| Crapo, Hon. Mike:<br>Prepared statement .....         | 51  |
| DeWine, Hon. Mike:<br>Testimony .....                 | 6   |
| Grassley, Hon. Charles E.:<br>Opening statement ..... | 1   |
| Portman, Hon. Robert J.:<br>Testimony .....           | 7   |
| Prepared statement .....                              | 52  |
| Biographical .....                                    | 56  |
| Responses to questions from committee members .....   | 64  |
| Santorum, Hon. Rick:<br>Prepared statement .....      | 105 |
| Snowe, Hon. Olympia J.:<br>Prepared statement .....   | 107 |
| Voinovich, Hon. George V.:<br>Testimony .....         | 4   |

## COMMUNICATIONS

|                     |     |
|---------------------|-----|
| Ford Motor Co. .... | 109 |
|---------------------|-----|



**NOMINATION OF HON. ROBERT J. PORTMAN  
TO BE U.S. TRADE REPRESENTATIVE**

**THURSDAY, APRIL 21, 2005**

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10:05 a.m., in room SD-628, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Hatch, Snowe, Thomas, Smith, Bunning, Crapo, Baucus, Rockefeller, Conrad, Kerry, Lincoln, Wyden, and Schumer.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. It is my pleasure to welcome Congressman Rob Portman to the committee today. Congress first mandated the appointment of a person to this position as Special Representative for Trade Negotiations back in 1962.

Since that time, our Trade Representative has played a very vital role in shaping much of our international economic policy. Today it is an important position that requires a unique blend of technical and political skills for success. In that regard, we are fortunate to have Rob Portman as the President's nominee.

Congressman Portman has a strong commitment to public service, having served the people of Ohio in the House of Representatives for the past 12 years. His thoughtful consideration of complex issues and determination to achieve sound public policy have made him a very effective leader.

He has played major roles in pensions, taxes, and Internal Revenue Service reform. He is well-known for his leadership in the fight against drug abuse. As a member of the Ways and Means Committee, the Subcommittee on Trade, Congressman Portman has been intimately involved in a number of key international trade policy initiatives.

There is a long tradition of legislative and executive branch cooperation on international economic policy. The importance of following, and also working together, became very evident after the passage of the Smoot-Hawley Tariff Act, which helped plunge our economy into the Great Depression.

In 1934, President Roosevelt recognized that high tariff barriers were strangling the economy. To spur economic growth, he sought and received legislative authority to negotiate reductions in tariff barriers.

That bill, the Trade Agreement Act, embodied the basic partnership between legislative and executive branches of our government that we know today as trade promotion authority. It is a partnership that has served the Nation well for the better part of the last century, and hopefully will continue to do so this century.

But the battle for economic freedom is far from over. We cannot afford to return to the tyranny of tariffs embodied in Smoot-Hawley. Decisions that we make in the near future on economic policy will have significant impact for generations to come. They are decisions that we should not take lightly.

So, strong leadership in the Office of the U.S. Trade Representative is key. Congress will soon be considering free trade agreements with Central America, the Dominican Republic and Bahrain.

We also have a number of important bilateral and regional negotiations under way that will bring significant benefits to the U.S. economy, and perhaps most important of all are ongoing negotiations at the World Trade Organization.

Successfully concluding these negotiations, and also ensuring their implementation, will take a skilled champion of our country's economic interests. I am confident that you, Rob Portman, will effectively fill that role.

There is a strong interest in moving your nomination quickly. There are a number of important events coming up over the next few weeks, including a meeting of the World Trade Organization ministers in early May.

I would certainly like to see you confirmed by the Senate before that time, so you can be on the job there, where America needs to be well-represented. I look forward to your testimony.

At this time, I call on Senator Baucus for his opening comments.

**OPENING STATEMENT OF HON. MAX BAUCUS,  
A U.S. SENATOR FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman. Good morning, everybody.

It is a pleasure to welcome Congressman Portman. I think we are all in accord with the expression of appreciation of you, Congressman, the future you have ahead of you, and the trust the country is placing in you. I think you can do a very good job, and we all wish you very, very well. I trust this will be the first of many appearances before us.

Congratulations on your nomination. In 12 years in Congress, you have developed a solid reputation as someone who works across the aisle to get things done. It is well-known in this town, and well-appreciated.

We need more people like you here in Washington, more people who would do that, reach across the aisle. I welcome the opportunity to work with you over the next several years on the very difficult trade issues, and very many of them, that we are going to have.

Ambassador Zoellick and I had a terrific working relationship. It was a very solid one. I know that ours will be just as productive.

I also want to congratulate your wife, Jane, and your three children, Jed, Will and Sally. They must be very proud of you. I hope that they do not blame me or the Chairman, frankly, if your work-

load at the USTR is worse than it might have been over at the House.

Your nomination comes at a critical point in United States trade policy. As you know, last week this committee held a hearing on CAFTA. Many of us expressed serious concerns about that agreement, indicating to me that CAFTA still has a long way to go.

But, more broadly, the CAFTA hearing made me think long and hard about how we got to where we are. The current environment on trade seems more difficult than just a few years ago.

In 2002, when we renewed the President's trade promotion authority after a break of 8 years, I thought we were on our way to rebuilding the bipartisan and public consensus on trade that we needed to accomplish, but since then we seem to have lost our way.

There are probably many reasons for this, but three stand out in my mind. First, we need to enforce the trade agreements we already have. We are not doing so. I believe Congress is losing its appetite for further trade deals because it is not confident that the USTR is holding our trading partners to their obligations.

There are reports almost daily about China's failure to comply with WTO's provisions on intellectual property rights. It is a blatant infringement. We all know it, and nothing is being done.

China also maintains burdensome restrictions in the agriculture and services sector. Key markets in Asia continue to shut out United States beef without good reason, and trade barriers continue to distort U.S. trade in Brazil, in Japan, Russia, and the European Union.

The United States brought 4 times as many WTO dispute cases in the 1990s than we have since 2001: 67 versus 12. I think that is a reflection of a shift in priorities to negotiating, rather than enforcing, existing agreements.

If the United States wants Congress to continue passing new trade agreements—that is, if the USTR wants Congress to continue passing new trade agreements—it must do a better job convincing Congress it is doing all that it can to enforce the agreements that we already have.

One way is to create a new, senior-level position at USTR responsible for enforcing trade agreements. A chief enforcement officer could be confirmed by the Senate, and therefore held accountable directly by the Congress. I hope that we can work together to make that happen.

Second, we cannot expect to rebuild a trade consensus until we do more for those workers and industries whom trade leaves behind. I believe that trade is an overall positive in the United States. We must never forget that trade causes severe dislocations. Our failure to address these dislocations is eroding support for a robust trade agenda.

In my judgment, this administration has not placed a sufficient priority on trade adjustment assistance programs. For instance, the President's budget zeroes out funding for the TAA for Firms program, which virtually everyone agrees has been useful and cost effective.

Our trade adjustment program continues to exclude service workers, even though they increasingly face the same risks of trade displacement as manufacturing workers. If you want to build polit-

ical support for further trade agreements, we have to do more to ease the transition of trade-displaced workers in industries.

Finally, trade agreements are becoming less relevant to U.S. commercial interests. We have been choosing free trade agreement partners based on foreign policy and using the scarce resources at USTR to negotiate agreements without much commercial relevance to the economy.

Congress created USTR's predecessor, the Special Trade Representative, to remove trade policy from the State Department—this was back in the early 1960s—so that commercial, and not foreign, policy interests would drive U.S. trade policy.

It is hard to muster the enthusiasm necessary to get a trade agreement through Congress when that agreement offers negligible benefits to the U.S. economy. We need to start targeting our resources toward economics, toward economies, larger economies like Korea and Taiwan, that will yield more benefits to our farmers, ranchers, and workers. That will make it easier to appreciate the positives that are associated with any particular trade agreement.

Let me end on a positive note. There are challenges, to be sure, but I know you are up to the task. USTR is a fantastic organization. I know of no organization in town that I respect more than USTR. I have the greatest respect for your soon-to-be colleagues. The dedication and professionalism of the staff at USTR is inspiring. It is unsurpassed. You are lucky to have them, and they are lucky to have you. I look forward to working with all of you.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes. Colleagues, Senator Voinovich has to go chair a hearing at 10:30. Protocol would be Bunning, DeWine, and then Voinovich. Could I take Senator Voinovich, first?

Senator BUNNING. According to age, or whatever way you want to do it. [Laughter.]

The CHAIRMAN. Yes. Senator Voinovich?

**STATEMENT OF HON. GEORGE V. VOINOVICH,  
A U.S. SENATOR FROM OHIO**

Senator VOINOVICH. I want to thank my colleagues for letting me do this and allowing me to get to my hearing on time.

I thank you, Chairman Grassley, Senator Baucus, and members of the Finance Committee. It is an honor to be here today to introduce my good friend, Rob Portman.

Congressman Portman is an excellent choice for the job of U.S. Trade Representative, and I strongly urge the committee to speedily confirm his nomination.

He has represented the Second District of Ohio in Congress for the past 12 years. Mr. Chairman, you went into all of the things that he has done, so I will not repeat them all.

Prior to his election to Congress, Rob was an associate in the Washington law firm of Patton Boggs, specializing in international trade law. He then returned to Cincinnati to work as a partner in the law firm of Gradenhead & Richey. From 1989 to 1991, he served in President George H.W. Bush's White House as Associate Counsel to the President, and then Director of the White House Office of Legislative Affairs.



He has been a good friend and colleague for many years. We have collaborated on legislative matters going back to my days when I was governor of Ohio, including unfunded mandates relief, and, more recently, the Cuno legislation and the Senate version of Portman-Cardin.

I have complete faith that he will serve our Nation as our Trade Representative with the intelligence, enthusiasm, and strength that have marked his time in Congress. So many on Capitol Hill and in the White House understand, if you want to get something done, get Rob Portman involved.

Additionally, he has excellent interpersonal skills and treats people with dignity and respect. He is a good man with a wonderful, understanding wife, Jane, and three children. I just want to publicly thank Jane and Rob's children for the sacrifice that they have made so he can serve in public office and for the sacrifices they are going to make in his new capacity.

He has a record of working in a bipartisan manner, which is essential to promoting new trade laws. He will also be a tireless advocate for American exports. As a free trader, Rob understands that free trade and fair trade go together, and that you cannot have one without the other.

As someone who has long been concerned about human capital issues, I am especially pleased by the President's choice of Congressman Portman. Rob understands the vital role recruitment, retention and training play in the operation of an effective government office. Too often, we forget it is the people who carry out the laws we in Congress pass that determines the success or failure of those laws. Rob understands how important a team is.

I look forward to working with Rob, particularly in regard to how the USTR has now been implementing the Strategic Targeting Organized Piracy program called STOP! that Bob Zoellick implemented last November to dramatically improve the enforcement of our trade laws.

I am confident that Rob will bring strong leadership to the USTR and will be able to properly balance the role of USTR with the competitiveness of our State of Ohio, our Nation, and a changing world that is very, very competitive.

I urge his speedy confirmation, and I thank my colleagues in the Senate, and you, Mr. Chairman, for giving me an opportunity to speak first.

The CHAIRMAN. Senator Bunning?

**OPENING STATEMENT OF HON. JIM BUNNING,  
A U.S. SENATOR FROM KENTUCKY**

Senator BUNNING. Thank you, Mr. Chairman.

I am honored to have the opportunity to introduce my good friend, Rob Portman, to the committee today.

As my colleagues all know, Rob has served in the House of Representatives for over 10 years, representing the Cincinnati area district just across the river from where I live in Kentucky.

We also served together for 4 years on the House Ways and Means Committee and worked on everything from trade to pensions to health care, even constituent casework.

Just as importantly, Rob and I, and our wives, Mary and Jane, have spent many hours together, more of them than we can count, talking as we sat on planes going back and forth between Washington and Cincinnati, which as I always like to remind Rob, the Cincinnati Airport is in Northern Kentucky. [Laughter.]

Over the past few years or so, I have gotten to know Rob Portman as well as any member of Congress. I can tell my colleagues wholeheartedly that President Bush could not have picked a better man to trust with the important responsibilities that come with being the U.S. Trade Representative.

Rob is one of the smartest guys on the Hill. He works hard. He is destined for great things. He is going to do a fine job as our Trade Representative. I cannot think of anyone that I would rather have representing our country to the world, and I urge my colleagues to act favorably and quickly on his nomination.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bunning.  
Now, Senator DeWine?

**STATEMENT OF HON. MIKE DeWINE,  
A U.S. SENATOR FROM OHIO**

Senator DeWINE. Mr. Chairman, Senator Baucus, members of the committee, recently I traveled through the Second Congressional District in Ohio, Congressman Portman's district, and I was in all seven counties. I think we are all used to congressmen being popular and people liking their own congressman.

Well, I will tell you, Mr. Chairman, I have really never seen anything like this. Congressman Portman is held in such great respect, esteem, and affection in his own congressional district, and it is bipartisan. It is not a Republican thing, it is a bipartisan thing.

I do not think that should really come as a shock to those of us who work with him on Capitol Hill, because as Senator Baucus pointed out, that is the way Rob has operated here on Capitol Hill.

He has operated that way in the House of Representatives. He has operated that way when he has dealings with us in the Senate. It has been in a very bipartisan way.

His attitude has been, how do we fix this? How do we get it done? How do we accomplish this? So, I share the feeling that my friend from Kentucky, Senator Bunning, has: I cannot think of anyone, frankly, Mr. Chairman, who would do a better job as our new Trade Representative.

This is such a very, very important job. I think he is an ideal person for this job. He clearly has the great confidence of the President of the United States. We all know that.

He has established a working relationship with those of us in the Senate, and with his House colleagues on both sides of the aisle. He has the background, as a former international trade lawyer, and has experience working with these issues on the House Ways and Means Committee. So clearly, he is ready for this job and is the right person for the job.

I think, also, if I could put on my hat from the State of Ohio, being from the State of Ohio also is going to help him. We, in Ohio, have a very complex economy—an economy that is immensely

helped by trade, and yet is also impacted every day by trade. People in Ohio are very sensitive to that.

I think, as Rob has traveled not only in the Second District, but around the State of Ohio, he has seen that and has become sensitive to that, and I think that will help him in this job.

Finally, on a personal note, I have worked with Rob, as have my two colleagues, on many projects. The Underground Railroad in Cincinnati is something near and dear to his heart.

I have also seen him work on something that you are probably not familiar with, but I think really is typical of Rob Portman. He saw that there was a drug problem in his district, as every one of us has a drug problem in our State or our district, and he wanted to do something about it.

He established a very, very unique and grassroots program in his congressional district that he can be very, very proud of, that really should be a model for the country as something that is working and working very, very well.

He is, as my colleagues have pointed out, a family man. To know Rob Portman, you just think of family. Jane is here, and we appreciate the sacrifice that Jane is going to make, as well as his children Jed, Will and Sally. But this is a real team, a real family, and these are just great people—great human beings.

So, let me conclude with a quote from the *Cleveland Plain Dealer*, which recently talked about Rob's nomination: "He understands the scale of global competition, the challenges it presents, and the necessity of the United States to be a successful competitor. President Bush has chosen one of Ohio's most competent and promising political figures to carry the Nation's trade message abroad."

Mr. Chairman and members of the committee, I certainly could not agree more. This is a wonderful pick, magnificent pick, by the President of the United States. We know that Rob will do a great job, and I am just delighted to be here to join my colleagues in recommending him to this committee.

Thank you very much.

The CHAIRMAN. I thank all of my colleagues for the introduction.

We are now going to go to the designee, Mr. Portman, for his opening statement. I would like to have your wife be acknowledged by the members of the committee. So would your wife, Mrs. Portman, stand, please? Thank you.

Congressman PORTMAN. Does she need to be sworn in, Mr. Chairman? [Laughter.]

The CHAIRMAN. I understand your children cannot be here, but Senator Baucus has spoken about your family so I will not repeat that.

Would you proceed, please?

**STATEMENT OF HON. ROBERT J. PORTMAN,  
TO BE U.S. TRADE REPRESENTATIVE**

Congressman PORTMAN. Thank you very much, Mr. Chairman. I appreciate your opening remarks, as well as those of Ranking Member Baucus. When you talked about some of the issues that I have worked on—IRS reform, pensions, the anti-drug efforts—I realized I have worked on all of those with you, and with Senator Baucus closely on retirement savings. So, we have a good relation-

ship going back on a bipartisan basis of getting things done for the people we represent, and I look forward to continuing that.

I also want to give special thanks, of course, to my colleagues from the Senate: Mike DeWine, who just spoke, Jim Bunning, and George Voinovich. Those were overly gracious introductions. I hope I can live up to them, or close to it. I also want to thank them, of course, for their friendship and their encouragement over the years.

I also want to acknowledge Jane Portman, who is behind me, who is my partner in all things, and she will be a great partner in this as well.

Chairman Grassley, Ranking Member Baucus, and members of the committee who are with us here today, I am very honored to be before you as President Bush's nominee to be our next U.S. Trade Representative.

I have had, as you know, a number of meetings with Senators, including all of the Senators here on the panel this morning, and a majority of the Senate Finance Committee.

We have had very constructive discussions of trade policy issues, and I am very grateful for the time I was given, and for the very helpful input that I was given at each of those meetings.

As a member of the Ways and Means Committee, I have had the opportunity, as you have had over the years, to work very closely with the U.S. Trade Representative's Office, and, like you, I have raised tough issues with USTR from time to time.

If confirmed, I will now experience that from the other side, on the receiving end. In fact, as a nominee, today I may be experiencing some of that.

But I have to tell you, as Senator Baucus said, it is a top-flight organization. And whether it was Ambassador Mickey Kantor or Ambassador Charlene Barshefsky during the Clinton administration, or Ambassador Bob Zoellick in the last 4 years, I have always been impressed with the professionalism, with the skill, and with the responsiveness of USTR and its staff.

I seek to follow in the footsteps of a very bright and very capable negotiator, and that is Bob Zoellick, who is a friend of mine, a friend of many of yours. I believe Bob Zoellick deserves great credit for the substantial progress the administration has made over the last 4 years, with your help. I hope to be able to work with you now to be able to meet our new challenges and build on that progress.

This morning I would like to focus on a few key principles that would guide my work if I was to be confirmed. I would pursue an aggressive agenda with a focus on opening new markets, enforcing our trade agreements, enforcing our trade laws, spreading economic freedom, and, of course, working in close partnership with the U.S. Congress.

I believe the first job of the Trade Representative must be to open markets for American workers and farmers, thereby creating more, and better-paying, jobs here at home. Already, as you know, more than 12 million American jobs are supported by exports, and those jobs pay, on average, 13 to 18 percent more than the average wage.

One in every 3 acres of American farmland is now planted for export, and we enjoy a \$9 billion trade surplus, incidentally, in agriculture. One in every five U.S. manufacturing jobs also depends on exports.

The United States is the world's largest producer and exporter of manufactured goods. Trade clearly benefits the economy as a whole. A recent report by the Institute for National Economics estimates that international trade adds a trillion dollars to our economy annually. That is \$9,000 a year for the average American household.

Trade, both imports and exports, contributes to a higher standard of living for American families. I represent, as Mike DeWine mentioned, seven counties in southern Ohio. They range from the inner city, to suburbs, to rural farm communities.

It is a district with a strong manufacturing legacy, many small businesses, corn and soybean growers, financial services, and global companies. Throughout the district, exports and an expanded market share for U.S. products and services are key to maintaining good jobs and to having a healthy, diversified economy. I know the same is true in each of your States.

Particularly in a time of large trade deficits, we need to redouble our efforts to open new opportunities for U.S. workers, farmers, and businesses by accelerating the reduction of trade barriers around the world.

Many of our trading partners still block our manufactured goods and farm products, prevent our companies from offering services, or fail to prevent the theft of our technology and our ideas.

Our recent gains in productivity once again affirm that Americans can compete with anyone in the world, when given a fair chance. When we have a fair chance in the market, we can compete.

That is why I look forward to the opportunity to join with you in what has been, as Senator Grassley said, a bipartisan consensus over the years that we should knock down barriers to trade.

One way to open markets, of course, is through these free trade agreements like the free trade agreements we have recently completed with Australia, Singapore, Chile, Morocco, and Jordan that passed Congress with strong bipartisan majorities.

The most recent agreement, of course, is the one negotiated with the five Central American countries and the Dominican Republic. I know you had a lively hearing on that topic last week, Mr. Chairman, and I will not get into a lengthy discussion of what I see as the clear benefits of that agreement.

But I must make the point that the Central America-Dominican Republic Free Trade Agreement will open new markets for our workers and farmers that begin to level the playing field with a region that already enjoys mostly duty-free access to our market.

If confirmed, I look forward to working with you to advance free trade negotiations that are already under way with 11 more countries, and continue the effort to create a Free Trade Area of the Americas, working in close partnership with our co-chair, Brazil.

I will also be eager to consult with you and your colleagues about possible bilateral or regional trade negotiations you might think are appropriate to pursue.

One of the reasons free trade agreements are helpful is they set high standards and help build momentum for what I believe is the most important trade negotiation of all, and that is the Doha Development Agenda of the World Trade Organization.

The Doha Round, which was launched with the global leadership of the United States, and strong leadership of the United States 3½ years ago, has the potential to substantially reduce tariff and non-tariff barriers and begin to level the playing field for our agricultural producers, open new markets for services, and facilitate the more efficient movement of goods across borders.

Research done by the University of Michigan demonstrates that lowering global trade barriers by just one-third would boost U.S. family purchasing power by an additional \$2,500 per year. If all barriers were removed, the amount would equal \$7,500 per year. Worldwide, it could help lift hundreds of millions of people out of poverty.

Mr. Chairman, there may not be any other single action we could take together over the next couple of years that would have such far-reaching and long-lasting benefits as bringing the Doha Round to a successful conclusion.

The second guiding principle is that trade needs to be a 2-way street. As I stated, I have seen the benefits of enhanced trade first-hand in southern Ohio. I have also seen the pain of dislocation and job anxiety due to trade. We must ensure that the benefits of trade do not become elusive when other nations do not play by the rules.

As President Bush has made clear, as we pursue free trade, we must also insist on fair trade. We must level the playing field to ensure that our workers, farmers, and firms get a fair shake.

If I am confirmed, I will consider with a fresh perspective the entire range of enforcement tools available. In enforcing our trade laws and trade agreements, I will be guided by the facts. I will objectively evaluate all the information available, including the input that I will seek from you as the representatives of the people we serve. I will focus on making sure our strategy produces results that actually help American workers and farmers.

I do not believe we should bring enforcement actions that are counter-productive or in violation of our international obligations, but we should use all the tools available to us, from consultation to litigation.

Negotiation can often lead to a better and quicker result, but when negotiation fails or stalls, I will not hesitate to take legal action to enforce our rights and to defend American interests.

As the committee is well aware, we have ongoing trade disputes with the European Union, with our neighbors to the south and to the north, and with a number of other countries, but here China deserves special mention. I believe China's entry into the World Trade Organization was, and remains, strongly in the interest of the United States.

By integrating this fast-growing economy into the global trading system, we have created new opportunities for U.S. goods and services, and we have seen significant expansion of U.S. exports there. In fact, since China's WTO accession in 1999, our exports have increased 81 percent.

By becoming part of the WTO, China has also been brought into a rules-based system of international trade which gives us critical legal rights we did not have before. But we also face major challenges with China.

Our trade deficit with China, as you well know, last year alone was \$162 billion. Part of that deficit is because the Chinese do not always play by the rules. If confirmed, I will work closely with Congress and my administration colleagues to see that our workers, farmers, and service providers are treated fairly.

Specifically, I will focus on stopping Chinese pirating of U.S. intellectual property, rolling back China's industrial policies that exclude our products, expanding market access for our goods and services, and realizing China's full implementation of its commitments on transparency and distribution rights for American products.

As the committee is aware, the Treasury Department has the lead in the critical effort to move China to a flexible, market-based exchange rate. I will strongly support the efforts of Secretary Snow in this regard, and, when the facts support it, I will work with other cabinet colleagues to use the China-specific enforcement tools, such as the China textile safeguards, to protect our markets from disruption.

I believe, Mr. Chairman, this more aggressive approach will require a new focus at USTR. If confirmed, I will order an immediate top-to-bottom review of all of our trade issues with China, and I will shift resources and people, as appropriate, to address these pressing concerns.

I will also go to Asia early on to demonstrate the urgency of resolving these problems and to deliver a strong message in person to the appropriate Chinese officials.

A third key principle to guide me is that trade is central to our freedom agenda. Freer trade leads to more open, transparent markets and undercuts corruption and cronyism. Trade is an underpinning of democracy and freedom, and it is one of the most potent weapons we have against the scourge of global poverty.

The countries most isolated from the world economy have also been among the poorest and most repressive on earth. But consider, by contrast, examples like Mexico, Chile, South Korea, the nations of Central Europe, where trade and economic reform has bolstered political reform. In Central America, where 20 years ago the headlines were about chaos and civil war, today new democracies want to trade goods, not guns, across borders.

The initiative to create a Middle East Free Trade Area offers great promise. I believe it is in America's interest to strengthen reformers in the region who are expanding political freedom and want to open their economies.

If confirmed, I will want to start by working with Congress to approve our agreement with Bahrain, to conclude negotiations with Oman and the UAE, and to deepen our economic relationship with others in the region.

The final guiding principle, Mr. Chairman, relates to the legislative branch. As U.S. Trade Representative, I would be charged with managing many important relationships here and abroad. But, if confirmed, I will have no more important relationship than the one

with Congress. As a current member of Congress, I have a personal appreciation of the importance of meaningful consultation with Congress on the trade agenda.

Since the 1930s, as the Chairman pointed out, the legislative and executive branches have worked in close partnership, with the President negotiating trade agreements that meet the objectives set by Congress.

I will look forward to working with you on the extension of trade promotion authority, the trade preference programs, the review of America's membership in the World Trade Organization, the identification of new free trade partners and initiatives, and many other issues. I will also be open to your views, and I will actively solicit your input and your assistance.

As the representative of the people of Ohio's Second District, I know that economic change and foreign competition can be very difficult. Like you, I have held town meetings and I have looked into the eyes of workers who have lost a job. I understand many are anxious about the future.

We cannot ignore these concerns, but I am firmly convinced that curtailing trade and closing markets is not the right answer to these concerns. The evidence is overwhelming that free and fair trade makes our economy stronger and the vast majority of Americans better off.

When a country chooses to close its markets and isolate itself economically, the people bear the cost. Prices rise, jobs evaporate, poverty spreads, and other nations close their markets in retaliation.

The answer lies, instead, in opening new markets to create new jobs, aggressively enforcing our trade laws and trade agreements, treating sensitive products with care and providing effective trade adjustment assistance and retraining opportunities for those adversely affected.

Of course, the answer goes well beyond trade policy: a better trained workforce; making our economy more competitive; encouraging savings. Trade is just one part of the President's larger economic plan.

We face challenges, but we also face a world of opportunities and a choice on how to proceed. I believe the right choice is smart economic engagement, tough enforcement, and using trade as a powerful weapon to strengthen our economy and spread freedom. With your support, I will do just that.

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

[The prepared statement of Congressman Portman appears in the appendix.]

The CHAIRMAN. Thank you very much for your opening statement, and particularly with the specificity of your goals and the principles on which you are going to do your work.

Before we begin with questions, I would like to request that all members wishing to submit questions for the record do so by 5 p.m. today. I would also like to have the committee report out the nominee next Tuesday either by an off-the-floor vote, or if we have a quorum, at the Social Security hearing next Tuesday.



With that said, I would move to the first round of questioning. Five minutes starts for me just as soon as I ask the usual three questions that we ask every nominee.

Senator BAUCUS. Mr. Chairman?

The CHAIRMAN. Yes?

Senator BAUCUS. Before you proceed, I appreciate your attention and a vote on Tuesday of next week. I think that is a good idea. I think it is very important that Mr. Portman be confirmed so he can take over his new job as quickly as possible.

I know of no objections on this side. I know of no objections in the Senate, for that matter. There are a couple of wrinkles we have got to work out, but I think we will work those out. I think we should try to get him confirmed on Tuesday if we possibly can.

The CHAIRMAN. And I thank you for your cooperation, both with your statement now and your approving the procedure when I had a private conversation with you.

There are three questions that we have to ask every nominee, Mr. Portman, so I would ask you to respond after each one of these questions.

First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of office to which you have been nominated?

Congressman PORTMAN. No, Mr. Chairman.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been confirmed?

Congressman PORTMAN. No, Mr. Chairman.

The CHAIRMAN. Or been nominated, at this point.

Congressman PORTMAN. No, Mr. Chairman.

The CHAIRMAN. All right. Thank you.

Congressman PORTMAN. Thank you for the confirmation. [Laughter.]

The CHAIRMAN. Third, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Congressman PORTMAN. Yes, Mr. Chairman.

The CHAIRMAN. I would add to that, without your having to answer, that occasionally these sorts of communications we have with cabinet people like you do not necessarily involve coming before a committee. They are often by letter.

I have found that very few people answer our letters the first time. It takes three or four times. The extent to which you can do it with just one round of correspondence, you would make my job, and yours, a lot easier.

