



SENATE FINANCE COMMITTEE
“THE PRESIDENT’S 2022 TRADE POLICY AGENDA”

March 31, 2022 – 10:00 AM

OVERVIEW

On Thursday, March 31, the Senate Finance Committee held a hearing titled, “The President’s 2022 Trade Policy Agenda.” During the hearing, Senators and the witness discussed: the United States-Mexico-Canada Agreement (USMCA); China; the Indo-Pacific Economic Framework (IPEF); increasing market access; U.S. clean energy capacity building; Trade Promotion Authority (TPA); TRIPS waiver; digital trade; Russia; the African Growth Opportunity Act (AGOA); and supply chain resiliency.

OPENING STATEMENTS

- [Chairman Ron Wyden \(D-OR\)](#)
- [Ranking Member Mike Crapo \(R-ID\)](#)

WITNESS PANEL

- [The Honorable Katherine C. Tai](#), United States Trade Representative, Executive Office of the President

QUESTION AND ANSWER SUMMARY

United States-Mexico-Canada Agreement (USMCA)

Chairman Ron Wyden (D-OR) asked Ambassador Tai how the United States Trade Representative (USTR) is addressing Mexico’s noncompliance of United States-Mexico-Canada Agreement’s (USMCA) energy market access provisions. Ambassador Tai expressed her commitment to enforcing USMCA “across all of its chapters,” adding she is “deeply concerned with legislative and regulatory developments in the Mexican energy industry.” She claimed USTR has expressed these concerns “regularly and directly” to its Mexican counterparts. She highlighted the recent roundtable with Members of Congress, environmental organizations, and representatives from the U.S. energy industry. She claimed all of the stakeholders participating in the roundtable were “unified in expressing concerns about Mexico’s actions.”

Senator Debbie Stabenow (D-MI) asked Ambassador Tai how USTR can ensure Canada “lives up to their original commitments under USMCA” to ensure dairy market access. Ambassador Tai highlighted that Canada committed under USMCA to increase access to its dairy market for American dairy farmers. She stated USTR will continue to utilize the tools and avenues available under USMCA, and she will “not give up until we see those promises realized.” Senator Stabenow then asked how USTR will engage Mexico to ensure it implements “transparent, science-based approval processes” for agriculture biotechnology to meet USMCA commitments. Ambassador Tai explained she is working closely with Agriculture Secretary Tom Vilsack to pursue a strategy of cooperation and consultation with counterparts in Mexico. She asserted

USTR and the Department of Agriculture are “reassessing where we are and the kinds of tools that we need to bring to bear.”

China

Chairman Wyden asked how the Biden Administration will collaborate with allies to confront China’s anticompetitive behavior. Ambassador Tai noted the Biden Administration has “invested a lot of time to rebuild relationships and trust that were badly damaged at the beginning of the Administration.” She highlighted recent successes, including the cooperative framework to address the large civil aircraft dispute and Section 232 steel and aluminum tariffs. She also noted the EU-U.S. Trade and Technology Council (TTC) to collaborate with allies to address trade distortions caused by anticompetitive economies like China and Russia.

Ranking Member Crapo (R-ID) asked Ambassador Tai if USTR could provide the Committee with an assessment of the Phase One agreement obligations China failed to meet. Additionally, he asked how USTR will redress China’s failure to meet these commitments. Ambassador Tai agreed with Ranking Member Crapo that China has failed to meet the Phase One purchase commitments. She asserted China’s compliance with the agreement “is going to need to be measured by the experience of our own industries who are seeking to do business in China.”

Senator Rob Portman (R-OH) asked Ambassador Tai if USTR will use a dispute resolution process to resolve unmet commitments from China under Phase One, specifically if trade restrictions on China would be considered as part of this dispute resolution. Ambassador Tai asserted “it is time to turn the page on the old playbook” to influence China’s anticompetitive practices. She stated USTR will not stop pressing China on compliance and “all tools remain on the table with respect to dispute settlement and enforcement.” However, she argued for expanding USTR’s strategy to “include developing the tools that we need to defend the interests of our economy.” Senator Portman noted he is “pushing very hard” to include his bipartisan legislation, the *Leveling the Playing Field Act 2.0*, in the final version of the China competitiveness bill. He then asked Ambassador Tai if this legislation would help combat China’s unfair trade practices. Ambassador Tai emphasized that most trade enforcement tools were developed in the 1970s and 1980s, and she argued the updates to these tools included in the *Leveling the Playing Field Act 2.0* are “exactly in the spirit of what we need right now.”

