

RE: Taiwan CTF text - correction

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Cc: "Smith, Allison W. EOP/USTR" <allison.w.smith@ustr.eop.gov>
Date: Mon, 09 Jan 2023 16:47:32 -0500

Ah thanks, that makes me feel better that I didn't miss it on Friday. I'll look at it when it comes in – unfortunately there's usually a bit of a lag between when you guys deliver it and when Senate Security figures out who is allowed to see it.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Monday, January 9, 2023 4:46 PM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Cc: Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>
Subject: Taiwan CTF text - correction

Hey Catherine,

I got ahead of myself. The text will be in the SCIF tomorrow morning. Allison will deliver it

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
[REDACTED]

RE: Trade/IPEF check in

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Cc: "Smith, Allison W. EOP/USTR" <allison.w.smith@ustr.eop.gov>
Date: Wed, 11 Jan 2023 14:45:38 -0500

Great! Just sent an invite

From: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Sent: Wednesday, January 11, 2023 2:34 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>
Subject: RE: Trade/IPEF check in

Thanks, Dan. How about Friday at 11am?

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Wednesday, January 11, 2023 1:17 PM
To: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Cc: Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>
Subject: Trade/IPEF check in

Hey Catherine,

As we start the new year, I am doing some informal outreach to trade-focused offices to check in on USTR issues including IPEF and I wanted to see if you'd be available to chat? If so, I have time later this week (Thursday morning and Friday 11:00-12:30) or early next week.

Let me know if we can set something up.

Thanks, Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

Call this week?

From: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>

To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

Date: Tue, 07 Feb 2023 17:06:41 -0500

Dan –

Just tried you. Could we schedule a call for this week?

Thanks.

Catherine Laporte-Oshiro, Ph.D.

Economic Policy Advisor

Office of Senator Elizabeth Warren

EXEMPTION 6 warren.senate.gov

she/her/hers

RE: IPEF digital

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "Hendrickson, Katie L. EOP/USTR" <kathryn.l.hendrickson@ustr.eop.gov>
Date: Wed, 08 Feb 2023 12:12:58 -0500

Thanks, looking forward.

From: Hendrickson, Katie L. EOP/USTR <Kathryn.L.Hendrickson@ustr.eop.gov>
Sent: Wednesday, February 8, 2023 10:50 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: RE: IPEF digital

Sure thing. Let's use this line: [REDACTED]

From: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Sent: Wednesday, February 8, 2023 10:25 AM
To: Hendrickson, Katie L. EOP/USTR <Kathryn.L.Hendrickson@ustr.eop.gov>
Subject: RE: IPEF digital

Thanks, Katie. Could we do Thursday at 2:30pm?

From: Hendrickson, Katie L. EOP/USTR <Kathryn.L.Hendrickson@ustr.eop.gov>
Sent: Wednesday, February 8, 2023 9:41 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: IPEF digital

Hi Catherine,

I hope you are well! Dan asked me to reach out and set up a call with you and our subject matter experts to go over the IPEF digital text. Let me know what works!

Today: 3:30-4pm
Tomorrow: 10:30am-12pm, 1-1:30pm, 2:30-3pm

Thanks,
Katie

RE: Have a few minutes today?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Cc: "Smith, Allison W. EOP/USTR" <allison.w.smith@ustr.eop.gov>
Date: Wed, 15 Feb 2023 16:35:54 -0500

Catherine – here is a draft of IPEF ag

Agriculture

The United States tabled proposed text on Agriculture that includes a broad set of provisions designed to open or expand opportunities for agricultural producers to access markets throughout the IPEF region, advance food security, and promote sustainable agricultural production. In particular, the text is aimed at increasing transparency and regulatory certainty for agricultural exporters and importers, as well as encouraging collaboration and innovation in areas such as sustainability and food security.

The text breaks new ground in including elements relating to sustainable agriculture, tabled for the first time in U.S. trade negotiations. The text acknowledges that there is no one size fits all solution to sustainable agriculture, and promotes collaborative work to share best practices and explore science- and evidence-based solutions tailored to the conditions of IPEF partners. The text also includes cooperative efforts to promote innovation, fair trade, and individualized approaches to advance environmental goals. Recognizing the need for innovative agricultural products, the text provides transparency requirements around the approval process for products of agricultural biotechnology.

The text also includes a number of provisions regarding food safety, plant health and animal health protection, and other provisions of importance for agricultural trade, preserving the role of regulatory authorities to ensure the safety of their domestic food supplies, while also facilitating trade in agricultural goods. These provisions are intended to: improve transparency of regulatory processes and procedures; advance science-based decision-making to protect human, plant and animal life and health; improve processes and promote cooperation regarding regulatory and administrative requirements; and facilitate agricultural trade across the IPEF region. The text also includes transparency requirements related to import licensing procedures for agricultural products, certification requirements, and equivalency to ensure that any requirements for importation are clearly communicated to regional agricultural producers.

The agriculture text also contains provisions intended to promote food security in the region, such as disciplines regarding the imposition of export restrictions, an area of particular interest to net food importing countries in the region.

From: McCarthy, Daniel M. EOP/USTR
Sent: Wednesday, February 15, 2023 10:59 AM
To: 'Laporte-Oshiro, Catherine (Warren)' EXEMPTION 6 [REDACTED] warren.senate.gov>
Cc: Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>
Subject: RE: Have a few minutes today?

Great. That works.

One of the things I want to discuss is our public summaries of negotiating text. As you may recall, we are planning to publish summaries of negotiating text in order to provide the public with more information about our negotiating text. Our Taiwan round 1 summaries are close to being ready to go out and I wanted to read you in + get your reaction but I'm also sharing one of the summaries here so you can see what these look like.

Please keep this close hold, I am sharing this confidentially given your boss's interest in the issue.

Customs Administration and Trade Facilitation

The United States has tabled proposed text for a chapter on customs administration and trade facilitation (CTF) that streamlines border procedures and cuts red-tape. American businesses face challenges exporting their products when there are not clear or efficient import procedures in other countries. This chapter establishes clear rules and promotes efficiency by focusing on automation, reducing formalities, and requiring new or improved innovative border procedures. This will make it easier, faster and cheaper for American companies to trade with Taiwan.

With regard to automation, the proposed text requires online posting of all trade and border-related laws, regulations, and procedures. Customs forms will also need to be made available online and be capable of being received electronically, and the text encourages customs authorities to provide the same treatment for supporting documents. In addition, pre-arrival information must be processed and assessed for risk through a single window with a view toward immediate release of goods for which all regulatory requirements have been met. These provisions in the proposed text should reduce time and cost of importing, reduce spoilage especially of perishable goods, and reduce greenhouse gas emissions from idling vessels and trucks.

The proposed text addresses e-commerce, including through provisions that reduce restrictions on express consignment shipments and facilitate the return of goods across borders. It also limits the use of consular transactions for cross-border shipments, reduces formalities for containers, requires border agencies to accept electronic payment of duties, taxes, and fees, while also encouraging growth in electronic invoicing and electronic invoicing frameworks. These provisions are designed to reduce the cost of trading. They are also intended to encourage the participation of small and medium-sized enterprises in international trade by prohibiting the barriers that discourage their participation.

Finally, there are a number of provisions in the proposed text focused on making trade across borders a fair and reliable experience. For example, the text includes penalty disciplines designed to ensure transparency and fairness, standards of conduct for border agents, protection of confidential business information, and cooperation between the parties. The text also calls for enforcement cooperation in order to ensure that the borders are being used for legitimate trade and to facilitate weeding out illicit trade and other customs offenses.

From: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>
Sent: Wednesday, February 15, 2023 9:35 AM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>
Subject: RE: Have a few minutes today?

I can do 3:30, if you want to call me then?

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Wednesday, February 15, 2023 9:00 AM
To: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>
Cc: Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>
Subject: Have a few minutes today?

Hey Catherine,

Hope you're doing well. I wanted to check in on a few transparency-related issues. Do you have a few minutes today? I am free 10-11, 12-2 and 3:30.

-Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs

[EXEMPTION 6](#)

RE: Hi

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Tue, 21 Feb 2023 09:48:14 -0500

great

From: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Sent: Tuesday, February 21, 2023 9:45 AM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: Hi

Thanks! I'll call at 11:30.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Tuesday, February 21, 2023 9:44 AM
To: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Subject: Hi

Saw you called Friday. Happy to chat today. 11:00 and 11:30 look good here.

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

RE: Follow up on ipef digital with Beth

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Date: Fri, 24 Feb 2023 11:07:35 -0500

Yes, both those times work.

-----Original Message-----

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Friday, February 24, 2023 11:07 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: Follow up on ipef digital with Beth

Hey,

Can you talk at 2:00 or 3:00?

Re: Letter to USTR Tai and Secretary Raimondo on IPEF digital trade issues

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" EXEMPTION 6 warren.senate.gov>
Cc: "Srinivasan, Nikhil (Warren)" EXEMPTION 6 warren.senate.gov>, "Smith, Allison W. EOP/USTR" <allison.w.smith@ustr.eop.gov>
Date: Wed, 01 Mar 2023 08:23:19 -0500
Attachments 2023.02.28 Letter to USTR Commerce on IPEF digital trade.pdf (321.63 kB)

:

Thanks

On Feb 28, 2023, at 10:08 PM, Laporte-Oshiro, Catherine (Warren) EXEMPTION 6
warren.senate.gov> wrote:

Dan –

Attached please find a letter from Senator Warren and colleagues on IPEF digital trade issues. I would appreciate it if you could acknowledge receipt.

Best,

Catherine Laporte-Oshiro, Ph.D.

Economic Policy Advisor

Office of Senator Elizabeth Warren

EXEMPTION 6 @warren.senate.gov

United States Senate

WASHINGTON, DC 20510

February 28, 2023

Ambassador Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, DC 20508

The Honorable Gina Raimondo
Secretary of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Ambassador Tai and Secretary Raimondo –

We write regarding digital trade rules in the proposed Indo-Pacific Economic Framework for Prosperity (IPEF). Americans conduct an increasingly large part of their lives online. With this increased online presence come new opportunities and risks – both of which were unimaginable only a few years ago. That is why it is essential that digital trade rules do not undermine Congress’s ability to protect online privacy, regulate artificial intelligence, and restore competition in the digital economy. Done properly, digital trade rules should support not hinder the ability of democratically-elected representatives to meet the needs of the people they serve, including regulating Big Tech. Trade rules that undermine Congress’s ability to protect the American people, while online, are a non-starter. Given the urgent need to pursue digital trade rules that protect all Americans, we seek to both understand your approach to IPEF digital trade negotiations and receive concrete reassurances that workers and consumers will remain the centerpiece of the Administration’s focus as negotiations continue.

The United States launched IPEF last year, including negotiations on a trade pillar specifically with Australia, Brunei Darussalam, Fiji, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Vietnam.¹ This trade pillar includes a focus on the digital economy and digital trade, including “building an environment of trust and confidence in the digital economy; enhancing access to online information and use of the Internet; facilitating digital trade; addressing discriminatory practices; and advancing resilient and secure digital infrastructure and platforms.”² We understand that U.S. negotiators would like to share a proposed draft digital trade chapter text for the first time in the next IPEF negotiation round, which will begin on March 13.³

¹ Office of the U.S. Trade Representative, “Ministerial Text for Trade Pillar of the Indo-Pacific Economic Framework for Prosperity,” September 2022, [https://ustr.gov/sites/default/files/2022-09/IPEF%20Pillar%201%20Ministerial%20Text%20\(Trade%20Pillar\)_FOR%20PUBLIC%20RELEASE%20\(1\).pdf](https://ustr.gov/sites/default/files/2022-09/IPEF%20Pillar%201%20Ministerial%20Text%20(Trade%20Pillar)_FOR%20PUBLIC%20RELEASE%20(1).pdf).

² *Id.*

³ Inside U.S. Trade, “AFL-CIO proposes how the U.S. can ensure a ‘worker-centric’ digital trade approach,” February 7, 2023, <https://insidetrade.com/daily-news/afl-cio-proposes-how-us-can-ensure-worker-centric-digital-trade-approach>; Office of the U.S. Trade Representative, “United States to Participate in Second Indo-Pacific Economic Framework Negotiating Round in Indonesia,” February 24, 2023, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/february/united-states-participate-second-indo-pacific-economic-framework-negotiating-round-indonesia>.

We appreciate Ambassador Tai's commitment that digital trade negotiations will not conflict with Congress's active work on tech policy.⁴ However, we are concerned that Big Tech companies are advocating for an approach to digital trade that will do just that. Corporate lobbyists are calling for the U.S. to include rules in IPEF that would tie the hands of Congress.⁵ Just as troubling is the fact that corporate lobbying is occurring over text that is kept secret from the public.

