

Question from Senator Grassley

Question 1:

As I told you in our visit in my office, if you are confirmed, I will be happy to work with you to open markets and remove barriers for U.S. farmers and businesses.

During our meeting, I also provided you with a letter myself, Senator Stabenow, and 24 other Senators sent to Ambassador Marantis asking that USTR raise the priority of resolving regulatory barriers for biotech seeds.

American farmers have adopted biotechnology seeds to increase production as they help feed this world. They need to be able to get their products to market, and they need to have the confidence they can adopt the technology available to them without fear our trading partners will erect barriers.

I would ask that a copy of that letter be included in the record of today's hearing.

As you probably know, Ambassador Marantis has responded to the letter, but I would like to hear your thoughts on the subject. How does USTR intend to work with trading partners to improve market access for U.S. crops derived from biotechnology?

Answer: I agree that agricultural biotechnology is a critical tool to helping farmers produce enough food to feed the increasing world population. If confirmed, I will continue the work of USTR to promote science-based, predictable and transparent regulatory regimes in trade agreement negotiations and through other means in bilateral, multilateral, and other fora, such as in APEC. In addition, USTR, together with USDA and the State Department, will continue to work with like-minded countries to remove unwarranted barriers to U.S. exports of agricultural biotechnology products.

Question 2:

In regards specifically to the European Union (EU), can you commit to me that if the U.S. and EU move forward with a formal trade agreement negotiation, USTR will work to remove the regulatory barriers to U.S. biotechnology derived seeds?

Answer: We are still in the 90-day consultation period regarding TTIP. If I am confirmed, I will seek to address our continuing concerns to promote a timely, predictable and science-based EU regulatory approval system to normalize trade in agricultural biotechnology products, including seed, through potential negotiations with the EU on a comprehensive trade agreement.

Question 3:

What steps do you plan to take to remove the barriers our trading partners, such as Russia and Taiwan, have put in place against U.S. beef and pork over the use of ractopamine?

Answer: With the establishment in 2012 of an international standard for the safe use of ractopamine, the United States is pressing other countries to adopt those standards, and some countries have undertaken regulatory procedures to do so. If confirmed, I will work to press to remove unwarranted restrictions against U.S. meat exports, based on use of ractopamine, and to ensure that SPS measures are based on science, including a risk assessment in accordance with international standards.

Question 4:

In addition to the ractopamine issue, Russia has erected all sorts of unjustifiable barriers to U.S. beef, pork, and dairy products. If confirmed, what are the steps you plan to take to resolve these issues so U.S. farmers don't have to deal with these unjustifiable barriers to the Russian market?

Answer: As a WTO Member, Russia is required to implement the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, and the commitments in its Working Party Report. These commitments include harmonization of SPS measures with international standards, basing measures on science, conducting risk assessments in accordance with international standards, and implementing the mechanism for recognizing the equivalence of WTO Members' SPS measures. Russia's membership in the WTO gives us additional tools, including the use of WTO dispute settlement where appropriate, to address unwarranted SPS barriers and gives us more effective means to address and challenge unwarranted SPS measures. If confirmed, I will use all appropriate means, including the full panoply of WTO tools, to push Russia to remove its unwarranted restrictions against U.S. meat exports, and for Russia to base its SPS measures on science.

Question 5:

The European Commission has recently imposed a country-wide anti-dumping duty on all U.S. origin ethanol even though anti-dumping decisions require a more individualized rate than a broad blanket approach. This step by the EU essentially shuts U.S. ethanol producers out of the EU market. This is an unprecedented and unreasonable position by the EU. This issue needs to be raised at the WTO. If confirmed, do you plan on challenging the EU over this matter at the WTO?

Answer: I understand that the respective staffs at USTR and the U.S. Department of Commerce have followed this matter from its inception. Well before the European Commission issued its final decision, U.S. government officials repeatedly expressed concerns to the European Commission regarding how it conducted the investigation and the methodology it applied. The United States continues to raise these issues in the context of our bilateral discussions, as well as in the relevant WTO fora. The Administration is committed to vigorously enforcing U.S. trade rights, and ensuring that WTO members live up to their obligations. I understand that both USTR and Commerce are currently evaluating the European Commission's final decision and its methodology.

and are working with the U.S. ethanol producers to consider next steps. If confirmed, I look forward to continuing a dialogue on this issue and exploring the best course of action to address this issue for our ethanol producers.

Question 6:

Mr. Froman, I want to be clear here. If the President is going to set standards on what he says are “tax scams,” he should apply the same standard to his friends as he does to his opponents.

On May 4, 2009, the President called Uglad House “the largest tax scam in the world.” Just months before, in February 2009, the President appointed you Deputy National Security Advisor for International Economic Affairs.

Your financial disclosures indicate you have nearly \$500,000 invested in the Cayman Islands at the Uglad House.

What questions did the White House ask about your Caymans Islands investments in 2009? Were concerns raised about your participation in what the President later called “the largest tax scam in the world”?

If so, can you tell us who raised concerns and what questions they asked?

Answer: My investment in CVCi was reviewed by ethics officials in the White House Counsel’s Office in 2009 and I was not directed to divest it. CVCi is a private investment fund with an international focus. I did not decide to invest in it because of its location but rather to diversify my investments and to increase my investment in international emerging markets. I received IRS Form K-1s for this investment and have paid all taxes due. I am not aware of any tax benefit that I received by reason of CVCi’s location. My holdings in CVCi have been reflected on my financial disclosure forms from 2009 to the present. Pursuant to my ethics agreement, if confirmed, I will divest my interest in CVCi within 90 days of such confirmation.