Senator Tom Carper (D-DE) asked about the impacts of Section 301 tariffs on Chinese imports. Ambassador Tai asserted “we need a realignment in our trade relationship with China ... to be more strategic and in favor of our ability to compete.” She acknowledged the role of tariffs in this strategy, but she expressed support for conducting a strategic review of current tariffs. She added USTR “would consider additional exclusions processes as warranted” for Section 301 tariffs.

Senator Bob Casey (D-PA) asked Ambassador Tai if outbound investment screening would enhance existing tools and strategies to prevent further offshoring of supply chains and lessen dependence on foreign adversaries, such as China and Russia. Ambassador Tai responded outbound investment screening tools would address current risks to competitiveness. She concluded it is “critical” to consider tools like outbound investment screening.

Senator Steve Daines (R-MT) asked how USTR is enforcing China’s Phase One agriculture purchase and intellectual property (IP) protection commitments. Ambassador Tai explained the Biden Administration began its bilateral engagement with China on the basis of evaluating how well China has met its Phase One commitments, especially with respect to purchase commitments. She explained conversations with China have been “very difficult,” and USTR has “fought very, very hard to secure accommodations from China for the shortfalls that are apparent in the trade data.” She asserted negotiations with China “need to move to a new phase of our engagement,” which includes “looking more intensively at the overall industrial policy.” Senator Daines asked about Ambassador Tai’s level of confidence that China would comply with a new deal given its inadequate performance in the Phase One agreement. Ambassador Tai explained USTR is “not necessarily looking at another deal in the next phase but expanding out our focus on China’s challenges beyond its commitments and compliance in Phase One.” She stated this new focus would include China’s industrial practices that “corner the market in critical industries.”

Indo-Pacific Economic Framework (IPEF)

Ranking Member Crapo asked why the Indo-Pacific Economic Framework (IPEF) negotiations do not include market access provisions. Ambassador Tai expressed the need to delineate between “trade terminology” and “regular English.” Specifically, she explained market access in trade terminology refers to tariff liberalization, and she stated this is “not on the table at this time in the framework.” She asserted traditional trade models and free trade agreements (FTAs) “have led us to a place where we are facing backlash about concerns regarding offshoring and outsourcing of American jobs and opportunities.” However, she stated the lack of tariff liberalization “does not mean we are not bringing an economic engagement to this region,” adding IPEF will include enhanced access to participating countries’ markets.

Senator Bob Menendez (D-NJ) asked Ambassador Tai about criticism that IPEF is “not sufficiently ambitious.” Ambassador Tai disagreed with the criticism that IPEF is not sufficiently ambitious, as the framework will include innovative elements to address the “evolving challenges that we are facing.” She asserted “new things require some time for socialization and for people to appreciate where the economic meaning is going to come.” Senator Menendez asked Ambassador Tai about Taiwan’s request to join IPEF negotiations. Ambassador Tai noted Taiwan is an “essential trading partner for us.” She stated USTR is in conversations “with those who are interested in joining this framework,” and she added last year USTR revived the Trade and Investment Framework Agreement (TIFA) engagements with Taiwan. Senator Menendez asked again if Taiwan will be invited to join IPEF negotiation. Ambassador Tai claimed participation in IPEF is still under consideration and no decisions have been made.

Senator Elizabeth Warren (D-MA) asked Ambassador Tai if “strong enforceable commitments” for labor and climate will be included in IPEF. Ambassador Tai answered in the affirmative. She asserted the U.S. has a history of “incorporating strong, enforceable labor and environment standards to demonstrate our commitment to the importance of these areas in our competitiveness and in our terms of trade.”

Senator Casey asked how USTR could build on USMCA labor provisions in IPEF negotiations to “ensure that our trading partners are treating workers fairly.” Ambassador Tai responded the enforcement mechanisms and labor standards included in USMCA are “at the cutting edge of international practice.” She claimed partners at the World Trade Organization (WTO) have supported this renewed “principle that trade policies are intended to benefit our economies and the human components in our economies above all.”