As one example, tech lobbyists are calling for IPEF to include a provision that would limit governments' ability to regulate artificial intelligence (AI) domestically. Companies are increasingly outsourcing important decisions to AI – even as it is increasingly clear that it can discriminate on a massive scale.⁶ The implications are huge: black box algorithms can create inhumane and unsafe working conditions, reject loan applicants for having Black-sounding names, and misidentify women of color in police footage.⁷ That is why Congress is considering numerous proposals to regulate AI, and Biden Administration has put forward an AI Bill of Rights.⁸

However, Big Tech firms continue to advocate for IPEF digital secrecy terms⁹ that could thwart U.S. government reviews and pre-screening of source code or even detailed description of algorithms, thus preventing the U.S. and other governments from detecting potential discriminatory practices, manipulations of wage and hour laws, and other violations.¹⁰ At the same time, tech industry lobbyists have called for including safe harbor language that shields platforms like Google, Facebook, and Twitter from accountability when their algorithms promote harmful content,¹¹ potentially conflicting with existing legal regimes in a manner that allocates power to companies over individuals and consumers.

⁴ Council on Foreign Relations, "C. Peter McColough Series on International Economics With Katherine Tai," December 19, 2022, <https://www.cfr.org/event/c-peter-mccolough-series-international-economics-katherinc-tai>.

⁵ U.S. Chamber of Commerce, "No Higher Priority: Why IPEF Must Include Strong Digital Trade Rules," December 7, 2022, <https://www.uschamber.com/international/trade-agreements/no-higher-priority-why-ipef-must-include-strong-digital-trade-rules>.

⁶ The White House, "Algorithmic Discrimination Protections," <https://www.whitehouse.gov/ostp/ai-bill-of-rights/algorithmic-discrimination-protections-2/>.

⁷ AFL-CIO, "A Worker-Centered Digital Trade Agenda," February 7, 2023, <https://aflcio.org/worker-centered-digital-agenda>.

⁸ Rethink Trade, "Big Tech "Digital Trade" Plan for IPEF Could Undermine Key Congressional and Administration Privacy, Anti-Monopoly, and AI Accountability Initiatives," January 23, 2023, pg. 7-12, https://rethinktrade.org/wp-content/uploads/2023/01/2023.01.23-Conflicts-between-key-digital-proposals-and-prospective-IPEF-digital-trade-terms_for-lay-out-003.pdf.

⁹ Regulations.gov, "Comments of the Computer & Communications Industry Association (CCIA)," Request for Comments on the Proposed Fair and Resilient Trade Pillar of an Indo- Pacific Economic Framework, April 11, 2022, pg. 10 available for download at: <https://www.regulations.gov/comment/USTR-2022-0002-1254>.

¹⁰ AFL-CIO, "A Worker-Centered Digital Trade Agenda," February 7, 2023, <https://aflcio.org/worker-centered-digital-agenda>; Rethink Trade, "Big Tech "Digital Trade" Plan for IPEF Could Undermine Key Congressional and Administration Privacy, Anti-Monopoly, and AI Accountability Initiatives," January 23, 2023, pg. 3-4, https://rethinktrade.org/wp-content/uploads/2023/01/2023.01.23-Conflicts-between-key-digital-proposals-and-prospective-IPEF-digital-trade-terms_for-lay-out-003.pdf.

¹¹ Regulations.gov, "Comments of the Computer & Communications Industry Association (CCIA)," Request for Comments on the Proposed Fair and Resilient Trade Pillar of an Indo- Pacific Economic Framework, April 11, 2022, pg. 9, available for download at: <https://www.regulations.gov/comment/USTR-2022-0002-1254>.

Similarly, trade rules that would allow Americans' sensitive personal data to be sent anywhere – with little ability for Congress to limit such transfers or require that critical data be kept in the U.S. – must be rejected. While sounding innocuous, this means that sensitive medical records, business secrets, or information critical to law enforcement or national security could be anywhere in the world. This only benefits Big Tech firms seeking unlimited control over our sensitive, personal data. Americans' embrace of technology is predicated on assurances that their data is secure. Big Tech's approach not only threatens personal privacy and consumer's trust in the internet, but also U.S. economic and national security.

Finally, Big Tech lobbyists want to include an overly broad provision that would help them to evade numerous competition regulations by claiming that they are “subject to trade discrimination.”¹² This language would allow lobbyists to attack tech regulations as “illegal trade barriers” simply because they may primarily impact “digital products” of dominant companies that happen to be headquartered in the U.S.¹³ This is not a theoretical problem. Tech lobbyists have attacked legislation in South Korea, similar to a pending bipartisan proposal in U.S. Congress, which reigns in companies like Google and Apple from using their dominant app stores to extort app developers.¹⁴ Tech industry groups, citing the specific digital anti-discriminatory language they want included in the IPEF digital negotiations, have asked USTR to go after Canada for its pending *Online News Act*, which, like another U.S. bipartisan proposal, would help require Big Tech platforms to pay for the news they access and from which they profit.¹⁵ And the U.S. Chamber has actually attacked both the European *Digital Markets Act* and bipartisan U.S. legislation to prohibit anticompetitive self-preferencing for allegedly engaging in trade discrimination against big U.S. tech companies.¹⁶ It is not “trade discrimination” for the U.S. or any of our trading partners to regulate Google, Meta, Apple, and Amazon to protect online competition, as tech industry groups have claimed¹⁷ – it is common sense, and trade-pact terms should not prevent it.

Voters want Congress to strengthen their digital rights, and our trade agenda should reflect that. In line with your commitments to a worker-centered trade policy that enables democratic oversight, we urge you not to put up for negotiation or discussion any digital trade text that

¹² Rethink Trade, “Big Tech ‘Digital Trade’ Plan for IPEF Could Undermine Key Congressional and Administration Privacy, Anti-Monopoly, and AI Accountability Initiatives,” January 23, 2023, pgs. 25-30, https://rethinktrade.org/wp-content/uploads/2023/01/2023.01.23-Conflicts-between-key-digital-proposals-and-prospective-IPEF-digital-trade-terms_for-lay-out-003.pdf.

¹³ *Id.*

¹⁴ Rethink Trade, “‘Digital Trade’ Doublespeak: Big Tech’s Hijack of Trade Lingo to Attack Anti-Monopoly and Competition Policies,” Daniel Rangel, Taylor Buck, Erik Peinert, Lori Wallach, November 2022, pgs. 6-9, <https://rethinktrade.org/wp-content/uploads/2022/11/20221101-AELP-DocLayout-v7.pdf>.

¹⁵ Regulations.gov, “Comments of the Computer & Communications Industry Association Regarding Foreign Trade Barriers to U.S. Exports for 2023 Reporting,” October 28, 2022, pg. 42, available for download at: <https://www.regulations.gov/comment/USTR-2022-0013-0047>.

¹⁶ U.S. Chamber of Commerce, “Striking Similarities: Comparing Europe’s Digital Markets Act to the American Innovation and Choice Online Act,” June 17, 2022, <https://www.uschamber.com/finance/antitrust/striking-similarities-dma-american-innovation-act>.

¹⁷ Regulations.gov, “Comments of the Computer & Communications Industry Association Regarding Foreign Trade Barriers to U.S. Exports for 2023 Reporting,” October 28, 2022, pg. 42, available for download at: <https://www.regulations.gov/comment/USTR-2022-0013-0047>; U.S. Chamber of Commerce, “Striking Similarities: Comparing Europe’s Digital Markets Act to the American Innovation and Choice Online Act,” June 17, 2022, <https://www.uschamber.com/finance/antitrust/striking-similarities-dma-american-innovation-act>.

conflicts with that agenda. The fact that prior trade agreements have included similar language is not a sufficient excuse to include these potentially damaging provisions in any future framework or trade deal. We also ask you to respond to the following questions by March 7, and prior to sharing any digital trade text with IPEF partners:

1. Are you contemplating including in IPEF any terms that could prohibit or restrict legislation, regulation or other government actions of any kind in IPEF, including on algorithm and source code secrecy, cross border data flows, location of computing facilities, and non-discriminatory treatment of digital products? If so, please detail the types of legislation, regulation, or actions that could raise potential conflicts under your draft digital trade text if adopted by the U.S. government or our trading partners. If you cannot detail any, please explain why you are including these prohibitions.
2. To the extent you are including in IPEF negotiations any prohibitions on government legislation or action against Big Tech, what exceptions are you proposing to include? What is the history of successful and unsuccessful uses of these (or similar) exceptions?
3. If there is little or no precedent for any exceptions to restrictions that you contemplate in IPEF on governments' ability to regulate digital products and companies, or a pattern of rejections of relevant exceptions language by trade tribunals, how can we know how that these exceptions will be interpreted appropriately?

Sincerely,

EXEMPTION 6

Elizabeth Warren
United States Senator

EXEMPTION 6

Sherrod Brown
United States Senator

EXEMPTION 6

Bernard Sanders
United States Senator

EXEMPTION 6

Amy Klobuchar
United States Senator

EXEMPTION 6

Jeffrey A. Merkley
United States Senator

EXEMPTION 6

Robert P. Casey, Jr.
United States Senator

EXEMPTION 6

Richard Blumenthal
United States Senator

Re: In meetings

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
Date: Tue, 14 Mar 2023 18:38:12 -0400

Will call you then

On Mar 14, 2023, at 6:36 PM, Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov> wrote:

Sounds good!

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
[REDACTED] warren.senate.gov

she/her/hers

(Sent from a phone, please excuse brevity, typos, and auto-correct issues.)

On Mar 14, 2023, at 6:34 PM, McCarthy, Daniel M. EOP/USTR
<Daniel.M.McCarthy@ustr.eop.gov> wrote:

935? I have a 9:00 and can call when it wraps

On Mar 14, 2023, at 6:33 PM, Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov> wrote:

I'm busy 10-11am and 1:30-2:30pm on Wednesday but otherwise flexible.

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren

EXEMPTION 6 [REDACTED] warren.senate.gov

she/her/hers

(Sent from a phone, please excuse brevity, typos, and auto-correct issues.)

On Mar 14, 2023, at 6:23 PM, McCarthy, Daniel M. EOP/USTR
<Daniel.M.McCarthy@ustr.eop.gov> wrote:

Do you have a few minutes wed at 10 or 1030? Want to chat your letter and the hearing next week

On Mar 14, 2023, at 3:30 PM, Laporte-Oshiro, Catherine (Warren)

EXEMPTION 6 [REDACTED] warren.senate.gov> wrote:

Wanted to flag something for you when you have a minute. Not urgent.

-----Original Message-----

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Sent: Tuesday, March 14, 2023 3:30 PM

To: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 [REDACTED]

[REDACTED] warren.senate.gov>

Subject: In meetings

What's up?

Taiwan public summaries

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Wed, 15 Mar 2023 17:36:06 -0400
Attachments: US Taiwan Initiative on 21st Century Trade Public Summaries .pdf (108.84 kB)

Hey Catherine,

At long last, attached are our final public summaries for the first round of text we tabled in January for our Taiwan initiative. I shared drafts of some of these summaries earlier. We plan to release these publicly tomorrow.

Thanks,
Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

U.S.-Taiwan Initiative on 21st Century Trade
Summary of Texts Proposed by the U.S. Side
March 2023

To date, in negotiations between the United States and Taiwan held under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), the U.S. side has proposed negotiating texts covering the following trade areas from the negotiating mandate of the U.S.-Taiwan Initiative on 21st Century Trade:

Customs Administration and Trade Facilitation

The U.S. side has tabled proposed text for a chapter on customs administration and trade facilitation (CTF) that streamlines border procedures and cuts red tape. American businesses face challenges exporting their products when there are not clear or efficient import procedures in other customs territories. This chapter establishes clear rules and promotes efficiency by focusing on automation, reducing formalities, and requiring new or improved innovative border procedures. This will make it easier, faster, and cheaper for American companies to trade with Taiwan.

With regard to automation, the proposed text requires online posting of all laws, regulations, and procedures related to the import, export, and transit of goods. Customs forms related to the import, export, or transit of goods will also need to be made available online and be capable of being received electronically, and the text encourages customs authorities to provide the same treatment for supporting documents. In addition, pre-arrival information must be processed and assessed for risk through a single window with a view toward immediate release of goods for which all regulatory requirements have been met. These provisions in the proposed text should reduce time and cost of importing, reduce spoilage especially of perishable goods, and reduce greenhouse gas emissions from idling vessels and trucks.

The proposed text addresses e-commerce, including through provisions that reduce restrictions on express consignment shipments and facilitate the return of goods across borders. It also limits the use of consular transactions for cross-border shipments; reduces formalities for containers; and requires border agencies to accept electronic payment of duties, taxes, and fees, while also encouraging growth in electronic invoicing and electronic invoicing frameworks. These provisions are designed to reduce the cost of trading. They are also intended to encourage the participation of small and medium-sized enterprises in international trade by eliminating the barriers that discourage their participation.