Congressman PORTMAN. I can appreciate that, Mr. Chairman, having been on the other end of that.

The CHAIRMAN. Thank you.

Now, would the 5 minutes start? Then we will go in order. After Senator Baucus it would be this order: Smith, Wyden, Bunning, Schumer, Crapo, Rockefeller, Thomas, and Lincoln. If that is not right, I will stand corrected.

My first question deals with CAFTA. Opening up new markets for U.S. agricultural exports, of course, is a priority for me, as I

know it is with you. The fact is, we produce more in this country than we consume and we need to be able to sell our agricultural products abroad if we are going to have a viable rural economy.

I want to draw your attention to a recently issued letter by six former Secretaries of Agriculture, Republican and Democrat. In this letter, they express strong support for the CAFTA agreement and note that "failure to approve CAFTA will have a devastating effect on U.S. efforts to negotiate trade agreements for U.S. agriculture." They continue, "The World Trade Organization Doha Development Round would be dealt a serious blow."

From our prior meetings, I know that you appreciate the importance of agricultural trade to our economy. Do you agree with the sentiments expressed in this letter, that failure to approve CAFTA would harm our agricultural trade agenda? Could you specifically address the effect that failure to approve the agreement might have on agricultural negotiations within the World Trade Organization?

Congressman PORTMAN. Well, thank you for your question, Chairman Grassley. I agree wholeheartedly with that letter, as I know you do. The CAFTA agreement is with one region of the world, but it relates to a much bigger issue, which is America's leadership in the world on trade.

In particular, as you know, the Central America-Dominican Republic Free Trade Agreement offers agriculture tremendous benefits. It has been estimated that there would be a doubling of our farm exports in the first year alone that is expected to be \$1.5 billion of new agricultural exports to those regions, Central America, the Caribbean, and the Dominican Republic.

So, it is not only an agreement that is very important to reach in order to ensure that we keep the momentum building for reducing the unfair subsidies that are around the world, particularly export subsidies on agriculture, which I know is in the interest of many members of this committee, the Doha Round, and other agreements, but it is also an agreement, in and of itself, which was very positive for agriculture and will help us to ensure that America's farmers get a fair shake, and that we can continue to build on the agriculture surplus we currently have.

As I mentioned during my opening statement, we do enjoy a surplus in agriculture exports. We deserve that. Our farmers and ranchers are the best in the world. This agreement would help in very specific ways with regard to these countries, but also, as you say, and as the former Secretaries of Agriculture say on a bipartisan basis, this would be very helpful in terms of moving the Doha agenda forward, and generally helping agriculture in all of our trade negotiations.

The CHAIRMAN. Now I want to visit with you about China. Since that country's accession to the World Trade Organization in 1999, our trading relationship with China has been very mixed. Today, China is one of our fastest-growing export markets. In fact, our exports to China are growing at 20 to 30 percent per year, and have nearly doubled since they joined the World Trade Organization.

But obviously, you hear it every place, in this town and all over the country, about problems remaining between America and China on trade. Our exporters must contend with continued theft

of intellectual property, unjustified and illegal market access barriers, and a government-controlled exchange rate policy.

What efforts are you willing to undertake to ensure that China, and all of our trading partners, abide by their international commitments? I hope that you understand that my question reflects the bipartisanship of that, because Senator Baucus made similar comments in his opening statement.

Congressman PORTMAN. Well, thank you, Mr. Chairman. I took note of Senator Baucus' comments. We had a chance to talk about those privately. I also took note of your comments. Your question is absolutely right. China offers opportunities. We have expanded our exports there, as you indicate. In fact, last year our exports to China increased by 22 percent.

But that was overwhelmed by imports from China. The fact is, some of those imports came in because the Chinese are not adhering to their obligations under the WTO. The fact is, we need to do a better job of enforcing our own trade laws against those Chinese imports.

Specifically, to answer your question, as I said in my opening statement, I think we need a tougher approach. I think we need to hold China to those WTO commitments. As I said earlier, I think it is very important that we deal with the currency issue. I look forward to working with Secretary Snow and others to press China hard on its currency revaluation.

I think enforcement of intellectual property rights is probably the top priority in terms of what is going on in China today. What China does with our movies, music and software is pirating, it is theft.

I think we need to be sure we can open China's markets to our U.S. exports and expand opportunities by knocking down these barriers to trade that they have put up. I mentioned that in my opening statement as industrial policy. That includes industrial standards. It includes the way in which they are going about their industrial policies which disadvantage our exports.

It includes, in our case, because we have a surplus in services and because we have such strength in services, a disadvantage to us there as well. So, we need to be sure to open up more opportunities for U.S. service providers in China.

We need to target areas such as software procurement. The beef issue is in China as well. We also know about Japan and Korea. The BSE beef issue is a big issue. We also need to be sure, as I said in my opening statement, that the direct sales and distribution problems are worked out. We have a commitment from the Chinese to do that and we need to hold their feet to the fire.

Finally, last, but not least, we need to enforce U.S. trade laws to protect against harmful competition and unfair competition from China and other economies. As you know, under the safeguards provisions, which were negotiated as part of China's accession to the WTO, a specific provision with regard to textiles, recently there has been a self-initiation of three specific textile categories by the U.S. government.

My understanding is, there is a petition in for another seven by the private sector. That is part of how we need to deal with China. So, I appreciate your question, Mr. Chairman. I know this is a

topic of great concern to the committee. I can assure you, it is a huge concern of mine.

As a current member of Congress, I have seen this first-hand in my district among the people in my area, small businesses, some of the global companies, some of the farmers I have talked about earlier who have been adversely affected by this relationship with China that needs to be improved.

The CHAIRMAN. Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Congressman, I think CAFTA is in trouble. I think one reason it is in trouble is because the President himself is not directly involved. In fact, when Congress took up the North American Free Trade Agreement, then-President Clinton got directly involved. The White House was very involved in talking to members of the House and Senate of the importance of that agreement.

So far, the President is absent. I see no sign of the President getting involved in CAFTA. What assurances can you give us that he is going to get more involved, and do you agree that he needs to be involved? It is my opinion that he must be involved.

Congressman PORTMAN. Well, thank you, Mr. Baucus. We talked about this yesterday in our meeting, as you know. I expressed there that I believe the President will become much more involved as the legislative process moves forward.

I know how he feels about it. He is passionate about it. He has not been absent, in the sense that he has talked about it. As recently as yesterday, as you know, he gave a speech to a Hispanic business group.

He strongly believes, as many members of this panel do, that when you have a situation where these countries of Central America and the Dominican Republic have basically open access to our market, because 80 percent of their products come duty-free because of the preference programs we have put in place, and where we have high tariffs for our products in those countries, it makes sense. It levels the playing field, it really does.

Senator BAUCUS. I guess I would just urge you to use whatever influence you can. I understand some people think you have a special relationship with the President. If you do, I urge you to use it, because otherwise there may not be a CAFTA.

Congressman PORTMAN. I appreciate that, Mr. Baucus.

Senator BAUCUS. Second, I very much appreciated the reference in your statement to China and the various actions that you intend to take with respect to China.

I think a lot of people are wondering, gee, that sounds good; is that really going to happen? Because so many of us—and probably yourself—have voiced some of these complaints about insufficient USTR, or insufficient executive branch, attention to China, whether it is IPR, or whatever it might be.

I do not know this, but I sense that your predecessor, Ambassador Zoellick, wanted to do more but was hamstrung. He wanted to do more not only with respect to China, but I think—I do not want to put words in his mouth, but I sense from the many conversations that I had with him—that he would like to pursue trade agreements with larger countries that have much larger commercial value, but he could not.

So what are you going to do that is different? What can you say to assure us that finally we are going to address Chinese intellectual property right infringements or the currency question?

There is a lot of talk around here. The proof of the pudding is in the eating, so I guess we will have to wait to see what you do or do not do. But it would help us and help the country have a little more confidence in trade, especially with respect to China, if you could give that confidence to us.

Congressman PORTMAN. Well, I appreciate that. I have shared some of that skepticism over the years, as you have indicated. I have made statements publicly regarding some of these matters, including the currency evaluation issue and the fact that the yuan is pegged to the dollar, and the disadvantage I think it has to our exporters and to some U.S. industries.

So, I understand your point of view. All I can tell you is, not more talk, but that I will do my best, working with my colleagues. As you indicate, it is not solely a USTR function. In terms of the currency issue, Treasury has the lead; in terms of the textile issue I mentioned, Commerce has the lead; in terms of the countervailing duty issue, which I am sure we will discuss sometime today, Commerce has the lead. The State Department clearly has a large role to play, and sometimes the Labor Department.

But I look forward to working with my colleagues and, I think, bringing a couple of things to this issue. One is my perspective as a member of Congress. I think I have a little better feel for what it is like to be in those situations I talked about in my statement where you are dealing directly with constituents, whether they are employees of a company that has been disadvantaged by trade or whether it is a farmer who cannot get an opening for a product. I think I have an appreciation for that.

Second is, I think a fresh perspective is helpful. I think Bob Zoellick did a terrific job, and he was a strong negotiator. But I think it is important now and again to take a step back.

Senator BAUCUS. There is a lot of interest in this body, as you know, in creating a Chief Trade Enforcement Office at USTR, appointed by the President and confirmed by the Senate. That is because there is such angst in this country and in the Congress about insufficient attention to enforcement. What is your idea? What is your reaction to that job, to creating that position?

Congressman PORTMAN. Well, I took careful notes on your opening statement in that regard. As you know, Congress has been active in bringing more focus to China with a China Monitoring Office.

Senator BAUCUS. Why is that not a good idea? Would that help you?

Congressman PORTMAN. It might be. It is something I am going to look into. I do think, as I said in my opening statement, we need an additional focus on China. After a top-to-bottom review, I would plan to shift some resources, including some people, to that effort.

USTR is not a large organization, as you well know. It is a highly talented and dedicated organization, as you said, but I think it is appropriate to shift some of the limited resources to this issue.

Senator BAUCUS. Well, I appreciate that. My time is up. But I just hope you look favorably upon the idea, because I think it will help you.

Congressman PORTMAN. Thank you.

Senator BAUCUS. It will help you accomplish your goals.

Congressman PORTMAN. I appreciate that. Thank you, Mr. Baucus.

Senator BAUCUS. Thank you.

The CHAIRMAN. Thank you, Senator Baucus.

The next two people would be Senator Bunning, and then Senator Wyden.

Senator BUNNING. Rob, are you concerned about the overall trade deficit? What do you think is behind it, and what would you do about reducing it?

Congressman PORTMAN. That is a great question, Senator. I wish I had the silver bullet for you.

First, thank you very much for your opening statement. It means a lot to me. I appreciate having you as a neighbor and a legislative partner on many issues, and I look forward to working with you on this one.

I think it is a concern. Some economists would argue that our current account deficit is not a concern because our economy is strong. I think it is a concern. So, first, I would agree with you and others that it is something we need to address.

Second, I would say, though, it is not a barometer of our economic strength. There are many barometers. One would be our unemployment rate, which, as you know, is historically very low, 5.2 percent. Another would be our growth, which is historically high, 4.4 percent growth last year. We are on track to have 3.5 to 4 percent growth this year.

Another barometer might be our productivity, which is also relatively high. We have created over 2 million jobs in the last year in this country. So our economy is strong despite the trade deficit, but it does not mean it is not a problem. I believe it is a problem.

You asked what has caused it, what has contributed to it. I spent some time with economists over the past few weeks, since I thought I might be before this committee. I have spent some time talking to you all about this.

I am not an economist, and I now know what President Truman meant when he said "give me a one-armed economist on the one hand, on the other hand." But I think there is a consensus that one of the reasons is that we do have strong growth in this country relative to other economies, and that has fueled strong consumer demand.

So when the big economies in Europe, Japan, and these other economies are not growing and not absorbing these imports, we are absorbing more of them. By the same token, our exports are losing some of these markets because of their relative lack of growth compared to our economy. So it is part of it, clearly.

Another part of it is America is attracting investment right now, despite our trade deficit. People like to invest here. What the economists will tell you is, by being a major growth leader of the world, we are bringing large net inflows of foreign capital into this country.

Another issue, which is a macroeconomic issue, really, is our low savings rate. That is our National savings rate, our personal savings rate. This is something this committee has focused on as much as any group in Congress, so it relates very directly to our trade deficit. It is good this committee is involved with both.

High oil prices have obviously contributed recently to our deficits, as have Chinese import growth. I think we have to acknowledge that. There are macroeconomic factors that are probably most important, but the recent increases—dramatic increases, for instance, in Chinese textile exports to this country—have increased our deficit.

So, adding all this up, Senator, I believe that these other factors are huge factors. But I also think that trade plays an important role. The role trade plays is very simple.

We need to expand our exports by opening up markets, as I said in my opening statement, and we need to put in place tougher enforcement so that the imports that are coming in are fairly entering our market.

By doing that, expanding exports and stopping unfair imports, we will have some impact on that trade deficit. The larger macroeconomic factors may not be something I can control; you all have more control over that, such as the savings rate.

But in terms of trade, I believe that, if confirmed as USTR, I can play a role in this, with your help. That is, to open up those markets, and tougher enforcement of our trade laws and international obligations.

Senator BUNNING. You have a history of working in a bipartisan manner. The Portman-Cardin, and I see your good friend, Ben Cardin right behind you, being an obvious example of how you have worked together.

Do you plan to bring that perspective to your job as U.S. Trade Representative, if you are confirmed?

Congressman PORTMAN. Well, thank you, Senator. I certainly do. I appreciate you recognizing Mr. Cardin. I did not realize he was over my right shoulder. That is a little intimidating. [Laughter.] He is usually on my left. [Laughter.]

But Senator DeWine talked about it, you talked about, Senator Voinovich talked about it, and Senators Grassley, Baucus, and I have worked together. The goal is to achieve results for our constituents and the people, and that is what I have tried to do. I have not always been successful in that.

But working with Ben Cardin, for instance, on everything from hospice, to Medicare issues, to pensions, to home ownership, and working with many of you on this committee on both sides of the aisle, we have been able to get some things done. That would be my goal here. It is very simple.

I think we as Americans, and as representatives of the American people, share the same concerns, and that is to have a strong economy and be sure we have a fair trading system.

I think trade has traditionally been a more bipartisan exercise than almost anything else in this town. I would hope to perhaps breathe some new life into that old tradition. That would be my goal, and I look forward to working with you in that regard, Senator Bunning.

Senator BUNNING. Thank you, Mr. Chairman.

The CHAIRMAN. Now, Senator Wyden?

Senator WYDEN. Thank you, Mr. Chairman. I do not want to turn this into a bouquet-tossing contest, but I want to join with the others in welcoming Congressman Portman. He is going to do an excellent job.

One of the reasons that I feel good about his appointment is that I think he shares my view that peddling encyclopedias door-to-door at this point may look more appealing than trying to sell free trade agreements to the Congress. He has got an awareness that those of us who are free traders have of what a challenge this is, and I appreciate it.

I think there are two reasons for that. First, I think trade agreements used to be about knocking down foreign tariffs so that more of our goods could be sold abroad. Now it looks like they have been transformed into vehicles for special interests.

The Congressman and I have talked about the fact that the CAFTA text that is now before the Finance Committee looks like it was written by the brand-name pharmaceutical companies, and he knows that we are going to want to change that.

Also, I am going to ask the Congressman this morning about what we can do to show blue collar workers that trade is beneficial to them, because I think right now they think free trade helps the guy in the front office, but not the guy sweating it out on the shop floor. So, we will ask about both of those things this morning, if I could, Congressman.

But let me begin by asking you about a matter Senator Smith and I care a great deal about, and that is the Canadian softwood lumber debate. That, of course, has been the longest-running battle since the Trojan War, with petitions filed 1 day, then counter-vailing duties imposed the next, and then a dispute settlement panel. All the while, the Oregon mills get hammered and our home builders holler about the price of lumber.

You could get your name in the history books if you did nothing else but solve this one, and I would be curious, by way of starting, with getting your sense of how you want to tackle that particularly contentious issue.

Congressman PORTMAN. Well, thank you, Senator Wyden. I share your frustration that this has taken so long. As you know, Ohio also borders Canada. We do not have the same timber tradition that you do in Oregon, but it is an issue that I have been somewhat involved in.

I had the opportunity, as you know, to speak also with your colleague, Senator Smith, about this. We talked about that in your meeting.

I think there is an opportunity here, working, frankly, with you, Senator Smith, and others who care a great deal about this to try to reach some kind of a breakthrough, because it seems to me there is frustration on all sides. It has been litigated to death. It is time to come up with a settlement. Hopefully that can be negotiated.

I think our stand, though, has to continue to believe that the United States needs to see an elimination of those subsidies in Canada. We want a market-based system there. All I can say is,



if confirmed, I will consult very closely with you and with the other stakeholders.

As you and I talked about, some of the stakeholders are at the point where they would like to see some predictability and some certainty in this. So, maybe I am naive, Senator Wyden, but I think, working with some of these stakeholders on both sides of the border, working with the governments on both sides, we have an opportunity here.

Jim Peterson, who, as you know is the new Trade Minister in Canada, has already called me to offer his congratulations, which was a little premature since I am not confirmed yet.

I was not able to engage in any substantive discussions with him, but if confirmed, I believe he is a man I can work with. I look forward to working with you very closely on this one.

Senator WYDEN. Senator Baucus and I, a couple of years ago, introduced legislation called The Working Families Trade Bonus Act, because what we want to do is deal with this disconnect between the benefits of free trade and what the blue collar worker sees as what it means for them.

I just think the bottom line is, we have got to widen the winner's circle. I mean, people just do not see on the shop floors of this country how free trade benefits them, and I would like you to spend the last minute or so I have talking about what you would do about this disconnect between free trade and the working family in America, and what you would like to see, working with us in the Congress, to do to try to address it.

Congressman PORTMAN. Thank you, Senator. I really enjoyed our meeting and discussion on that particular item. As you know, I share your concern there. I have tried, in my own small way in southern Ohio, as you have in Oregon, to try to be as clear as I can about the benefits of trade, the challenges of trade, but the overall net benefit to our workers and farmers.

I am not sure we do a good enough job communicating that. I have had the chance to look at your legislation, which you kindly provided me. In fact, I also gave it to my tax counsel, who is taking a look at it.

We have already had some discussions with the Joint Tax Committee, and on the House side with the Ways and Means Committee folks, and it does have some Treasury Department-type issues, with revenue issues, and so on, what those implications are.

But I will tell you, I love the concept. I love the idea of better communicating to people what the true benefits are. Nothing is more frustrating to me than going to a shop floor in my area with the context of a company that is heavily involved in exporting, and often the guys on the shop floor, the blue collar workers I am talking to, do not appreciate the significance of trade. In fact, they are on the other side of some of these agreements when, in fact, they directly benefit and their jobs depend on it.

When you get a chance to sit down and talk about it and analyze the pros and cons, folks understand it. But we need to do a better job communicating it, and I look forward to working with you on that.

You have been great at doing that here in the U.S. Senate. I think there is a challenge right now, frankly, that we not overreact

to some of the very real problems we face, and pull up the ladder. As I said in my opening statement, I think if we isolate ourselves economically it is not going to help the people we are trying to help, it will just hurt them.

So we need to be smarter. We need to engage in a much smarter way and enforce our laws in a tougher way, but we also need to be sure we are not losing the huge advantages we get from trade.

Senator WYDEN. I look forward to supporting you.

Congressman PORTMAN. Thank you, sir.

Senator WYDEN. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Smith?

Senator SMITH. Thank you, Mr. Chairman.

Congressman Portman, it is a pleasure to see you nominated. I look forward to advising and consenting on your nomination so that you are confirmed and in place very soon.

I will not reiterate, but simply echo, my colleague's comments on Canadian softwood lumber. I, as a neighbor of Canada—at least, Oregon is closely that—it has been very disappointing to see our relationship with our northern neighbor deteriorate at so many levels and so many issues over the past number of years.

But this one has a particular impact on working Oregonians who have lost, over the last 15 years, about 75,000 timber jobs, for many reasons, not the least of which, a big part of which, is the subsidy of Canadian timber.

But for these countervailing and antidumping duty laws that we have, frankly, we would have no negotiating leverage to get an agreement. We need an agreement with Canada. They have won many of these negotiations. We need to acknowledge that.

But on the other hand, there has got to be a better way than the way it is done now, because it is not fair trade that is going on in terms of lumber, and lots of people are victimized by it.

So, I will not say any more about that. We have talked about it, and I appreciate your focus, as a very high priority, on the establishment of a new agreement with Canada on that.

But as I look back now at the WTO votes we made on China, it is very clear to me that, by any measure, when it comes to intellectual property, WTO and China are not working for these essential industries in the United States.

I wonder, in retrospect, if we could have another bite at that apple, how would we negotiate it differently? I do not know whether the Chinese are actually trying to enforce these agreements on intellectual property, but clearly the levels of piracy are as bad as ever, as far as I can see.

But that brings me to the next thing we are apt to deal with, which is Russia WTO. So as we consider that, particularly as it relates to piracy of U.S. movies and music, I have been told that currently, to supply the Russian market, they need 27 facilities.

They now have 36 CD manufacturers, 9 of which, I am told, are operated on military bases. I just want to get your thoughts. How could we do that one better than we did the WTO on China? Because no doubt Russia will come forward.

It would be great to see Russia as part of the world trading community, but intellectual property, particularly movies and music, are some of the last industries that are still very much American,

and frankly they are being stolen wholesale, and I do not want to spread it any more.

But Russia, in terms of piracy, of these issues, is out of control. I want to highlight to you my concern, and ask for your comment on that particular issue, as well as China.

Congressman PORTMAN. Well, thank you, Senator Smith. I did appreciate our conversation about that. I look forward to your leadership on the Canadian softwood lumber issue as well.

You are right. I mean, when you were talking about China, I was writing down "Russia," because it is not exclusively a Chinese issue. With regard to Russia, as you say, we do have the ability, as they are seeking WTO accession, to continue to raise that issue and see progress there.

I think it is the top issue we face with regard to their accession. I could not agree with you more that this is something that has not worked in the way we would like over the last several years since China's accession.

I will say, we do have some success stories. One thing that I am looking forward to doing is learning how we were successful in Japan, how we were successful in Korea, in really getting our hands around this issue and dealing with some very serious piracy problems we had there. Maybe some members of this committee were more involved in that over the years than I was and you can give me some advice.

But we have been able to make progress in other countries. My understanding is, even within countries like China and Russia where the government undertakes to make progress, they have been quite successful where they care about a particular movie, or a particular CD, or a particular software application. So, I hope we can learn from our successes and hope we can redouble our efforts.

The WTO does give us some leverage here, and maybe we have not used it properly. But I really look forward, Senator Smith, to working with you on those two specific issues of Russia's accession and how we make progress in the process of that, and how we do a better job with regard to the theft and piracy going on in China.

Senator SMITH. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Rockefeller?

Senator ROCKEFELLER. Thank you, Mr. Chairman.

Good morning, Congressman Portman.

Congressman PORTMAN. Good morning.

Senator ROCKEFELLER. I am very glad to see you here.

My view is a little bit different, and I want to be a little more philosophical in my approach. I think that we in this country, over the Bush administration and the Clinton administration, and really I think you have to go back to the Reagan administration, and I will give an example of that, where we have talked about being tough on trade, fair trade, it has got to be a 2-way street, but we fundamentally have abrogated that philosophy and taken no action, really, to back it up.

I mean, President Clinton was tough in his talk, but he basically did a few things on bananas, a few things on beef hormones, and something about differential and Japanese alcohol, which sort of did not change the trade balance a whole lot, or the trade deficit.

And that was because basically Bob Ruben, who was Secretary of the Treasury, convinced Gene Speurle and the President that the world had changed and it was going to be free trade, and that therefore the whole concept of fair trade has ceased to have meaning because we have ceased as a country to decide to do anything about it.

Now, I am going to say something which may seem aggressive, but I think it is an interesting point. You sit here this morning, a marvelous person seeking to answer questions, and you will, and should be, confirmed.

But when you give testimony from now on before any committee, it will not be your testimony. It will be vetted and approved and changed until it meets the requirements of the Office of Management and Budget, which is another way of saying that it will need to reflect administration policy.

It will only reflect administration policy. That is a very unfortunate and unfair thing for you, because you could have stronger ideas about taking the concept of fair trade in a certain direction, but you will not be able to do it unless you have the administration willing to let you do it, and I do not think they will be.

Now, that is the reason I talk about Clinton, because it is a bipartisan problem. I have not, and we in West Virginia have not, because we lost incredibly from so-called unfettered trade.

But I have to go back to Ronald Reagan, because I have a whole bunch, just like Gordon Smith, of intellectual property, movies, DVDs, DVDs, Russia, China, military bases. Then we are going to get tough on the Chinese? Well, the reason we let them into the WTO was so that they would conform to international rules.

China is the Middle Kingdom. They have been around for 5,000 years. They can out-wait you and your 10 successors and predecessors. You mentioned, yes, they can be effective when they want to close down on something on the Internet they do not like, and that is usually something which is taking on their government. I mean, that is what they are good at. They do not want there to be a lot of dialogue about the nature of their government.

But on movies and all the IPR stuff that Gordon and others have referred to, the Chairman and Max Baucus, I do not think they are going to be particularly responsive to you because they view the world in terms of centuries, in terms of millennia.

They feel that their destiny is such, and their power is such, and then the complicating factors of what the State Department has on their agenda, and they know that essentially you are going to end up being check-mated by something called administration policy, as Democratic presidents have been, also.

Now, Ronald Reagan taught us a lesson in taking action on semiconductors back in the 1980s. He did it with Japan at a time that nobody took on Japan because they were just eating our lunch. I think we had gone from 96 percent of the market on VCRs to 6 percent, or something of that sort, in a very short time.

Ronald Reagan said, all right, I am putting a tariff on your highest luxury goods that come into the United States unless you, within a period of 3, 4, or 5 months, whatever it is, bring the percentage of American VCR penetration into Japan, or semiconductors, up to a level of 20 percent. He did it.

I received 30,000 letters from enraged sellers of those goods. These were expensive products; clothes, cars, gadgets, things. People were furious. It went up to 20 percent. The Japanese conformed. They reacted to tough action.

So, yes, we have the ability to do these things, but we have not shown the will as a country, because Americans are product-driven. We love bright colors, great shapes, and pretty things, and we do not look.

I do not know who made this tie; I am not going to look, in fact. But that is the way we are. The government knows that. The government has a higher order of priority trying to keep peace in the world, fight a war on terrorism, and trade always comes in second.

I would just hope that, in closing, Mr. Chairman, that the \$162 billion trade deficit we have with China alone, when in 1995 our trade deficit with the entire world was \$3 billion less than that, that you will contemplate some of the things I have said and figure out what you are going to do about it.

I guess that was not a question. [Laughter.]

Congressman PORTMAN. Thank you. Just a brief comment, Mr. Chairman.

The CHAIRMAN. All right. Before you make your brief comment, I cannot help but tell the world that everybody knows where the Rockefeller neckties come from: they probably come from Italy. [Laughter.] Go ahead.

Congressman PORTMAN. Now he is looking. [Laughter.]

Senator ROCKEFELLER. It says "Prince of Wales." [Laughter.]

Congressman PORTMAN. I think that is a small town in western West Virginia. [Laughter.]

Senator ROCKEFELLER. Right near Parkersburg.

Congressman PORTMAN. I just wanted to say, I appreciated our conversation in your office as well, and I appreciate the warning. I do think trade has gotten people's attention in ways, perhaps, it has not in a long time.

Senator BAUCUS. I am sorry. What was that?

Congressman PORTMAN. Trade has gotten people's attention. I think the trade deficit number that you cite has helped to put the trade agenda on a higher footing with regard to the other issues that you raise. I think that gives us an opportunity.

The CHAIRMAN. Senator Thomas?

Senator THOMAS. Thank you, sir.

I am delighted you are here. You have got a tough job, and I know you will do a good job.

I have a couple of little items. They are not as important as ties, of course, but they do have some impact with us.

We need to be involved in trade, obviously, but it is always a difficult thing. All of us have issues that we are most interested in. In my State, of course, it happens to be soda ash, sugar, and agriculture. I am surprised sugar has not been mentioned more today, as a matter of fact, because it is certainly a difficult issue.

Agriculture is tough. I was at the Cancun meetings. The small countries all want to export agriculture, but they do not have anything else to trade. They do not buy. It is a difficult arrangement. The European Union also continues to be difficult in terms of agriculture.

I think some of the resistance in agriculture, even in the beef industry, is because of our problems getting Asia—Korea, Japan—back into buying U.S. beef.

What can we do here to move that along? Do you have any feelings?

Congressman PORTMAN. Well, absolutely. First, I enjoyed our conversation about the agricultural issues, in your role as chairman of the subcommittee. I look forward to working with you on all the issues, including the great potential, as you and I shared, about reducing export subsidies in the Doha Round, which could be very beneficial to the world, but also to U.S. farmers and ranchers who are so productive.

With regard to the BSE issue, I share your great frustration there. As USTR, if I am confirmed, that will be a top priority. Japan, in particular, as you know, has dragged its feet on this issue. I believe using sound science, our beef is safe. I believe they ought to open their market.