Question 7:

I understand that as part of your employment with Citigroup you were vested in three carried interest plans you submitted to the Finance Committee, upon leaving for the Administration in 2009, Citigroup paid you \$2 million to waive your rights in two of these partnerships “and in recognition of [your] service to Citi in various capacities since 1999.”

What prompted you to waive your rights to these plans in return for a substantial payment from Citi? Did someone in the Administration recommend you take this action?

Do you know what your interest in the “carry plans” were valued at when you waived your rights?

What percentage of the \$2 million was based on the value of the carried interest plans and what percentage was in recognition of your 10 years of service?

In figuring the amount paid to you by Citigroup, was any consideration given to the fact you would be subject to ordinary income tax rates of 35% instead of the capital gains rate of 15%?

You had a third carried interest that you transferred to your wife. Why was it decided this third carried interest would be transferred to your wife instead of being sold to Citi?

Answer: At the time that I joined the Administration, I consulted with ethics officials and followed their advice in determining how to address my various investments. I waived my carried interests in the India Infrastructure fund and the Sustainable Development Investment fund. The value of these interests and the amount paid in recognition of my service to Citi was determined by management at Citi. I do not recall receiving any consideration due to tax rates. I transferred my interest in the Citi Infrastructure Investments Carried Interest plan to my spouse based upon the advice of White House ethics officials. There is no other carried interest or Citi fund held in my wife's name. I disclosed the carried interests on my public financial disclosure forms and paid ordinary income taxes on the payment I received from Citi.

Question 8:

On January 16, 2009, Citigroup announced losses of \$18.7 billion. The same day, Citigroup received \$301 billion federal bailout through loan guarantees on its toxic mortgage assets. Around the same time, you accepted a bonus from Citigroup for over \$2 million for work you performed in 2008.

Were you aware that Citigroup was about to receive a multibillion-dollar federal guarantee when you accepted your bonus?

Can you explain why it is morally acceptable to take more than \$2 million out of a company that was functionally insolvent and about to receive billions of dollars in taxpayer support?

In response to a written question submitted to you during your Finance Committee review, you indicated that you donated “a significant portion of the net proceeds” from the bonus you received in 2009 to charity. Could you clarify what you mean by “a significant amount”?

Answer: I was aware of the impact of the financial crisis on Citi and the TARP investment. I was awarded a bonus for 2008 by the senior management of Citi based upon my individual performance consistent with the practice at the time. I decided in 2009 to donate the net proceeds of this bonus to charity, and, to date, have already donated approximately 75 percent of those proceeds to charity.

Question 9:

The protection of intellectual property rights is a key component to boosting global economies and creating innovative industries and jobs. Countries are able to produce this economic momentum by implementing measures to strengthen their intellectual property laws and improve intellectual property enforcement. However, a number of countries have consistently failed to enhance their intellectual property regimes and protect intellectual property rights, including Russia, China, Brazil and India.

- a. What leverage points would you support as U.S. Trade Representative to bring about improvement in these countries anti-intellectual property policies and practices?**
- b. In your opinion, should countries like India, Russia and Brazil, that have preferential access to U.S. markets under the Generalized System of Preferences (GSP) continue to enjoy such GSP benefits if they shut U.S. companies out of their markets by undermining U.S. intellectual property rights?**

Answer: a. If confirmed, I will make the protection and enforcement of intellectual property rights a top priority. Opportunities and leverage points to advance this goal include our trade agreement negotiations, e.g., the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership; the annual Special 301 review (including the Report, action plans, the notorious markets review, and country-specific reviews); bilateral engagement, including IP working groups, with numerous trading partners; monitoring the implementation of our Free Trade Agreements and other agreements; ongoing work in the WTO and other international organizations; and, formal dispute settlement.

b. I understand that “providing adequate and effective protection of intellectual property rights” is one of the statutory criteria for beneficiary countries’ eligibility for trade benefits under the GSP program and that there are several ongoing country practice reviews on the basis of this criterion. If confirmed, I will continue to uphold the use of this GSP eligibility criterion to press beneficiary countries to improve their protection of intellectual property rights.

Question 10:

I'd like to ask you about how the International Trade Commission, which enforces trade law, is addressing certain infringement cases filed at the ITC under section 337 of the Tariff Act. As you know, section 337 is designed to protect domestic industry from abusive trade practices by foreign countries and companies importing foreign goods. Recently, companies known as patent assertion entities have been using the ITC as an alternative means to bring legal action against American companies. Because as a U.S. trade body, the ITC has only one remedy – an injunction that stops the importation of goods – these patent assertion entities have a big hammer to force American job creators to pay large settlements in order to avoid halting the sale of entire product lines, regardless of the

merits of the case. In district court, these patent assertion entities have to prove certain factors set forth by the U.S. Supreme Court in the 2006 *eBay* case before getting an injunction.

- a. Do you believe that patent assertion entities should have to abide by the district court *eBay* standards at the ITC if they want to get injunctive relief? Do you believe that the ITC and federal courts should share similar standards of review for injunctive relief?**

Answer: On June 4, the White House identified legislative recommendations and executive actions to “improve incentives for future innovation in high tech patents, a key driver of economic growth and good paying American jobs.” The announcement identified challenges posed by patent assertion entities and several proposed reforms bearing on the U.S. International Trade Commission (ITC). In particular, the Administration supports changes to the ITC standard to “better align” it with district court *eBay* standards. If confirmed, I stand ready to work with Congress and other agencies in support of the White House initiatives. These issues are crucial to our economy, American jobs, and innovation.