Finally, there are a number of provisions in the proposed text focused on making trade across borders a fair and reliable experience. For example, the text includes penalty disciplines designed to ensure transparency and fairness, standards of conduct for border agents, protections for confidential business information, and procedures for mutual cooperation. The text also calls for enforcement cooperation in order to ensure that the borders are being used for legitimate trade and to facilitate weeding out illicit trade and other customs offenses.

Good Regulatory Practices

The U.S. side has tabled proposed text for a chapter on good regulatory practices (GRPs) with articles that cover a range of rules for rule-making across the full regulatory life-cycle at the central level. Applying GRPs provides persons in the United States and Taiwan, traders, and other interested persons with greater transparency about regulatory processes.

The proposed text stems from the United States' recognition that early information about planned regulatory actions through the use of regulatory agendas allows interested persons to engage with regulatory authorities and gives them more time to prepare to comply. The text also includes core provisions on the transparent development of regulations, meaning publishing draft regulations and allowing adequate time for comments to be considered. Public consultations on draft regulatory measures can contribute to better regulations since regulators do not always have complete information to anticipate the impact and consequences of regulations.

The proposed text includes several articles relating to information that can inform regulatory decision-making. For example, regulatory authorities are to prepare guidance or establish mechanisms on using the best available information and data when planning regulatory actions. Regulators are also encouraged to use appropriate tools and techniques to evaluate proposed measures and to have guidance materials for those carrying out the analysis so that there can be consistency across regulatory authorities.

The proposed text also provides for stakeholders to have the opportunity to request issuance, modification, or repeal of regulations if change is justified due to technological changes, new information, or new standards.

Since regulations can have cross-border impact, the proposed text contains an article on regulatory transparency tools that can expand online access to relevant information, including information about registries of existing laws, the procedural requirements of regulatory authorities, websites where draft regulations are posted and comments accepted, and the acceptability of electronic documentation, where appropriate. The text also reflects the fact that these same types of online resources are beneficial for small and medium-sized enterprises seeking to understand regulatory measures in both the U.S. and Taiwan markets.

The United States and Taiwan both rely on expert advisors to provide advice on planned regulatory actions as a complement to, and not a substitute for, public consultations. The proposed text therefore details transparency requirements relating to the functioning and outputs of expert advisors.

Finally, the proposed text provides for the establishment of a GRP Committee to monitor implementation of the obligations in the chapter and to allow for information sharing and further regulatory cooperation to address issues of mutual interest.

Services Domestic Regulation

The U.S. side has tabled proposed text on development and administration of rules and procedures governing licenses or other authorizations required to supply services (sometimes referred to as “services domestic regulation”). As described in the explanation provided in the negotiating mandate for the U.S.-Taiwan Initiative on 21st Century Trade, this text builds on the outcomes agreed to by World Trade Organization (WTO) Members in December 2021 in the Joint Statement Initiative on Services Domestic Regulation.

Difficulty in obtaining licenses or other authorizations in a foreign jurisdiction can be a barrier to services exporters, particularly small companies such as professional services firms (architects, engineers, accountants, lawyers, etc.). Even if regulations are promulgated in accordance with the GRP text (described above), there may still be problems in implementation, such as when service suppliers are not told the type of documentation that they need to produce to demonstrate that they meet regulatory thresholds for licensure, or are not given sufficient time to compile and submit such documentation. The aim of the proposed text is to ensure that service suppliers are treated fairly and in a transparent manner when they apply for permission to operate in a given sector and that there is a smooth flow of information between the applicant for a license and the regulator. At the same time, the proposed text does not interfere with the ability of regulators to apply domestic standards to protect important interests such as safety, health and the environment, or to ensure worker and consumer welfare.

In striking this important balance, the proposed text requires that laws and regulations be transparent and that regulators be independent of the industry that they oversee. The proposed text further provides that regulators would inform applicants of the requirements to obtain a license, to provide applicants a fair opportunity to demonstrate that they meet those requirements, and to make a decision on whether to issue a license in a reasonable period of time. The proposed text also prohibits licensing rules from discriminating on the basis of gender.

Given the complexity of supervision and regulation of the financial services sector, a special set of rules is designed to preserve the ability of regulators overseeing that sector to protect the stability of the financial system.

In recent years, there has been rapid growth in the ability to apply for licenses online, streamlining the process for both applicants and regulators. The proposed text encourages regulators to continue experimenting with new technologies to make the application process easier, especially with an eye to reducing unnecessary administrative burdens on small and medium-sized businesses.

Notably, the proposed text goes beyond the existing WTO rules by requiring this high degree of fairness and transparency in all sectors in which foreign service suppliers are permitted to operate, rather than limiting the obligations to an arbitrary set of sectors covered by formal WTO commitments that become outdated and may not reflect the reality of the marketplace.

Taiwan, like the United States, maintains a broadly open market for services, and its regulators are well-regarded. When the agreement is concluded, the disciplines set forth in the proposed text will set the highest standard of any rules on services domestic regulation agreed

internationally to date, and they therefore will set a new benchmark for others in the region and around the world.

Anticorruption

The U.S. side has tabled proposed text for a chapter on anticorruption consisting of seven articles and covering a wide range of topics. This text includes high anticorruption standards to prevent and combat bribery and other forms of corruption. It expands on the framework in the United States-Mexico-Canada Agreement by including provisions addressing money laundering, the recovery of proceeds of corruption, denial of entry for foreign public officials, and additional protections for people who report corruption.

The proposed text also includes provisions to address priorities and initiatives of the Biden-Harris Administration. It recognizes the importance of preventing and combating bribery and corruption in the context of labor law implementation and enforcement and provides for strong obligations to fight corruption related to abusive practices in the recruitment of migrant workers. With a view toward enhancing efforts to combat environmental degradation, the proposed text also recognizes the importance of preventing and combating bribery and corruption in the context of strengthening environmental governance and enforcement.

The proposed text recognizes obligations under the *United Nations Convention against Corruption* and domestic laws. It also includes provisions recognizing obligations to conduct public procurement in a transparent and impartial manner under the *WTO Agreement on Government Procurement*.

Provisions to prevent and combat bribery in the proposed text include obligations to adopt or maintain measures to establish as criminal offenses the bribery of public officials, embezzlement, and money laundering. Additionally, the text includes requirements for the maintenance of books and records to prevent the hiding of corruption, disallows the tax deductibility of bribes, requires measures for the seizure of assets derived from corruption, and permits denial of entry to foreign public officials who have engaged in corruption. The text also requires the adoption of procedures to report corruption and to protect people who report corruption, including protection for external auditors.

To promote integrity among public officials, the proposed text requires measures for the training of public officials, transparency and accountability of public officials, and the reporting by public officials of any conflicts of interest and acts of corruption. Additionally, the text mandates procedures for the possible removal of public officials who are charged or convicted of corruption, along with measures to prevent opportunities for corruption for members of the judiciary.

As combatting corruption requires the active participation of segments outside of the public sector, the proposed text requires measures to promote the participation of enterprises, civil society, non-governmental organizations, worker organizations, and community-based organizations through public information and education programs, public awareness, and the dissemination of information concerning bribery and corruption.

Finally, the proposed text includes provisions related to the affirmation of effective enforcement measures.

Small and Medium-Sized Enterprises

The U.S. side has tabled proposed text for a chapter on small and medium-sized enterprises that recognizes the fundamental role of small and medium-sized enterprises, including micro-sized enterprises (SMEs), in maintaining the dynamism and competitiveness of the economies of the United States and Taiwan and the integral role of the private sector in promoting SME cooperation.

The text proposed by the U.S. side promotes ongoing cooperation between the relevant authorities in the United States and Taiwan, under the auspices of AIT and TECRO, to increase SME trade and investment opportunities, subject to the availability of resources, through exchange of information and best practices in areas such as promoting SME participation in international trade and improving SME access to capital and credit, training programs, trade education, trade finance, trade missions, and trade facilitation. The text also aims to enhance cooperation among SME support centers, promote the participation of SMEs in digital trade, and help SMEs adapt to changing market conditions.

The proposed text includes a focus on activities to promote SMEs owned by underserved and underrepresented groups, including women, indigenous people, youth, and minorities, as well as start-ups and agricultural and rural SMEs.

The proposed text establishes provisions promoting online, publicly accessible information resources useful for SMEs trading, investing, or doing business in the United States and Taiwan. This information would include customs regulations and procedures, technical regulations, foreign investment regulations, business registration procedures, intellectual property rights, and other information.

The proposed text also contemplates a periodic SME Dialogue that is inclusive of SMEs owned by diverse, underserved, and underrepresented groups in the United States and Taiwan. Among other things, this Dialogue could consider small business trade opportunities and challenges between the United States and Taiwan. It is envisioned to be an important mechanism for ensuring that SMEs in the United States and Taiwan will continue to be heard and their views considered in the future.

IPEF Round I Public Summaries

From "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

:

To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>

Cc: "Allison W. EOP/USTR Smith (Allison.W.Smith@ustr.eop.gov)"
<allison.w.smith@ustr.eop.gov>

Date: Tue, 21 Mar 2023 12:38:40 -0400

Hey there,

I just wanted to let you know that we have posted our public summaries of the first round of text we tabled in Brisbane: [IPEF Pillar 1 text summaries USTR March 2023.pdf](#)

Looking forward to seeing your boss at the hearing!

Thanks,
Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

Hearing

From: daniel.m.mccarthy@ustr.eop.gov

To: Catherine Laporte-Oshiro (Warren) **EXEMPTION 6** warren.senate.gov>

Date: Wed, 22 Mar 2023 18:35:22 -0400

Hi - following up. On your first Q- she's not going to be able to say much.

She's still evaluating CANs legislation through the lens of USMCA and won't really have much to say about the implications for IPEF. She would probably just acknowledge the concern and say she is still reviewing the issue.

RE: Hearing

From: "Laporte-Oshiro, Catherine (Warren)" [EXEMPTION 6](#) warren.senate.gov
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Date: Wed, 22 Mar 2023 11:14:08 -0400

That works. Just give me a call.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Wednesday, March 22, 2023 11:09 AM
To: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov
Subject: RE: Hearing

I am doing hearing prep with her until 130/145. 145?

From: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov
Sent: Wednesday, March 22, 2023 11:06 AM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: Re: Hearing

Are you available for a call between 1 and 2pm?

On Mar 22, 2023, at 9:59 AM, McCarthy, Daniel M. EOP/USTR
<Daniel.M.McCarthy@ustr.eop.gov> wrote:

Hey there,

Just checking in to see if you are able to share what questions your boss plans to ask at the hearing tomorrow? I know you mentioned digital and consultation/transparency when we spoke last week but wondering where you landed. Thanks!

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
[EXEMPTION 6](#)

RE: IPEF digital tranche 2 timing?

From: "Laporte-Oshiro, Catherine (Warren)" [EXEMPTION 6](#) warren.senate.gov>
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Date: Tue, 04 Apr 2023 17:27:55 -0400

OK thanks, keep me posted please!

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Tuesday, April 4, 2023 3:26 PM
To: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>
Subject: RE: IPEF digital tranche 2 timing?

It really just depends on when the text is ready so first things first..get the text ready internally and then run it through the consultation process and see where we are.

From: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>
Sent: Tuesday, April 4, 2023 3:24 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: IPEF digital tranche 2 timing?

Thanks. Is the plan to still table for an intersessional in advance of the Singapore round?

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Tuesday, April 4, 2023 3:23 PM
To: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>
Subject: RE: IPEF digital tranche 2 timing?

Hey there,

It's still under development so I don't have timing yet.

Thanks,
Dan

From: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>

Sent: Tuesday, April 4, 2023 3:05 PM

To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Subject: IPEF digital tranche 2 timing?

Dan –

Hope you're well. Could you tell me when we should expect the IPEF digital tranche 2 text in the SCIF?

Thanks.

Catherine Laporte-Oshiro, Ph.D.

Economic Policy Advisor

Office of Senator Elizabeth Warren

EXEMPTION 6 warren.senate.gov

she/her/hers

Letter to Ambassador Tai and Secretary Raimondo on IPEF digital trade

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>, Caitlin Kovalkoski (Federal) [REDACTED] trade.gov>
Cc: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>
Date: Fri, 21 Apr 2023 16:39:32 -0400
Attachments 2023.04.21 Letter to USTR, Commerce re. digital trade and competition.pdf (281.14 kB)

Hi Dan and Caitlin –

Hope you're both well. Attached please find a letter from Senator Warren and colleagues to Ambassador Tai and Secretary Raimondo on Indo-Pacific Economic Framework digital trade negotiations.

I would appreciate it if you could confirm receipt.