Senator Maggie Hassan (D-NH) asked Ambassador Tai how USTR can strengthen supply chains and partnerships in the Indo-Pacific region and beyond. Ambassador Tai responded that for decades, trade policy pursued “efficiency-first” policies that were “all about unfettered trade liberalization.” She highlighted the IPEF as a “critical forum” for collaboration and innovation. She asserted “the version of globalization that we have today is fragile and is reinforcing our insecurity,” and she advocated for investments to rebuild U.S. domestic manufacturing.

Increasing Market Access

Senator Maria Cantwell (D-WA) asked Ambassador Tai about trade policies to increase market access, specifically tariff liberalization and timely exclusion processes. Ambassador Tai responded USTR either lifted or averted more than \$20 billion in tariffs between the U.S. and Europe, and she argued USTR has increased market access by working with partners through trade and investment framework agreements. She continued that “our approach to FTAs needs to be updated ... to reflect the realities of today.” She asserted recent trade agreements “have been so big and have been so uneven, in terms of the wins and losses they ... deliver for our economy that they have collapsed under their own weight.” She concluded her approach to trade agreements is to “bring along our stakeholders, instead of pitting them against each other.”

Senator Chuck Grassley (R-IA) asked if USTR has a strategy to increase market access for U.S. agricultural products. Ambassador Tai agreed that market access for farmers is key to conducting trade policy. She added she wants to ensure farmers have competitive and diverse opportunities.

Senator Pat Toomey (R-PA) asked if FTAs are the most effective way to increase market access for American companies. Ambassador Tai asserted that if Senator Toomey considers market access to mean the removal of tariffs, then the Biden Administration has “accomplished quite a bit of that in the first year.” She continued that the Administration is “interested

in pursuing trade agreements with our partners, but we ... are committed to ensuring that our trade agreement practices evolve with the times.”

Senator John Barrasso (R-WY) asked how the U.S. can recover market share “without aggressively pursuing market access for U.S. producers.” Ambassador Tai argued USTR’s work over the past year does include market opening. She stated USTR is “looking at” market share, especially with respect to competition in trade with China. She added that the U.S. has lost market share of steel and aluminum and solar panels because of the “negative impacts of China’s policies on us.”

U.S. Clean Energy Capacity Building

Senator Stabenow asked Ambassador Tai how the U.S. can increase its clean energy capacity through trade policies. Ambassador Tai responded initiatives to increase clean energy capacity in the U.S. are “sometimes inside of the trade lane and oftentimes adjacent to trade.” She argued that for the U.S. to remain competitive in this space, “we are going to need to coordinate our trade policies with these types of investments” in clean energy domestic manufacturing.

Senator Bill Cassidy (R-LA) expressed concern that China lowers its product prices through noncompliance with environmental and labor regulations, which disadvantages countries like Mexico and Guatemala that must comply with these standards because of treaty obligations. He then asked Ambassador Tai if a carbon border adjustment tool would more effectively establish a standard that countries must comply with to have access to U.S. markets. Ambassador Tai responded “in general, my answer is yes,” but she clarified she would not describe this strategy as a border carbon adjustment tool. She noted the steel arrangement USTR is currently negotiating with the European Union (EU) includes a mechanism for creating a market between the U.S. and EU that will “ensure fair competition and the promotion of clean industries.” She agreed with the notion of a “market gatekeeping mechanism as opposed to you open your market and are stuck having to increase barriers as a form of enforcement.”

Senator Catherine Cortez Masto (D-NV) highlighted the “aggressive tariffs on solar panels,” arguing these tariffs are “running the risk of actually undermining rapid solar deployment and risking our ability to achieve [President Biden’s] climate goals.” She then asked Ambassador Tai how she can work with Commerce Secretary Raimondo to resolve this issue to support growing the domestic industry while holding China accountable for its practices in this space. Ambassador Tai asserted “we do have the tools to thread this needle where we need to rebuild our manufacturing capacity here at home, but also be able to deploy this available technology and support jobs in both parts of this sector.” She acknowledged that trade tools have “limitations in bringing about the policy changes that we need,” and she argued trade tools need to be deployed in combination with other policies.