If they did that, it would have a beneficial effect in other countries; you mentioned Korea, and I mentioned China earlier. So, I think this is an issue that we need to resolve, we need to resolve quickly, and we need to use sound science. I think if we apply that across the board here in this country and in Asia, it would be beneficial to the U.S. cattlemen.

Senator THOMAS. Of course, we have all heard about the problem with sugar. It is a little different commodity in agriculture and one that we have basically supported by holding down their production. I think a lot of people believe that perhaps CAFTA is not as important as the precedent it may set for future negotiations. How do you feel about that?

Congressman PORTMAN. Well, again, you and I have talked about the sugar issue and the Central America and Dominican Republic Free Trade Agreement. It is a very sensitive product. As I look at the agreement, and I have looked at it much more closely in the last few weeks, I believe that the issue was handled with care.

I believe that it will not negatively impact the sugar program, and certainly not open up the agriculture bill, which is what some people have said. It is relatively small, about 1.5 percent, a little less, in the first year of our total production, which, incidentally, is less than the fluctuation year-to-year, typically, in our sugar program.

As you and I have discussed, it also includes an interesting provision which is not there for any other product, and that is really an insurance policy, which is this compensation program where we would be able to compensate those countries in Central America, in the Dominican Republic, should there be—should there be—an effect on the sugar program, which I do not believe would happen, given the numbers that I have seen.

One thing we have, as you know, Mr. Chairman, is the opportunity to work on that compensation program, because it is not fleshed out in the agreement. I have looked at it. It is very general.

One thing I would love to do is sit down with you and other representatives of sugar beet growers and sugarcane growers and figure out what makes sense for this compensation program, to be sure that it is a real insurance policy that works for our farmers.

Senator THOMAS. Good.

Some have felt as if the USTR resources have been oriented towards bilateral negotiations rather than the Doha Round, and that we have missed some opportunities there, particularly in agriculture. What is your view of where we are with Doha?

Congressman PORTMAN. Well, you raise an important concern. I think that the free trade agreements, when added up, are very important to our economy, including for agriculture.

As you know, we enjoy increased agricultural exports to most of those countries as a result of the FTAs. Together, they comprise our third-biggest trading partner when you add up the ones that you all have approved and the ones that are currently in the pipeline.

But, as I said in my opening statement, Doha is the big agreement. That is the one we need to build toward. These free trade agreements have helped us in that regard. They provide momentum. They establish higher standards, which then help us in the multilateral or global round in the Doha Round.

But I think the Doha Round offers great promise for us, for our agricultural interests, and in particular, as I said earlier, with regard to the export subsidy issue, with regard to export issues in general.

The United States will benefit if we can knock down barriers to trade, which will be part of that Doha Round if it is successfully completed. We will have to work closely with you and others to make sure that we realize those benefits. But I think it offers great promise. I also think it needs a jump start.

One reason I am eager to get started is that, if confirmed, I will be able to go right into that process. There is a meeting, as the Chairman outlined, the first week of May, which is an important ministerial meeting, to then build to what I hope will be a very successful meeting at year-end in December to move the Doha Round forward.

Senator THOMAS. Good. Thank you. We look forward to working with you.

Congressman PORTMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Now, Senator Lincoln?

Senator LINCOLN. Thank you, Mr. Chairman.

Good morning, Congressman.

Congressman PORTMAN. Good morning.

Senator LINCOLN. We are delighted you are here. Good to see you again. I, like others, appreciate and enjoyed our visit last week. As the Chairman stated, we look forward to working with you, but look forward to having a continued conversation, as you have with all of the members here, whether it be in person or by correspondence.

Today I would like to reemphasize just a few of the issues that we talked about during that meeting, and a new one that has come up since our discussion. As you know, I represent a State that relies on agriculture as its largest industry.

I am pleased to see that there are a lot of folks at USTR already that know and understand agriculture well, and I am looking forward and hoping to see that you will be taking some with you as

well that know and understand agriculture. So, we hope that we can continue that open dialogue.

Specifically, the EU Trade Minister Peter Mendelson's unrealistic call for an early harvest agreement related to cotton within the WTO Doha Round. His statement really was a change in position for the EU as a single undertaking in agriculture in what I see as a significant shift for the EU in the middle of this negotiating round.

So, I guess I am interested in your thoughts about the single undertaking approach to agriculture negotiations and what your position would be with respect to the new EU decision to break out commodities one by one and try to negotiate them separately.

Congressman PORTMAN. Well, Senator Lincoln, I appreciate your raising that issue. I share your concern. One of the benefits, I think, of working on these issues on a multilateral or global basis, and looking at all these agricultural products together, is we have found that is the best way to move forward and to achieve real results.

So, quite frankly, I was surprised to learn about this change in approach, and I think we need to stick with the single undertaking approach. I think it is the only way to move forward, because it is balanced and it provides for broad-based reform. So, I look forward to working with you to ensure that we do not have an early harvest, and in fact we harvest these products together.

Senator LINCOLN. Well, it is important. There is safety in numbers, and I think we have discovered that in agriculture, and it is important to stick together. So, I hope we can look forward to working with you on those as those things develop.

I also mentioned in our meeting that steel is also a big business in my home State of Arkansas. My former Congressional district is probably the largest, if not the second largest, steel-producing district in the Nation. I think the steel industry has been a great example of how our trade laws can be effective when they are enforced aggressively.

As a member of this committee and one who has supported free trade, I would also say that I have spent the majority of my time, however, or certainly a lot more of my time, working to ensure that fair trade exists and that we do use the trade laws that are on the books, and that we do act aggressively on that.

You are certainly aware, I think, of a bipartisan group of Senators that have introduced legislation to ensure that all countries are covered by the anti-subsidy law. The countervailing duty law is an important tool for us to combat prohibited subsidies by foreign governments.

Unfortunately, our U.S. subsidy law is oftentimes not being applied, or certainly not being applied to non-market economy countries like China. We have talked about that, I guess, at great length, and protecting those countries that subsidize the most heavily and which cause the greatest injury to our U.S. manufacturers and agricultural producers.

The countries are exporting unfairly subsidized products to our country without any fear of action by our trade authorities. I heard from everybody else, and from you, how important that is. We hope that we will see more.



But I guess at the heart of that question is my understanding that the limitation by the U.S. is based on a 1980s agency interpretation, but not required by law or international agreement.

In your judgment, is there any impediment in the GATT or other international trade agreements that would prevent us as a Nation, or any WTO member, from applying countervailing duty laws against non-market, as well as market, economy countries? Is that an interpretation?

Congressman PORTMAN. First of all, I think you have raised a very serious concern, and I share it, which is, how do you get at these subsidies in non-market economies, China being the best example? You are right. Based on a 1986 court case, the Department of Commerce, through administrations, Republican and Democrat alike, have chosen not to apply our countervailing duty laws to non-market economies.

The reason is, it is tough to do it when you have an economy that is so subsidized that the market signals are not clearly identified. So instead, we have relied heavily, as you know, on our anti-dumping laws, where some would argue in the trade community that we are able to get relatively high tariffs on antidumping, because there we would use a proxy, another country, as a comparison, and the inputs, and come up with a tariff. We have been successful with that, as you know. There have been a lot of anti-dumping cases against China, in particular.

So the question is, how do we proceed? How do we deal with this issue on the subsidy side? I am not sure I know the answer to your question as to whether there are any reasons we cannot do it from a WTO perspective. My understanding is, we probably could.

The question is whether the subsidy that we would identify would hold up because we would be able to justify it, given, again, that it is just impossible to determine what these market signals are in a subsidized, non-market economy.

So, I really look forward to working with you on this. I think it is a real issue. I have talked to Senator Collins about it, and also Senator Bayh, who, as you know, has such a strong interest in it that he would like to see the Collins-Bayh bill come to the floor. I have also talked to Representative English about this, who is the leader of this issue on the House side.

I have had an opportunity to speak to a number of lawyers in the Commerce Department. This is not a USTR issue, it is a Commerce Department issue, you should know. But I have also talked to lawyers at USTR and in the private sector about it in the last few weeks, trying to figure out what would be the best approach.

I think it is a real concern. I think it is one that we ought to take up. I think if there is a way to identify those subsidies, we ought to do it, but we ought not to disadvantage American workers in the process. Some would say—and I am not saying I identify with these concerns—that this could lead us to a situation where China could assert that it is now a market economy because we are not using the non-market economy analysis on the CVD side.

That, I do not think, is in our interests. I do not think China deserves market economy status right now because they have not met the benchmarks, including their currency revaluation.

So, I think we need to be careful as we proceed, but I think it is a very real issue that I really look forward to working with you, Senator Collins, Senator Bayh, and others on going forward.

Senator LINCOLN. Well, there is no doubt it is a sensitive issue, but we are looking forward to working with you on it.

Congressman PORTMAN. Thank you, Senator.

Senator LINCOLN. I think you will do an excellent job. Thank you.

The CHAIRMAN. Senator Snowe?

Senator SNOWE. Yes. Thank you, Mr. Chairman.

Welcome, Congressman Portman. I am pleased that we had an opportunity to meet the other day to discuss the economy and a variety of issues that are so important to States like mine, that have been the victim over the years of unfair trade policies, and a lack of enforcement. In 4 years alone, Maine lost almost 20,000 manufacturing jobs, something that I am sure that you can relate to.

But, first, let me say, I welcome your appointment. With the breadth of experience and knowledge you bring to this position, I believe you are well-poised to be able to understand the grave concerns that we have with the overall environment with respect to trade and the application of the existing agreements and laws.

Hopefully, we can strenuously enforce our agreements through the laws available to us and within the WTO to enforce these agreements, because I believe that there certainly is a lack of confidence in our ability to aggressively enforce these agreements.

This brings me to the point of China. You have heard it endlessly, for good reason. My State has been hit hard by the loss of jobs, and certainly China has contributed to those losses.

We see a plundering of our creativity by China through the violations and rampant piracy of our intellectual property rights, and it continues unabated, for all practical purposes, even by China's own admission. It counterfeits more than \$19 billion in counterfeit goods, and over 90 percent, when you talk about DVDs and everything else.

We have a company in Maine that employs 880 workers in the rubber footwear business. We appreciate the fact that many of our agreements have protected them, because it is really basically the only company of its kind in America that manufactures rubber footwear. It is one sector of the industry that remains in America.

But they had to spend \$1 million over the last 5 years to protect their own rights with respect to the production of their footwear. One million dollars! So, we have endless reports. I know you are probably familiar with the U.S.-China Economic and Security Review Commission report that was issued last June. It goes on at great lengths to talk about the continued failures of China, including the wrongful manipulation of its currency.

We are hesitant and, in fact, have resisted the idea of calling China a currency manipulator. We refuse to initiate a 301 or a case before the WTO. All of this while China has deliberately frustrated the effectiveness and debased the value of the WTO's transitional review mechanism.

I believe the point of all this is, at what point do we satisfy ourselves with the breadth of violations perpetrated by China and de-

cide that we have to establish certain benchmarks for progress, or lack of progress, and take action?

I know that there is a review that has been undertaken by USTR regarding compliance and non-compliance issues, but at what point do we establish specific benchmarks of progress by China?

Congressman PORTMAN. That is a very fair question. My understanding is, there is an out-of-cycle review right now of intellectual property right violations in China. In a sense, those benchmarks are established through that review.

But it sounds to me, from what I know about the situation from talking to members of this committee, as well as my experience on the Ways and Means Committee, that we not only need more benchmarks, we need to figure out a way to bring attention among Chinese officials to those benchmarks.

I think the approach we have taken with regard to intellectual property rights has been very strong in the sense of identifying the problem. The STOP! program was talked about earlier, for instance, and now this out-of-cycle review. What we have not seen, are the results that we need to see.

What I would tell you is what I told you in our meeting, which is, I think taking a fresh look at all of these issues, including the IPR issue, as I said earlier. I think we ought to do a top-to-bottom review of where we are on all of these issues. IPR would be at the top of that list with regard to China.

Ultimately, although preferring negotiation, having recourse to litigation through WTO and the rights that we have now that China is a member ought to be considered. So, I think it is time to see progress.

Senator SNOWE. When do you expect this report to be included in this review?

Congressman PORTMAN. I think it is within a month, but let me check with someone who knows. It should be done, actually, within a couple of weeks, I am told by USTR, Senator Snowe.

Senator SNOWE. Well, I hope that we can get to a point of concrete action, because there is a lot of frustration with hollow gestures in the final analysis. At some point we have to take a concerted approach to China. Establishing benchmarks and measuring progress or lack of progress is going to be absolutely essential to hold them accountable.

Congressman PORTMAN. I think that is a sensible approach.

Senator SNOWE. Because it is devastating our economies and jobs, as you well know.

Thank you.

Congressman PORTMAN. Thank you, Senator.

The CHAIRMAN. Senator Kerry is next, but he has deferred to Senator Hatch for a very short statement of support.

Senator HATCH. I want to thank my colleague, Senator Kerry, for his graciousness here. But I just wanted to say to you that I support you fully. I am very grateful for your willingness to serve in this position. It is a tough position. It is a demanding position. I have every confidence in the world you will do it very, very well, and I intend to help you every step of the way.

Congressman PORTMAN. Thank you, Senator.

Senator HATCH. So, I just wanted to say that.

Again, I thank my colleague from Massachusetts.

The CHAIRMAN. Now, Senator Kerry.

Senator KERRY. Thank you very much, Mr. Chairman.

I do have a number of questions. But before I get into questions, I would like to make a few comments, if I could.

Number one, first of all, welcome.

Congressman PORTMAN. Thank you.

Senator KERRY. Congratulations to you, Congressman.

Congressman PORTMAN. Thank you, sir.

Senator KERRY. It is obviously an enormously important job. You have heard it from all of my colleagues and you know the stakes well. It is a huge job, and a particularly challenging one right now. So, I wish you well in it, and I look forward to supporting you. I think you are well-qualified for this, and we all want you to succeed.

Let me give a little bit of background to the comments I am going to make, because I want to put them in a context. I was not able to be here for the hearing previously on CAFTA itself.

I have been here 22 years now, and I have always pushed hard for trade agreements, and I have supported every one of them that came through here and have been part of those fights.

Beginning with NAFTA, I supported the Uruguay Round, supported China PNTR, supported fast track, supported the Trade Act of 2002, and bilateral free trade agreements, including, most recently, Australia, Singapore, and Chile.

I supported those, even in the course of the presidential race when a lot of people were pushing in another direction, because those countries, particularly, had strong regimens of enforcement, strong laws and standards with respect to their workers.

During that same time, even as I supported those over the last 5 or 6 years as a member of this committee since I came on the committee, I have also consistently been warning the administration, at the end of the Clinton administration and now this administration, about the changing dynamic in the world with respect to trade and our economies.

Trade cannot be looked at, sort of, just as trade. It is not just trade. It is investment policies. It is fiscal policies. It is technology, research and development, and a host of other things. It is enforcement and standards. If those do not keep up, if you are not vigilant about them, you lose the consensus, the global consensus on which trade regimens have been built.

For 5 years or more, I have been warning about the fraying of the edges of that consensus. I think, not that it was particularly remarkable or anything, but just that it was a demarcation point in my own thinking.

I remember speaking at the World Economic Forum in Davalos about 4 or 5 years ago about backlash, and the threat of backlash, and the warning that if you do not maintain consensus, the backlash will grow.

Well, it has grown. We are inheriting now the harvest of not having done the work that many people, Democrat and Republican alike, laid out that needed to be done to maintain that consensus, and even to look dispassionately at some of the differences between countries and standards and how we approach this.

Last year during the campaign, I said I thought we needed to put together a commission to look at all our trade agreements and make a nonpartisan analytical judgment: what is working for us, what is not working for us, and go out and try to cure some of those things that are not working for us.

Now, I also said that unless things change with respect to CAFTA, I would not be able to support it. Now, that was reflecting the view back in June of 2003 of our own USTR, who said that there were serious problems with the Central American labor laws, pledged to take action to address those problems before duplicating the labor rules of Chile and Singapore.

Peter Allgeier testified before us as to whether the labor provisions of the Chile and Singapore agreements would be sufficient for Central America, and he said, "It depends in part on what changes in their laws they make during the negotiating process."

He stated that, frankly, the different circumstances that exist in those countries and among those countries compared to, for example, Chile and Singapore, may require a different approach.

He pledged that USTR would "need to get those," the labor standards and the enforcement of labor rights, "up to a certain level before we would find acceptable a commitment to enforce those laws." A year and a half later, most of those countries have done nothing to bring their labor laws closer to the international standards.

So my first question to you is going to be—but I want to say a few more words before that—if the model was not acceptable to USTR for Central America in 2003 and they have not changed it, why should it be acceptable to the Congress now? I think that is a very legitimate question.

But what is important is to understand that the current trade regime is not working as effectively as we want it to be. American manufacturing has suffered 42 consecutive months of job losses, 2.7 million jobs. You have lost a lot of them in your own State. We continue to face record trade deficits with no sign that that is going to change.

When we were debating fast track authority in 2001, I remember issuing a warning, both to the President and to the Trade Representative, to use that authority carefully.

Many of us asked the Representative and the administration then to pay close attention to labor laws and environment standards, and indeed to improve those standards.

President Clinton and the prior administration came to that conclusion, which is why the Jordan trade agreement embraced those standards for the first time in the four corners of the agreement. We had a big debate.

I remember Phil Gramm, I, and others. There was always that ideological tension here of purity, but it tended to have blinders on with respect to real consequences, real people, real jobs, and the real economy. That has not been addressed. Frankly, those appeals were just ignored. Now we are presented with CAFTA, which is our largest trade challenge in a decade.

Frankly, it is deeply flawed. The labor and environment standards contained in CAFTA are inadequate to deal with serious issues in the region, including pay and working conditions, violence

against trade unionists, and inadequate enforcement of existing laws.

CAFTA leaves our States and municipalities vulnerable to costly investor rights litigation if they act to protect the public health or the environment. A large part of the problem is that, in my judgment, CAFTA was not reached through this kind of consensus that we have talked about, and cooperation.

Democrats and Republicans have expressed concerns, and I think all have been sort of left out, those considerations have been left out, in the reaching of the final agreement.

So, obviously, your first job is going to be to try to address these, but I think it is beyond CAFTA, frankly. You have heard some people mention that here. The China situation is simply unacceptable.

The administration has dragged its feet on the trade deficit with China. It is causing enormous economic dislocation. I think all of us understand that good trade policy requires consensus. I do not think your predecessor upheld the spirit or letter of the trade promotion authority as I have understood it over the 22 years I have been here.

I voted for fast track, but it was with the expectation and the promise that the administration was going to work closely with us to address these kinds of concerns.

Frankly, it has been lip service through the years. No fault of yours, but it has been a kind of lip service and almost sort of a blinder to just, there are benefits to trade and they are automatic, so we flow ahead.

There is a big distinction between the economy we have today in America and the economy we had in the 1990s, also, the fiscal policies of those periods of time. We were investing in R&D, investing in education, investing in infrastructure, pushing the curve with respect to new technologies and high value-added jobs. It is not happening today.

So I knew that my time would probably be used up largely with this, and I expected that. I will wait until the next round and then go through the questions that I have.

The CHAIRMAN. Senator Schumer.

Senator SCHUMER. I apologize to the witness. We had Judiciary hearings on two issues that are even more controversial than trade with China. But I would like to talk about trade with China here.

I believe that we are one world, that you cannot build walls, and that a lot of the blame for our big trade deficit is here at home. We do not have a good enough education system. We do not save enough.

But there are some countries you do not see much hue and cry against, say, India, and there are some you see a whole lot, namely China. The more we look at it, the more it seems that China is not playing by the rules of free trade. They want the advantages, but when it comes to the responsibilities, they do not step up to the plate.

What they do with intellectual property is well-known. When you visited my office, I told you about big companies like GE and little companies like Marietta who are simply told—Marietta—it is all they've got in Cortland, NY—makes soaps and shampoos. They were just told by the Chinese, you cannot import them, for no rea-

son. I asked the head of Marietta. It is the only job producer in Cortland, NY after they lost Smith-Corona and Buck-Bee Meers.

I asked the head of the company, why do you not go to the WTO? He said, I will be gone by then, because China, with its walled-off market, is using their manufacturer to compete with them overseas, even though they make record profits.

But to me, the worst of these examples is pegging the currency artificially low. It violates every precept of free trade. If you are a little, tiny country we have always looked the other way, but China is not a little, tiny country any more.

The excuse that some make is that their financial system is not up to it, they have not tried to make their financial system up to it. No one says they have to do 27.5 percent in a day, but they are not even trying. They just talk.

Many of us are dissatisfied with how the administration has handled this on both sides of the aisle. I do not want to make this a partisan issue.

So what I would like to ask you is, first, are you satisfied with the administration's policy on trying to get China to revalue its currency this far? Second, specifically, what would you do differently? Third, do you believe that China should allow its currency to float and go to whatever level possible rather than peg it?

And one final question. We just heard a news report this morning that Chrysler is going to make small, compact cars in China and export them to the United States. This would be a huge shift in manufacturing.

My view is, if they do it on a level playing field, that is one thing. But what do you say to people here, the manufacturers and workers here, who have to compete with a built-in 27.5 percent, or whatever the difference is, effective tariff against them?

So, those are my three questions and I will give you some time to answer them. Well, four, I guess it was, but they are all related.

Congressman PORTMAN. Well, thanks, Senator. First, I did enjoy our conversation, including the discussion about Marietta in Cortland, NY. As I mentioned earlier—I think you were here—I have had some experiences in my own district of companies that have been unfairly disadvantaged by the Chinese not opening their markets as they should, and by the currency issue.

I stated very clearly early on in my statement, but also in response to a question, that I do believe that this is an issue that affects our U.S. manufacturers, our U.S. farmers and agricultural sector. I believe it is something that does affect trade.

By the same token, as you know, the Treasury Department has the lead on this, appropriately—it is a currency issue—and not USTR. I also believe that there has been some progress made recently.

I told you privately, and I will say this publicly, that I think the vote on your legislation that you and Senator Graham had been working on is likely to have sent a strong message.

Senator SCHUMER. To whom?

Congressman PORTMAN. I believe it sent a strong message to the world, Senator.

Senator SCHUMER. Good. Well, that is what we wanted.

Congressman PORTMAN. And not just to me.

Senator SCHUMER. Are you happy with the progress that has been made thus far on the currency issue?

Congressman PORTMAN. Well, I think the very recent progress is promising because we have finally begun to see some statements recently by Chinese officials who have authority which indicates that they would like to see some movement toward liberalizing their currency regime. The *New York Times*, as you know, editorialized on this very topic this morning.

Senator SCHUMER. Do you agree with that editorial? They say we should not be for it, that China, because of its backward economics and financial system, should not be required to reevaluate its currency.

Congressman PORTMAN. What I thought they accurately portrayed, is that this is not a simple issue. You know that as well, and we talked about that.

Senator SCHUMER. Of course it is not.

Congressman PORTMAN. It has a lot of complexities that have to do with our international economic situation that go well beyond the immediate issue of trade.

But having said that, it also does affect trade. Yes, it is in our interest not to have the Chinese financial system implode. The Treasury Department has worked closely with them, as you know, and the Treasury Department believes that it is time for the reevaluation. The President has spoken very recently—I believe it was last week—in very strong terms in this regard.

Senator SCHUMER. Do you believe they should revalue their currency?

Congressman PORTMAN. I believe they should, yes.

Senator SCHUMER. Let me ask you one other question that can take a 1-word answer, because I know my time has expired.

Congressman PORTMAN. Yes.

The CHAIRMAN. One more question.

Senator SCHUMER. All right.

One to 100.

Congressman PORTMAN. Yes.

Senator SCHUMER. One hundred is a complete free trading nation, one is a completely protectionist nation. The U.S. is somewhere around 85, I would suppose. Give me a number where you would put China right now.

Congressman PORTMAN. I cannot come up with a number. Hopefully, I will be able to do that in the job and understand it better.

Senator SCHUMER. Just off the top of your head, from what you know now.

Congressman PORTMAN. Well, I have a laundry list of concerns with China, and I listed them in my statement and I talked about some others in response to a specific question. I think China offers huge opportunities for our exporters. They are in the process of developing what will be the largest middle class in the world. But they also offer huge challenges, and we have tremendous problems.

I think, unless we can resolve those problems, per Senator Kerry's comments a moment ago and some comments that you and I had in our private meeting, I think the consensus on trade becomes endangered. Clearly, there are huge benefits to trade, to our



economy, to the world economy, and we need to be sure that it is fair.

Senator SCHUMER. Thank you, Mr. Chairman.

The CHAIRMAN. Now, Senator Conrad. I want you to observe all the charts he has. You will see them many times as you come before this committee, so you can have an answer ready for him next time.

Congressman PORTMAN. Very good. [Laughter.]

Senator CONRAD. Thank you, Mr. Chairman.

Congressman, I think you know, I have a high regard for you, personally and professionally. Colleagues of mine over in the other body, whom I have very strong ties to, have great respect for you and your talent. So, I want to state that at the outset.

Let me talk a little about the great concerns I have about the trade policy of the United States and where we are headed. This is a chart that shows what has happened to the trade deficit since 1992 after the string of negotiations and trade treaties which members of both parties, administrations of both parties, have described as "great successes."

We had the Canadian Free Trade Agreement that is before this chart begins. Then we had NAFTA in 1994. We were told that was a great success. Then WTO in 1995. We were told that was a great success. Then China in 2001. We were told that was another great success. In the meantime, the trade position in the United States deteriorated in a more dramatic way each and every year.

I have begun to wonder how much more of these successes we can afford. I remember, very well, what happened with NAFTA. We had a trade surplus with Mexico of \$2 billion before NAFTA. We passed it. Now we have a trade deficit of \$45 billion.

You come before us and you say CAFTA would be another important contribution, that 80 percent of their goods enter our market duty-free, and that they retain high duties against us. Yet, the International Trade Commission, our own International Trade Commission, says if we complete this agreement, our trade deficit with the region will get worse, not better.

What is the measure of success with these trade agreements? Is at least part of a measure of success whether or not these massive growing deficits are reduced? I would ask that question to you.

Congressman PORTMAN. Well, thank you. It is a thoughtful question. You and I talked about some of this in our meeting. Senator Bunning asked me about the trade deficit and what the factors were, and I told him that I thought trade played a role.

I also told him that every economist I have talked to says that it is a relatively small role, that there are bigger macroeconomic factors that affect those numbers that you see on your chart.

I also made the point that I am concerned about those numbers and that I think trade can play a role, and the obvious role is to expand exports and to make sure imports are fair. If they are, there will be fewer of them and we will begin to see some help on that chart.

But I cannot tell you, sitting here, that I believe that trade agreements ought to be judged just on the basis of the deficit because it has to do with so many other factors.

Right now, as you know, the big factor is our economy is strong and growing. We are adding jobs. Our consumer demand is being fueled by that strong economy, and we are bringing a lot of imports in.

At the same time, the countries we normally would export to are not doing as well—Japan and Europe, the huge economies in the world—and we are not seeing the level of exports that we should have.

One way you could come up with a way to judge these trade agreements is just looking at the export side. You could say, are our exports increasing? We had record exports last year in this country. We had a trillion dollars worth of exports going out.

As I said, last year alone we had a 22 percent increase in our exports to China. The question is, what would that chart look like if we did not have these free trade agreements? Would it be even worse? Because our exports are increasing.

As you know, and I know you were very concerned about agriculture, rightfully so, but we do have a nice surplus in agriculture. I think it was about \$9 billion last year. That surplus is extremely important to hold onto and to expand.

So I guess my answer would be, the measure of success is complicated because there are macroeconomic factors, like our economy, like the savings rate, that are so big in determining this. But trade policy does play a role, and the role ought to be expanding exports and making sure the imports are fair, and being tougher on enforcement.

I look forward to working with you on that, particularly on the agricultural side, Senator Conrad. You have a lot of good points that you raised in our meeting about the need to focus on this Doha Round and be sure that we are leveling that playing field, particularly with the EU.

Senator CONRAD. Well, I appreciate that.

Let me just say one other thing. I do believe that we now have to focus very directly on this trade imbalance. Trade is certainly part of it. I would agree with you, there are other factors, but I think we are going to have to get very, very serious about what is happening.

With respect to something that is very important to my State, sugar, CAFTA would permit almost 100,000 additional tons. That same precedent applied to the other treaties being negotiated—South Africa, Thailand, the Andean countries, and include the Dominican—we would have an additional almost 500,000 tons coming in.

Virtually every economist says if that were to happen, sugar prices would collapse below the redemption price and the sugar program would begin to unravel, threatening the jobs of 160,000 people. So, we are deeply concerned about the precedent being set here in CAFTA.

Can you tell us whether or not you would resist CAFTA serving as a precedent for other agreements you might negotiate?

Congressman PORTMAN. I will tell you that I do not think CAFTA should be a precedent, in the sense that every agreement ought to be handled on a case-by-case basis. Sensitive products—

and sugar is one—have traditionally been dealt with in that manner.