Best,

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
[REDACTED] warren.senate.gov
she/her/hers

Congress of the United States

Washington, DC 20515

April 21, 2023

Ambassador Katherine Tai
United States Trade Representative
Executive Office of the President
600 17th Street NW
Washington, DC 20508

The Honorable Gina Raimondo
Secretary
Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Ambassador Tai and Secretary Raimondo:

We write regarding our concerns with digital trade negotiations in the proposed Indo-Pacific Economic Framework for Prosperity (IPEF). President Biden has issued a government-wide order directing agencies to pursue policies to rein in monopoly power and promote competition in all sectors of the economy,¹ and lawmakers and regulators are working to restore competition and protect consumers, workers, and small businesses, particularly when it comes to Big Tech platforms. Given the impact that skewed trade rules would have, we ask that you ensure new digital trade rules complement—rather than conflict with—our efforts to promote competition in the digital economy, regulate artificial intelligence, and protect online privacy.

The United States launched IPEF last year, including negotiations led by the U.S. Trade Representative (USTR) with input from the U.S. Commerce Department on a trade pillar with a digital trade chapter.² The U.S. is conducting these negotiations with representatives from Australia, Brunei Darussalam, Fiji, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Vietnam.³

While we appreciate your commitment that digital trade negotiations will not conflict with the federal government's active work on tech policy,⁴ we remain concerned that Big Tech companies are advocating for an approach to digital trade that will do just that.

Corporations are advocating that the U.S. government include rules in IPEF that would tie Congress's and regulators' hands⁵ and conflict with President Biden's whole-of-government

¹ The White House, "Executive Order on Promoting Competition in the American Economy," press release, July 9, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.

² Office of the U.S. Trade Representative, "Trade Pillar," Indo-Pacific Economic Framework for Prosperity (IPEF), <https://ustr.gov/trade-agreements/agreements-under-negotiation/indo-pacific-economic-framework-prosperity-ipef/trade-pillar>.

³ Office of the U.S. Trade Representative, "Ministerial Text for Trade Pillar of the Indo-Pacific Economic Framework for Prosperity," September 2022, [https://ustr.gov/sites/default/files/2022-09/IPEF%20Pillar%201%20Ministerial%20Text%20\(Trade%20Pillar\)_FOR%20PUBLIC%20RELEASE%20\(1\).pdf](https://ustr.gov/sites/default/files/2022-09/IPEF%20Pillar%201%20Ministerial%20Text%20(Trade%20Pillar)_FOR%20PUBLIC%20RELEASE%20(1).pdf).

⁴ Senate Committee on Finance, "The President's 2023 Trade Policy Agenda," March 23, 2023, <https://www.finance.senate.gov/hearings/the-presidents-2023-trade-policy-agenda>; Council on Foreign Relations, "C. Peter McColough Series on International Economics With Katherine Tai," December 19, 2022, <https://www.cfr.org/event/c-peter-mccolough-series-international-economics-katherine-tai>.

effort to promote competition.⁶ Big Tech wants to include an overly broad provision that would help large tech firms evade competition policies by claiming that such policies subject these firms to “illegal trade discrimination.”⁷ This language would provide a basis for Big Tech firms, as well as foreign governments, to attack tech policies as “illegal trade barriers” simply because they may disproportionately impact “digital products” of dominant companies that happen to be headquartered in the U.S.⁸ Inclusion of such provisions could undermine efforts by U.S. policymakers to pass new legislation and antitrust enforcers to crack down on anti-competitive conduct, including price fixing and self-dealing, by the largest tech companies. Tech companies could also weaponize these digital trade rules to undermine similar efforts by our trading partners.

This is not a theoretical problem. Tech industry groups, citing the specific digital anti-discriminatory language they want included in the IPEF digital negotiations, have asked USTR to go after Canada for its pending *Online News Act*,⁹ which, like a U.S. bipartisan proposal, would require Big Tech platforms to pay for the news they profit from.¹⁰ Big Tech has attacked South Korean legislation that is similar to another bipartisan congressional proposal that reins in companies like Google and Apple from using their dominant app stores to extort app developers.¹¹ And the U.S. Chamber of Commerce has attacked both the European *Digital Markets Act* and bipartisan U.S. legislation to prohibit anticompetitive self-preferencing for allegedly engaging in trade discrimination against big U.S. tech companies.¹² It is not “trade discrimination” for the U.S. government or any of our trading partners to regulate Google, Meta, Apple, Microsoft, and Amazon to protect online competition, as tech industry groups have claimed¹³—it is common sense, and trade-pact terms should in no way inhibit it.

⁵ U.S. Chamber of Commerce, “No Higher Priority: Why IPEF Must Include Strong Digital Trade Rules,” December 7, 2022, <https://www.uschamber.com/international/trade-agreements/no-higher-priority-why-ipef-must-include-strong-digital-trade-rules>.

⁶ The White House, “Executive Order on Promoting Competition in the American Economy,” press release, July 9, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.

⁷ Rethink Trade, “Big Tech ‘Digital Trade’ Plan for IPEF Could Undermine Key Congressional and Administration Privacy, Anti-Monopoly, and AI Accountability Initiatives,” January 23, 2023, pp. 25-30, https://rethinktrade.org/wp-content/uploads/2023/01/2023.01.23-Conflicts-between-key-digital-proposals-and-prospective-IPEF-digital-trade-terms_for-lay-out-003.pdf; Office of U.S. Senator Amy Klobuchar, “Klobuchar, Kennedy Introduce Bipartisan Legislation To Save Local Journalism,” March 31, 2023, <https://www.klobuchar.senate.gov/public/index.cfm/2023/3/klobuchar-kennedy-introduce-bipartisan-legislation-to-save-local-journalism>.

⁸ *Id.*

⁹ The Globe and Mail, “Biden urged to raise Canadian bills’ impact on Google, Facebook, Netflix, Disney,” Marie Woolf, March 22, 2023, <https://www.theglobeandmail.com/politics/article-biden-urged-to-raise-canadian-bills-impact-on-google-facebook-netflix/>.

¹⁰ Regulations.gov, “Comments of the Computer & Communications Industry Association Regarding Foreign Trade Barriers to U.S. Exports for 2023 Reporting,” October 28, 2022, p. 42, <https://www.regulations.gov/comment/USTR-2022-0013-0047>.

¹¹ Rethink Trade, “‘Digital Trade’ Doublespeak: Big Tech’s Hijack of Trade Lingo to Attack Anti-Monopoly and Competition Policies,” Daniel Rangel, Taylor Buck, Erik Peinert, Lori Wallach, November 2022, pp. 6-9, <https://rethinktrade.org/wp-content/uploads/2022/11/20221101-AELP-DocLayout-v7.pdf>.

¹² U.S. Chamber of Commerce, “Striking Similarities: Comparing Europe’s Digital Markets Act to the American Innovation and Choice Online Act,” June 17, 2022, <https://www.uschamber.com/finance/antitrust/striking-similarities-dma-american-innovation-act>.

Big Tech is also calling for IPEF to include a provision that would limit governments' ability to regulate artificial intelligence (AI) domestically. Companies are increasingly outsourcing important decisions to AI, in spite of clear evidence that it can discriminate on a massive scale.¹⁴ The implications are huge: black box algorithms can create inhumane and unsafe working conditions, make life-altering employment decisions, reject loan applicants for having Black-sounding names, and misidentify women of color in police footage.¹⁵ Americans' embrace of technology relies on their government's ability to protect their data security and prevent digital discrimination, and Congress and regulators have taken steps to do so.¹⁶ Yet Big Tech firms continue to advocate for IPEF digital secrecy terms that could thwart U.S. government attempts to address these concerns.¹⁷

Similarly, Big Tech is pushing for trade rules that would allow Americans' sensitive personal data to be sent anywhere—with little ability for Congress to limit such transfers or require that critical data be kept in the U.S.¹⁸ While seemingly innocuous, this means that sensitive medical records, business secrets, or critical national security information could be sent and stored anywhere in the world. This only benefits Big Tech firms seeking unlimited control over our sensitive, personal data.

Our concerns about the contents of the IPEF digital text are heightened by the speed at which negotiations are proceeding. The administration only began to share some classified draft digital text for feedback in late January 2023. Even then, only a few cleared advisors, Members of Congress, and their staff with security clearances were allowed to see that text due to its classification status, hindering the ability of Congress and the public to meaningfully engage. We understand that you plan to share additional digital text with IPEF partner countries in soon—text which you have yet to share with Congress or the public. Furthermore, reports indicate that you plan to finalize the framework by November 2023,¹⁹ not even a year after the limited sharing

¹⁴ Regulations.gov, “Comments of the Computer & Communications Industry Association Regarding Foreign Trade Barriers to U.S. Exports for 2023 Reporting,” October 28, 2022, p. 42,

<https://www.regulations.gov/comment/USTR-2022-0013-0047>; U.S. Chamber of Commerce, “Striking Similarities: Comparing Europe's Digital Markets Act to the American Innovation and Choice Online Act,” June 17, 2022, <https://www.uschamber.com/finance/antitrust/striking-similarities-dma-american-innovation-act>.

¹⁵ The White House, “Algorithmic Discrimination Protections,”

<https://www.whitehouse.gov/ostp/ai-bill-of-rights/algorithmic-discrimination-protections-2/>.

¹⁶ AFL-CIO, “A Worker-Centered Digital Trade Agenda,” February 7, 2023, <https://aflcio.org/worker-centered-digital-agenda>.

¹⁷ New York Times, “Why Lawmakers Aren't Rushing to Police A.I.,” Andrew Ross Sorkin et al., March 3, 2023, <https://www.nytimes.com/2023/03/03/business/dealbook/lawmakers-ai-regulations.html>; Rethink Trade, “Big Tech ‘Digital Trade’ Plan for IPEF Could Undermine Key Congressional and Administration Privacy, Anti-Monopoly, and AI Accountability Initiatives,” January 23, 2023, https://rethinktrade.org/wp-content/uploads/2023/01/2023.01.23-Conflicts-between-key-digital-proposals-and-prospective-IPEF-digital-trade-terms_for-lay-out-003.pdf.

¹⁸ Regulations.gov, “Comments of the Computer & Communications Industry Association (CCIA),” Request for Comments on the Proposed Fair and Resilient Trade Pillar of an Indo-Pacific Economic Framework, April 11, 2022, pp. 9-10, <https://www.regulations.gov/comment/USTR-2022-0002-1254>.

¹⁹ Rethink Trade, “Big Tech ‘Digital Trade’ Plan for IPEF Could Undermine Key Congressional and Administration Privacy, Anti-Monopoly, and AI Accountability Initiatives,” January 23, 2023, pp. 14-15, https://rethinktrade.org/wp-content/uploads/2023/01/2023.01.23-Conflicts-between-key-digital-proposals-and-prospective-IPEF-digital-trade-terms_for-lay-out-003.pdf.

²⁰ Inside U.S. Trade, “Fiji minister: IPEF talks expected to conclude in November after six more rounds,” Maydean Merino, March 29, 2023, <https://insidetrade.com/daily-news/fiji-minister-ipef-talks-expected-conclude-november->

of digital text began. An artificial deadline must not come before ensuring that the deal fulfills the Biden Administration's commitments to promote competition in the economy, to protect digital privacy, and to advance a worker-centered trade policy.

If trade agreements contain rules that allow tech companies to plead "illegal trade discrimination" to avoid accountability for monopolistic and discriminatory behavior, not only will personal privacy and consumers' trust in the Internet be threatened, but the United States' economic and national security as well. Consistent with President Biden's whole-of-government approach to promoting competition in the U.S. economy, we urge you not to put up for negotiation or discussion any digital trade text that conflicts with that agenda. Additionally, we request that you respond to the following questions by May 8, 2023, and prior to tabling any further digital trade text or holding any further discussions on digital trade with IPEF partners:

1. Are you contemplating including in IPEF any terms that could conflict with legislation, regulation, or other government actions relating to digital governance of any kind, including on algorithm and source code secrecy, cross border data flows, location of computing facilities, and non-discriminatory treatment of digital products? If so, please detail the types of legislation, regulation, or actions that could raise potential conflicts under your draft digital trade text if adopted by the U.S. government or our trading partners. If you cannot detail any, please explain why you are including the digital trade provisions.
2. To the extent that you are including in IPEF negotiations any constraints on government legislation, regulation, or other action against Big Tech, what exceptions are you proposing to include? What is the history of successful and unsuccessful uses of these (or similar) exceptions?
3. If there is little or no precedent for any exceptions to restrictions that you contemplate in IPEF on governments' ability to regulate digital products and companies, or a pattern of rejections of relevant exceptions language by trade tribunals, how can we know these exceptions will be interpreted to safeguard legitimate digital government measures for the public interest?
4. Were officials from federal agencies whose work could be impacted by these digital trade rules, such as the U.S. Department of Justice and Federal Trade Commission, called upon to assist with the initial development and drafting of the IPEF digital trade chapter? If not, have they had the opportunity subsequently to fully review the text of the IPEF digital trade chapter and give feedback?
5. What feedback, if any, have these agencies given you? Have you fully incorporated this feedback into the text? If not, should negotiations on the IPEF digital trade chapter be paused to allow sufficient time for review and revisions?