Trade Promotion Authority (TPA)

Senator John Thune (R-SD) asked Ambassador Tai if the Biden Administration will submit a request to renew Trade Promotion Authority (TPA). Ambassador Tai responded TPA is a legislative effort and is not under the purview of the Administration. Senator Thune asked if the Biden Administration plans to pursue participation in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Ambassador Tai stated USTR is pursuing engagement in the Indo-Pacific, but this does not mean CPTPP engagement. She highlighted her experiences with “fights up here in the Congress” over TPA and Trans-Pacific Partnership (TPP) from 2014 to 2016, and she asserted “American trade policy is at its best, strongest, and most durable when we are acting in the most bipartisan way.”

TRIPS Waiver

Senator Menendez cited a press report that a compromise has been reached on a Trade-Related Aspects of Intellectual Property Rights (TRIPS) waiver for COVID-19 vaccines at the WTO. Ambassador Tai clarified there has not been an agreement reached on a TRIPS waiver for COVID-19 vaccines. She stated she considers the hearings with the Senate Finance Committee and House Ways and Means Committee to be part of the consultation process on this matter, and she emphasized she has heard members’ concerns and positions regarding this issue.

Digital Trade

Senator Carper asked Ambassador Tai about USTR’s approach to negotiating digital trade standards. Ambassador Tai noted that digital trade is a “really, really inclusive topic because so much of our economy is becoming digitalized every single

day.” She stated it is “absolutely critical” USTR brings a comprehensive approach to digital trade because it “affects everyone.” She claimed USTR has heard concerns from stakeholders regarding offshoring and outsourcing of jobs in this space, “increasingly beyond the manufacturing sector and to the services sector.” She concluded a “worker-centric approach to digital trade is one that is comprehensive, that is meaningful, that recognizes the limits of where Congress has acted and spoken and where it has not.”

Senator Warren asked Ambassador Tai if she would commit to ensuring any new digital trade rules promote competition that benefits workers, consumers, and small businesses, “not just a handful of big tech companies.” Ambassador Tai claimed a guiding principle in the digital trade context is to “ensure that our stakeholders’ views are represented robustly and comprehensibly,” particularly in IPEF negotiations.

Russia

Senator Sherrod Brown (D-OH) asked Ambassador Tai about ending permanent normal trade relations (PNTR) with Russia as a result of its invasion of Ukraine. Ambassador Tai highlighted the “swiftness and the coordinated actions” among the U.S., EU, and other allies to create “real significant consequences for Russia’s invasion of Ukraine.” She also lauded lawmakers’ united support on ending PNTR with Russia. However, she noted “we have said the words, but now we need to finish the act” and pass legislation officially terminating PNTR with Russia.

Senator Hassan asked Ambassador Tai how USTR can ensure Russia does not evade existing sanctions. Ambassador Tai explained the most direct trade tool to hold Russia accountable is disqualifying Russia from the benefits of being a partner at the WTO. She noted the largest set of sanctions imposed on Russia are related to the financial system and export controls, and she committed to supporting the Commerce Department and Treasury in these efforts.

African Growth Opportunity Act (AGOA)

Senator Mark Warner (D-VA) asked Ambassador Tai about the progress of Ethiopia’s re-admission to the African Growth Opportunity Act (AGOA). Ambassador Tai Explained the revocation of Ethiopia’s AGOA benefits was a result of the country’s failure to meet the program’s criteria. She stated the Biden Administration is encouraging the government and others in Ethiopia to meet established benchmarks to create a pathway back into AGOA.

Supply Chain Resiliency

Senator Michael Bennet (D-CO) asked Ambassador Tai how to strengthen supply chains through reshoring, and what barriers might arise when working to reshore critical supply chains. Ambassador Tai asserted “one of the greatest barriers that we face is that we require new thinking ... and new thinking is often met with fear.” She argued a “sense of security and confidence in the global economy” can be reestablished through a combination of rebuilding a domestic manufacturing base and establishing “trusted and strategic trade relationships with our partners and our friends.”

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Please click [here](#) for the archived hearing.