Look at Australia. You pointed out to me that the Australian agreement did not include sugar. So I think you want to have as broad-based free trade agreements as possible, because that is where you get the most benefit and that is where you are able to move both countries, our country and whatever country we are entering into a bilateral agreement with, whether it is Thailand or South Africa, forward. But we also need to deal with sensitive products, and so I think it ought to be looked at on a case-by-case basis.

Senator CONRAD. Let me just conclude by saying, I voted for some of these trade agreements. I voted for WTO, I voted for China. I will tell you, I now believe we have a trade policy that is failing. All of us have a collective obligation to try to find a better way. The “same old” is not working and it is losing support in a very dramatic way out across the country. We need a new vision.

Congressman PORTMAN. I appreciate that. Thank you, Senator.

Senator CONRAD. I thank the Chair.

The CHAIRMAN. For our second round, I have a question I want to ask about softwood lumber. I have been monitoring this dispute with Canada for a long period of time. Sometimes it seems like we are no closer to a solution than we were decades ago.

Meanwhile, in my State, homebuilders and lumber dealers tell me that, as small businesses, they have to pass on lumber price increases to their customers when the government controls the lumber market. So, it is having a real impact.

A price increase of \$1,000 on a new house can eliminate as many as 300,000 American families from the chance to buy a new home. This typically impacts poorer families.

Could you assure me that you will take a fresh look at this dispute and work to achieve market-oriented results that can ultimately bring us to free trade in softwood lumber?

Congressman PORTMAN. Yes, Mr. Chairman. I appreciate your question. As I said in response to Senator Wyden’s and Senator Smith’s questions on this topic, I share your frustration.

I think, as you indicated, all of our constituencies do: the folks who want to buy a home and have to pay more for that lumber; the folks in the timber industry; the processing industry, as you talked about, some of whom have gone out of business.

This is an issue that is ripe for resolution. It would be in the interest, in my view, also in Canada to see some certainty and some resolution of this issue. So, I look forward to working with my counterpart, Trade Minister Jim Peterson, on this issue, if confirmed, at the earliest possible point.

The CHAIRMAN. More than 40 WTO members have yet to submit an initial services offer in the Doha Round, even though the deadline for that initial offer passed 2 years ago.

Moreover, the service offers that have been put forward offer very little new liberalization from what was committed to during the Uruguay Round. There seems to be little momentum in services of the Doha Round, and industry groups and WTO officials alike have warned that services are heading towards a crisis.

If that is a view you share, I would like to know it, and if so, what you think you can do so that the crisis does not occur.

Congressman PORTMAN. No, Mr. Chairman, I do share that concern. I talked earlier about the fact that I think the Doha Round can use a jump start. The United States has traditionally taken a leading role in WTO talks, the Uruguay Round, and now the Doha Round, working with other countries, including the EU.

I know that the commissioner for the EU, Peter Mendelson, shares that view. It is time for us to add some new energy, and perhaps a new perspective will help in that regard.

I am hoping, as you said at the outset, to be able to jump into this issue right away. If confirmed by May 2, I hope to travel, Mr. Chairman, to the WTO ministerial meeting in Europe, which is a very important meeting, which will then establish some of the parameters for a July meeting, leading to what we hope will be a very successful meeting at year-end in December in Hong Kong.

So, I share your concerns about getting these initial offers. Making sure they agree is extremely important. I look forward to working with you and members of this committee. As I mentioned earlier, Mr. Conrad and others have talked about the agricultural issues in Doha with me and want to be involved.

I think the active involvement of members of this committee and members on the House side who are interested, and others who are interested who might not be on the committees, can be very helpful in moving us forward.

The CHAIRMAN. Senator Baucus, I am going to step out for just a minute to make a phone call, so would you take over?

Senator BAUCUS. Thank you, Mr. Chairman.

Congressman, I think it is important that all of us get a handle on this whole question of trade policy, generally, and China, more specifically.

I think the undertone of this hearing is a current of great frustration.

We all know the tremendous influence that other departments have on issues other than trade in affecting American foreign policy, with the State Department, the Defense Department, and who knows what else? We have to, as a country, get our act together much more. We have to do a better job.

I think the real message here is not to you, it is to the administration, and to all of us, to work better together to have much more solid policy.

Intellectual property infringement in China has been going on for a long time. It is rampant and extreme. I remember when Madame Wu was here very recently. She is very high in the Chinese government. I raised this with her.

Those of us who sometimes go to Beijing and walk down that street near the American embassy are accosted by Chinese peddlers of material that is not copyrighted at one-tenth or one-hundredth of what they otherwise would cost, right there next to the American embassy, and nothing is done.

Now, I just urge you to have kind of an emergency session with somebody who can get something done. Maybe the President is the only man who can do this. Karl Rove. This is serious. This is really serious stuff.

I also think we can better project our power in the world the stronger we are economically, the more we take on these countries that are violating trade agreements. China is taking advantage of America's timid approach to this issue. They are taking advantage of us. They are taking advantage of us.

You have to have leverage. Talk does not do it. There has to be actual leverage.

Your problem, frankly, Mr. Portman, is not with the Congress. Your problem is within the administration, convincing the administration to get tougher and to put trade on a much higher priority than it has been. That is your problem; it is our problem.

So, all these accolades towards you personally are accurate. You are a hell of a guy. You are wonderful. But, not to be critical, it takes more than you. It takes the administration, frankly, to be more aggressive. So I think Senator Snowe asked a very interesting question: what are the benchmarks? What are the metrics? I would just like to ask you, what are they? How are we going to know whether we are making progress, in your judgment?

Congressman PORTMAN. Well, thank you, Senator. We talked about some of these issues in our meeting. I hope that, in some way, I can add two things.

One is to higher prioritize the issue of trade. As I said earlier, I think, frankly, some of the trade deficit numbers have been helpful in focusing our attention as a country, and therefore as a government, on these issues. But I think prioritizing this is extremely important because it has such a huge impact on the future of our children and grandchildren.

Senator BAUCUS. No. But could you give us some metrics, some numbers, some benchmarks, some dates by which we decide whether we are making any progress, rather than talk? I mean, you are a smart man. Most executives that run an organization need to have standards, benchmarks, dates.

Congressman PORTMAN. I think performance measurements are extremely important. I preach them all the time.

Senator BAUCUS. What are some of yours that you can share with us?

Congressman PORTMAN. Well, I am probably not in a position—

Senator BAUCUS. Well, you are going to be confirmed, so you have thought about this. So what might it be? [Laughter.]

Congressman PORTMAN. I am probably not in a position today to give you specific benchmarks, but I like that idea, as I said to Senator Snowe. I think we should be judged, not by the number of cases we bring in the WTO, but by our results.

Senator BAUCUS. And what would some of those results be?

Congressman PORTMAN. Well, the first result, as I said, and the top priority I think we have on our agenda right now, is China.

Senator BAUCUS. No, no, no. Results, we are talking about. Not the goals, but results.

Congressman PORTMAN. I think the intellectual property right issue, as I said, would be at the top of my list. I also had six or seven others on my laundry list that I think are very important. But I think we need to see substantial movement now on enforce-

ment of the laws that are in place and of the commitments that we already have.

Thanks to your work and others', we have put China into a rules-based system. I do not know what the precise metrics ought to be, whether it ought to be a percentage. You mentioned to me in your meeting, 90 percent piracy. I have heard other numbers.

But we ought to be able to establish through this review that is being completed, I am told, within a couple of weeks, what that percentage is now. That ought to be a benchmark. We ought to establish benchmarks from that going down.

Senator BAUCUS. On that point, that is the IPR review, is it not?  
Congressman PORTMAN. Yes.

Senator BAUCUS. You know, there are all kinds of IPR infringements. I mean, there is trademark, patent infringements, copyright, and the list goes on.

Congressman PORTMAN. Right.

Senator BAUCUS. My sense is, I hear we have a much stronger case on copyright than perhaps in some other areas. So, we will all be looking very closely on May 2 to see what you come up with and what you are going to do.

It is more than an embarrassment that we have done nothing about this. It is more than an embarrassment, it is an outrage. I just cannot believe the United States has not done more with respect to intellectual property infringement with China.

My time has way expired.

Congressman PORTMAN. Thank you, Senator Baucus.

Senator BAUCUS. I think Senator Lincoln is next.

Senator LINCOLN. Senator Kerry is very anxious. Would you like to go ahead of me?

Senator KERRY. Is it possible?

Senator LINCOLN. Absolutely.

Senator KERRY. Thank you. I appreciate it, because I have a meeting that is waiting. Thank you very, very much. That is very generous of you.

Mr. Portman, I think that Senator Baucus has sort of come back around to where I started. What is frustrating to all of us here is that we have been talking about this. We have been pleading with people to listen to us over the course of the last years. There has just been this deaf ear: we know better, we are on a course. For 5 or 10 years, these things have been compounding, and it is going to be that much harder now to try to get back.

But let us get to some of the specifics. I asked you specifically about Mr. Allgeier's comments to us about the 2003 standard and it has not changed. Why, now, is it all right?

Congressman PORTMAN. I took some notes from your earlier comments. I will be able, if confirmed, to give you more specifics.

Let me tell you what I know at this point. First of all, when those comments were made in 2003, those countries had not undergone the process of looking at their own laws and trying to upgrade them. Some countries have. You indicated some have and some have not.

My understanding is, during that interim period, the International Labor Organization, the ILO, has actually visited those

countries and issued a report, indicating that the basic core standards have now been met.

Now, this is all about enforcement, as you said earlier. You can have the laws on the books, and they have been improved, but we need to be sure that those laws are actually enforced. I will be able to, again, give you more information on this more precisely if I am confirmed.

But my understanding is we have an opportunity, as we did last year with a \$20 million appropriation, to improve capacity-building in Central America and in the Dominican Republic through the Central American-Dominican Republic Free Trade Agreement.

I think that would be a positive aspect of what we would do, not only to see improved laws on the books. And you listed some of the concerns, some of the labor rights concerns, but actually to have the United States help to ensure that there are inspectors.

I am told, Senator Kerry, that it is to the point where there are inspectors in some of these countries, but they literally do not have transportation to be able to go out to do the inspections to be able to help them to enforce their laws.

Senator KERRY. But the laws themselves have, in fact, not been changed in most of those countries. In fact, the USTR has been touting a number of those laws, the reforms made in the past decade, particularly Costa Rica in 1993, the Dominican Republic in 1992, El Salvador in 1994, Guatemala in 1992, and again in 2001, and then Nicaragua in 1996.

But each and every one of those major reforms did not come about because of the political will of the country, they came about precisely as a direct outcome of the GSP which controlled.

Now, GSP allows for members of the public to file a workers' rights petition based not just on the failure to enforce the law, but also the adequacy of the laws. That tool is eliminated if CAFTA passes.

So in its place we are only going to be able to condition trade benefits and the enforcement of a country's labor laws, no matter how inadequate they are—and they are by everybody's measurement—and the only recourse we are going to have is non-punitive fines before the withdrawal of trade benefits can be threatened.

So we are, in effect, going to move to a weaker workers' rights enforcement mechanism under CAFTA, and we will lose the GSP petition process and go backwards. So if our goal is to improve workers' rights in the regions, why would we eliminate the one tool that has been proven effective?

Congressman PORTMAN. Well, I think it is positive that we graduate these countries out of GSP. I think you probably share that. If we could bring them into a free trade agreement, the GSP would not—

Senator KERRY. But only if you have a mechanism for enforcement. If you do not, it is not positive.

Congressman PORTMAN. You are right. If they do not continue to uphold their laws—and there is a maintenance provision, as you know, in the legislation that would be sent to the Congress—there are fines.

And again, I will get back to you, Senator Kerry, very specifically on this. My understanding is that, ultimately after those fines are

in place and if there still is not the adherence to this maintenance requirement, then there could be trade sanctions.

Those trade sanctions obviously would be a big stick, because the whole reason these countries are interested in entering into this agreement is we do have enhanced trade between our countries. So, I do think that there is some more enforcement behind that, but I will certainly look into that.

And with regard to the public comment issue, I do not know the answer to that at this point, but I will look into it as well.

Senator KERRY. I would appreciate it if we could continue that dialogue.

Congressman PORTMAN. Yes. I would like to.

Senator KERRY. I am confident we will. I know you will.

Obviously, the opposition to CAFTA in the Central American region is striking, in and of itself. You have small farmers, indigenous groups, environmentalists, bishops, parliamentarians, and many others who have spoken out against it.

What they do is, they cite the experience of Mexico as one of the reasons that they are deeply concerned about it. In Mexico, real wages have fallen, poverty has risen. More than a million small farmers lost their land.

Many civil society groups and people of conscience believe that you have an even worse enforcement mechanism and a worse starting point here. Tens of thousands of Central Americans have taken to the streets to protest this. They are demanding a public referendum on the agreement.

A recent Gallup poll found that 65 percent of Guatemalans think it is going to harm them, rather than help their country. You have a number of immigrant groups here in our country, the League of United Latin American Citizens, the Labor Council for Latin American Advancement, Carasin, Salvadoran-American National Network, and others who have come out against it.

Why do you think such a broad and diverse range of Central Americans here and there are against it, and what does that say about this consensus that is so necessary to proceed forward and make it work?

Congressman PORTMAN. Well, I think it goes back to your earlier concerns about the fact that we do have a fraying of that consensus, for a lot of reasons. I think part of it, as I said in response to Senator Wyden, is we have not effectively communicated the benefits of trade and bringing these countries into a free trade agreement. I think it would have tremendous economic benefits over time. It also has great benefits to sustaining democracies.

I have heard some of these comments. I have also, as you know—I am sure you have as well—met with a lot of the elected representatives from these countries, as well as traveled to those countries, and I recently met with the economic ministers and labor ministers from those countries. They are democracies, and they have elected as democracies, albeit in some cases fragile democracies, to move forward with this, sometimes courageously and at some political risk.

I also know that there are groups that are non-government groups in those areas that are very supportive, including environmental groups. As you know, some of the environmental groups are



strongly supportive of the agreement because it does raise environmental standards.

Does it raise it to the level that all these environmental groups would like? No. But the question is, do you go from where you are now to an improvement? I would say the same thing with regard to the labor standards.

So, these are democracies. They have made, in many respects, probably a courageous political position to move forward. But they have done it through the legislative process and through their democracies, and I think we should respect that.

Senator KERRY. Well, my time is up also, again, and I do not want to infringe. If I could just say two things, quickly. Number one, I looked at the environmental pieces very carefully, and I was interested. There are a couple of good changes, and I was struck by that. I thought they were creative and they were positive steps.

But then there are these other enforcement issues and the overall standards question which sort of drag it down on the back side, and I think create even a larger problem. I would like to talk to you about it, and we can do it at another time.

The second thing I want to emphasize also, together with the Ranking Member, Senator Baucus, on the Foreign Relations Committee, I have served as the Chair and Ranking Member of the Asia Committee for a long time, and have traveled to China, like the Senator has.

We have been at this for 15 years with China now. The problem, despite all the promises and all the entreaties and efforts of the last several Trade Representatives of both parties, the problem has gotten worse.

China is now the second largest PC manufacturer in the world, but it ranks only about twentieth in terms of software. The loss of billions of dollars—billions of dollars—to our music industry, to our software industry, to our companies in this country is simply unacceptable. Senator Baucus is absolutely correct.

We are just kind of kidding ourselves and sitting here pretending this can be a sweetheart relationship for other kinds of reasons, or whatever reasons, and it is not working for the American people. It is not adhering to our laws. It is not even adhering to the agreements with respect to the WTO.

Now, either you are going to live up to the law or you are not, and we are going to have a relationship and be partners or we are not. This is not directed in any personal way against China. There is a great partnership that could be built there, and there is great work to be done together. But, boy, that enforcement has got to change and the relationship has to change.

Congressman PORTMAN. Well said.

Senator KERRY. Thank you so much.

Senator LINCOLN. You are welcome.

Senator BAUCUS. Thank you, Senator Lincoln.

Senator LINCOLN. I graciously gave him a bye. It is my turn.

The CHAIRMAN. Senator Lincoln, obviously you are entitled to a second round. The rest of us had it.

Senator LINCOLN. Well, thank you, Mr. Chairman. I want to thank the Congressman for his patience here today. I have to say

that, in all good conscience, there was just no way that I could not come back and ask this one question that is very important to me.

You know that, as I mentioned in our earlier meeting, there was a letter from myself and several of my Senate Finance colleagues that was sent to Ambassador Zoellick that raised concerns about Saudi Arabia's records on human rights. I think that is some of what the Chairman was talking about in terms of getting a response in a timely fashion. We hope we can see that happen in the future.

But the letter I received this week from Mr. Allgeier did not make any reference to human rights issues. I would just like to mention a few specific human rights issues that are related to Saudi Arabia that I think are so very important.

As you know, in September of 2004, the Secretary of State designated Saudi Arabia as a "country of particular concern" in the State Department's Annual International Religious Freedom Report. This status is reserved for just a handful of governments that have engaged in or tolerated particularly severe violations of religious freedom.

Furthermore, Saudi Arabia has one of the worst records relating to women's rights in the entire world. According to the State Department's Country Reports on Human Rights Practices, the most recent edition which was released this February, all women in the country are prohibited from driving and are dependent upon males for transportation.

Likewise, they must obtain written permission from a male relative or guardian before the government would allow them to travel abroad. The requirement to obtain permission from a male relative or guardian applied also to foreign women married to citizens of Saudi Arabia, and to minors and single adult daughters of Saudi fathers.

The report goes on to say that women have few political or social rights, and are not treated as equal members of society. They are restricted in their use of public facilities, not always enforced, but sometimes even to the degree of the use of hospitals for medical treatment.

Last, but certainly not least, and I think you know, my biggest concern—and Mr. Chairman, I appreciate you indulging me—I am so deeply troubled that Saudi Arabia continues to invoke its law in religion to detain U.S. citizens, in particularly my constituent, Heidi Alamare, in a blatant violation of U.S. law and a valid court order.

Heidi was abducted in 1997 as a 5-year-old by her Saudi-born father, and she has been stuck in Saudi Arabia ever since because the Saudi government does not believe that Heidi's father, who is a wanted fugitive in our country, has done anything wrong, even though he used our court systems to gain access to her, and then blatantly turned around and then abused our laws in abducting this child.

I have to say, certainly as a woman, but more importantly as a mother, I have to look Heidi's mother in the eye, a constituent of mine whom I am here to represent. I cannot fathom someone taking one of my children in the dark of the night, and for 6 years not being able to see or hear my child. I just cannot imagine that.

Having to live that circumstance with my constituent, I recognize there are issues of international child abduction, and it is not limited to Saudi Arabia. However, the status of female abductees in the Kingdom is certainly unique, Congressman, since under the Saudi law and custom women have very limited autonomy and very likely will never have a meaningful opportunity to leave, even as an adult.

As you can tell, I have enormously strong feelings about this issue and I really question, especially when combined with the other concerns that I have raised relating to the boycott and the questions regarding terrorism financing and other things, my question is why the administration would consider supporting Saudi Arabia's admission into the WTO.

I think following this course without demanding meaningful progress on the issue that I have raised sends the wrong signal that bad behavior of this kind is not a problem when it comes to trade.

We have talked and talked and talked today about enforcement. It is a critical component, but there is no doubt that if we support people into the process when we know that they are not going to have the kind of behavior that we ask of other countries, especially those that we trade with, it is that age-old saying, fool me once, shame on you, but fool me twice, shame on me, and in this instance, us.

I feel such passion about this issue because, as I said, looking at that mother in the eyes and thinking myself of what it would be like to lose a child, to not see them again for 6 years, and then to meet with that child in a circumstance so restricted, so overseen, and to find my child in fear of every ounce of surroundings, it is just hard to believe.

So I just plead with you, Congressman, that I hope you will take this issue seriously and that you will encourage President Bush in upcoming meetings and other opportunities to reemphasize, these are important issues to us as Americans, particularly when they affect U.S.-born U.S. citizens in this regard.

So, I hope that we can count on you. I hope that you will take into consideration the human rights and the respect for our laws and its citizens in looking at when we do grant favored trading status to countries like Saudi Arabia.

Congressman PORTMAN. Thank you, Senator Lincoln. I found your description today as heart-wrenching as I did when we met in private. It is a very powerful statement about child abduction, generally.

As I told you, I have had some unfortunate experiences with some constituents in this regard, not with regard to Saudi Arabia, but with another country. This is certainly an issue where the United States has traditionally played a leadership role, and we must continue to.

The Saudi accession talks are ongoing, I understand. I do not know the details of it. I hope to soon, if I am confirmed. I look forward to getting back to you on the human rights element of that.

One of the issues, obviously, is going to be whether accession is in our interests or not. One of our interests ought to be human

rights. The question is, would cases like this one be benefitted or harmed by moving forward?

But at a minimum, as you know, as I said privately to you, I am happy to make a commitment to look into this specific issue. It is a State Department issue. As Senator Baucus has reminded me, there is an interagency process in all this, primarily, but it is one that I certainly would be happy to get back to you on.

Senator LINCOLN. Thank you.

Congressman PORTMAN. Thank you, Senator.

Senator LINCOLN. And just, I do know it is a State Department issue, but I do appreciate your support, and I do appreciate you recognizing, and I hope that you will continue to bring it up as we talk about the admission of Saudi Arabia into the WTO, as a critical issue, and something that we do have a great concern on in this country on behalf of our American families.

Thank you.

Congressman PORTMAN. Thank you, Senator.

Senator BAUCUS. Thank you, Senator.

Just a few quick questions here, Mr. Portman.

The CHAIRMAN. Go ahead.

Senator BAUCUS. One, on timber and softwood lumber, this has been going on for so long now, we all know it has got to be resolved.

My feeling is, because the subsidies are so great, it hurts the U.S. timber industry to such a great degree, but because the Canadians have been winning some of these cases, for, I think, technical and incorrect reasons—nevertheless, that is the result—and because the U.S. timber industry, the softwood lumber industry, is going to continue to file all these suits and it is going to stay on forever, that the only resolution is a settlement.

On the one hand, the American industry is going to keep filing. On the other hand, some of these suits have not been going well, but the industry will still keep filing. To get this behind us, I believe we should just say to both sides of the table, hey, we need to get agreement here. Let us settle this thing and move on. Otherwise, we are in the same fix for another 3, 4, 5, 6, 8, 10 years.

On sugar, it is concerning. It is very concerning with respect to CAFTA. The chart that Senator Conrad put up showed one big portion was Thailand. As you well know, so far sugar is being negotiated in the U.S.-Thailand Free Trade Agreement, so the precedential effect of sugar in CAFTA is a concern.

As you know, the sugar industry would prefer to deal with sugar not in the context of free trade agreements, but rather in WTO. It was off the table in Australia. It is on the table in Thailand. It is part of CAFTA. It is kind of inconsistent all the way around here, but it is a major, major concern.

Frankly, in my judgment, CAFTA faces such a steep climb here that, unless the administration finds a way to deal with sugar, I am not betting very solidly on the passage of CAFTA.

As far as I am concerned, the administration has gone nowhere as far as it has to go to deal with sugar. It has to go a long, long way, and it has not even begun yet.

We talked about benchmarks and metrics. I would appreciate it if, when you do your top-to-bottom review, that you inform the

Chairman and myself of the results of that review. We want to work with you. It is teamwork here. We are all part of the same process. We just want to help get more jobs in America and strengthen the American economy. It would be very helpful to us if you could share that with us.

Beyond that, I do suggest that you send a letter to the committee indicating the degree to which China has met its WTO commitments. As you know, there are a series of dates by which China has to accomplish certain results. One, is distribution services. It is extremely important for our retailers. That is due this year, 2005.

Telecommunications services. That is to be phased in sometime this year. Banking and financial. Some are already phased in, some not. I would like to know the dates. If you could give us kind of a—

Congressman PORTMAN. Status report.

Senator BAUCUS [continuing]. Status report of all of those commitments that China has made under WTO, when they are supposed to make those commitments, and in your judgment, the degree to which they have done so thus far. There is a long list, and I am not going to go through the whole list now, but I think that would be one way for us to get at this problem.

Congressman PORTMAN. Thank you, Senator. I look forward to that, and I would be happy to do that, if confirmed. If I am not confirmed, I am sure USTR would be happy to do that.

Could I just say one thing about CAFTA? I appreciate your comment on sugar, and I know it is a sensitive topic and will be a sensitive product going forward. I hope I have made that very clear in my earlier comments.

I do think the benefits of this particular agreement, as I looked into them more deeply over the past few weeks—and you and I have had this discussion about the other agricultural benefits which are tremendous, including many products in your State and Senator Grassley's State—but there are also great advantages here in terms of manufactured products and services. The bottom line is, because of GSP and because of other preference programs, they have access to our market now.

So I think if we can get those facts out, I think there is overwhelming evidence that this is beneficial to our country, and we will expand our exports, as we talked about earlier, and that will have a positive impact on jobs in this country.

With regard to sugar, I really want to sit down with you, if confirmed, and work through—in fact, whether I am in the Ways and Means Committee or confirmed, I want to sit down with you on that—this issue to get the facts out there, but also, because this compensation program is not fleshed out, it gives you and other members of this committee an opportunity to work on something that you think is appropriate to meet the concerns of your sugar beet growers.

Senator BAUCUS. I appreciate that. But again, the administration has a long way to go on sugar. A long way to go.

Congressman PORTMAN. Well, I think we can make some progress together.

Senator BAUCUS. They are not near there yet. Thank you.

Congressman PORTMAN. Thank you.

The CHAIRMAN. We will adjourn in 30 seconds. I just want to make one last point, and that is in regard to American agriculture and the WTO Doha Round.

For this to succeed and for American agriculture to get what we have to get out of Doha—and it is making sure that some countries do not get special treatment—it seems to me that Brazil and other major agricultural exporting economies must make very comprehensive and meaningful market access commitments.

The bottom line is, these countries cannot get the same exceptions as other poor, developing nations might legitimately request and legitimately get based upon past experience. There is quite a bit of difference between really poor countries of Africa and their agriculture, and Brazil and Brazil's agriculture.

The hearing is adjourned.

Congressman PORTMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

[Whereupon, at 12:44 p.m., the hearing was concluded.]

## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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#### Prepared Statement of Senator Mike Crapo

Thank you, Chairman Grassley and Senator Baucus for holding this hearing. Thank you, Congressman Portman, for being here with us today and for your willingness to serve as U.S. Trade Representative. I appreciate the opportunity to make a few brief comments.

I am among the long list of people that hold Congressman Portman in very high regard. I have appreciated working with him during my years in the U.S. House of Representatives, and I have the greatest confidence in his ability to lead our trade negotiators.

Congressman Portman's knowledge and experience with trade law and pragmatic leadership skills will serve him well in meeting and resolving complex trade matters. And, there are certainly challenges ahead in terms of trade.

We must continue to work to achieve mutually beneficial trade agreements. Our farm families and communities deserve strong achievements for agriculture through our trade agreements. With a few exceptions, this Administration is moving in the right direction in terms of keeping agriculture at the forefront of trade negotiations, and we must continue to build upon this effort.

I am hopeful that under your watch, Congressman Portman, we can see fair resolution to the U.S. – Canadian softwood lumber dispute, the Hynix WTO case, the resumption of beef trade with Japan and other foreign markets, increased trade of pharmaceuticals that protect intellectual property rights, the expansion of market opportunities for U.S. commodities, the breakdown of trade barriers, and the negotiation of trade agreements that do not compromise important U.S. industries, such as our nation's sugar industry.

These are just some of the challenges you will face, but there are many more unmentioned and unperceived yet. However, I'm confident that you have the experience and strength necessary to meet these challenges head on.

Our Office of the U.S. Trade Representative needs individuals like Mr. Portman that care deeply about a successful U.S. presence in global markets and a fair trading climate for U.S. industries.

I want to commend you, Congressman Portman, for your willingness to serve as U.S. Trade Representative. I support your nomination, and I hope we can move quickly to confirm you.

Thank you, Mr. Chairman.

**Prepared Statement of Robert J. Portman  
U.S. Trade Representative-Designate**

Chairman Grassley, Ranking Member Baucus, and other members of the Finance Committee, I am honored to be before you as President Bush's nominee to be our nation's next United States Trade Representative. I have had the benefit of individual meetings with a number of Senators, including a majority of the Members of this Committee. We've had constructive discussions of trade policy issues and I am grateful for your input and time.

As a member of the Ways and Means Committee, I have had the opportunity, as you have, to work closely with the office of the U.S. Trade Representative. Like you, I have raised issues with USTR from time to time. If confirmed, I will now experience that from the other side. In fact, I may even experience some of that today as a nominee. But I will tell you, whether it was Ambassador Mickey Kantor or Charlene Barshefsky in the Clinton Administration or Ambassador Bob Zoellick in the past four years, I have always been impressed with the professionalism, skill, and responsiveness of the USTR and the staff.

I seek to follow in the footsteps of a bright and very capable negotiator, and a friend to many of us. I believe Bob Zoellick deserves great credit for the substantial progress the Administration has made, with your help, over the past four years. I hope to be able to work with you to build on that progress.

This morning, I would like to focus on a few key principles that would guide my work if confirmed. I would pursue an aggressive agenda with a focus on opening new markets, enforcing our trade agreements and trade laws, spreading economic freedom, and working in close partnership with Congress.