Sincerely,

after-six-more-rounds.

EXEMPTION 6

Elizabeth Warren
United States Senator

EXEMPTION 6

Amy Klobuchar
United States Senator

EXEMPTION 6

Sherrod Brown
United States Senator

EXEMPTION 6

Richard Blumenthal
United States Senator

EXEMPTION 6

Jan Schakowsky
Member of Congress
Ranking Member,
Subcommittee on Innovation,
Data, and Commerce

EXEMPTION 6

David N. Cicilline
Member of Congress

EXEMPTION 6

Rosa L. DeLauro
Member of Congress

CC:

Jonathan Kanter, Assistant Attorney General for the Antitrust Division, Department of Justice
Lina Khan, Chair, Federal Trade Commission

RRM notification

From: kathryn.l.hendrickson@ustr.eop.gov
To: EXEMPTION 6 warren.senate.gov
Date: Fri, 21 Apr 2023 14:03:04 -0400

Hi Catherine,

On Monday morning, USTR will announce the successful resolution of a [USMCA RRM petition](#) related to a Unique Fabricating facility in Santiago de Querétaro, where workers were denied their rights to freedom of association and collective bargaining. This marks the eighth facility in which the United States has successfully used the RRM to benefit workers.

This information is embargoed until released publicly and we would welcome a supportive statement from your boss once public.

Best,
Katie

Katie Hendrickson

Director of Congressional Affairs | Office of the U.S. Trade Representative

EXEMPTION 6 | Kathryn.L.Hendrickson@ustr.eop.gov

www.ustr.gov

IPEF Second Round Public Summaries

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Fri, 21 Apr 2023 11:53:14 -0400
Attachments: IPEF Trade Pillar Public Summaries - Tranche 2 Text 04202023.pdf (125.48 kB)

Hey Catherine,

Attached are public summaries for the text we tabled in Bali last month along with a summary of a chapter on inclusivity led by Australia and New Zealand. This is the second set of public summaries for IPEF we are releasing and is in addition to Commerce's public summaries for IPEF and our Taiwan round public summaries.

These will be public later today.

Thanks,
Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

Pillar I: Trade

Digital Trade

The United States tabled proposed text on digital trade that includes a broad set of provisions designed to promote inclusive, sustainable growth of the digital economy for workers, consumers and businesses, especially MSMEs. The text includes provisions to promote trust and confidence in the digital economy; enhance access to online information and the use of the Internet; facilitate digital trade, including by avoiding unfair trade practices; support the development and use of emerging technologies; and advance resilient and secure digital infrastructure.

Digital trade can more effectively promote inclusive growth if workers, consumers, and businesses have confidence in the safety and fairness of the digital economy. The proposed text includes provisions addressing data protection, consumer protection, and artificial intelligence that support inclusive growth by promoting trust in the digital economy. It is also important that all of our people are able to fully participate in and benefit from the digital economy. The proposed text includes provisions that promote access to the Internet and online services and information and address the challenges of closing the digital divide by promoting digital equity and inclusion and investing in education and training.

The U.S. proposal includes provisions designed to avoid unfair trade practices, while recognizing the need for Parties to be able to address legitimate public policy objectives in the digital trade area. The proposed text also includes several provisions aimed at ensuring an effective legal framework for electronic transactions that is consistent with international best practices.

Finally, the infrastructure that underlies the Internet must be resilient and secure to ensure the success of digital trade and its benefits to workers, business, and consumers. The proposed text includes provisions promoting the security of the Internet and ICT infrastructure.

Labor

The United States tabled proposed IPEF Pillar I (Trade) text on Labor as referenced in the Ministerial Statement. The Ministerial Statement establishes that IPEF Pillar I (Trade) will include provisions and initiatives that benefit workers and ensure free and fair trade that contributes to promoting sustainable and inclusive growth for IPEF countries and the Indo-Pacific region.

The U.S. proposed text requires that each Party adopt and maintain internationally recognized labor rights in its labor laws. Further, the text includes provisions aimed at promoting compliance with labor laws through commitments related to non-derogation from, and the effective enforcement of, labor laws.

The U.S. text proposal also includes provisions establishing cooperative mechanisms to help the Parties support each other in achieving ambitious labor goals and to collaborate constructively on labor issues, including through capacity building, and sharing information and best practices. The Parties would identify and collaborate on emerging labor issues, including related to promoting labor rights of workers in the digital economy and inclusive and equitable workforce development. The proposed text includes a mechanism to address forced labor in supply chains. Additionally, the proposed text includes a mechanism to encourage corporate accountability in cases where an entity violates local labor laws.

Finally, the proposed text establishes processes and mechanisms for the Parties to maintain regular communication and cooperation on the implementation of the labor commitments, including with members of the public. In addition to a commitment to promote public awareness of labor laws, several provisions include mechanisms to engage with stakeholders and the public.

Environment

The United States tabled proposed IPEF Pillar I (Trade) text on Environment as referenced in the Ministerial Statement. The Ministerial Statement establishes that IPEF partners will pursue provisions and initiatives under IPEF Pillar I that meaningfully contribute to environmental protection and respond to our common sustainability challenges, including climate change. The U.S. proposed text affirms that Parties recognize that a healthy environment is integral to a healthy economy and sustainable development. Parties would strive to ensure that they provide high levels of environmental protection and continue to improve these levels. Parties would also commit to not weaken or reduce the protections afforded in domestic environmental laws in order to attract trade or investment. The proposed text also requires that Parties effectively enforce their respective environmental laws.

The proposed text focuses on environment issues that are particularly relevant to the Indo-Pacific Region, including the marine environment; forests, fisheries, and wildlife; fisheries subsidies; marine litter and plastics pollution; air quality; and biodiversity conservation. The proposed text also breaks new ground by including elements related to climate and trade, such as more resource efficient and circular economies, digital economy and environmental sustainability, renewable energy and clean energy technologies, and sustainable finance.

Finally, the proposed text establishes processes for opportunities for public participation, as well as enhanced cooperation among Parties across a broad range of covered environment topics. It calls for the establishment of an Environment Committee to oversee chapter implementation, and for a mechanism to support consultations requested between Parties on any matter arising under the Chapter.

Technical Assistance

The United States tabled proposed IPEF Pillar I (Trade) text on Technical Assistance and Economic Cooperation as referenced in the Ministerial Statement. The Ministerial Statement establishes that IPEF Pillar I (Trade) will include technical and economic cooperation to facilitate the full implementation of high-standard trade provisions in the Indo-Pacific. All partners – developed and developing – will build upon existing assistance platforms and coordinate development cooperation with the goal to implement IPEF provisions and initiatives in line with identified needs.

The proposed text lays out a set of principles and a framework to enable the Parties to identify needs and resources to support implementation of other Chapters of the IPEF Pillar I (Trade). In line with this approach, the proposed text presents technical assistance and economic cooperation as a cross-cutting theme, and discussions on technical assistance and capacity building will be guided by the outcomes from negotiations of other Chapters under the IPEF Pillar I (Trade). Further, the proposed text reaffirms provisions aimed at promoting demand-driven technical assistance reflecting the principles of aid effectiveness drawn from the OECD whole-of-government approach to effective development cooperation, including ownership of development priorities by developing countries; a focus on results; use of inclusive partnerships; and public transparency and mutual accountability.

The proposed text also includes provisions establishing a Committee on Development and Economic Cooperation whose core functions are to support developing country members to identify relevant capacity building needs and for donors to coordinate and maximize the effectiveness of limited capacity building resources.

Finally, to bring more transparency and encourage input from stakeholders, the proposed text envisages the establishment of a Working Group, under the Committee on Development and Economic Cooperation, composed of both government and non-government representatives empowered to make recommendations regarding country action plans. The proposed text incorporates an innovative approach on cooperation, based on consultations among partners, with a view to advancing concepts of regional economic inclusivity, sustainability, and resilience.

Inclusivity (summary prepared by Australia and New Zealand)

Australia and New Zealand proposed IPEF Pillar I (Trade) text on Inclusivity as referenced in the Ministerial Statement. The Ministerial Statement establishes that IPEF partners will expand “meaningful access to, and participation in, the regional economy for all segments of society, including Indigenous Peoples, minorities, women, people with disabilities, rural populations, and local communities”.

The proposed text highlights that promoting an inclusive and equitable trade and investment environment is critical to advancing sustainable economic growth and development in the Indo-Pacific. It acknowledges that each group identified in the Ministerial Statement, as well as Micro, Small and Medium-Sized Enterprises (MSMEs), face various barriers to full, meaningful and equal participation in trade and investment. Accordingly, the proposed text seeks to strengthen cooperation across the IPEF membership to reduce barriers to, and improve access and participation in, the opportunities and benefits of trade and investment.

Finally, the proposed text establishes processes for IPEF members to develop and implement cooperative activities to support all segments of society access the opportunities and benefits created by IPEF. These activities may include exchanging information, experience and evidence relating to a range of relevant initiatives, programs and policies.

RE: IPEF Second Round Public Summaries

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" EXEMPTION 6 warren.senate.gov>
Date: Sun, 23 Apr 2023 16:42:04 -0400

Here you go!

Here it is on the website (under additional resources): [Trade Pillar | United States Trade Representative \(ustr.gov\)](#)

And the direct link to the PDF summary from our website: [IPEF Pillar 1 text summaries USTR April 2023.pdf](#)

From: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Sent: Friday, April 21, 2023 6:18 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: IPEF Second Round Public Summaries

Thanks, Dan. Can you flag for me the webpage when it goes up?

Have a great weekend!

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Friday, April 21, 2023 11:53 AM
To: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Subject: IPEF Second Round Public Summaries

Hey Catherine,

Attached are public summaries for the text we tabled in Bali last month along with a summary of a chapter on inclusivity led by Australia and New Zealand. This is the second set of public summaries for IPEF we are releasing and is in addition to Commerce's public summaries for IPEF and our Taiwan round public summaries.

These will be public later today.

Thanks,
Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

RE: Letter from Sen. Warren, Rep. Doggett, colleagues to Amb. Tai & Sec. Blinken

From: "Smith, Allison W. EOP/USTR" <allison.w.smith@ustr.eop.gov>
:
To: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>, "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>, [REDACTED]@state.gov
Cc: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>, "Noisette, Ivanley" [REDACTED] mail.house.gov>
Date: Tue, 02 May 2023 17:02:21 -0400

Nikhil,

Confirming receipt at USTR.

Thank you,
Allison

From: Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>
Sent: Tuesday, May 2, 2023 5:01 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov> [REDACTED] state.gov
Cc: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>; Noisette, Ivanley [REDACTED] mail.house.gov>
Subject: Letter from Sen. Warren, Rep. Doggett, colleagues to Amb. Tai & Sec. Blinken

Good afternoon,

Please find attached a letter from Senator Warren, Representative Doggett, and colleagues to Ambassador Tai and Secretary Blinken. I would appreciate it if you could confirm receipt when you have a chance.

Thank you,

Nikhil Srinivasan (*he/him*)

Legislative Correspondent

Office of U.S. Senator Elizabeth Warren

EXEMPTION 6

RE: New oversight report on digital trade

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Date: Tue, 02 May 2023 13:42:50 -0400

Yes, I'm free until 2:30, and then again after 3pm.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Tuesday, May 2, 2023 1:32 PM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: RE: New oversight report on digital trade

Can you chat now?

From: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Sent: Tuesday, May 2, 2023 1:17 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: New oversight report on digital trade

Dan,

Flagging this new oversight report on digital trade that my office just put out:
<https://www.warren.senate.gov/imo/media/doc/USTR%20REPORT.pdf>

I'm happy to chat at the staff level, as always.

I understand the Senator also had recently tried calling Ambassador Tai and left a voicemail and text asking to talk.

Best

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
[REDACTED] warren.senate.gov
she/her/hers

Hey

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

To: EXEMPTION 6 warren.senate.gov

Date: Thu, 04 May 2023 10:39:01 -0400

Hey man,

Following up on your convo with Amb Bianchi. The readout I got was that your boss believes we have been "unresponsive." Do you have time to chat? I want to fully understand what you mean by this.

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

Report follow up

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Thu, 04 May 2023 15:12:42 -0400

Hey there,

I had one substantive thing I wanted to discuss with you related to the report your boss put out. Do you have a minute later today?

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

Got a minute?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

To: "Laporte-Oshiro, Catherine (Warren)" EXEMPTION 6 warren.senate.gov>

Date: Tue, 09 May 2023 18:53:25 -0400

Hello from Singapore! I am here at the round and wanted to give you a quick update on digital. Have a minute? I am 12 hours ahead so I just woke up but have some time if you are free. EXEMPTION 6

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

RE: Meeting with DUSTR Bianchi

From: "Body, Meaghan (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>
:
To: "Spiegel, Perry F. EOP/USTR" <peregrine.f.spiegel@ustr.eop.gov>, "Laporte-Oshiro, Catherine (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>, "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Cc: "Donenberg, Jon (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>
Date: Wed, 10 May 2023 11:20:52 -0400

Thanks, Perry. No, that's it from our team. Thank you!

Meaghan

From: Spiegel, Perry F. EOP/USTR <Peregrine.F.Spiegel@ustr.eop.gov>
Sent: Wednesday, May 10, 2023 11:16 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; Body, Meaghan (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Subject: RE: Meeting with DUSTR Bianchi

Hi Meaghan,

Perfect. I can confirm this time. Will there be anyone else from your side joining?

Perry Spiegel
Special Assistant, Ambassador Sarah Bianchi
Office of the United States Trade Representative | Executive Office of the President
[REDACTED]

From: Laporte-Oshiro, Catherine (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Sent: Tuesday, May 9, 2023 5:23 PM
To: Spiegel, Perry F. EOP/USTR <Peregrine.F.Spiegel@ustr.eop.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; Body, Meaghan (Warren)

EXEMPTION 6 <[@warren.senate.gov](mailto:warren.senate.gov)>

Subject: RE: Meeting with DUSTR Bianchi

Thanks, Perry. How about 2:30 on Thursday, May 11?

I'm looping my colleague Meaghan as well for scheduling purposes.

From: Spiegel, Perry F. EOP/USTR <Peregrine.F.Spiegel@ustr.eop.gov>

Sent: Tuesday, May 9, 2023 4:50 PM

To: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** <warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Cc: Donenberg, Jon (Warren) **EXEMPTION 6** <warren.senate.gov>

Subject: RE: Meeting with DUSTR Bianchi

Hi Catherine,

Great to be connected. That would be great. I can offer a 30-minute Zoom call anytime between 1 - 5pm on Thursday, May 11 if that works for you. Thanks so much.

Sincerely,

Perry Spiegel

Special Assistant, Ambassador Sarah Bianchi

Office of the United States Trade Representative | Executive Office of the President

EXEMPTION 6

From: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Tuesday, May 9, 2023 3:03 PM

To: Spiegel, Perry F. EOP/USTR <Peregrine.F.Spiegel@ustr.eop.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Cc: Donenberg, Jon (Warren) <**EXEMPTION 6** <warren.senate.gov>

Subject: Meeting with DUSTR Bianchi

Hi Perry and Dan –

Hope you're both well. I'm following up on our chief of staff Jon and Ambassador Bianchi touching base about scheduling a meeting this week.

Could you let us know times she is available?

Thank you.

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren

EXEMPTION 6  warren.senate.gov

she/her/hers

RE: Amb Tai - Warren Meeting Request

From: "Kutzen, Amielle (Warren)" [REDACTED] warren.senate.gov>
:
To: "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>, "Gerrard, Laura (Warren)" [REDACTED] warren.senate.gov>, "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>, "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Cc: "Donenberg, Jon (Warren)" [REDACTED] warren.senate.gov>, "Smith, Allison W. EOP/USTR" <allison.w.smith@ustr.eop.gov>, "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>
Date: Tue, 16 May 2023 18:35:31 -0400

Matthew – not a problem, we can make 10:30am work. Thanks!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Tuesday, May 16, 2023 6:28 PM
To: Gerrard, Laura (Warren) [REDACTED] warren.senate.gov>; Kutzen, Amielle (Warren) [REDACTED] warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) [REDACTED] warren.senate.gov>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Subject: RE: Amb Tai - Warren Meeting Request

Laura,

Would we be able to move this meeting up slightly to 10:30am?

From: Hoeck, Matthew J. EOP/USTR
Sent: Tuesday, May 16, 2023 11:52 AM
To: 'Gerrard, Laura (Warren)' [REDACTED] warren.senate.gov>; 'Kutzen, Amielle (Warren)' [REDACTED] warren.senate.gov>; 'Laporte-Oshiro, Catherine (Warren)' [REDACTED] warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: 'Donenberg, Jon (Warren)' [REDACTED] warren.senate.gov>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Subject: RE: Amb Tai - Warren Meeting Request

Laura,

Thank you for hopping on the phone. We are confirmed for 10:45am tomorrow. Thank you again for your patience and understanding.

Sincerely,

Matthew Hoeck
Special Assistant to the U.S. Trade Representative
Office of the U.S. Trade Representative
EXEMPTION 6
Matthew.J.Hoeck@ustr.eop.gov

From: Hoeck, Matthew J. EOP/USTR
Sent: Tuesday, May 16, 2023 11:18 AM
To: 'Gerrard, Laura (Warren)' **EXEMPTION 6** warren.senate.gov>; Kutzen, Amielle (Warren) **EXEMPTION 6** warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) **EXEMPTION 6** warren.senate.gov>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Subject: RE: Amb Tai - Warren Meeting Request

Laura,

I think it' best for us to connect over the phone and figure out. 5pm tomorrow is out due to potential Cabinet Meeting and Thursday Morning we are coming back from a morning event in Northern VA.

Apologies, but this needs to be in person meeting. And end of next week, the Ambassador beings 2 weeks of travel as well. So happy to put heads together and explore options. Is there a room maybe we can reserve off of one of committee rooms? Is later Thursday an option?

From: Gerrard, Laura (Warren) **EXEMPTION 6** warren.senate.gov>
Sent: Tuesday, May 16, 2023 10:51 AM
To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Kutzen, Amielle (Warren) **EXEMPTION 6** warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) **EXEMPTION 6** warren.senate.gov>; Smith, Allison W. EOP/USTR

<Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Subject: RE: Amb Tai - Warren Meeting Request

Hi Matthew – the Senate is in recess next week so Sen. Warren will be back in MA and can't meet in person on the 22nd and 23rd, although she would be happy to connect by phone. Are 5pm tomorrow and 9:45am Thursday definitely off the table? Those are the best windows on our end to make something happen in person given the committee schedule this week.

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Tuesday, May 16, 2023 10:47 AM
To: Gerrard, Laura (Warren) **EXEMPTION 6** <warren.senate.gov>; Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** <warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) **EXEMPTION 6** <warren.senate.gov>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Subject: RE: Amb Tai - Warren Meeting Request

Laura,

The Ambassador would like this to be in person. Happy to even look at May 22rd and 23rd. If you have a min, could also hop on the line and discuss. Can call me anytime. Much appreciated!

Sincerely,

Matthew Hoeck
Special Assistant to the U.S. Trade Representative
Office of the U.S. Trade Representative
EXEMPTION 6
Matthew.J.Hoeck@ustr.eop.gov

From: Gerrard, Laura (Warren) **EXEMPTION 6** <warren.senate.gov>
Sent: Tuesday, May 16, 2023 8:01 AM
To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** <warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) **EXEMPTION 6** <warren.senate.gov>; Smith, Allison W. EOP/USTR

<Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Subject: Re: Amb Tai - Warren Meeting Request

Unfortunately Sen. Warren is going to be between three committee hearings at that time, so she's not able to start at 10:15am. Senator Warren would be happy to connect via phone instead of an in-person meeting to make sure they're able to touch base sooner rather than later – would a call at 11:45am on Friday be possible? We have some flexibility that afternoon as well if a time later in the afternoon would be better on the Ambassador's schedule.

Thanks so much!

Laura

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Monday, May 15, 2023 2:31:32 PM
To: Gerrard, Laura (Warren); Kutzen, Amielle (Warren); Laporte-Oshiro, Catherine (Warren); McCarthy, Daniel M. EOP/USTR
Cc: Donenberg, Jon (Warren); Smith, Allison W. EOP/USTR; Annino, Angelica Z. EOP/USTR
Subject: RE: Amb Tai - Warren Meeting Request

Would 10:15 am-10:45am be doable? Ambassador will be returning from an event in Northern VA that morning.

From: Gerrard, Laura (Warren) **EXEMPTION 6** <warren.senate.gov>
Sent: Monday, May 15, 2023 2:18 PM
To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** <warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) **EXEMPTION 6** <warren.senate.gov>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Subject: Re: Amb Tai - Warren Meeting Request

Sen. Warren is chairing a subcommittee hearing all afternoon, so unfortunately an earlier time is not possible. If Wednesday doesn't work is 9:45am on Thursday possible?

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>

Sent: Monday, May 15, 2023 2:08:18 PM

To: Gerrard, Laura (Warren); Kutzen, Amielle (Warren); Laporte-Oshiro, Catherine (Warren);
McCarthy, Daniel M. EOP/USTR

Cc: Donenberg, Jon (Warren); Smith, Allison W. EOP/USTR; Annino, Angelica Z. EOP/USTR

Subject: RE: Amb Tai - Warren Meeting Request

Laura,

Could we shoot for an earlier in the afternoon? We do have 5pm now on Hill.

From: Gerrard, Laura (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Monday, May 15, 2023 2:02 PM

To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** <warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Cc: Donenberg, Jon (Warren) **EXEMPTION 6** <warren.senate.gov>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>

Subject: Re: Amb Tai - Warren Meeting Request

Thanks, Matthew. Would a meeting at 5p on Wednesday be possible? Thank you!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>

Sent: Monday, May 15, 2023 1:57:26 PM

To: Gerrard, Laura (Warren); Kutzen, Amielle (Warren); Laporte-Oshiro, Catherine (Warren);
McCarthy, Daniel M. EOP/USTR

Cc: Donenberg, Jon (Warren); Smith, Allison W. EOP/USTR; Annino, Angelica Z. EOP/USTR

Subject: RE: Amb Tai - Warren Meeting Request

Laura,

Don't think that time will work...Ambassador will actually be on the hill that day for meeting at 1:30pm. I could do noon or a time after 2:15pm...happy to hop on the line and discuss too!

Matthew Hoeck

Special Assistant to the U.S. Trade Representative
Office of the U.S. Trade Representative

EXEMPTION 6

Matthew.J.Hoeck@ustr.eop.gov

From: Gerrard, Laura (Warren) **EXEMPTION 6** warren.senate.gov>

Sent: Monday, May 15, 2023 1:55 PM

To: Kutzen, Amielle (Warren) **EXEMPTION 6** warren.senate.gov>; Hoeck, Matthew J. EOP/USTR
<Matthew.J.Hoeck@ustr.eop.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6**

warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Cc: Donenberg, Jon (Warren) **EXEMPTION 6** warren.senate.gov>; Smith, Allison W. EOP/USTR
<Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>

Subject: Re: Amb Tai - Warren Meeting Request

Matthew - just wanted to check back on this to make sure we can land a new time. Thanks so much!

From: Kutzen, Amielle (Warren)

Sent: Friday, May 12, 2023 7:18:46 PM

To: Gerrard, Laura (Warren); Hoeck, Matthew J. EOP/USTR; Laporte-Oshiro, Catherine (Warren);
McCarthy, Daniel M. EOP/USTR

Cc: Donenberg, Jon (Warren); Smith, Allison W. EOP/USTR; Annino, Angelica Z. EOP/USTR

Subject: RE: Amb Tai - Warren Meeting Request

Hi Matthew – so sorry to reach out with a change, we’ve just had a full Senate classified briefing
noticed for this time!

Is there any chance you’d be able to move to Wednesday the 17th at 10:15am instead?

Thank you!

Ami

From: Gerrard, Laura (Warren) **EXEMPTION 6** warren.senate.gov>

Sent: Wednesday, May 10, 2023 11:13 AM

To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Laporte-Oshiro, Catherine
(Warren) **EXEMPTION 6** warren.senate.gov>; McCarthy, Daniel M. EOP/USTR
<Daniel.M.McCarthy@ustr.eop.gov>

Cc: Donenberg, Jon (Warren) [EXEMPTION 6 warren.senate.gov](#)>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Kutzen, Amielle (Warren) [EXEMPTION 6 warren.senate.gov](#)>
Subject: RE: Amb Tai - Warren Meeting Request

Great – thank you! Our office is Hart-309. Let me know if you need anything else on our end!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Wednesday, May 10, 2023 11:11 AM
To: Gerrard, Laura (Warren) [EXEMPTION 6 warren.senate.gov](#)>; Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6 warren.senate.gov](#)>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) [EXEMPTION 6 warren.senate.gov](#)>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Kutzen, Amielle (Warren) [EXEMPTION 6 warren.senate.gov](#)>
Subject: RE: Amb Tai - Warren Meeting Request

Laura and Ami,

I can confirm 4pm on Tuesday 5/16 works for Ambassador Tai. Thank you!