**Opening Markets**

I believe the first job of the Trade Representative must be to open markets for American workers and farmers, thereby creating more and better paying jobs here at home. Already, more than 12 million American jobs are supported by exports and those jobs pay 13 - 18% more than the average wage. One in every three acres of American farmland is planted for export and we enjoy a \$9 billion trade surplus in agriculture. One in every five U.S. manufacturing jobs also depends on exports, and the U.S. is the world's largest producer and exporter of manufactured goods.

Trade clearly benefits our economy as a whole. A recent report by the Institute for International Economics estimates that international trade adds \$1 trillion to our economy annually, or \$9,000 a year for the average American household. Trade, both imports and exports, contribute to a higher standard of living for American families.

I represent seven counties in Southern Ohio that range from the inner city to suburbs, to rural farm communities. It's a district with a strong manufacturing tradition, many small businesses, corn and soybean growers, financial services and global companies. Throughout my district, exports and an expanded market share for U.S. products and services are essential to maintaining good jobs and a healthy, diversified economy.



Particularly in a time of large trade deficits, we need to redouble our efforts to open new opportunities for U.S. workers, farmers and businesses by accelerating the reduction of trade barriers around the world. Many of our trading partners still block our manufactured goods and farm products, prevent our companies from offering services, or fail to prevent the theft of our technology and ideas.

Our recent gains in productivity affirm that Americans can compete with anyone in the world, when we have a fair chance in the market. That's why I would look forward to the opportunity to join you in what has been a bipartisan consensus that we should knock down barriers to trade.

One way to open markets, of course, is through free trade agreements, like the recent free trade agreements with Australia, Singapore, Chile, Morocco and Jordan that passed the Congress with strong bipartisan majorities. The most recent agreement is the one negotiated with five Central American countries and the Dominican Republic. I know you had a lively hearing on that topic last week, and I won't get into a lengthy discussion of what I see as the benefits of the agreement. But I must make the point that the Central American-DR FTA will open new markets for our workers and farmers to begin to level the playing field with a region that already enjoys mostly duty-free access to the United States.

If confirmed, I look forward to working with you to advance free trade negotiations that are already underway with eleven more countries, and continue the effort to create a Free Trade Area of the Americas, working closely with our co-chair and partner Brazil. I will also be eager to consult with you and your colleagues about other possible bilateral or regional trade negotiations.

One of the reasons free trade agreements are helpful is that they set high standards and help build momentum for what I believe is the most important trade negotiation of all, the Doha Development Agenda of the World Trade Organization. This global round, launched with the strong leadership of the United States three and half years ago, has the potential to substantially reduce tariff and non-tariff barriers, begin to level the playing field for our agriculture producers, open new markets for services, and facilitate the more efficient movement of goods across borders.

Research done by the University of Michigan demonstrates that lowering remaining global trade barriers by just one third would boost average annual U.S. family purchasing power by an additional \$2,500. If all barriers were removed, the amount would equal \$7,500. Worldwide, it could help lift hundreds of millions of people out of poverty. There may not be any other single action we could take together over the next couple of years that would have such far-reaching and long-lasting benefits as bringing the Doha round to a successful conclusion.

#### **Enforcing Trade Agreements and Laws**

The second guiding principle is that trade needs to be a two-way street. As I stated, I have seen the benefits of enhanced trade firsthand in Southern Ohio. I have also seen the pain of dislocation and job anxiety due to trade. We must ensure that the benefits of trade don't become elusive when other nations don't play by the rules.

As President Bush has made clear, as we pursue free trade, we must also insist on fair trade. We must level the playing field, to ensure that our workers, farmers, and firms get a fair shake. If I am confirmed, I will consider with a fresh perspective the entire range of enforcement tools available. In enforcing our trade laws and trade agreements, I will be guided by the facts. I will objectively evaluate all the information available, including the input I will seek from you, as representatives of the people we serve. And I will focus on making sure our strategy produces results that will actually help American workers and farmer. I do not believe we should bring enforcement actions that are counterproductive, or in violation of our international obligations. But we should use all the tools available to us, from consultation to litigation. Negotiation can often lead to a better and quicker result. But when negotiation fails or stalls, I will not hesitate to take legal action to enforce our rights and defend American interests.

As the Committee is well aware, we have ongoing trade disputes with the European Union, with our neighbors to the south and north, and a number of other countries. But here, China deserves special mention. I believe China's entry into the World Trade Organization was – and remains – strongly in the interests of the United States. By integrating this fast-growing economy into the global trading system, we have created new opportunities for U.S. goods and services and seen a significant expansion of U.S. exports. In fact, since China's WTO accession in 1999, our exports have increased 81%. By becoming part of the WTO, China has also been brought into a rules-based system of international trade, which gives us critical legal rights we did not have before.

But we also have major challenges with China. Our trade deficit with China last year alone was \$162 billion. And part of that deficit is because the Chinese do not always play by the rules. If confirmed, I will work closely with Congress and my Administration colleagues to see that our workers, farmers and service providers are treated fairly.

Specifically, I will focus on stopping Chinese pirating of U.S. intellectual property, rolling back China's industrial policies that exclude our products, expanding market access for our goods and services, and realizing China's full implementation of its commitments on transparency and distribution rights for American products. As the Committee is aware, the Treasury Department has the lead in the critical effort to move China to a flexible, market-based currency regime. I will strongly support the efforts of Secretary Snow in this regard. And, when the facts support it, I will work with other Cabinet colleagues to use the China-specific enforcement tools, such as the China textiles safeguards, to protect our markets from disruption.

#### **Expanding Freedom, Reducing Poverty**

A third key principle to guide me is that trade is central to our freedom agenda. Freer trade leads to more open, transparent markets and undercuts corruption and cronyism. Trade is an underpinning of freedom and democracy, and it is one of our most potent weapons against the scourge of global poverty. The countries most closed to and isolated from the world economy have also been among the poorest – and most repressive – on earth. But consider, by contrast, examples like Mexico, Chile, South Korea and the nations of Central Europe, where trade and economic reform has bolstered political reform. In Central America, where twenty years ago the headlines were about chaos and civil war, new democracies want to trade goods, not guns, across borders.

The initiative to create a Middle East Free Trade Area offers great promise. It is in America's interest to strengthen reformers in the region who are expanding political freedom and want to open their economies. If confirmed, I will want to start by working with Congress to approve our agreement with Bahrain, to conclude negotiations with Oman and the UAE, and to deepen our economic relationship with others in the region.

#### **Working with Congress**

The final guiding principle relates to the Legislative Branch. The U.S. Trade Representative is charged with managing many important relationships here and abroad. But if confirmed, I would have no more important relationship than the one with the Congress. As a current Member of Congress, I have a personal appreciation of the importance of meaningful consultation with Congress on the trade agenda.

Since the 1930s, the legislative and executive branches have worked in close partnership, with the President negotiating trade agreements that meet the objectives set by Congress. I will look forward to working with you on the extension of Trade Promotion Authority, the trade preference programs, the review of America's membership in the World Trade Organization, the identification of new free-trade partners and initiatives, and many other issues. I will be open to your views and actively seek your input and assistance.

#### **Conclusion**

As the Representative of the people of Ohio's Second District, I know that economic change and foreign competition can be disruptive. Like you, I have held town hall meetings and looked into the eyes of workers who have lost a job. I understand that many are anxious about the future. We cannot ignore these concerns. But, I am firmly convinced that curtailing trade and closing markets is not the right answer to those concerns. The evidence is overwhelming that free and fair trade makes our economy stronger and the vast majority of Americans much better off. When a country chooses to close its markets and isolate itself economically, the people bear the cost. Prices rise, jobs evaporate, poverty spreads, and other nations close their markets in retaliation.

The answer instead lies in opening new markets to create new jobs, aggressively enforcing our trade laws and trade agreements, treating sensitive products with care and providing effective trade adjustment assistance and retraining opportunities. Of course, the answer also goes well beyond trade policy: a better trained workforce, encouraging innovation and entrepreneurship, making our economy more competitive through regulatory, tax, health care and legal reforms, and encouraging savings. Trade is just one part of the President's larger economic plan.

We face challenges, but we also face a world of opportunities, and a choice on how to proceed. I believe the right choice is smart economic engagement: using trade as a powerful weapon to strengthen our economy and spread freedom. With your support, I will do just that.

Thank you, Mr. Chairman.

**SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

**A. BIOGRAPHICAL INFORMATION**

1. Name: (Include any former names used.) Robert Jones Portman
2. Position to which nominated: United States Trade Representative
3. Date of nomination:
4. Address: (List current residence, office, and mailing addresses.)  
Home: 203 Miami Avenue, Terrace Park, Ohio 45174  
Office: 238 Cannon House Office Building, Washington, DC 20515
5. Date and place of birth: December 19, 1955; Cincinnati, Ohio
6. Marital status: (Include maiden name of wife or husband's name.)  
Married to Jane Dudley Portman nee Jane Dudley
7. Names and ages of children:  
Jed- 14, Will-13, Sally-10
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)  
University of Michigan Law School, 9/81-6/84, J.D. 5/84  
Dartmouth College 9/74-5/79, B.A., 5/79
9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)  
7/79-5/81-Select Commission on Immigration; Research Assistant; Washington, DC  
6/82-8/82-Taft, Stettinus & Hollister; Summer Law Clerk; Cincinnati, OH  
9/83-12/83-U.S. Department of State; Legal Extern; Washington, DC  
6/83-9/83-Surrey & Morse; Summer Law Clerk; Washington, DC  
10/84-10/86-Patton, Boggs & Blow; Associate (Attorney); Washington, DC  
11/86-3/89-Graydon, Head & Ritchey; Associate (Attorney); Washington, DC  
3/89-9/89-White House, Executive Office of the President; Associate Counsel;

Washington, DC  
 9/89-4/91 Executive Office of the President, Deputy Assistant to the President  
 and Director, White House Office of Legislative Affairs  
 4/91-5/93-Graydon, Head & Ritchey; Partner (Attorney); Cincinnati, Ohio  
 5/93-present- U.S. House of Representatives; U.S. Representative, Washington,  
 DC

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.) Co-Chairman, National Commission on Restructuring the Internal Revenue Service (1996-7)

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Board of Trustees 1991-2000, **The Springer School (Elementary school for learning disabled)**

Government Relations Committee, 1999-2002, **United Way of America**

State and Federal Relations Committee, 1996-2002, **Greater Cincinnati Chamber of Commerce**

Board of Directors, 1996-2000, **Community Anti-Drug Coalition of America (CADCA)**  
 Congressional Advisory Committee, 2003-present

Founder & President, 1996-2001, **Coalition for a Drug-free Greater Cincinnati**  
 Chairman, 2001-2003  
 Founding Chairman, 2003-Present

Board of Directors, 2002-present, **The Clement and Ann Buenger Foundation**, Cincinnati, OH  
 (Section 501 (c)(3) private charitable foundation)

**CincyTech USA**, Cincinnati, OH (non-profit regional technology initiative), Leadership Council  
 2002; Angel Board, 2002-present

Board of Directors, 2002-present, **Jobs for America's Graduates, Inc.**

Advisory Board Member, 2003-present, **The Nelson A. Rockefeller Center for Public Policy at Dartmouth College**

Member-Board, 2003-present, **Coalition to save Hillcrest Cemetery**, Cincinnati, Ohio

Co-chair, Fundraising Committee, 2002-present, **ACT (Accountability & Credibility Together)**,  
 Cincinnati, Ohio

Honorary co-chairperson, 2002-present, **Promont House Museum Campaign**, Milford, Ohio

Government Relations Committee, 1991-2004, **Greater Cincinnati United Way & Community Chest**

Regional Public Policy Council, 2004-present, **Greater Cincinnati United Way & Community Chest**

Honorary Member, (Non-voting), 2003-present, **Clermont County Convention & Visitors Bureau Board of Trustees**

Board of Selectors, 2001- present, **Jefferson Awards for Public Service.**

Congressional Friends of Switzerland Caucus, 2001-present

Honorary Chairman, 2002-March 25, 2005, **America's Majority Trust**

Limited and General Partner, **Portman Investors Limited Partnership**

LLC Member, **Peavler Partnership**

Limited Partner, **Village Properties**

LLC Member, **Shaker Properties**

LLC Member, **Graustark**

Shareholder, **Portman Equipment Company**, (1960-2004)

Board of Directors, **Portman Equipment Company**, (1991-5/1993)

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Member, The Explorers Club, NYC

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.  
U.S. Representative- Ohio-02

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.  
Vice Chairman, Hamilton County Republican Party (4/11/2000 until 2/13/2001)

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

11/7/2000, \$1,000, Shaw, E Clay Jr

6/30/1999, \$500, Baker, Richard

11/10/1999, \$500, Baker, Richard

8/9/2000, \$1,000, Lazio, Rick A

9/30/2003, \$2,000, Bush, George W

7/30/1999, \$500, Bush, George W

10/11/1994, \$500, Ney, Bob

4/11/1994, \$500, DeWine, Mike

(From opensecrets.com), These are to the best of my knowledge.

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

By year, most recent to least recent:

Ohio Parents for Drug-Free Youth, Annual Hope Taft Substance Abuse Prevention Advocacy Award, 2005  
 Securities Industry Association, Foundation for Investor Education, for support of the Stock Market Game program at Ripley-Union-Lewis-Huntington High School, Spring 2004  
 Partnership for a Drug-Free America, Guardian Award, 2004  
 Americans for Tax Reform, Hero of the American Taxpayer Award, 2004, 2000  
 Coalition for a Drug-Free Greater Cincinnati, Portman Award, May 5, 2003  
 Southern Ohio Health Services Network, 2003 Community Health Award  
 American Bar Association, for commitment to simplification of tax and pension laws, May 7, 2002  
 National Conference of State Legislatures, Restoring the Balance Award, for leadership on pension portability and simplification and service to our federal system of government, February 2002  
 National Defined Contribution Council, Retirement Savings Advocate of the Year, 2002  
 Private Sector Council, Public Sector Leadership Award, 2002  
 The Small Business Council of America Special Congressional Appreciation Award, 2002

Friend of the Farm Bureau, 106<sup>th</sup> Congress  
 FMI/IFDA Thomas Jefferson Award, 1994-2004  
 National Federation of Independent Business, Guardian of Small Business Award, 103<sup>rd</sup>-108<sup>th</sup> Congresses  
 National Association of Manufacturers, Award for Manufacturing Legislative Excellence, 105<sup>th</sup> and 107<sup>th</sup> Congresses  
 Coalition to Preserve Retirement Security, for Outstanding Leadership, January 30, 2001  
 Institute of Electrical and Electronics Engineers Distinguished Public Service Award, 2001  
 National Defined Contribution Council, in recognition of bipartisan leadership on pension reform and simplification in the U.S., September 2000  
 American Shareholder Association, 2000 Friend of the Shareholder Award  
 Cincinnati Health Network and Affiliated Organizations, in appreciation, 2000  
 Savings Coalition of America, Philadelphia Financial Freedom Award, 2000  
 Citizens Against Government Waste, 1999 Taxpayer Hero Award  
 National Association of Professional Employees, 1999 Millennium Award  
 Association of Ohio Philanthropic Homes and Housing for the Aging Board of Trustees, Citation Award, 1998  
 Christian Coalition, Friend of the Family Award, 1998  
 National Association of Police Organizations, Top Cops Award, 1998  
 National Family Partnership, 1998 Kiki Camarena Award  
 Mid-American Multicultural Travel and Tourism Network, Beacon of Freedom  
 Special Legislator of the Year, September 17, 1998  
 Boston University School of Public Health Join Together Certificate of Appreciation for leadership in promoting interdisciplinary collaborations to create safe and healthy communities, 1997  
 Community Anti-Drug Coalitions of America, Congressional Recognition Award, 1997  
 National Association of Enrolled Agents, Tax Legislator of the Year, 1997  
 Community Anti-Drug Coalitions of America, Congressional Leadership Award, 1996  
 Pride, Special Achievement Award, 1996  
 S Corporation Association Crusader of the Year Award, 1996  
 Young Republicans, Award of Special Recognition, March 31, 1995  
 National Association of Counties, Legislator of the Year Award, March 5, 1995  
 U.S. Chamber of Commerce, Spirit of Enterprise Award, 1993-2002  
 Citizens Against Government Waste, in appreciation of dedication to taxpayers of America, March 15, 1994  
 Free Congress Foundation, Sound Dollar Award, 1994  
 SBSC Small Business Advocate, 1994-2004  
 Associated Builders and Contractors, Award, 103<sup>rd</sup>- 106<sup>th</sup> Congresses  
 Citizens for a Sound Economy, Jefferson Award, 103<sup>rd</sup> Congress  
 Watchdogs of the Treasury, Inc., 103-106<sup>th</sup> Congresses  
 National Association of Government Defined Contribution Administrators, Award



of Appreciation  
 National League of Cities Award  
 National Society of Accountants, Champion of Small Business  
 Young President's Organization, Sharing of Knowledge Award

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)  
  
*Wisdom's Paradise: The Forgotten Shakers of Union Village* (with Cheryl Bauer)  
 Orange Frazer Press, December 31, 2004, 296 pages, ISBN 1882203402  
 (paperback)
16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I entered public service to make a difference in the lives of people. It has been my privilege to serve in the U.S. House of Representatives. With the help of many colleagues, I have been able to pass legislation to discourage drug abuse, reduce unfunded federal mandates, encourage retirement savings, create jobs, and promote economic development.

As a member of the Ways and Means Committee and its Subcommittee on Trade, I have supported legislation to open markets and strengthen trade relationships, which are key components to a more stable and prosperous world. Here at home, trade policy creates jobs, a higher standard of living and greater economic growth. Early in my career, I worked as an international trade lawyer. I have experience in both the Executive and Legislative Branches, having served in the White House as Associate Counsel to the President and later as Director of the Office of Legislative Affairs. My philosophy is to reach out to all sides, build relationships, take on tough problems, and get things done.

#### **B. FUTURE EMPLOYMENT RELATIONSHIPS**

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details. Yes.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details. No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details. No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain. Yes.

**C. POTENTIAL CONFLICTS OF INTEREST**

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.  
None to my knowledge.
2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.  
None to my knowledge.
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.  
None to my knowledge.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)
5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to

December 1995), and the number of hours spent on the representation.  
None to my knowledge.

**D. LEGAL AND OTHER MATTERS**

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.  
Not to my knowledge.
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.  
Not to my knowledge.
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.  
Not to my knowledge.
4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.  
No.
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

**E. TESTIFYING BEFORE CONGRESS**

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?  
Yes.
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?  
Yes.

**QUESTIONS FOR THE RECORD**

**United States Senate  
Committee on Finance**

**Hearing on  
“The Nomination of Robert J. Portman to be the  
United States Trade Representative”**

**April 21, 2005**

**Questions from Senator Hatch for Congressman Portman**

1. Congressman, as we sit here in the halls of the Congress and the members of the USTR travel the world in order to create and enforce free trade agreements, I believe that the positive aspects of these agreements sometimes go unnoticed. Therefore, I was hoping to hear in your own words how you believe that the CAFTA agreement will be of economic benefit to Western Mountain states like Utah.

*Answer: Thank you for giving me a chance to outline the clear benefits of the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA). The agreement will eliminate barriers and create new opportunities for partnerships between the CAFTA countries and the state of Utah. In 2004, Utah's exports to the CAFTA market were nearly \$45 million. This number reflects a growing trade relationship between Utah and the CAFTA countries with growth of \$15 million or 58% since 2000. Among Utah's largest exports to the region are plastic and rubber products, computers and electronics, processed foods, machinery and chemicals, offering new opportunities to a wide range of Utah firms.*

*Specifically, CAFTA benefits the state of Utah by eliminating barriers. For Utah's information technology producers, CAFTA will eliminate key distribution barriers by requiring all countries to join the WTO's Information Technology Agreement which will open up key technology services such as telecommunications and e-commerce. For Utah's manufacturers, CAFTA will immediately eliminate tariffs on 80% of U.S. exports and all tariffs within 10 years. This includes up to 15% tariffs on chemicals, electrical and other machinery, plastics/rubbers, and processed food exports which are important products for Utah's export market. For Utah's agriculture, cattle and beef is Utah's largest productive sector. The National Cattlemen's Beef Association projects U.S. beef exports to the region will triple over the next ten years under CAFTA. CAFTA will eliminate tariffs on high-quality cuts of beef, implement immediate binding of zero tariffs on feeds and wheat products, and expand duty-free tariff rate quotas for Utah's dairy producers. Overall, CAFTA will provide for expanded market access throughout Central America. The agreement will benefit Utah's exports while fostering an even stronger trading relationship.*

2. Congressman, I was particularly troubled by the recent WTO ruling that indicated that the United States cannot block other countries from offering Internet gambling to U.S. residents, even if they live in states such as Utah where gambling is illegal. I, and I believe the vast majority of the people of Utah, are strongly opposed to gambling. Therefore, I was heartened to hear acting Representative Allgeier statement that it is the United States's position that this ruling affirmed WTO members' right to "protect the public from organized crime and other dangers associated with Internet gambling." What is your position on this matter?

I am also concerned about the way in which this matter was handled. Do you have plans in the future for retaining outside counsel to assist the USTR office in preparing cases before the WTO?

*Answer: You are correct that there was a very flawed WTO panel report against the United States on Internet gambling last November. However, the United States appealed that report, and I'm pleased to say that earlier this month the United States won the key issues. The WTO Appellate Body threw out all claims against state laws -- including a Utah law -- and agreed with the U.S. position that our federal laws restricting Internet gambling protect public order and public morals.*

*This Appellate Body report makes it clear that U.S. restrictions on Internet gambling can be maintained. This is a clear victory and a crucial reversal of the panel report.*

*I share Ambassador Allgeier's view that this is a victory for our federal and state law enforcement officers, who will continue protecting the public from illegal gambling.*

*As in other disputes, USTR lawyers worked closely with other U.S. state and federal government agencies, especially the Justice Department. However, I also understand that USTR specifically invited comments and suggestions from the public, including private sector lawyers, and considered those comments that were submitted.*

3. I am also very concerned about violations of the WTO by Korea in the area of Dynamic Random Access Memory (DRAM) chip manufacturing. Specifically, the Korean government's infusion of \$16,000,000 into the chip manufacturer, Hynix Semiconductor. Unfortunately, the WTO recently ruled that the US did not provide sufficient evidence to support the imposition of countervailing duties. I hope that upon your confirmation that you will look into this matter -- I know that you agree with me that this type of unfair trade practice cannot be tolerated.

*Answer: I understand your concern. I know the Administration continues to actively press Korea in the WTO and in bilateral talks to address concerns regarding inappropriate subsidization of Korean industry. I will continue to do the same. Regarding DRAMS, as a result of the countervailing duty (CVD) case initiated by Micron, the United States presently has a 44 percent duty on imports of DRAMS produced by the Korean Hynix Corporation. Korea initiated WTO dispute settlement proceedings regarding this decision and, unfortunately, the WTO panel decision released*

*in February was not as favorable as we expected it to be. USTR filed an appeal with the WTO Appellate Body on March 29. If confirmed, I will continue to vigorously pursue this case and the overall issue of inappropriate Korean subsidies, using all the tools available to me.*

4. As I am sure that you agree, one of the great threats to our exports is the theft of intellectual property. Therefore, I was alarmed to learn that that despite the fact that Russia only requires the equivalent of five CD manufacturing facilities to meet domestic demand, there are currently 36 Russian CD manufacturing plants in operation. Adding insult to injury, I have also been informed that at least nine of these factories are located on military installations. No wonder Russian pirates are believed to ship their wares to approximately 27 foreign markets. As Russia seeks to join the WTO, what steps will the USTR be taking to ensure this piracy ends? What additional pressures can be brought to bear to have the Chinese enforce their obligations?

*Answer: I share your concern about Russia, and can assure you that protection and enforcement of IPR in Russia is a serious issue that is of real concern to me. I am told that USTR and other agencies have been very engaged with the Russian Government at all levels to develop an effective IPR system in Russia, and due to the severity of the situation, Presidents Bush and Putin have discussed this issue at several recent Summits.*

*I am told this high-level engagement has brought about some improvements, particularly with respect to legislation, but much more will need to be done in order to reduce piracy levels. Progress will be critical for both WTO accession and our bilateral relationship with Russia. If confirmed, I would make this a top priority, and would look forward to working with you and your colleagues to bring about results.*

*In China, intellectual property rights infringement is one of the major challenges our businesses face right now. Like all of you, I have had constituents that are seeing their know-how – the life's blood of their businesses – stolen by unscrupulous IPR pirates in China and other countries. I understand the depth of the problem, and will work very closely with you and your colleagues, along with U.S. businesses, to deal with this problem. I will not hesitate to use any of the tools at our disposal, including WTO dispute settlement, that will be effective in addressing the problem.*

*Globally, I know that USTR has launched a major initiative – STOP (Strategy Targeting Overseas Piracy) that gets at IPR violation worldwide. If confirmed, I would look forward to working with you to make sure this new initiative is producing real results.*

*Intellectual property rights are the cornerstone of America's innovative economy. Protecting patents, trademarks, and copyrights at home and abroad is critical to our economic success. The USTR has a powerful set of enforcement tools available that has helped to successfully stem piracy and counterfeiting in Japan, Korea and many countries around the world. I look forward to working with you to ensure we do the same in China, Russia, Brazil, and elsewhere. As I mentioned in our meeting, you bring both a wealth of experience and a special perspective to these issues.*

### Questions from Senator Lott

1. In the 1990's, the United States worked with many Latin American nations that produce bananas to attempt to convince the European Union to end its protectionist, discriminatory, banana import regime. The United States urged the EU to establish an import regime that respected open trade and allowed all banana producers a fair opportunity to export their products to the EU. The EU resisted. Thus, the U.S. took the EU to the WTO where it won a clear victory over the EU. In 2001, in an effort to settle the WTO dispute, the EU committed to repealing its current import regime and move to a fairer tariff only regime by January 1, 2006. If the EU fails to carry out its commitment to establish a fair tariff only regime by that date, the hard-won opportunity to open up the EU banana market will be lost.

The Committee would like to understand the status of this matter and your views on it. As USTR, will you work to ensure that the European Union carries out its commitment to institute a fair tariff only regime for bananas by January 1, 2006?

*Answer: The level of the tariff the EU could charge under the new tariff-only banana import regime is currently in arbitration in the WTO. Over the last 18 months, USTR has insisted that the EU's tariff-only regime at least maintain "total market access" for banana suppliers from Latin America and has expressed concern about the EU's proposed high tariff of 230 €/mt. If confirmed as USTR, I will continue to work actively with U.S. industry to ensure that the EU does not install an unfair tariff regime.*

2. The WTO Doha Round talks are accelerating, with key negotiations going on throughout this year leading up to the Hong Kong Ministerial in December. Effective trade remedies are absolutely critical to a number of industries in my state.

Unfortunately, with regard to trade law remedies, virtually all of the proposals that have been made by our trading partners to date would weaken the trade laws. The United States has made only minor proposals – contrary to Congress' mandate that a principal negotiating objective would be "to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies..." (Trade Act of 2002).

I am concerned that the US does not have aggressive proposals on the table. As USTR, will you initiate and support aggressive proposals that won't weaken the trade laws?

*Answer: If confirmed, I will pursue an aggressive affirmative agenda that seeks to address the unfair trade practices of other countries. There is a concern that U.S. exports are increasingly blocked by burdensome, unfair and non-transparent trade remedy cases in other countries, especially developing countries. I will work hard in the Doha talks to address those concerns. As for our trade laws, the mandate of the Doha negotiations is clear: the basic principles and effectiveness of trade remedy laws will be preserved.*

3. Since 2001, there has been a decline in complaints filed by the United States at the WTO against other countries for unfair trade practices. As USTR, will you aggressively bring appropriate cases to the WTO on behalf of US industries?

*Answer: It is noteworthy that the total number of WTO disputes – filed by all countries – in 2004 was 19, well below the 50 filed at the 1997 peak. I do not believe this sign that WTO members are reducing their enforcement efforts. I think it probably reflects experience to date under the dispute settlement system, a better ability to assess the benefits and time involved in pursuing formal dispute settlement, and that deterrence through an enforceable dispute settlement system is working.*

*We also have to keep in mind that the high number of WTO cases filed soon after the WTO's inception was largely due to the pent-up demand as nations re-filed many cases under the new WTO system that had been left unresolved under the previous GATT dispute settlement system.*

*As this demand subsided—and as countries recognized that WTO-inconsistent measures would be successfully challenged under the WTO,—the number of cases dropped considerably. This global trend was reflected in the United States and its trading partners as well. In its last three years, the Clinton Administration filed about half the number of cases it filed at its 1997 peak. Similarly, the number of disputes brought by the European Union peaked in 1998, and since 1995 has largely tracked the number of cases brought each year by the United States.*

*I share your interest in aggressive enforcement of our WTO rights. My emphasis will be on results, using the most effective tool. This will include litigation when appropriate.*

4. In 2000, both you and I were cosponsors of a bill, which later became law, to authorize the USTR to use carousel retaliation in cases where the U.S. has been authorized to retaliate and there is no evidence of an attempt to comply with a WTO ruling. USTR has never used this tactic. As you prepare to become USTR and have responsibility over these matters, can you clarify how you feel about carousel retaliation as a matter of law and whether you envision yourself using this tool once you become USTR?