Sincerely,

Matthew Hoeck
Special Assistant to the U.S. Trade Representative
Office of the U.S. Trade Representative
[EXEMPTION 6](#)
Matthew.J.Hoeck@ustr.eop.gov

From: Gerrard, Laura (Warren) [EXEMPTION 6 warren.senate.gov](#)>
Sent: Tuesday, May 9, 2023 9:41 PM
To: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6 warren.senate.gov](#)>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Donenberg, Jon (Warren) [EXEMPTION 6 warren.senate.gov](#)>; Smith, Allison W. EOP/USTR <Allison.W.Smith@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Kutzen, Amielle (Warren) [EXEMPTION 6 warren.senate.gov](#)>
Subject: Re: Amb Tai - Warren Meeting Request

Thanks, Catherine. Dan, great to be connected. Would a meeting at 4pm on Tuesday 5/16 be possible on Ambassador Tai's schedule?

Laura

From: Laporte-Oshiro, Catherine (Warren)
Sent: Tuesday, May 9, 2023 8:22:03 PM
To: McCarthy, Daniel M. EOP/USTR
Cc: Donenberg, Jon (Warren); Smith, Allison W. EOP/USTR; Annino, Angelica Z. EOP/USTR; Hoeck, Matthew J. EOP/USTR; Gerrard, Laura (Warren); Kutzen, Amielle (Warren)
Subject: Re: Amb Tai - Warren Meeting Request

Thanks, Dan. Looping Laura and Ami from our scheduling team.

Best,

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
EXEMPTION 6 warren.senate.gov
she/her/hers

(Sent from a phone, please excuse brevity, typos, and auto-correct issues.)

On May 9, 2023, at 8:18 PM, McCarthy, Daniel M. EOP/USTR
<Daniel.M.McCarthy@ustr.eop.gov> wrote:

Hey Catherine and Jon,

Reaching out to see if we can get an Ambassador Tai – Senator Warren in-person meeting scheduled (in addition to your chat with Deputy Amb Bianchi). Ambassador Tai would like to follow up on the report and related issues. On our end, next week would work great but I've included our scheduling team to land this.

Thanks,
Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs

Minute to chat before the meeting tomorrow?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Tue, 16 May 2023 15:06:12 -0400

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

have a second to compare notes?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Wed, 17 May 2023 16:26:08 -0400

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

Amb Tai cell

From: daniel.m.mccarthy@ustr.eop.gov

To: Catherine Laporte-Oshiro (Warren) **EXEMPTION 6** warren.senate.gov>

Date: Wed, 17 May 2023 17:41:08 -0400

EXEMPTION 6

Please also let me know if your boss is ever unable to reach her so we can make sure they connect.

Heads up - Taiwan

From "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

:

To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>

Cc: "Allison W. EOP/USTR Smith (Allison.W.Smith@ustr.eop.gov)"
<allison.w.smith@ustr.eop.gov>

Date: Thu, 18 May 2023 12:38:11 -0400

Hey there,

I wanted to give you a heads up that later today USTR will be publishing the final text of the First Agreement under the U.S.-Taiwan Initiative on 21st Century Trade. The first agreement under the initiative covers the areas of customs administration and trade facilitation, good regulatory practices, services domestic regulation, anticorruption, and small and medium-sized enterprises.

This text will be public for a period of time before it is signed (we do not have a signing date yet).

Thanks,
Dan

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

Re: RRM notify

From: "Laporte-Oshiro, Catherine (Warren)" [EXEMPTION 6](#) warren.senate.gov>
To: "Hendrickson, Katie L. EOP/USTR" <kathryn.l.hendrickson@ustr.eop.gov>
Date: Sun, 21 May 2023 11:50:16 -0400

Thanks, Katie, received!

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
[EXEMPTION 6](#) warren.senate.gov
she/her/hers
(Sent from a phone, please excuse brevity, typos, and auto-correct issues.)

On May 21, 2023, at 6:39 AM, Hendrickson, Katie L. EOP/USTR
<Kathryn.L.Hendrickson@ustr.eop.gov> wrote:

Hi Catherine,

On Monday morning, USTR will announce that the United States has asked Mexico to review whether workers at a facility operated by Goodyear SLP, S. de R.L. de C.V. in the city and state of San Luis Potosí are being denied the rights to freedom of association and collective bargaining. The request, which was made in response to a petition, marks the eighth time the United States has formally invoked the RRM.

This information is embargoed until released publicly and we would welcome a supportive statement from your boss once public.

Best,
Katie

Katie Hendrickson
Office of the U.S. Trade Representative
[EXEMPTION 6](#) | Kathryn.L.Hendrickson@ustr.eop.gov
www.ustr.gov

U.S.-Kenya STIP Chapter Summaries

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" EXEMPTION 6 [REDACTED] warren.senate.gov>
Date: Mon, 22 May 2023 16:27:38 -0400
Attachments: U.S.-Kenya STIP Chapter Summaries May 2023.docx (26.82 kB)

Hey Catherine,

I wanted to give you a heads up on the attached public summaries of the US texts that we tabled at our recent U.S.-Kenya Strategic Trade and Investment Partnership negotiating round in Nairobi. We plan to publish these tomorrow. Please keep these confidential until they are publicly released.

-Dan

**U.S.-Kenya Strategic Trade and Investment Partnership
Summary of Texts Proposed by the U.S. Side
May 2023**

To date, in negotiations between the United States and Kenya under their Strategic Trade and Investment Partnership (STIP), the U.S. side has proposed texts covering the following trade areas from the U.S. negotiating goals for the STIP:

Agriculture – First Tranche

The United States tabled proposed text on agriculture that includes a broad set of provisions designed to open or expand opportunities for agricultural producers to access markets and advance food security. In particular, the text is aimed at increasing transparency and regulatory certainty for agricultural exporters and importers, as well as encouraging collaboration and innovation. The text includes a number of provisions regarding food safety, plant health and animal health protection, as well as other provisions of importance for agricultural trade, preserving the role of regulatory authorities to ensure the safety of their domestic food supplies while also facilitating trade in agricultural goods.

These provisions are intended to: improve transparency of regulatory processes and procedures; advance science-based decision-making to protect human, plant, and animal life and health; improve processes and promote cooperation regarding regulatory and administrative requirements; and facilitate agricultural trade. The text also includes provisions related to transparency in import licensing procedures for agricultural products, certification requirements, and equivalency to ensure that any requirements for importation are clearly communicated to agricultural producers. The agriculture text also contains provisions intended to promote food security, such as disciplines regarding the imposition of export restrictions.

Anticorruption

The United States tabled a proposed text on anticorruption consisting of nine articles and covering a wide range of topics. This text includes high anticorruption standards to prevent and combat bribery and other forms of corruption. It includes provisions to address priorities and initiatives of the United States.

The text recognizes the importance of preventing and combating bribery and corruption in the context of labor law implementation and enforcement, and provides for strong obligations to fight corruption related to abusive practices in the recruitment of migrant workers. With a view towards enhancing efforts to combat environmental degradation, the text also recognizes the importance of preventing and combating bribery and corruption in the context of strengthening environmental governance and enforcement. In addition to recognizing obligations under the *United Nations Convention against Corruption*, the text recognizes the importance of the successful recovery and return of the proceeds of corruption and the principles adopted at the *2017 Global Forum on Asset Recovery*.

Provisions to prevent and combat bribery include obligations to adopt or maintain measures to establish as criminal offenses the bribery of public officials, embezzlement, and money laundering. Additionally, this text includes requirements for the maintenance of books and

[APG]

records to prevent the hiding of corruption, disallows the tax deductibility of bribes, requires measures for the seizure of assets derived from corruption, and permits denial of entry to foreign public officials who engaged in corruption. The text also requires the adoption of procedures to report corruption and to protect whistleblowers who report corruption, including protection for external auditors.

To promote integrity among public officials, this text requires measures for the training of public officials, transparency and accountability of public officials, and the reporting by public officials of any conflicts of interest and acts of corruption. Additionally, the text mandates procedures for the removal of public officials who are charged with or convicted of corruption, along with measures to prevent opportunities for corruption by members of the judiciary. To prevent the hiding of ill-gotten gains, the text also includes a provision requiring the maintenance of a central register for companies to report beneficial ownership information.

As combating corruption requires the active participation of segments outside of the public sector, this text requires measures to promote the participation of enterprises, civil society, non-governmental organizations, worker organizations, and community-based organizations through public information and education programs, public awareness, and the dissemination of information concerning bribery and corruption. Additionally, the text includes a provision obligating government contractors to maintain a written code of business ethics and conduct and to exercise due diligence to prevent and detect criminal conduct. Finally, this text includes provisions to affirm effective enforcement measures.

Micro, Small, and Medium-sized Enterprises

The U.S. side has tabled proposed text for a chapter on micro, small and medium-sized enterprises (MSMEs) that highlights the smallest businesses and recognizes the fundamental role of MSMEs in maintaining the dynamism and competitiveness of the economies of the United States and Kenya and the integral role of the private sector in promoting MSME cooperation.

The text proposed by the U.S. side promotes ongoing cooperation to increase MSME trade and investment opportunities, subject to the availability of resources, through exchange of information and best practices in areas such as promoting MSME participation in international trade and improving MSME access to capital and credit, training programs, trade education, trade finance, trade missions, and trade facilitation. The text also aims to enhance cooperation among MSME support centers, promote the participation of MSMEs in digital trade, and help MSMEs adapt to changing market conditions.

The proposed text includes a focus on activities to promote MSMEs owned by underserved and underrepresented groups, including women, indigenous peoples, youth, and minorities, as well as start-ups and agricultural and rural MSMEs.

The proposed text establishes provisions promoting online, publicly accessible information resources useful for MSMEs trading, investing, or doing business in the United States and Kenya. This information may include customs regulations and procedures, technical regulations, foreign investment regulations, business registration procedures, intellectual property rights, and other information.

[APG]

The proposed text also provides for a periodic MSME dialogue that is inclusive of MSMEs owned by diverse, underserved, and underrepresented groups in the United States and Kenya. Among other things, this dialogue could consider small business trade opportunities and challenges between the United States and Kenya. It is envisioned to be an important mechanism for ensuring that MSMEs in the United States and Kenya will continue to be heard and their views considered in the future.

Services Domestic Regulation

The U.S. side has tabled proposed text on development and administration of rules and procedures governing licenses or other authorizations required to supply services (sometimes referred to as “services domestic regulation”). This text builds on the outcomes agreed to by World Trade Organization (WTO) Members in December 2021 in the Joint Statement Initiative on Services Domestic Regulation.

Difficulty in obtaining licenses or other authorizations in a foreign jurisdiction can be a barrier to services exporters, particularly small companies such as professional services firms (architects, engineers, accountants, lawyers, etc.). The aim of the proposed text is to ensure that service suppliers are treated fairly and in a transparent manner when they apply for permission to operate in a given sector, and that there is a smooth flow of information between the applicant for a license and the regulator. At the same time, the proposed text does not interfere with the ability of regulators to apply domestic standards to protect important interests such as safety, health, and the environment, or to ensure worker and consumer welfare.

In striking this important balance, the proposed text requires that laws and regulations be transparent and that regulators be independent of the industry that they oversee. The proposed text further provides that regulators would inform applicants of the requirements to obtain a license in order to provide applicants a fair opportunity to demonstrate that they meet those requirements, and that regulators would decide on whether to issue a license in a reasonable period of time. The proposed text also prohibits licensing rules from discriminating on the basis of gender.

Given the complexity of supervision and regulation of the financial services sector, a special set of rules is designed to preserve the ability of regulators overseeing that sector to protect the stability of the financial system.

In recent years, there has been rapid growth in the ability to apply for licenses online, streamlining the process for both applicants and regulators. The proposed text encourages regulators to continue experimenting with new technologies to make the application process easier, especially with an eye to reducing unnecessary administrative burdens on small and medium-sized businesses.

Notably, the proposed text goes beyond the existing WTO rules by applying these high standards to all sectors in which foreign service suppliers are permitted to operate, rather than limiting the obligations to an arbitrary set of sectors covered by formal WTO commitments that become outdated and may not reflect the reality of the marketplace.

[APG]

RE: Missouri v Holland

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Wed, 24 May 2023 11:38:04 -0400

Understood. Thanks

-----Original Message-----

From: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Sent: Wednesday, May 24, 2023 11:37 AM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: Missouri v Holland

EXEMPTION 5

See you tomorrow!

-----Original Message-----

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Wednesday, May 24, 2023 10:20 AM
To: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Subject: RE: Missouri v Holland

Thanks. **EXEMPTION 5**

More on Holland from our lawyers:

EXEMPTION 5

EXEMPTION 5
[Redacted]

-----Original Message-----

From: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Sent: Monday, May 22, 2023 3:13 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: Missouri v Holland

Thanks for following up! EXEMPTION 5
[Redacted]

-----Original Message-----

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Monday, May 22, 2023 12:47 PM
To: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Subject: Missouri v Holland

Hey there,

Your boss raised this case a few times in the meeting. Can you expand a little bit on what her point was and what it means for our text and her concerns?