*Answer: I continue to view carousel retaliation as a potentially useful tool in resolving disputes. Before using this tool, however, I would want to make certain that such a move would be helpful in encouraging our partners to comply with their obligations or in advancing our discussions with them. I believe we should continue to evaluate all of our options.*



**Questions from Senator Baucus**

1. Please provide a list of the key commitments and obligations (including in agriculture, services, IPR, state trading, trading rights, NTBs, and other) that China has undertaken as part of its WTO accession and the date on which these commitments enter or have already entered into force.

*Answer: In late 2002, the GAO performed a thorough analysis of China's WTO commitments, which analysis also indicated when those commitments entered or will enter into force. I am attaching a copy of the GAO's authoritative report, Analysis of China's Commitments to Other WTO Members (GAO-03-4, October 2002.). In addition, USTR provides an annual report to Congress on China's WTO compliance, and this report describes in some detail China's implementation of key WTO commitments. I am attaching a copy of USTR's report for 2004. As you know, if confirmed, I will be ordering a thorough review of our China issues, and I would expect that to include an update on the status of these commitments.*

2. It is my sense that the Administration has selected our FTA partners based on foreign policy rather than commercial reasons. It is hard to generate lots of enthusiasm – but easy to burn political capital – on FTAs with countries that don't yield tangible benefits to our economy.

In my view, we need to reorient our trade agreement strategy to focus on our major trading partners. For instance, I have long advocated pursuing FTAs with economies like Taiwan and Korea, which offer attractive markets for our farmers and exporters. Such FTAs would probably be an easier sell in Congress. How do you plan to begin negotiating FTAs with more commercially relevant partners? Do you have any specific partners in mind?

*Answer: I agree that U.S. commercial interest must be a central factor when we consider potential free-trade partners. Indeed, it is my understanding that America's new and pending FTA partners constitute our 3<sup>rd</sup> largest export market and the 6<sup>th</sup> largest economy in the world, taken together. CAFTA is a good example. We trade more with Central America and the Dominican Republic than with Brazil or Australia. While these are small countries, they are big consumers of U.S. products and services.*

*I understand that Egypt and Korea have both expressed interest in pursuing FTA talks, and if confirmed, I would look forward to talking with these countries to explore their readiness. I also look forward to working closely with you on selecting future FTA partners.*

3. I have long been attracted to the possibility to negotiating an FTA with Taiwan, our 8th largest trading partner. The International Trade Commission has generally estimated that an FTA with Taiwan could lead to an increase of U.S. exports worth more than \$3.4 billion annually of manufactured goods, services, and agricultural products. The Institute of International Economics (IIE) estimates an agreement could lead to additional exports

of as much as \$6.6 billion. Taiwan has made real progress in protection of intellectual property rights, a fact recognized by the U.S. Trade Representative and the U.S. business community. And Taiwan recently reopened its market to U.S. beef exports.

Do you support opening negotiations for a free trade agreement with the Taiwan?

*Answer: The United States has a robust economic and trade relationship with Taiwan. As you note, in 2004, Taiwan was our 8th largest trading partner, accounting for \$57 billion in two-way trade.*

*Last year, the Administration reinvigorated its Trade and Investment Framework Agreement (TIFA) dialogue with Taiwan and held a Joint Council meeting in November, the first such meeting since 1998. My understanding is that Taiwan has made some progress in resolving several key U.S. trade concerns and improving its compliance with commitments it made on acceding to the WTO in January 2002. But I am also told there is more work to do on a number of outstanding U.S. concerns related to telecommunications, pharmaceuticals, and market access for agriculture, specifically rice.*

*I am committed to improving our trade relationship with Taiwan and, if confirmed, I will look forward to working with you and other Members of Congress to explore ways to achieve that.*

4. I have long been a supporter of a robust trade policy. Trade is enormously beneficial to our economy and provides opportunities to American farmers, workers, and innovators.

At the same time, trade creates winners and losers. People who lose their livelihoods because the factory in their town closes and moves overseas derive little comfort from the overall gains our economy gets from trade. We have failed to adequately address the concerns of trade-displaced workers and industries, and that failure is eroding support for trade back home and here in Congress. It seems pretty clear from polling data that most Americans would be much more supportive of trade liberalization if they know that there is a safety net for those who lose out.

Our Trade Adjustment Assistance program is a good start, but it needs to be beefed up. What is your view of TAA?

How do you think we can strengthen this program to better address the concerns of the workers and industries negatively impacted by trade? For example, what you think about the proposal that received 54 votes in the Senate last year to extend TAA to service workers?

Do you have other ideas on how we can help trade-sensitive workers and industries adjust to dislocations?

*Answer: I agree with you on the need to help those adversely affected by trade. As you know, the American economy and its labor market are incredibly flexible. For example, in an average year between 1992 and 2004, 32.5 million new jobs were created each year. On average, over the same time period, 30.8 million jobs were lost each year, meaning that on net total employment in America grows by about 1.7 million jobs a year. But these statistics offer little comfort to any man or woman who has been working in a factory that closes because of increased foreign competition.*

*You are right that TAA is a good program that was made even better by the TAA reforms contained in the 2002 Trade Act: merging NAFTA-TAA with TAA; expanding eligibility to both secondary workers and those dislocated due to a shift in production to an FTA partner; introducing the health care tax credit (HCTC); increasing the amount of funds available for training; extending the time period, to two full years, that a dislocated worker can be enrolled in training and receive income support; and creating an experimental "wage insurance" (ATAA) for older workers.*

*There are issues we need to look at. For example, there is a very low "take-up rate" for the program. In 2003, about 198,000 workers were covered by petitions that were certified as eligible; yet there were less than 48,000 new income support recipients: a take-up rate of only 24%. Perhaps this was good news – the workers found a new job quickly, and did not need training or income support. But it is equally possible that some eligible workers felt that TAA did not meet their needs.*

*So, before we expand TAA to cover service sector workers, I think we need to take a good hard look at how TAA is functioning after the 2002 reforms. I would hope to talk with Secretary Chao about TAA in the near future.*

5. In December of 2003, a Canadian-born BSE-infected cow was discovered in Washington state. Following that discovery, our largest beef export markets, including Japan and Korea, closed their borders to U.S. beef.

USTR seems uniquely well-positioned to help open these markets to U.S. beef exports. But my sense is that USTR has not been that engaged in doing so. Rather, USDA has taken the lead in negotiating with these countries.

Will you as USTR help push for Japan and Korea to open their markets to U.S. beef exports?

*Answer: Reopening export markets to U.S. beef will be a top priority for me if I am confirmed. USTR will be very directly involved. U.S. beef is completely safe, and if confirmed, I will work closely with Secretary Johanns and other cabinet officials to press Japan, Korea, and other countries to re-open their markets expeditiously, looking at all available options.*

6. President Bush has said he would like the United States to conclude negotiations for Russia's WTO accession by the end of this year. I think that's unrealistic. There are a whole host of difficult issues that need to be addressed before Russia can join the WTO.

In particular, I have grave concerns over the scale of intellectual property rights infringement in Russia. The legal framework has huge gaps, and the enforcement of existing laws is lax. This has a real impact on U.S. businesses. Piracy alone costs U.S. copyright industries over \$1 billion annually.

I understand that Russia has made some progress in other aspects of its accession talks with the United States. That's commendable, but I don't want that to mean we give Russia a pass on IPR.

Will you commit that you will require Russia to make significant improvements in and a long-term commitment to its IPR regime before concluding accession negotiations?

*Answer: I share your concern, and can assure you that improving the protection and enforcement of IPR in Russia, especially copyrights, is an issue of real concern to me. I know that USTR and other agencies have been engaged with the Russian Government at all levels to develop an effective IPR system in Russia. I understand that work is ongoing in bilateral negotiations and in the context of Russia's WTO accession negotiations. Due to the severity of the situation, Presidents Bush and Putin have discussed this issue at several recent summits.*

*I am told this high-level engagement has brought about some improvements, particularly with respect to IPR legislation, but much more will need to be done in order to reduce piracy levels. Achieving concrete results on enforcement will be critical for WTO accession and our trade relationship with Russia.*

*If confirmed, I would make this a priority, and would look forward to working with you and your colleagues to bring about results.*

7. Montana is home to a large and diverse lumber industry as well as to remanufactured lumber jobs. There are real differences and interests on key issues among the diverse sectors of the forest products industry, but all of them will be permanently affected by a negotiated settlement. How will you take into account diverse interests to ensure that no one is unfairly disadvantaged by unforeseen consequences that may arise, directly or indirectly, from a negotiated settlement and/or interim border measures?

Will you personally take a leadership role and commit to getting this dispute with our largest trading partner resolved in 2005 in a manner that results in fair, open, and competitive commercial trade in lumber?

*Answer: Canada is our largest trading partner, and this is the most significant trade issue we have with them. As I said during the hearing, it has been litigated to death and it is time for a resolution.*

*The United States should continue to seek a negotiated solution that will create a market-based system in Canada so our industry can compete on a level playing field.*

*If confirmed, I will consult closely with interested Members and stakeholders on how to achieve that, and I will vigorously defend the use of our trade laws in this and other cases, particularly as Canada continues to file trade cases.*

*I understand that recently the governments have been working closely with their respective industries to seek possible structures of a negotiated settlement. If confirmed, I look forward to meeting my counterpart, Jim Peterson as soon as possible to discuss this issue.*

8. One of your key tasks over the next year will be to steer the WTO's Doha negotiations toward a successful conclusion. These talks are critical and are expected to have significant benefit for the U.S. and global economy.

I am disturbed by press reports suggesting that the United States is not pursuing an aggressive enough strategy in the WTO to achieve limits in the power of state trading enterprises, particularly their monopoly powers. This issue is particularly important for Montana, which has for too long had to put up with the Canadian Wheat Board. How will you push for the elimination of state trading enterprises in the WTO talks?

*Answer: On state trading enterprises, I strongly support the Administration's efforts to reform monopoly agricultural state-trading enterprises, like the Canadian Wheat Board. In the WTO negotiations, eliminating the trade distorting practices of state trading enterprises is a priority for the United States and a critical component of the WTO framework for agriculture. As the negotiations move forward, I will aggressively pursue the elimination of export monopolies, ending special financial privileges granted to state traders and expanding transparency obligations of state trading enterprises.*

9. Despite at least five bilateral and multilateral agreements in which the Chinese government has made detailed and wide-ranging commitments to protect intellectual property rights, the lack of IPR enforcement in China remains a significant and pervasive market access barrier for U.S. companies. Rampant intellectual property theft has stalled growth in U.S. exports to China, cost U.S. companies billions of dollars in lost revenue, slowed job growth in the U.S. industries that rely on IP protection, and irreparably damaged the reputations of many well-known American brands.

How do you plan to get the Chinese to finally live up to their obligations and ensure that U.S. software firms can sell legitimate and legal software in China?

*Answer:*

*IPR: I agree with you that Intellectual property rights infringement in countries like China is one of the major challenges our businesses face right now. Like all of you, I have had constituents that are seeing their know-how – the life's blood of their businesses – stolen by unscrupulous IPR pirates in China and other countries. I understand the depth of the problem.*

*If confirmed, I will approach this problem from a number of different angles. I will make it clear to Chinese officials that we need to see tangible improvement in China's enforcement of IPR in the short term, and that there is no higher trade priority with China. I will leverage our high-level dialogue with China, through the U.S.-China Joint Commission on Commerce and Trade (JCCT), to obtain concrete results. I will work with our major trading partners, who also face serious economic losses, to get Beijing to take more aggressive steps and to stop the flow of pirated and counterfeit products out of China. If WTO dispute settlement or other tools would be effective, I will not hesitate to use them.*

*My overarching objective will be to achieve tangible results in the near term for our industries and right holders. I will work closely with U.S. businesses (big and small), the Congress, and other government agencies to address this problem.*

*Software: China should be a major market for U.S. software, and, if confirmed, I will work to ensure that end users in China use only legitimate software to the greatest extent possible.*

*Last year, as part of the JCCT meetings, China's leaders reaffirmed the ban on the use of pirated software by central government and provincial agencies and committed to extend the ban to local governments. We will hold China to these commitments.*

*Regrettably, China is currently considering procurement regulations that would require government agencies to purchase software from Chinese companies where available. These draft rules are a cause for serious concern, and I will press China to change course so that U.S. firms have continued access to the government market.*

*If confirmed, I will also work to get China to begin negotiations to join the WTO Government Procurement Agreement (GPA), in order to provide U.S. suppliers, products and services with fair and non-discriminatory access to China's government procurement market. China agreed to join the GPA as soon as possible, and it is time now for China to start making good on that commitment.*

10. U.S. trade laws have been instrumental, such as to offset Canada's unfairly traded lumber imports. More generally, these laws ensure that U.S. workers can compete against imports on a level playing field. U.S. trade laws must be preserved and must not be weakened during trade negotiations. Will you work to prevent the dilution of U.S. trade laws in the WTO or in free trade agreement negotiations?

*Answer: I believe that strong and effective remedies against unfair trade practices are essential to ensure that the benefits gained from trade liberalization are not undermined. I fully agree that we must continue to enforce vigorously the laws on the books so that American businesses and workers are competing on a level playing field.*

*If confirmed, I will work, both in the WTO and in free trade agreement negotiations, to ensure that the effectiveness of U.S. trade laws, including our antidumping laws, is*

*preserved, and to avoid any agreement that would lessen the effectiveness of disciplines on unfair trade. The Doha mandate for the WTO negotiations is clear: the basic principles and effectiveness of the trade remedy rules will be preserved. I look forward to working with you on this issue.*

11. The services component of the Doha Round has fallen far behind the negotiations on agriculture and non-agricultural market access. Services account for 80% of US private sector GDP, and 80% of US private employment. Moreover, U.S. cross-border exports of services reached \$338 billion last year. And services are an area where we consistently run trade surplus (\$50 billion last year). From banking, insurance, and other financial services to audio visual, express delivery, telecommunications, and the like, American companies are the leading global competitors.

With the services sector representing the overwhelming share of U.S. economic output and employment, as well as huge trade volumes, how do we get these negotiations back on track? Is the United States making any linkage between the concessions we offer on agriculture and those we seek on services?

*Answer: I believe expanding commercial opportunities for U.S. services suppliers is vitally important to U.S. economic growth and job creation. That is why I have been pleased to see the United States take a leadership role in ensuring that services remains a core market access area, along with Agriculture and non-agricultural market access, in the Doha Round. I view a meaningful services liberalization as an essential part of a final Doha package.*

*To date I know the Administration has pressed developed and developing country trading parties to participate fully in the Doha services negotiations and to put meaningful new liberalization offers on the table by the May 2005 deadline for submission of revised services offers, particularly in key sectors such as financial services, telecommunications, computer and related services, express delivery, energy services, distribution and audio-visual services.*

*The Administration is also working with other WTO Members to put together a strong framework on services for the December Hong Kong Ministerial that sets an ambitious negotiating agenda for 2006 that will produce real gains in services liberalization.*

12. For nearly a decade, the United States has worked intensively to open the European Union to competitive trade in bananas. U.S. companies, which operate as global banana producers, marketers, and distributors, have long faced restrictions under the EU's protectionist banana regime. After losing several GATT/WTO disputes, the EU committed to implement a tariff only regime no later than January 1, 2006. The EU has recently proposed a high tariff of 230 Euro/ton, sparking yet another round of WTO litigation.

Given the years of litigation on this issue, I would like to know what you plan to do to avoid delay and secure a just opening of the EU banana market by January 1, 2006.

*Answer: The level of the tariff the EU could charge under the new tariff-only banana import regime is currently in arbitration in the WTO. Over the last 18 months, USTR has insisted that the EU's tariff-only regime at least maintain "total market access" for banana suppliers from Latin America and has expressed concern about the EU's proposed high tariff of 230 E/mt. If confirmed as USTR, I will continue to work actively with U.S. industry to ensure that the EU does not install an unfair tariff regime.*

13. Following WTO authorization to sanction the EU in response to the EU's ban on hormone-treated beef from the United States, USTR in 1999 imposed 100 percent ad valorem retaliatory tariffs on several imported products from the EU, including the coffee substitute "chicory". Virtually all chicory used in the United States for chicory-coffee blends is imported from a small family company in France, and no other U.S. or other source of such chicory currently exists. In the Trade Development Act of 2000, Congress mandated a so-called "carousel retaliation" requiring the USTR to periodically rotate, or change, the types of products targeted for trade retaliation in order to maintain pressure on the EU to resolve the meat hormone dispute by penalizing a wider range of foreign products and countries. Along these lines, do you expect to change the types of products targeted for trade retaliation?

*Answer: Changes in retaliation lists are a potentially useful tool. Before using this tool, however, I would want to make certain that such a move would be helpful in encouraging the EC to comply with its obligations or in advancing our discussions. The current posture of the Hormones dispute is that the EC: has recodified its ban on beef produced from animals treated with certain hormones; claims that this step amounts to compliance with its WTO obligations; argues that the U.S. retaliation is no longer justified; and has requested establishment of a WTO dispute panel to examine the WTO consistency of U.S. actions.*

*A change in the retaliation list at this point might therefore serve only as an excuse for further litigation and distract from the main issue of ensuring that Europe removes the ban. If confirmed, I will monitor this situation closely and continue to evaluate all options.*

14. The Senate recently passed a unanimous resolution urging continued strong action to address the launch aid subsidies that Airbus receives from European governments. As I stated after the Senate passed its resolution, we can and should remain open to negotiation, but only on the condition that European governments agree to cease providing Airbus launch aid. If that is not possible, then, in my view, USTR should proceed expeditiously with its WTO case and let the world's trade arbiter rule that launch aid for Airbus represents a WTO-inconsistent subsidy. What next steps will USTR take to resolve this dispute?

*Answer: The U.S. objective in this case is clear – to eliminate subsidies. Airbus should stand on its own two feet and compete in the market without a safety net provided by European government treasuries. If confirmed, I would prefer to settle the matter*



*through negotiation, but if this is not possible, I would be prepared to seek a solution through the formal WTO dispute process.*

#### **Questions from Senator Rockefeller**

1. I would like to raise the issue of China and our trade situation. Last year, we had a record trade deficit with China of \$162 billion. As recently as 1995, our trade deficit with *the entire world* was only \$159 billion. Many of us in Congress believe that our deficit with China is the result of unfair trade practices, including currency manipulation, labor and environmental abuses, and the massive government subsidies that many Chinese companies enjoy. Unless something is done to assure the American people that we are serious about responding to China's unfair practices, I personally believe it will be very difficult to move forward with any new trade liberalization.

Against this background, it seems like common sense that we would be using every tool in our arsenal to address Chinese trade abuses – but the fact is that we are not. To give one very prominent example, the United States has for years refrained from applying its anti-subsidy (i.e., countervailing duty) law to China.

There is nothing in U.S. or WTO law stopping us from applying this critical law, and yet as a matter of policy the United States has neglected this essential tool. As you know, there is an effort in Congress to address this legislatively (Senator Bayh and Collins have proposed a legislative fix). In fact it is something the Administration could do on its own simply by changing its policy.

I would like to ask your opinion about our trade situation with China in general, what steps you believe need to be taken, and in particular what your position is on this question of applying CVD law to China. I would very much urge you to be an advocate on this issue in the Administration.

*Answer: As I suggested during my testimony in the Finance Committee hearing of April 21, 2005, one of my first orders of business at USTR if confirmed would be a top-to-bottom review of our trade policy toward China. The economic relationship between the United States and China is complex, and I would be vigilant to ensure the relationship works for American workers, farmers, businesses and service providers. That means ensuring that China eliminates trade barriers and unfair trade practices, so as to provide a level playing field on which we can compete. It also means using U.S. trade laws available to address injurious imports, such as the antidumping law and safeguard mechanisms.*

*With respect to the CVD law, the Commerce Department ruled a number of years ago that U.S. CVD law is inapplicable to non-market economies like China, and the courts have upheld that ruling. However, as a non-market economy, China has been subject to special measurement methodologies in antidumping investigations. These methodologies can, among other things, account for trade distortions due to government subsidies*

*through their use of prices and costs in a surrogate third country rather than Chinese prices and costs. Over the years, China has generally faced high antidumping duties.*

*As noted above, although the Commerce Department has the lead on this issue, I will review carefully the possibility of applying U.S. CVD law to China – an issue that involves complicated legal and policy questions. I would like to be able to address any and all Chinese subsidies. I will also want to ensure that whatever action we take actually benefits, rather than disadvantages, American businesses, farmers, ranchers and their workers. I look forward to working with you and your colleagues on this issue.*

2. Of the 483 films produced and released in the United States last year, China permitted fewer than 20 to be distributed in China under normal commercial conditions. The music industry cannot represent local artists. The book industry may not publish in China. The software industry is prohibited from selling to Government ministries in China. At a time of serious trade imbalances, as I earlier discussed, and when China's Premier Wen Jiabao has committed to seek to increase U.S. imports, it is outrageous that China severely limits access for one of America's most successful export sectors – the copyright industries. What are you going to do?

*Answer: I share your concern. I agree that China must make good on Premier Wen's commitment to facilitate increased U.S. exports. There is no excuse for China to put up unreasonable barriers to U.S. goods and services, particularly at a time when we have a record bilateral trade deficit. This is especially the case for our copyright industries, which are already seeing widespread IPR infringement in China. China needs to ease the restrictions that handicap our exporters, including its film cap and its proposed software procurement policy. If confirmed, I will actively and immediately pursue these issues with China, and will work to make sure that the field in China is open and level for U.S. exporters.*

3. Earlier this year, Secretary of Commerce Gutierrez committed to me that he would continue to work with our trading partners to achieve a negotiated resolution of the underlying issues involved with the Byrd Amendment. (in response to my questioning when his nomination was before the Senate Commerce Committee) As the United States Trade Representative, will you also make such a commitment?

Specifically, will you commit to developing and submitting a formal textual proposal to amend the relevant WTO Agreements in the context of the Doha Round and further commit to negotiating an early agreement which recognizes the sovereign right of WTO Members to distribute monies collected from antidumping and countervailing duties?

*Answer: I understand the United States has already put forward a proposal in the WTO Rules negotiations to recognize the right of WTO Members to distribute monies collected from antidumping and countervailing duties. If confirmed, I intend to continue to promote this proposal as the negotiations proceed.*

4. As the United States Trade Representative, how do you intend to advance the negotiation of changes to the WTO dispute settlement system or the WTO Rules agreements that would reverse the long line of adverse trade remedy decisions?

*Answer: I have not always agreed with WTO dispute settlement findings. On the whole, however, I believe the process has been working well and to the benefit of the United States, as demonstrated by recent findings supporting the United States against the European Union on its regulation governing geographical indications, and against Mexico on its telecommunications restrictions. These findings will be of enormous importance to U.S. companies, farmers and workers seeking to export U.S. goods and services. Likewise, the United States is now pursuing cases against the European Union on its moratorium on biotechnology approvals and its customs regime, against Mexico on its antidumping duties on U.S. rice and its soft drink tax, and against Japan on its restrictions on U.S. apple exports. It also conducted formal dispute settlement consultations with the European Union on its aircraft subsidies.*

*Regarding trade remedy disputes, while it is disappointing any time we lose an issue, it is important to evaluate the U.S. record not simply based on whether we lost on minor issues in a dispute, but on how we fared on the core issues. By that measure the United States has won in several trade remedy cases. While some of the losses involved significant issues in U.S. law, many others did not. The United States often was able to implement without affecting the underlying law, regulation or order. In many disputes, such as the Japan Sunset dispute and the Lumber (Countervailing Duty) dispute, the United States prevailed on most if not all key questions. In the EC's challenge to our countervailing duty sunset review on German Steel, the United States won every issue but one – and we had already lost that issue in domestic courts. Whatever the outcome, these results should not prevent us from vigorously enforcing our trade remedy laws.*

*Looking at the big picture, it is important to bear in mind that in the almost ten-year history of the WTO, the Department of Commerce has taken numerous trade remedy actions. Only a small number of these have been the subject of WTO dispute settlement.*

*I recognize that WTO dispute results have not been perfect. I believe we should work both within the current dispute settlement system and through the dispute settlement negotiations to improve the process and ensure that panels and the Appellate Body stick to the deal agreed to by WTO Members.*

*For example, at WTO meetings at which reports have been adopted, the United States should continue to criticize aspects of those reports with which we disagree. Past criticisms have sometimes been accepted by later panels. In addition, the United States should continue to pursue its proposals in the Special Session of the Dispute Settlement Body that would modify dispute settlement rules to improve Member control over the dispute settlement process and provide Members with greater flexibility to settle disputes.*

*Likewise, in the WTO Rules negotiations, the United States should continue to pursue proposals it has put forward to address systemic concerns regarding WTO dispute*

*settlement panels in trade remedy cases. In particular, the United States has expressed concern that panels have placed obligations on investigating authorities not contained in the pertinent WTO agreements and have not applied the proper standard of review. The United States has suggested proposals to address these problems as well as problems arising from particular WTO trade remedy dispute settlement reports (e.g., the calculation of the "all-others rate" in antidumping investigations; the injury causation standard to be applied by investigating authorities).*

5. Can you explain how you, as the United States Trade Representative, would improve the existing process of proposal development to ensure that the final Doha package does not, in fact, weaken existing trade remedy laws?

*Answer: The mandate of the Doha negotiations is clear: the basic principles and effectiveness of trade remedy laws will be preserved. Similarly, one of the negotiating objectives under Trade Promotion Authority is that the United States preserve its ability to enforce rigorously the U.S. trade laws and avoid agreements that lessen the effectiveness of disciplines on unfair trade. If confirmed, I will work with you to meet these objectives, and will consult closely with Congress on any proposals we may put forward in the negotiations.*

6. It is imperative that the United States be able to calculate dumping margins which reflect the actual degree of dumping. Can you assure this Committee today that you will do everything within your power as the United States Trade Representative to defend and preserve our existing trade remedy laws, including our ability to continue to capture 100% of the actual dumping (without any offset for non-dumped sales)?

Specifically, given the growing recognition in Geneva that rules on "zeroing" should be negotiated, can you commit:

(1) to work to convince Mexico, the EC, and Japan to suspend their WTO challenges on this issue pending those negotiations, and

(2) to submit a textual proposal in the Doha Round negotiations to codify U.S. practice in this regard?

*Answer: If confirmed, I will work to ensure that the effectiveness of U.S. trade laws, including our antidumping laws, is preserved. This is the Doha mandate for the WTO Rules negotiations, which states that the basic concepts, principles and effectiveness of the trade remedy rules will be preserved. It is also consistent with the objectives set by Congress in Trade Promotion Authority. Strong and effective remedies against unfair trade practices, including those against dumping, are essential to ensure that the benefits gained from trade liberalization are not undermined. As I stated during the hearing before the Finance Committee, one of my guiding principles will be to vigorously enforce the laws on the books so that American businesses and workers are competing on a level playing field.*

*I understand that efforts to convince other countries to suspend their WTO challenges have, so far, not been successful. If confirmed, I will vigorously defend our trade remedy laws and practices in WTO dispute proceedings.*

*In the WTO Rules negotiations, the United States has already put forward the issue of offsets for non-dumped sales in the calculation of dumping margins (the "zeroing" issue). I intend to work closely with you in determining the best way to advance this issue in the negotiations.*

7. I understand the Administration is aggressively pursuing negotiations with the Russians as a precursor to Russia's entrance into the WTO. Personally, I am extremely troubled by the idea that we would allow Russia to join the WTO while they continue to steal a billion dollars a year of U.S. copyrighted goods, and, at the same time, continue to pollute markets in Europe and elsewhere with pirated exports of our films and music. I understand the Russians also continue to upload pirated versions of American content of the Internet for people all around to world to download. What will you do to ensure that the Russian government takes effective steps to control its rampant piracy before the U.S. concludes its WTO accession negotiations?

*Answer: I share your concern, and can assure you that improving the protection and enforcement of IPR in Russia, especially copyrights, is an issue of real concern to me. I know that USTR and other agencies have been engaged with the Russian Government at all levels to develop an effective IPR system in Russia. I understand that work is ongoing in bilateral negotiations and in the context of Russia's WTO accession negotiations. Due to the severity of the situation, Presidents Bush and Putin have discussed this issue at several recent summits.*

*I am told this high-level engagement has brought about some improvements, particularly with respect to IPR legislation, but much more will need to be done in order to reduce piracy levels. Achieving concrete results on enforcement will be critical for WTO accession and our trade relationship with Russia.*

*If confirmed, I would make this a priority, and would look forward to working with you and your colleagues to bring about results.*

8. What do you believe we should learn from the problems with China's entrance into the WTO as we negotiate an agreement with Russia?

*Answer: Russia will be an important player in the WTO and we are working to ensure that Russia opens its markets and conforms to WTO rules. As with China, it is necessary to ensure that Russia fully implements WTO rules and does not undercut its bilateral market access commitments to the United States on goods and services.*

*I understand that since the negotiations began, the Administration has worked to ensure that Russia will take on all the requirements of the WTO Agreement. Unfortunately, one area of common concern to both China and Russia relates to intellectual property rights*

*protection, and the importance of effective enforcement. With both China and Russia, I will be looking for concrete results on enforcement and full implementation of commitments.*

9. I have long been interested in the health of the commercial aerospace, and as someone who is proud to serve as a Member of this distinguished Committee and as the ranking Member of the Aviation Subcommittee of the Senate Commerce Committee I have more than one reason to be concerned about this critical industry

The Department of Commerce recently published a report to Congress regarding the U.S. Jet Transport Industry. The report tells the story of an industry under great competitive pressure. The U.S. and the EU are now embroiled in a dispute over launch aid and state support to Airbus Industrie. Airbus is now the leading aircraft manufacturer, overtaking Boeing who has lost over 50,000 commercial airplane jobs in the past five years.

What approach do you plan to take to the current discussions with the European Union over aircraft manufacturing subsidies? What do you believe are the right next steps given the urgency of the situation and how should the U.S. respond if the EU refuses to stop using state money to launch its commercial aircraft?

*Answer: The U.S. objective in this case is clear -- to eliminate subsidies. Airbus should stand on its own two feet and compete in the market without a safety net provided by European government treasuries. If confirmed, I would prefer to settle the matter through negotiation, but if this is not possible, I would be prepared to seek a solution through the formal WTO dispute process.*

#### **Question from Senator Lincoln**

1. Mr. Portman, Peter Mandelson, the European Trade Commissioner, delivered a speech in Mali recently where he stated the EU was changing their position on a single undertaking in agriculture and was supporting an early harvest for cotton. This is a significant shift for the EU in the middle of this negotiating round. I have very, very serious concerns about this shift and what it could mean for the Doha Round should the negotiators begin to focus on this untenable approach. I am interested in your thoughts about the single undertaking approach to the agricultural negotiations and what your position will be with respect to the new EU decision to break out commodities one by one and negotiate them separately.

*Answer: I share your concern over this announcement. Let me assure you that I am committed to achieving within the Doha negotiations broad-based farm trade reform that tackles export subsidies, market access, and subsidy reform. I look forward to working closely with you on how best we can achieve those objectives. I was surprised by Commissioner Mandelson's comments. The overall Doha negotiations, the so-called 'single undertaking' is the best way forward -- in fact it is the only way forward, because it is balanced and it provides for broad based reform.*

*Cotton is obviously a sensitive and important sector. It is clear from the July 2004 framework that it will be handled in the WTO agriculture negotiations, and I am committed to moving forward on that basis. I look forward to working closely with you move Doha forward, and in particular agricultural trade reform.*

2. Do you think, if the Chinese government subsidizes its steel industry, either through direct export subsidies or through giving loans from government-owned banks to money-losing Chinese enterprises, that the U.S. should apply countervailing duty law to those subsidies? Shouldn't we be doing everything possible to make sure American companies don't have to compete against the government of China?

*Answer: Yes. As you know, because of the difficulty of determining subsidy in a non-market economy, the Commerce Department ruled a number of years ago that U.S. CVD law is inapplicable to non-market economies like China, and the courts have upheld that ruling. However, as a non-market economy, China has been subject to special measurement methodologies in antidumping investigations. These methodologies can, among other things, account for trade distortions due to government subsidies through their use of prices and costs in a surrogate third country rather than Chinese prices and costs. Over the years, China has generally faced relatively high antidumping duties.*

*I will review carefully the possibility of applying the CVD law to China and other non-market economies. This issue involves many legal and policy questions, and I will want to ensure that whatever action we take actually benefits, rather than disadvantages, American businesses, farmers, ranchers and their workers. I look forward to working with you and your colleagues on this issue.*

*With respect to steel in particular, China's industry is dominated by state-owned and state-supported enterprises and we need to ensure no Chinese firms are receiving unfair advantages. For instance, I know USTR has been urging China, with some success, to address problematic export restrictions on an important steel input, blast furnace coke, which have disadvantaged some U.S. steel producers. At the same time, exceptionally high Chinese demand for steel has contributed to conditions that have made the U.S. and global steel industry profitable in the last year.*

3. During the first four years of China's membership in the WTO, USTR has brought one case alleging a violation based on discriminatory taxation applied to imported semiconductors. It seems clear to me, given all of the piracy of intellectual property, currency manipulation, export subsidies, and a trade surplus of \$160 billion annually and growing with the U.S., that China is committing more than one WTO violation in the last four years? During your tenure as USTR, can I count on more vigilance to ensuring that China complies with their WTO obligations?

*Answer: As I suggested during my testimony in the Finance Committee hearing of April 21, 2005, one of my first orders of business at USTR if confirmed would be a top-to-bottom review of our trade policy toward China. The economic relationship between the*

*United States and China is complex, and I would be vigilant to ensure the relationship works for American workers, farmers, businesses and service providers. I would use all tools available from consultation to WTO litigation. Of course, I would also want to ensure that the measure of success we apply to our trade policy with China is not the number of dispute cases filed with the WTO in Geneva, but the number of barriers to trade and unfair practices by China we eliminate. The true measure of any successful trade policy has to be whether the playing field is made level. That is one important barometer by which I will measure my own performance as USTR if confirmed.*

4. The WTO Doha Round talks are accelerating, with key negotiations going on throughout this year leading up to the Hong Kong Ministerial in December. Effective trade remedies are absolutely critical to a number of industries in my state, from steel to catfish.

Unfortunately, with regard to trade law remedies, virtually all of the proposals that have been made to date would weaken the U.S. trade laws. The United States has made only several small proposals - contrary to Congress' mandate that the U.S. principal negotiating objective would be "to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies.

There is a saying at the WTO that one wins only at the end, but can lose from the beginning. Right now, in the Rules Negotiation, I am concerned that the US is losing because it does not have aggressive proposals on the table. I for one believe our trade laws should be strengthened to fill loopholes that lead to repetitive dumping - not weakened, and have introduced WTO-legal legislation to address these shortcomings. Will you initiate and support an aggressive agenda of developing trade law strengthening measures in the interagency process that can be offered in the negotiations?

*Answer: If confirmed, I will pursue an aggressive affirmative agenda that seeks to address the unfair trade practices of other countries. There is a concern that U.S. exports are increasingly blocked by burdensome, unfair and non-transparent trade remedy cases in other countries, especially developing countries. I will work hard in the Doha talks to address those concerns. As for our trade laws, the mandate of the Doha negotiations is clear: the basic principles and effectiveness of trade remedy laws will be preserved. That mandate is consistent with the objectives set by Congress in TPA, and I will work hard to achieve it.*

5. Our trade laws have also been severely weakened by numerous decisions made by the WTO dispute settlement bodies, and the only way to remedy these adverse decisions is at the negotiating table. For example, the Appellate Body has:

"rejected the U.S. standard of injury test used by the International Trade Commission, by requiring that the ITC must separate and distinguish other alternative causes of injury - a new and tremendously burdensome requirement.



"held that the United States must offset "positive" dumping margins on some sales with "negative" dumping margins on others. This conflicts with the practice of setting negative margins to zero, which has been used in the United States and other countries for many years.

"rejected the right of the United States to distribute legally collected antidumping and countervailing duties to the injured U.S. industries and labor organizations, under a law known as the "Byrd Amendment". Yet the WTO Agreements do not specify how the United States or other sovereign nations can spend validly collected tax revenues.

"failed to apply the standard of review negotiated by the United States in the WTO Antidumping Agreement, which defers to agencies such as the Commerce Department on factual determinations.

Will you agree to strengthen the U.S. position in these important negotiations by advancing proposals to reverse or amend some of these ill-advised decisions by the WTO?

*Answer: A critically important component of maintaining confidence in a rules-based trading system like the WTO is an effective dispute settlement system. The United States has emphasized in the WTO Rules negotiations that it is essential that WTO dispute settlement bodies follow the appropriate standard of review in trade remedy cases and not impose obligations that are not contained in the WTO Agreements. In addition to raising general concerns about the WTO dispute settlement system, the United States has already raised in submissions to the WTO Rules Group each one of the four specific items listed in your question. I will work closely with you in determining the best way to advance our proposals on these specific issues, as well as on how to address our general concerns.*

6. Many of us in Congress are concerned that, since 2001, there has been a dramatic decline in complaints filed by the United States at the WTO against other countries for unfair trade practices. I would like to think that is because other countries are complying with our international trade rules, but I am skeptical given the fact that the USTR annual report on foreign trade barriers keeps getting thicker and thicker every year.

What is the explanation for this decline in complaints filed by the United States at the WTO? As USTR, do you pledge to be more aggressive in bringing appropriate cases to the WTO on behalf of US industries?

*Answer: It is noteworthy that the total number of WTO disputes – filed by all countries – in 2004 was 19, well below the 50 filed at the 1997 peak. I do not believe this sign that WTO members are reducing their enforcement efforts. I think it probably reflects experience to date under the dispute settlement system, a better ability to assess the benefits and time involved in pursuing formal dispute settlement, and that deterrence through an enforceable dispute settlement system is working.*

*We also have to keep in mind that the high number of WTO cases filed soon after the WTO's inception was largely due to the pent-up demand as nations re-filed many cases under the new WTO system that had been left unresolved under the previous GATT dispute settlement system.*

*As this demand subsided—and as countries recognized that WTO-inconsistent measures would be successfully challenged under the WTO,—the number of cases dropped considerably. This global trend was reflected in the United States and its trading partners as well. In its last three years, the Clinton Administration filed about half the number of cases it filed at its 1997 peak. Similarly, the number of disputes brought by the European Union peaked in 1998, and since 1995 has largely tracked the number of cases brought each year by the United States.*

*I share your interest in aggressive enforcement of our WTO rights. My emphasis will be on results, using the most effective tool. This will include litigation when appropriate.*

7. As you may be aware, a bipartisan group of Senators has introduced legislation to ensure that all countries are covered by the anti-subsidy law. The countervailing duty law is an important tool for combating prohibited subsidies by foreign governments. Unfortunately, the U.S. subsidy law is not being applied to non-market economy countries such as China - protecting those countries that subsidize the most heavily and which cause the most injury to US manufacturers and agricultural producers. As a result, these countries are exporting unfairly subsidized products to the United States, without any fear of action by our trade authorities. It is my understanding that this limitation by the U.S. is based on a 1980's agency interpretation - but not required by law or international agreement.

In your judgment, is there any impediment in the GATT or other international trade agreements that would prevent the United States, or any WTO member, from applying countervailing duty laws against non-market as well as market economy countries?

Would you support, in appropriate circumstances, application of the countervailing duty law to non-market economy countries such as China?

*Answer: As noted above, although the Commerce Department has the lead on this issue, I will review carefully the possibility of applying U.S. CVD law to China -- an issue that involves complicated legal and policy questions. I would like to be able to address any and all Chinese subsidies. I will also want to ensure that whatever action we take actually benefits, rather than disadvantages, American businesses, farmers, ranchers and their workers. I look forward to working with you and your colleagues on this issue.*

8. One very important aspect of U.S. trade policy must be to ensure that foreign government policies to benefit their domestic industries do not cause injury to U.S. industries, workers and farmers. An example is the Canadian system for selling provincially-owned timber to the Canadian lumber industry at prices well below market

levels, thus providing a huge subsidy to those producers who then can sell their lumber into our market at unfairly low prices. Right now there are countervailing and antidumping duties in place to offset this unfair advantage. I know some in Canada have expressed an interest in negotiating a longer-term settlement of this issue.

My view is that, whatever approach we take with Canada on this issue, the critical factors must be that (1) there is an effective offset to Canadian subsidies and dumping, through duties or some other mechanism, until (2) the Canadians enact policy reforms that have the actual effect of eliminating below-market timber pricing in Canada. Will you commit to working with this Committee and the U.S. industry to ensure that a level-playing field is preserved for U.S. lumber producers facing subsidized competition from Canada?

*Answer: Canada is our largest trading partner, and this is the most significant trade issue we have with them. As I said during the hearing, it has been litigated to death and it is time for a resolution.*

*The United States should continue to seek a negotiated solution that will create a market-based system in Canada so our industry can compete on a level playing field.*

*If confirmed, I will consult closely with interested Members and stakeholders on how to achieve that, and I will vigorously defend the use of our trade laws in this and other cases, particularly as Canada continues to file trade cases.*

*I understand that recently the governments have been working closely with their respective industries to seek possible structures of a negotiated settlement. If confirmed, I look forward to meeting my counterpart, Jim Peterson as soon as possible to discuss this issue.*

9. Congressman Portman, I appreciated the opportunity to visit with you last week in my office about your nomination. As you know, I raised an issue related to Saudi Arabia's efforts to join the WTO and a letter I wrote to Ambassador Zoellick last year with Senators Smith, Kyl, Graham and Daschle raising objections to Saudi Arabia's admission to the WTO. In our letter, we specifically raised concerns regarding Saudi Arabia's participation in the Arab League Boycott of Israel and the appropriateness of our government supporting its admission as a result.

This week I received a response from Peter Allgeier, who is now our Acting Trade Representative, indicating that the draft WTO Working Party report contains a statement that Saudi Arabia has terminated its support of the secondary and tertiary aspects of the Boycott as of 1996. Further, Mr. Allgeier states that "it is our expectation that Saudi Arabia will not invoke non-application of the WTO agreement vis-à-vis any current WTO Members" which would include Israel.

I appreciate the response of USTR to the concerns I and my colleagues on the Committee raised.

To me it doesn't sound like an iron clad commitment from the Saudi government on this particular point, especially considering that in 2004 the State Department determined that there were 43 instances of illegal boycott activity against US firms in connection to Saudi Arabia's participation in the Arab League Boycott.

I would be interested in knowing if you have confidence in Saudi Arabia's commitment not to engage in Boycott activities against Israel in light of the State Department findings I referenced?

In addition, given that the US has only an "expectation" that Saudi Arabia will not enforce boycott activities against Israel, do you think that is sufficient assurance to warrant moving ahead with supporting Saudi Arabia's accession to the WTO?

*Answer: This is something I will look into further if confirmed. My understanding is that Ambassador Allgeier's response provided a status report on the bilateral negotiations with Saudi Arabia, but did not focus on the Boycott. I am told that the incidences of the Boycott have decreased recently, and that the Administration intends to initiate a bilateral program to ensure that any remaining forms by procuring agencies in Saudi Arabia are modified accordingly. If confirmed, I will proceed with the negotiations taking fully into account Section 133 of the Uruguay Round Agreements Act, which requires the United States to vigorously oppose states that implement the Boycott.*

10. Congressman Portman, the letter I and my Finance Committee colleagues sent to Ambassador Zoellick also raised concerns about Saudi Arabia's record on Human Rights. The letter I received this week from Mr. Allgeier did not make any reference to human rights issues.

I would like to mention a few specific human rights issues related to Saudi Arabia that I think are important. In September, 2004, the Secretary of State designated Saudi Arabia as a Country of Particular Concern. As you know, this status is reserved for governments that have "engaged in or tolerated particularly severe violations of religious freedom."

Furthermore, Saudi Arabia has one of the worst records relating to women's rights in the world. According to the State Department's Country Reports on Human Rights Practices most recent edition which was released in February of this year, all women in the country are prohibited from driving and were dependent upon males for transportation. Likewise, women must obtain written permission from a male relative or guardian before the government would allow them to travel abroad. The requirement to obtain permission from a male relative or guardian applied also to foreign women married to citizens of Saudi Arabia and to the minor and single adult daughters of Saudi fathers.

The report goes on to say that women have few political or social rights and were not treated as equal members of society. Women are restricted in their use of public facilities when men are present. For example, women must enter city buses by separate rear entrances and sit in specially designated sections.

In public, a Muslim woman is expected to wear an abaya (a black garment that covers the entire body) and also to cover her head, hair and face. Also, under Saudi law women may not be admitted to a hospital for medical treatment without the consent of a male relative; however, according to the report, this was not always enforced.

Last, but certainly not least, Mr. Chairman, I am deeply troubled that Saudi Arabia continues to invoke its law and religion to detain my constituent, Heidi Al-Omary, in blatant violation of U.S. law and a valid court order. Heidi was abducted in 1997 at the age of 5 by her Saudi born father and she has been stuck in Saudi Arabia ever since because the Saudi government apparently believes Heidi's father, who is a wanted fugitive, has done nothing wrong. Heidi's mother, who lives in Jonesboro, Arkansas, was not able to see or speak to her daughter until 2002...five years after she was abducted.

I recognize that the issue of international child abduction is not limited to Saudi Arabia. However, the status of female abductees in the Kingdom is quite unique since under Saudi law and custom women have very limited autonomy and very likely will never have a meaningful opportunity to leave - even as adults.

As you can tell, I have strong feelings on these issues and really question - especially when combined with the other concerns I have raised relating to the boycott and questions regarding terrorism financing - about why the Administration would consider supporting Saudi Arabia's admission into the WTO?

I think following this course without demanding meaningful progress on the issues I have raised sends the wrong signal that bad behavior is not a problem when it comes to trade.

Do you think human rights and respect for our laws and its citizens is a relevant factor when deciding whether to grant favored trading status to a country like Saudi Arabia?

*Answer: As I mentioned at the hearing, I share your concerns about human rights abuses and the rights of women in Saudi Arabia. As you know, I too have experienced working with constituents who have experienced the terrible pain of international child abduction. If confirmed, I will work with my colleagues, particularly Secretary Rice, on this important question. As you know, the Department of State is an active and important player in the WTO accession negotiations. Agreement to implement the rule of law, enhance transparency, and provide due process of law are important steps for change in Saudi Arabia's trade regime. One hope is that economic reform can enhance the possibilities for reforms elsewhere in Saudi Arabia.*

11. I appreciated the opportunity to visit with you last week in my office about your nomination. As you know, I raised an issue related to Saudi Arabia's efforts to join the WTO and a letter I wrote to Ambassador Zoellick last year with Senators Smith, Kyl, Graham and Daschle raising objections to Saudi Arabia's admission to the WTO.

In our letter, we specifically raised concerns regarding Saudi Arabia's participation in the Arab League Boycott of Israel and the appropriateness of our government supporting its admission as a result.

This week I received a response from Peter Allgeier, who is now our Acting Trade Representative, indicating that the draft WTO Working Party report contains a statement that Saudi Arabia has terminated its support of the secondary and tertiary aspects of the Boycott as of 1996.

Further, Mr. Allgeier states that "it is our expectation that Saudi Arabia will not invoke non-application of the WTO agreement vis-à-vis any current WTO Members" which would include Israel.

I appreciate the response of USTR to the concerns I and my colleagues on the Committee raised.

To me it doesn't sound like an iron clad commitment from the Saudi government on this particular point, especially considering that in 2004 the Department of Commerce determined that there were 43 instances of illegal boycott activity against US firms in connection to Saudi Arabia's participation in the Arab League Boycott.

Furthermore, the 2005 USTR Report on Foreign Trade Barriers states plainly that the Arab League boycott of Israel is a "significant barrier to U.S. trade and investment in some countries in the Middle East and North Africa" and that Saudi Arabia continues to enforce the primary level of the Arab League boycott on Israeli products.

Do you have confidence in Saudi Arabia's commitment not to engage in prohibited boycott activities in light of the findings by the Department of Commerce in 2004 and the assertion in the draft Working Party report that Saudi Arabia has not enforced the secondary and tertiary aspects of the Boycott as of 1996?

If not, what steps do you think the US should take to ensure Saudi Arabia lives up to its obligations?

Do you believe any level of participation by Saudi Arabia in the Arab League boycott is appropriate and if so are you satisfied that an "expectation" Saudi Arabia will live up to its obligations if permitted to join the WTO is sufficient to warrant US support for Saudi Arabia accession at this time?

If not, what steps do you think the US should take to ensure Saudi Arabia lives up to its obligations in this regard if permitted to join the WTO?

*Answer: As I noted in response to question 9, I share your concerns about the boycott activities. My understanding is that the letter from Ambassador Allgeier noted that the Administration is focusing on two tracks. Multilaterally the Administration is taking steps to confirm that the certain aspects of the Boycott are no longer enforced, and ultimately,*

*at the end of the accession, how Saudi Arabia will deal with the issue with respect to non-application of the WTO provisions. Bilaterally, the Administration is working to ensure that the incidence of prohibited boycott activities further decreases as it strives for their complete cessation. I look forward, if confirmed, to looking further into this matter and working hard to ensure that Saudi Arabia lives up to the commitments it has made.*

12. In the letter I and my colleagues wrote to Ambassador Zoellick, we also raised questions about Saudi Arabia's commitment to stop financial support for terrorist organizations from sources within Saudi Arabia, including support for charities and religious schools that promote and spread a radical form of Islam known as Wahhabism which is at odds with our nation's values and beliefs and poses a potential threat to our security.

Are you satisfied that Saudi Arabia has adequately responded to requests from our government to stop support for terrorist activities that threaten our nation's security?

Do you believe it would be appropriate for our government to withhold support for Saudi Arabia's admission into the WTO to gain further cooperation on this issue?

*Answer: I share your concerns regarding terrorism, including the important goal of stopping all sources of financing to terrorists. I understand that the United States has an ongoing, robust, comprehensive dialogue with the Saudi Government and leadership on issues related to financing terrorism and the promotion of extremist, violent ideologies. Working with the Saudis to reform their economy to meet WTO standards and maintaining a dialogue on trade, investment, and economic issues in no way detracts from our nation's serious efforts to counter terrorism, and in fact, enhances our positive cooperation. I would hope that work toward bringing the Saudis into the WTO – with all the economic reforms necessary to make that leap – serves to promote other important U.S. policy goals.*

13. As a follow-up to the question I asked during your hearing related to Saudi Arabia's record on human rights, do you believe it would be appropriate for our government to withhold support for Saudi Arabia's admission into the WTO to gain further cooperation on this issue, including instances where a country like Saudi Arabia does not respect our laws and the rights of its citizens which as I noted is the case with one of my constituents?

*Answer: I share your deep concern over the human rights abuses in Saudi Arabia. As I mentioned at the hearing, if confirmed, I will be in touch with Secretary Rice on your specific case, and would be pleased to discuss this important issue further with you and other Members. The State Department, I may note, is also part of the interagency team on Saudi Arabia's accession.*

*I believe that promoting economic reform in Saudi Arabia through the adherence to the rule of law, transparency and due process, can contribute to improvements in the human rights situation. The U.S.-Saudi relationship covers many issues, including human rights,*

*security and stability in the Middle East, energy supplies, and the joint effort to combat global terrorism. I believe our work towards bringing the Saudis into the WTO – with all of the economic reforms necessary to make that leap –can ultimately serve to promote other U.S. policy goal as well.*

*I know that we have discussed this issue in our private session; if confirmed, I look forward to working more closely on this and other issues surrounding Saudi Arabia's accession to the WTO.*

#### **Questions from Senator Bingaman**

1. Currently an agreement related to multi-chip packages (MCP) is pending between the United States and a group of foreign countries with interests in semiconductor processing and sales. From my understanding, this tentative agreement has been delayed procedurally by problems at USTR and the lack of a USTR that can consult with the appropriate Congressional committees. Can you assure me that this issue will be a priority when you are confirmed as USTR?

*Answer: Yes. It is my understanding that the proposed agreement among the five major producers of MCPs (the United States, European Union, Japan, Korea, and Taiwan) has the potential to eliminate duties on about \$4 billion in global trade. It is a key priority of the U.S. semiconductor industry. The only outstanding procedural requirement is that the USTR consult with the Congressional Oversight Group (COG). When that consultation requirement is fulfilled, we can proceed with the other parties to conclude the agreement. If confirmed as USTR, I will work with COG members to find an early and mutually convenient time to meet and discuss this issue, among others.*

2. For nearly a decade, the United States, along with the Latin American banana producing nations, has worked to replace the complex and protectionist European banana regime with a more open system that gave competitive banana producers a fair opportunity to export their products to the EU. The U.S. and the Latin countries won the WTO case on this matter. In an effort to settle the WTO dispute, in 2001, the EU committed to go to a tariff only regime by January 1, 2006. If the EU fails to carry out its commitment to go to a tariff only regime, it would be a serious setback for the WTO dispute settlement system, and the opportunity to open up the EU banana market will be lost. Perhaps more significantly, it will send a signal that the United States has become unwilling to push the EU to fulfill obligations it is required to make as a member of the WTO. If confirmed as USTR, can you assure me that you will work to ensure that the European Union carries out its commitment to move to a tariff only regime by January 1, 2006?

*Answer: The level of the tariff the EU could charge under the new tariff-only banana import regime is currently in arbitration in the WTO. Over the last 18 months, USTR has insisted that the EU's tariff-only regime at least maintain "total market access" for*



*banana suppliers from Latin America and has expressed concern about the EU's proposed high tariff of 230 E/mt. If confirmed as USTR, I will continue to work actively with U.S. industry to ensure that the EU does not install an unfair tariff regime.*

3. In a recent hearing before this committee, Acting-USTR Allgeier stated the CAFTA was intended to “provide a balance between the protection for innovation, . . . but to balance that with the legitimate need of governments to meet the public health needs of their countries, including, specifically, access to medicines.” Yet, from what I understand, there is not one mandated generic access provision within CAFTA; nor for that matter in any other Free Trade Agreement. Most of the FTAs to date, including CAFTA, require a number of provisions to encourage research and development of innovative medicines. They also require countries to establish a generic approval process similar to the U.S. – a system that links generic approvals with the expiration of brand patents. Yet, we know first hand that, without the requisite generic access measures to ensure timely resolution of patent disputes and other measures, brand companies will enjoin de facto patent extensions in those countries under such a lopsided system. As the new trade representative, will you ensure that trade agreements being negotiated now, and in the future, will include mandatory pharmaceutical access provisions, which limit the potential gaming of the patent and exclusivity provisions by special interests – and which will ensure access to affordable medicine in those countries?

*Answer: You raise an important issue of how to balance important public policy goals: access to medicines, and ensuring that the innovation that gives us those medicines is preserved. I believe that it is important that trade agreements strike a careful balance between protecting innovation and ensuring that our trading partners can meet legitimate public health needs, including ensuring access to medicines. I understand that, consistent with the objectives established by Congress in Trade Promotion Authority, USTR seeks intellectual property rights provisions that promote a balance between innovation and access for pharmaceutical products. All of the intellectual property rights provisions, including provisions related to pharmaceutical patents and data protection, are consistent with and do not go beyond U.S. law.*

*It is also important to note that intellectual property rules can promote improved access to medicines in developing countries, as innovative pharmaceutical companies will have greater incentives to sell and invest in markets that provide such protection. For example, since the U.S. free trade agreement with Jordan went into effect, more than 50 innovative new drugs have been introduced in that market that were not previously available.*

4. I have noticed that as each new trade agreement has been negotiated, it appears that the provisions relating to the protection for pharmaceutical intellectual property and other rights has gotten incrementally stronger and at times more convoluted—opening up the possibility for dual interpretations. As the new trade representative, will you ensure that the trade agreements being negotiated now and in the future will be cleaner, and also will include mandatory pharmaceutical access provisions, which will limit the potential

gaming of the patent, market exclusivity provisions within the mandated generic approval system we require of our trading partners.

*Answer: If confirmed, I will work to ensure that the text of our trade agreements is as clear as possible. In addition, I believe that it is important that trade agreements strike a careful balance between protecting innovation and ensuring that our trading partners can meet legitimate public health needs, including ensuring access to medicines. I understand that, consistent with the objectives established by Congress in Trade Promotion Authority, USTR seeks intellectual property rights provisions that promote a balance between innovation and access for pharmaceutical products.*

5. It seems to me that the vast majority of the provisions in the Central American Free Trade Agreement – labor, the environment, and commercial – will require sustained and dedicated institution and capacity building funding if they are to be either effectively implemented or properly enforced. Is there an intent within the Administration to argue that such sustained and dedicated funding should be available?

*Answer: As we discussed in our meeting, I believe, capacity building must be a critical part of the U.S. Government's strategy to enable developing countries to negotiate and implement trade agreements. When paired with capacity-building programs, I believe CAFTA will help to generate economic growth, improve the lives of workers, and accelerate poverty reduction in Central America.*

*I understand that the United States has already committed substantial sums to capacity building efforts. Specifically, U.S. agencies increased their overall funding for capacity building efforts in the region, which includes funding for environment and labor projects, from \$66 million in 2003 to \$80 million in 2004. Of particular note, the Department of Labor has provided funding for labor-related capacity building initiatives in the region totaling \$7.75 million in 2003 and 2004.*

*I agree with you that we need a sustained commitment. In the FY05 foreign operations appropriations bill, Congress approved \$20 million for labor and environment cooperation in Central America and the Dominican Republic. This was a great start. I hope to work with you and others to combine trade and aid in ways that support economic development not only in Central America, but around the world.*

#### **Questions from Senator Crapo**

1. Chapter 19 raises constitutional concerns, as it uses international arbitral panels to make binding decisions about application of U.S. law to government agency determinations. Additionally there have been conflicts of interests among panelists that compromise the fairness of their binding rulings. I have two letters from Dick Thornburgh and Griffin Bell highlighting some of the problems with Chapter 19 that I would like to submit for the record. It seems to me that it is time to fix the problems with Chapter 19, and I invite your comment on this matter.

*Answer: I understand that Chapter 19 of NAFTA was considered from a constitutional perspective in 1988 when the original implementing legislation was conceived and that the procedures put in place were designed to address any possible constitutional concerns.*

*As you may know, Chapter 19 includes procedures for avoiding conflicts of interest and for addressing them when they occur. I believe we should vigorously challenge any Chapter 19 decision that we believe may have been tainted by conflict. My understanding is that USTR is currently challenging a recent Chapter 19 panel decision on Canadian lumber partly on conflict of interest grounds. If confirmed, I will keep your perspective in mind and be vigilant that conflicts of interest do not become a systemic concern.*

2. The current chapter of the softwood lumber dispute with Canada has gone on for more than four years. I have constituent interests that are members of the Coalition that brought the petition and constituent interests that are not represented by the Coalition. There are real differences and interests on key issues between these groups and, more importantly, all of these businesses (primary, secondary and value added) will be affected by a negotiated settlement.

3. How do you intend to engage all of these sectors (Coalition members and non-Coalition members) in the process to ensure that no product, producer, or sector is placed at a competitive disadvantage or is victimized by unforeseen consequences that may arise directly or indirectly, from a negotiated settlement and/or interim border measures?

4. Will you personally take a leadership role and commit to working to get this dispute with our largest trading partner resolved in 2005 in a manner that results in fair, open, and competitive commercial trade in lumber?

*Answer to questions 2-4: Canada is our largest trading partner, and this is the most significant trade issue we have with them. As I said during the hearing, it has been litigated to death and it is time for a resolution.*

*The United States should continue to seek a negotiated solution that will create a market-based system in Canada so our industry can compete on a level playing field.*

*If confirmed, I will consult closely with interested Members and stakeholders on how to achieve that, and I will vigorously defend the use of our trade laws in this and other cases, particularly as Canada continues to file trade cases.*

*I understand that recently the governments have been working closely with their respective industries to seek possible structures of a negotiated settlement. If confirmed, I look forward to meeting my counterpart, Jim Peterson as soon as possible to discuss this issue.*

5. There is concern about the win-loss record of the United States in WTO dispute settlement proceedings, especially as it relates to the antidumping and countervailing duty laws. What steps can the United States take to ensure that our trade laws are not worn away by unfair and unjust WTO panel decisions?

*Answer: I agree we must vigorously defend our trade laws at the WTO, and if confirmed I will work to do so. Strong and effective trade remedy laws are an important component of maintaining public support for our trade agenda. I also think it is important to recognize that in general, panels and the Appellate Body have shown themselves to be careful interpreters of the texts of the WTO Agreements. This does not mean that every conclusion is beyond criticism. As is the case with decisions of domestic courts, we may disagree about the analysis of a particular decision, but this does not mean that the entire system is broken.*

*In disputes involving trade remedies, while it is disappointing any time we lose an issue, it is important to evaluate the U.S. record not simply based on whether we lost on minor issues in a dispute, but on how we fared on the core issues. By that measure the United States has won in several trade remedy cases. Many cases did not involve significant issues of U.S. law. And the United States often was able to implement without affecting the underlying law, regulation or order.*

*In the almost ten-year history of the WTO, the Department of Commerce has taken numerous trade remedy actions. Only a handful of these have been the subject of WTO dispute settlement.*

6. The United States has put forward a proposal in the Doha Round negotiations to specifically permit member countries to distribute antidumping and countervailing duties as the U.S. currently does under the Continued Dumping and Subsidies Offset provision. Specifically, this proposal says that members may distribute the duties collected when respondent companies continue to dump or receive subsidies any way that WTO member countries see fit. Do you intend to support the proposal the U.S. has already put on the table before the WTO in the Doha negotiations?

*Answer: Yes. You are correct that the United States has already put forward a proposal in the WTO Rules negotiations to recognize the right of WTO Members to distribute monies collected from antidumping and countervailing duties. If confirmed, I intend to continue to promote this issue as the negotiations proceed.*

7. It seems pretty clear that foreign pharmaceutical price control regimes that place artificial ceilings on prices lead to higher drug costs in the U.S., as the fixed costs of research and development are shifted to American consumers. How can the USTR work to ensure American consumers are not shouldering an unfair portion of this burden?

*Answer: I share your concern that Americans are paying an increasingly disproportionate share of the global drug bill, in large part due to price controls or similar regulatory practices in other countries. Last year, the Congress directed the Commerce Department, along with the Department of Health and Human Service, and*

*USTR, to study pharmaceutical price controls in OECD countries. The study, which was released in December 2004, found that price controls are reducing the funds available for R&D and the development of new lifesaving drugs.*

*Going forward, these countries must share the R&D burden. Current regulatory measures are slowing the development of new innovative pharmaceuticals which increase productivity, longevity, and quality of life for American patients as well as patients around the world. I understand that USTR, after designating an Assistant U.S. Trade Representative to be responsible for pharmaceutical trade policy, has examined and begun addressing the trade-related aspects of your concerns.*

*I believe that USTR, HHS, and the other U.S. health and economic policy agencies are jointly approaching individual countries through FTA negotiations – such as with Australia – or through bilateral consultations – such as with Germany, Canada, Japan, Korea, and China – that are tailored to the specific circumstances of each country. I understand that these discussions utilize a common set of principles aimed at advancing U.S. interests, including innovation and access. I look forward to addressing these issues if I am confirmed.*

8. The United States has won two World Trade Organization (WTO) cases against the European Union (EU) for its lack of scientific evidence in imposing its ban on U.S. beef. Despite the U.S. imposed retaliatory tariffs on a number of products imported from various EU member countries, the EU has not come into compliance with the WTO rulings. Should the Administration consider pursuing other means, such as using the so called carousel retaliation mechanism, which was passed into law by Congress in 2000, requiring the rotation of tariffs among other products, to encourage EU compliance with this WTO ruling?

*Answer: I share your concerns about the EU beef hormones issue. Changes in retaliation lists are a potentially useful tool. Before using this tool, however, I would want to make certain that such a move would be helpful in encouraging the EC to comply with its obligations or in advancing our discussions. I believe we should continue to evaluate all of our options.*

9. What would be the consequences or pros and cons of enacting the carousel?

*Answer: As noted, changes in the retaliation list could be a potentially useful tool in encouraging the EC to comply with its obligations or in advancing our discussions. The current posture of the Hormones dispute is that the EC: has recodified its ban on beef produced from animals treated with certain hormones; claims that this step amounts to compliance with its WTO obligations; argues that the U.S. retaliation is no longer justified; and has requested establishment of a WTO dispute panel to examine the WTO consistency of U.S. actions.*

*A change in the retaliation list at this point might therefore serve only as an excuse for further litigation and distract from the main issue of ensuring that Europe removes the*

*ban. If confirmed, I will monitor this situation closely and, as noted, continue to evaluate all options.*

#### **Questions from Senator Snowe**

1. As you know, Maine is home to a small but thriving footwear industry. Like textiles, the domestic footwear industry does not employ as many as it once did but still boasts more than 1500 workers in Maine. Many of these workers are employed in several facilities owned and operated by New Balance Athletic Shoe, Inc.

It is with this in mind that I was pleased to see DR-CAFTA agreement include an important provision that protects 17 sensitive rubber and plastic protective shoe lines that are still made in Maine and several other states. Obviously, I'd like to see this concept included in other FTAs – most notably the ones we are negotiating with Thailand and the Andean nations.

Can you give me some assurances that as we move forward with future FTAs and those currently under negotiation, USTR will continue to adhere to the concepts and language on rubber footwear that it has included in agreements like DR-CAFTA?

*Answer: I understand the importance and sensitivity of this sector and I am pleased that the compromise reached by the industry on special treatment for footwear and the associated provisions in the CAFTA, Morocco, and Bahrain agreements has received both your support as well as the support of the footwear industry. Should I be confirmed as USTR, I will continue to work closely with U.S. producers to ensure that the special needs of these sensitive industries are addressed.*

*I would be happy to discuss with you in greater detail, if confirmed, the Andean and Thailand FTA negotiations as they move forward. Your support and the support of the industry are important and I will continue to work closely with you and your colleagues.*

2. Mr. Portman, I'm sure many have spoken to you about our on-going dispute with Canada regarding softwood lumber. For over 20 years, U.S. wood producers have been harmed by unfair competition from subsidies to Canadian producers, primarily in the form of low provincial stumpage fees (fees for the right to harvest trees from Province-owned timberlands) and Canadian restrictions on log exports.

Unfair Canadian lumber imports have cost the United States thousands of saw milling jobs, have resulted in hundreds of sawmill closures and have undermined the livelihoods of thousands of family forestland owners. As you're probably aware, this issue has affected many of my constituents, as well as some of those on this Committee as well. Maine lumber companies can compete with anybody on a level playing field and the Administration has put forth strong efforts to reach that outcome.

The Administration has emphasized to Canada that the United States would prefer an appropriate negotiated settlement but is prepared vigorously to pursue all available

litigation options as necessary to ensure that the U.S. trade laws are enforced against unfair Canadian lumber imports.

History demonstrates that U.S. saw milling jobs and operations and family timberland businesses depend on effective enforcement of the U.S. trade laws against unfair Canadian lumber imports

Would you concur with this approach and what level of priority would you, as our trade representative, place on this matter? Will you ensure full enforcement of the trade laws in the softwood lumber sector, including selection of accurate subsidy-measurement benchmarks?

*Answer: Canada is our largest trading partner, and this is the most significant trade issue we have with them. As I said during the hearing, it has been litigated to death and it is time for a resolution.*

*The United States should continue to seek a negotiated solution that will create a market-based system in Canada so our industry can compete on a level playing field.*

*If confirmed, I will consult closely with interested Members and stakeholders on how to achieve that, and I will vigorously defend the use of our trade laws in this and other cases, particularly as Canada continues to file trade cases.*

*I understand that recently the governments have been working closely with their respective industries to seek possible structures of a negotiated settlement. If confirmed, I look forward to meeting my counterpart, Jim Peterson as soon as possible to discuss this issue.*

#### **Questions from Senator Thomas**

1. America's joint export trade provisions – the Export Trading Company (ETC) and Webb-Pomerene (Webb) Acts – are under threat. A blue-ribbon panel, the Antitrust Modernization Commission (AMC), appears to be prepared to recommend to the U.S. Congress that these provisions be repealed.

While codified among the antitrust statutes, the ETC and Webb Acts are really trade provisions and are quite important to our trade performance. From a trade policy perspective, the case for these laws is overwhelming, and indeed the Department of Commerce recently wrote to the AMC that joint export trade is "essential" to America's international competitiveness and "should be retained in U.S. law." The Office of the USTR has taken the same view over the years, acknowledging the benefits of joint export trade and resisting foreign pressure to curtail it.

Please articulate USTR's ongoing commitment to the retention of the ETC and Webb Acts and advise this Committee whether there are any bilateral, regional or multilateral initiatives underway that might call into question these export promotion laws.

*Answer: If confirmed, I will be committed to vigorous enforcement and defense of our laws, including the ETC and Webb Acts. The working group you refer to was established in 1996 at the Singapore Ministerial Conference, which examined how trade related to competition policies. The work, however, ceased when a July 2004 decision was taken by all WTO Members that no work toward negotiations in this area would take place. USTR is unaware of any initiatives you describe in bilateral or regional or multilateral trade fora.*

#### **Questions from Senator Smith**

1. Government and industry observers in the United States and other countries have expressed concern that the services component of the Doha negotiations has not kept pace with the negotiations on agriculture and non-agricultural market access (NAMA), although I understand that there are new concerns this week over the fate of the agriculture talks. Still, many are saying that the services negotiations are entering a crisis phase, and we could face a situation in which, having reached broad agreement on agriculture and NAMA, services are left behind. There simply wouldn't be sufficient time to negotiate meaningful services commitments before the expected end of the Round. Do you agree this is possible? If so, how do you intend to address this problem?

*Answer: I agree with you on the importance of including services. As you know, services, non-agricultural products, and agriculture are the three core areas of the Doha agenda, and are all very important to the United States. Two-thirds of our GDP and eighty percent of our employment is in services, and the United States enjoys a large trade surplus in services. So I can assure you that as USTR, we will work hard to ensure that the Doha Round services negotiations proceed apace with the agriculture and NAMA market access negotiations. My first task will be to press our trading partners, particularly developing countries, to put meaningful revised offers on the table by the May deadline. At the same time I intend to work with other WTO trade ministers to develop a strong framework for services for the Hong Kong Ministerial that will enable us to achieve a successful outcome on services by the end of the round.*

2. Many trade officials have called for a balanced outcome between the three major pillars of the Doha Round market access negotiations – agriculture, NAMA, and services. Some, including EU Trade Commission Peter Mandelson, have said that those countries that seek significant concessions in agriculture need to be prepared to make their own concessions in services. Does that also reflect the U.S. position? Are we prepared to demand greater concessions in services in return for our very difficult concessions on agriculture?

*Answer: I intend to seek substantial concessions from our trading partners in all three core market access areas—Agriculture, NAMA and Services. I will also make it clear that an acceptable final package must include meaningful liberalization in all three areas.*



3. The temporary entry of key business personnel (Mode 4) is very important to the conduct of global commerce. Studies have shown that U.S. visa restrictions are costing billions of dollars in lost sales and business opportunities for U.S. companies, who frequently have difficulty bringing overseas managers, technical and other senior personnel, clients, and potential customers into the United States. Moreover, many key developing countries have identified Mode 4 a priority in the Doha Round negotiations. We have been told that it will be extremely difficult for the U.S. to secure the commitments it seeks on market access and national treatment in a host of sectors without including something in our offer that addresses other countries' interests in this area. How do we address this problem? And to be clear, we are talking here about temporary entry for specific business purposes, not about immigration.

*Answer: I understand that developing country trading partners have requested temporary entry of service personnel for specific business purposes as part of the WTO negotiations. I also know the United States hopes to gain additional access to developing country services markets. Even though this issue involves temporary entry for business purposes and not immigration, I am aware of the sensitivities of this issue in the Congress. I want to work closely with the Committee and other interested Members of Congress as we work our way forward on this issue.*

4. The USTR has done a commendable job in recent years of promoting U.S. industry access to foreign markets. Although significant progress has been made in reducing tariffs in key sectors, non-tariff barriers to U.S. goods and services remain a major source of concern. These barriers can arise in areas that arguably fall outside the traditional bounds of trade law. For instance, leading U.S. firms are increasingly subject to foreign antitrust scrutiny for conduct that is clearly lawful under U.S. standards, and have even been subject to sanctions that arguably did little to help consumers, but provided a substantial advantage to local industries. I have seen recent examples of this in both the EU and Korea.

1) As USTR, would you work to identify and eliminate market access barriers wherever they arise?

*I share your concern about the growing complexity of foreign trade barriers, including anti-competitive practices. It is important that foreign antitrust scrutiny not be used as a disguised barrier to trade. Identifying and eliminating barriers to trade will be one of my principal goals if confirmed as USTR. I will be committed to lowering barriers to trade, whether imposed as tariffs or as non-tariff barriers, in order to ensure a level playing field for American workers, businesses, farmers, and ranchers.*

2) Would you support the appointment of an interagency task force to coordinate the Administration's response to foreign sanctions against U.S. firms that are intended to, or have the effect of, creating trade barriers to U.S. goods or services?

*Anticompetitive practices can restrict trade and investment and if confirmed, I would be committed to pursuing policies that promote economically sound competition law*

*enforcement policies. In the past, when foreign antitrust actions have had trade implications, USTR has worked closely with our government's competition authorities, and if confirmed I would continue to work closely with the Attorney General and others when that is appropriate. USTR already heads up the interagency Trade Policy Staff Committee and I understand the agency has and will continue to discuss concerns over these issues in that forum as well.*

3) Would you explore using FTAs to address inconsistent and unfair use of competition laws?

*Many of our existing FTAs, as well as many of those currently under negotiation, contain specific chapters covering competition law and policy. These FTAs require that FTA partners maintain laws proscribing anticompetitive practices that have as their objective the promotion of economic efficiency and consumer welfare, and require that basic due process rights be afforded to U.S. companies that may be subject to competition law enforcement in those countries. These FTAs also contain provisions covering state monopolies and state enterprises. If confirmed, I would work closely with Congress on the goals and objectives of these FTA chapters.*

#### **Questions from Senator Schumer**

1. Do you think currency manipulation constitutes an unfair trade practice? In egregious cases, such as we see with China, doesn't it essentially amount to a subsidy for China's exporters to the detriment of U.S. exporters? If prolonged negotiation does not work to get China to revalue its exchange rate, is there a place for exercising U.S. rights in the WTO to deal with this problem?

*Answer: As you and I discussed, I agree that China should move to a more flexible exchange rate. As you also know, currency issues are very sensitive because of their impact on markets, and the Department of the Treasury has the lead. I recognize that the China currency issue is very important, and that is why I will support the work of Secretary Snow, who has had unprecedented engagement with the Chinese on this issue. I understand that through this approach progress has been made in moving China to a flexible exchange rate regime. We must be careful, because a response to this issue that blocks trade or raises barriers would be counterproductive. But I agree with you that currency exchange rates obviously affect trade flows, and that China should move to a more flexible exchange rate. I also think it is important that we be clear with the Chinese that there are a broad range of issues – not just currency – on which we need to see results. I would plan to focus intently on improving market access in China for American workers, farmers, and companies.*

2. I'd like to ask you a more general question about international trade and trade deficits, which I think you can help us with given your position as a key member of the Ways and Means Committee.

One of the first things you learn when you study the economics of international trade is that there is an economic identity which says that if you are running a budget deficit, you'll also run a trade deficit. Economists sometimes call these the "twin deficits."

Well, if this identity still holds, then it means our trade deficits have been rising partially as a result of our huge budget deficits, and that we won't be able to get the trade deficit down until we get our fiscal house in order. Isn't this right? Or is it your view that the identity no longer holds?

*Answer: This is a very interesting question and one I have been looking at as I try to understand better the reasons for our relatively high current record deficit. From what I have learned, I think the federal budget deficit, as one component of our overall savings rate, has an effect on our balance of international trade, but it is not a one-for-one relationship.*

*There are many factors that contribute to our current account deficit. First, the U.S. economy is growing relatively faster than other major world economies, so our consumers are doing well and can afford to buy a lot of imported goods. Second, other major world economies are not growing fast enough, especially Europe and Japan. Third, oil prices are very high and we import considerable amounts of oil. Finally, our overall national savings rate – both government and personal – is relatively low.*

*Domestic saving is a broad concept including the saving by U.S. households out of current incomes; saving of business through retained earnings; and the saving by government through budget surpluses (as are run by many state governments). When a government budget is in deficit, instead of contributing to the pool of domestic saving, it subtracts from that pool. In that sense, large federal deficits act to reduce the pool of domestic saving in the United States.*

*Importantly, the current account deficit is not a measure of the overall health of the U.S. economy. Indeed, because our economy is so strong relative to other major world economies, we consume large amounts of imported goods. As I said during the hearing, I am concerned about the trade deficit, and I support President Bush's policies that would address this issue, including cutting the federal budget deficit, encouraging other countries to take steps to encourage more economic growth, and to enact measures to encouraging more personal savings by U.S. households.*

3. United States law has created a careful balance between innovation and access in the pharmaceutical industry to the great benefit of American consumers, and it is important that this balance is maintained and promoted in trade agreements – both for benefit of the citizens of our trading partner nations and to protect American consumers' long-term interests.

USTR has included many mandatory protections for pharmaceutical intellectual property in CAFTA – including patent extensions for any and all patents, which go far beyond US law – but has not included complementary provisions that will ensure timely access to

affordable pharmaceuticals in the agreement. In fact, it seems with each new trade agreement, there's more and more patent protection, and less and less consumer protection.

Congressman Portman, isn't it possible this approach is simply empowering the pharmaceutical companies to eventually influence changes here at home and undo our carefully crafted law which has benefited industry and consumers alike for the past 20 years?

As USTR, will you put an end to this trend of overreaching on behalf of the pharmaceutical industry and instead be faithful to the delicate balance of pharmaceutical innovation and access that was carefully crafted in US law?

*Answer: I agree that it is important that U.S. trade agreements reflect a balance between protecting innovation and ensuring access to life-saving medicines. I understand that, consistent with the objectives established by Congress in Trade Promotion Authority, USTR seeks intellectual property rights provisions that promote a balance between innovation and access for pharmaceutical products. I am told all of the intellectual property rights provisions, including provisions related to pharmaceutical patents and data protection, are consistent with and do not go beyond U.S. law. If confirmed, I would continue to work to strike this delicate balance in negotiating current and future trade agreements.*



**Statement for the Record  
U.S. Senator Rick Santorum  
Committee on Finance  
Nomination Hearing for Robert J. Portman to be United States Trade Representative  
April 21, 2005**

Chairman Grassley, I appreciate your convening this hearing today to receive the testimony of Representative Robert Portman to be the next United States Trade Representative. I am certain that Representative Portman's experience as a Member of the House Committee on Ways and Means and his experience in service to President George H.W. Bush will serve him well if confirmed to this position.

The responsibilities of this post are heavy. Your role will be vital in promoting American manufacturing and agriculture interests, in breaking down barriers that impede market access to American exports, in safeguarding American intellectual property rights, and at addressing unfair trading practices confronting American businesses and workers. In short, this position has the responsibility of tackling many of the most pressing and important problems facing the American economy today.

Ambassador Zoellick worked tirelessly to help facilitate free trade agreements and to jump start the sputtering Doha Development Agenda. Your ability to negotiate free trade agreements will be one standard by which you will be judged. I urge that you and others in the Administration continue to push for free trade agreements that provide benefits to American businesses and consumers alike.

Your efforts to work with Congress on the CAFTA-DR agreement will be welcome. This free trade agreement is good for America's exporters and its consumers. Pennsylvania's textile, chemical and agricultural sectors should benefit greatly under this free trade agreement. I encourage you to make CAFTA-DR your top immediate priority if confirmed by the Senate.

I do want to raise several key issues that I am hopeful you will pursue with vigor if confirmed by the Senate. First, it is essential that USTR develop a comprehensive strategy to address foreign price controls and other pharmaceutical market access barriers. To this end, intellectual property provisions in free trade agreements must be TRIPS-plus and provide a standard of protection that is as close to U.S. law as possible. I am hopeful that your attention to these key issues will help mobilize USTR to be an advocate and defender of an industry that is among the top U.S. exporting industries, and ranks with the semiconductor, aerospace and computer industries in the value of its exports.

Second, I am hopeful that the U.S. will not weaken or trade away current trade laws that are effective tools to address unfair trade practices. Let me say that I am philosophically a supporter of free trade. However, I recognize that not all nations have the discipline and commitment to play by the rules. My constituents in Pennsylvania who work in the steel, pipe and tube fittings, and tool and die industries know this fact first hand. I believe the U.S. must have the ability to respond effectively when American industries are hurt by subsidized and/or dumped products. When participating in Doha Development negotiations, please remember that U.S. trade remedy laws are

a key component of America's free trade agenda.

In addition to its manufacturing sector, Pennsylvania counts on market access for agricultural and farm exports. Many times, agricultural sectors are the most sensitive areas during free trade agreement negotiations. This is certainly true with respect to coffee in the ongoing Panama-U.S. Free Trade Agreement negotiations. I have consistently urged that USTR not exclude products from discussion during these talks. I have done so because I support efforts to break down foreign barriers impeding Pennsylvania agricultural and farm products. I ask that, if confirmed by the Senate, you be vigilant in opening markets to American agricultural products. In many cases, this means placing protected American commodities--such as American sugar--on the negotiating table. There are senators that will support you on these efforts.

In closing, I hope that you can continue to follow in the footsteps of Ambassador Zoellick in opening markets to U.S. exports. In addition, I strongly urge USTR to develop a comprehensive policy and strategy to tackle foreign price controls and intellectual property rights violations which threaten our domestic pharmaceutical industry.

I look forward to receiving your testimony and to the responses you provide to Members of the Committee.

Prepared Statement of Senator Olympia J. Snowe  
on the Nomination of  
Rob Portman  
to be United States Trade Representative  
April 21, 2005

Good morning and thank you Mr. Chairman for calling this hearing. The responsibilities given to our trade representative are extremely important and in this day of added skepticism about the state of the trade environment, it is particularly crucial that the person who will be the voice of the United States on matters of trade be fully aware of the implications and consequences of our trade laws on our workers and communities.

Mr. Portman, welcome. If confirmed, you will be stepping into your new role at a time when many of us on this panel, and indeed throughout Congress, have grave concerns about the nature of our overall trade environment and the application of the agreements and laws we now live under.

Most importantly, it is my view that there are serious problems with the manner in which trade rules and trade agreements are enforced. When our farmers, producers, manufacturers and workers are asked to abide by rules that their government has agreed to with other parties, they have every expectation that if another party is in violation of those rules, consequences will follow. What we see, however, is that other nations too often flaunt the rules and ignore the agreements they sign, and then the recourses available to us are ignored or simply tip-toed around by our government. *This needs to stop!* The violations by China are too many to number – currency manipulation, illegal dumping, intellectual property piracy just to name the most prominent. I have also heard concerns about activist panelists seeking to render U.S. trade laws ineffective by ruling against legitimate countervailing duty, antidumping and safeguards determinations by U.S. agencies. The myriad cases of the yet-to-be-resolved Canadian softwood lumber dispute provide examples of this.

So many of our domestic businesses, especially small businesses, rely on exports and foreign trade for jobs and growth. Some of the most serious threats to our economy come from abroad in the form of unfair trade practices. These practices prevent U.S. goods and services from competing with their foreign competitors on a level playing field, and have attributed to our nation's enormous trade deficit. We've all heard it before, Mr. Chairman, but evidently it bears repeating: *free trade must be fair trade!*

Further, we learned recently that last year, the U.S. trade deficit hit an all-time high of \$666 billion – this represents 5 percent of our nation's Gross Domestic Product! The speed with which our country has become indebted to the rest of the world is alarming. Trade deficits have imposed serious burdens on trade-sensitive sectors of the

economy. And as Alan Greenspan predicted, our economy continues to fall under the spell of twin deficits, resulting in the collapse of the dollar and loss of foreign investment. As a Congress, we must take a hard look at the repercussions of this dangerous trend.

If confirmed Mr. Portman, it is my hope that you will work hand in hand with the domestic industries of this nation and those of us in Congress who represent them, to see that our trade laws are administered fairly. I cannot stress that enough – we have been far too lackadaisical in utilizing the resources available to us to force violators to comply with the rules that they agreed to, and that we ask our manufacturers abide by.

With exporters supporting over 12 million jobs and paying an average of 18 percent higher wages, we have an obligation to examine ways to set forth proposals that will expand and strengthen our nation's businesses that trade so we can put more Americans to work. Unfortunately, the reality we face is that many countries still maintain relatively closed markets with trade barriers that impede American exports and limit the global competitiveness for our companies. In the past, when free trade and fair trade have been treated as mutually exclusive, import-sensitive industries in Maine – such as our once-thriving textile industry – and across America were *decimated* by foreign competitors.

Too often, foreign businesses enjoy the benefits of their nation's government subsidies, dump their products into the U.S. market, and face little or no tariff trade barriers. Our nation's 25 million small businesses and small manufacturers have revitalized our economy, yet have suffered severely from these unfair trade practices. It is incumbent upon our government to remove these barriers in a manner that will add jobs to our economy and not force businesses to cut back and outsource valuable American jobs. *But this must be done fairly.*

As we move forward with trade matters that come before the Senate, I will remain vigilant in my efforts to see that the concerns of the small business community, as well as producers, workers and communities in Maine, are adequately addressed.

Thank you.



COMMUNICATIONS

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Ziad S. Ojaki  
Group Vice President  
Corporate Affairs

1350 I Street NW  
Washington, DC 20005 USA

April 20, 2005

The Honorable Charles Grassley, Chairman  
The Honorable Max Baucus, Ranking Member  
Senate Finance Committee  
United States Senate  
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Baucus:

I am writing to thank you for scheduling the nomination hearing of Rep. Rob Portman so quickly and to express in the strongest terms Ford Motor Company's support for President Bush's nominee to be the United States Trade Representative.

Congressman Portman has been a tireless promoter of free and fair trade in the House of Representatives. He has shown himself to be an extraordinarily dedicated Member who can get things done in a bipartisan fashion – skills vital in our U.S. Trade Representative. He comes from Ohio, a state with a strong manufacturing sector, which includes a large Ford Motor Company presence. Congressman Portman has a firsthand understanding of how crucial manufacturing and particularly the auto industry are to our economy's performance, and how important open markets are to U.S. manufacturers and automakers.

While the economy has rebounded, we can take nothing for granted. Just as each company must continuously seek out new opportunities and markets, America must do likewise to ensure that the world is open to our products. It is therefore vital that we have a nominee of Representative Portman's caliber in the USTR position to find and realize those opportunities. We are confident he will.

Thank you for your Committee's continued leadership to seek new opportunities for our nation's workers and the products they make. We urge your strong consideration for this well-qualified nominee and hope the Committee will favorably report Rep. Portman's nomination to the full Senate.

Sincerely,

A handwritten signature in black ink, appearing to read "Ziad Ojaki".