Just want to make sure we have an understanding.

Thanks

RE: In the office tomorrow?

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>
:
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>, "Donenberg, Jon (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>
Date: Wed, 24 May 2023 11:23:39 -0400

Great, see you then!

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Wednesday, May 24, 2023 11:12 AM
To: Donenberg, Jon (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Subject: RE: In the office tomorrow?

Sounds good. Catherine I'll plan to drop by around 11:30

From: Donenberg, Jon (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Sent: Wednesday, May 24, 2023 11:01 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: In the office tomorrow?

Sorry I'm actually out of the building tomorrow but it sounds like Catherine will be able to connect!

From: Laporte-Oshiro, Catherine (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Sent: Wednesday, May 24, 2023 10:57 AM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Donenberg, Jon (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Subject: RE: In the office tomorrow?

Thanks, Dan. I'll be in the office tomorrow, most flexible before 12pm, but also after 3:30pm.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Sent: Wednesday, May 24, 2023 10:22 AM

To: Donenberg, Jon (Warren) **EXEMPTION 6** warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>

Subject: In the office tomorrow?

Hey guys,

My boss wants to get your boss a signed copy of a book. I am going to be on the hill tomorrow. Are either of you going to be in the office? Would love to drop it off and say hi.

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

RE: USTR response

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "Hendrickson, Katie L. EOP/USTR" <kathryn.l.hendrickson@ustr.eop.gov>
Cc: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Date: Thu, 25 May 2023 18:26:58 -0400

Thank you, received.

From: Hendrickson, Katie L. EOP/USTR <Kathryn.L.Hendrickson@ustr.eop.gov>
Sent: Thursday, May 25, 2023 6:19 PM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Cc: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: USTR response

Hi Catherine,

Please see attached correspondence from Amb. Tai.

Best,
Katie

Katie Hendrickson
Office of the U.S. Trade Representative
[REDACTED] | Kathryn.L.Hendrickson@ustr.eop.gov
www.ustr.gov

Congress of the United States

Washington, DC 20515

May 2, 2023

The Honorable Katherine Tai
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street NW
Washington, D.C. 20508

The Honorable Antony Blinken
Secretary of State
Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Ambassador Tai and Secretary Blinken:

We are writing regarding our concerns about the Investor-State Dispute Settlement (ISDS) system that has been a fixture of the United States' trade and investment agreements with foreign nations. Large corporations have weaponized, and continue to weaponize, this faulty and undemocratic dispute settlement regime to benefit their own interests at the expense of workers, consumers, and small businesses globally. We were pleased to see President Biden's commitment not to include ISDS in any future trade deals,¹ and Ambassador Tai, you have indicated that you will pursue a trade agenda in line with that commitment.² We therefore ask that your agencies investigate any and all options at your disposal to eliminate ISDS liability from existing trade and investment agreements.

Large multinational corporations have successfully lobbied to include ISDS in past trade deals to give themselves special rights and privileges that ordinary citizens do not receive.³ Under ISDS, disputes are handled not through the judicial system but by industry-friendly arbitration tribunals that can require taxpayers to shell out massive sums to big corporations, with no opportunity to appeal.⁴

Unlike the courts, "tribunals have no set procedures or precedents. Standards of evidence are nonexistent, and mistruths or exaggerations go unpunished."⁵ These provisions tilt the playing

¹ United Steelworkers endorsement questionnaire for Joe Biden, May 17, 2020, <https://www.usvvoices.org/endorsed-candidates/biden/BidenUSWQuestionnaire.pdf>.

² Responses to Questions for the Record for Ambassador Katherine Tai from members of the Senate Finance Committee, February 25, 2021, p. 4, <https://www.finance.senate.gov/imo/media/doc/Katherine%20Tai%20Senate%20Finance%20Committee%20QFRs%202.28.2021.pdf>.

³ See e.g., Public Citizen, "At Hill Forum, Conservative and Progressive Trade and Legal Experts Support Removal of ISDS From NAFTA, Revealing Isolation of Corporate Lobby Defending NAFTA Job Outsourcing Incentives," press release, December 5, 2017, <https://www.citizen.org/news/at-hill-forum-conservative-and-progressive-trade-and-legal-experts-support-removal-of-isds-from-nafta-revealing-isolation-of-corporate-lobby-defending-nafta-job-outsourcing-incentives/>.

⁴ Public Citizen, "More Information on Investor-State Dispute Settlement," <https://www.citizen.org/article/more-information-on-investor-state-dispute-settlement/>.

⁵ The American Prospect, "How Biden Can End Secretive Corporate Tribunals," Sarah Lazare, February 2, 2023, <https://prospect.org/world/2023-02-02-investor-state-dispute-settlement/>.

field even further in favor of large corporations, incentivizing offshoring⁶ and undermining the sovereignty of the United States and other governments.

Furthermore, ISDS is not needed to promote positive investment and in fact continues to harm human rights and hinder efforts to address climate change. A pending ISDS case recently launched against Honduras illustrates the need for your administration to take action to remove this problematic corporate handout from existing agreements. Late last year, U.S. company Honduras Próspera launched an ISDS claim under the Dominican Republic–Central America Free Trade Agreement (CAFTA-DR) against the newly elected government of Honduras, seeking nearly \$11 billion,⁷ equal to roughly two-thirds of the country’s entire national budget this year.⁸

The jaw-dropping sum sought by Próspera is not the only reason that this case raises serious concerns. Honduran President Xiomara Castro secured a major victory for democracy last year when the National Congress of Honduras repealed the country’s *Zonas de Empleo y Desarrollo Económico* law (ZEDE, or “Economic Development and Employment Zones”).⁹ The legal name misleadingly implies that ZEDEs constitute standard special economic zones, areas within a country’s borders that, while politically and fiscally part of the host nation, are governed by separate economic regulations as “a mechanism for attracting foreign direct investment, accelerating industrialization, and creating jobs.”¹⁰ However, the legislation enabled the creation of far more radical private governance zones, which have “functional and administrative autonomy” from the national government.¹¹

The zones allowed investors to create their own governance systems and regulations and establish separate courts.¹² And investors have used the law to create jurisdictions where companies can propose their own regulations and where most Hondurans cannot enter without authorization. In the case of Próspera, a ZEDE located largely on the Honduran island of Roatán, investors have created a governing council where 44 percent of members are appointed by the private company and 22 percent are elected by landowners in a system where their number of

⁶ Green America and American Sustainable Business Council, “Small Business Leaders to Trump: End Advantage for Multinationals Over U.S. Small Businesses in NAFTA,” press release, July 12, 2017, https://www.citizen.org/wp-content/uploads/small_business_letter.pdf.

⁷ Letter from White & Case representing Honduras Próspera to the Dirección General de Integración Económica y Política Comercial of Honduras, September 16, 2022, <https://cms.prospera.hn/uploads/2022-09-16-Pr%C3%B3spera-Notice-of-Intent-under-Art.-10.16-ENG-signed.pdf>.

⁸ Latina Republic, “Government of Honduras Approves National Budget for the Fiscal Period 2022-2023,” Soledad Quartucci, September 14, 2022, <https://latinarepublic.com/2022/09/14/government-of-honduras-approves-national-budget-for-the-fiscal-period-2022-2023/>.

⁹ Reuters, “Honduran Congress unanimously nixes special economic zones,” Gustavo Palencia, April 21, 2022, <https://www.reuters.com/world/americas/honduran-congress-unanimously-nixes-special-economic-zones-2022-04-21/>.

¹⁰ The World Bank, “Special Economic Zones,” <https://www.worldbank.org/content/dam/Worldbank/Event/Africa/Investing%20in%20Africa%20Forum/2015/investing-in-africa-forum-special-economic-zones.pdf>.

¹¹ Constitute, “Honduras’s Constitution of 1982 with Amendments through 2013,” April 27, 2022, https://www.constituteproject.org/constitution/Honduras_2013.pdf?lang=en.

¹² NACLA, “A Private Government in Honduras Moves Forward,” Beth Gaglia and Andrea Nuila, February 15, 2021, <https://nacla.org/news/2021/02/12/private-government-honduras-zede-prospera>.

votes is proportional to the size of their property.¹³

This antidemocratic policy, approved under the leadership of previous officials, including former president Juan Orlando Hernández, who have since been indicted on drug trafficking and firearms charges,¹⁴ was highly controversial. Honduran labor unions, small farmers, Indigenous organizations, and even the nation's largest business groups expressed vehement opposition.¹⁵ According to the U.S. State Department, the zones "were broadly unpopular, and viewed as a vector for corruption."¹⁶ The Honduran Congress unanimously approved President Castro's proposal abolishing this policy.¹⁷

Próspera has repeatedly threatened to initiate ISDS arbitration under CAFTA-DR to bully the Honduran government into allowing them to continue operating under the abolished ZEDE framework.¹⁸ In December 2022, the company announced that it filed a CAFTA-DR claim with the International Centre for Settlement of Investment Disputes (ICSID),¹⁹ which will force the government of Honduras to potentially spend millions of dollars defending itself for responding to the will of its people and asserting its sovereignty over these special governance jurisdictions operating in its territory.

This case is just the most recent example of the worrying trend of increased ISDS use in the Americas, both in the number of cases and the sky-high value of the claims. Governments throughout Latin America have paid billions of dollars in compensation to foreign companies at their taxpayers' expense, simply for putting in place sound public policy to protect the environment and the health and economic well-being of their communities.²⁰ Governments—and therefore taxpayers—throughout the region have been ordered by ISDS tribunals to pay close to \$28 billion to corporations, with far more in pending ISDS claims.²¹

We urge you to uphold your commitment and refrain from negotiating new trade agreements with ISDS, and also to address the existing ISDS mechanisms that corporations continue to exploit. Your administration has begun to negotiate a new agreement in the region, the Americas Partnership for Economic Prosperity, and has announced its intention to update existing

¹³ *Id.*

¹⁴ U.S. Department of Justice, "Juan Orlando Hernández, Former President of Honduras, Indicted on Drug-Trafficking and Firearms Charges, Extradited to the United States from Honduras," press release, April 21, 2022, <https://www.justice.gov/opa/pr/juan-orlando-hern%C3%A1ndez-former-president-honduras-indicted-drug-trafficking>

¹⁵ U.S. Department of State, "2022 Investment Climate Statements: Honduras," <https://www.state.gov/reports/2022-investment-climate-statements/honduras/>.

¹⁶ *Id.*

¹⁷ Reuters, "Honduran Congress unanimously nixes special economic zones," Gustavo Palencia, April 21, 2022, <https://www.reuters.com/world/americas/honduran-congress-unanimously-nixes-special-economic-zones-2022-04-21/>.

¹⁸ Global Arbitration Review, "Honduras sees DR-CAFTA disputes loom," Susannah Moody, November 11, 2022, <https://globalarbitrationreview.com/article/honduras-sees-dr-cafta-disputes-loom>.

¹⁹ Próspera, "\$10.775 Billion Claim Filed Against Government of Honduras," press release, December 20, 2022, <https://prospera.hn/news/press-releases/10-775-billion-claim-filed-against-government-of-honduras>.

²⁰ Georgetown Law Center for the Advancement of the Rule of Law in the Americas, "Investor-State Dispute Settlement in Latin America and the Caribbean," <https://isdslac.georgetown.edu/>.

²¹ *Id.*

agreements.²² Eight of the 11 recently announced APEP partner countries already have agreements with the United States that include ISDS provisions.²³

The U.S. government and Congress have already acknowledged, to some extent, the problems with the ISDS system. We worked on a bipartisan basis to significantly reduce ISDS liability in the renegotiated U.S.-Mexico-Canada Agreement (USMCA), though it left an unacceptable loophole for U.S. fossil fuel companies in Mexico.²⁴ We request that you intervene—through a statement of support, amicus brief, and any other means at your disposal—in support of Honduras’ defense in the Próspera ISDS case and to ensure that such egregious cases can no longer disrupt democratic policymaking by working to eliminate ISDS liability in preexisting agreements in our hemisphere.

The broken ISDS system has time and time again worked in favor of big business interests while infringing on the rights and sovereignty of our trading partners and their people. We urge you to investigate and pursue an effective path to removing consent to ISDS arbitration by the U.S. and our treaty partners in existing bilateral investment treaties and free trade agreements. And we look forward to working with you to remove these outdated provisions from trade and investment agreements, foreclosing the possibility of future attacks against the U.S. and signaling to trading partners that they will not be penalized for prioritizing the public interest.

Thank you for your attention to this matter.

Sincerely,

EXEMPTION 6

Elizabeth Warren
United States Senator

EXEMPTION 6

Lloyd Doggett
Member of Congress

²² The White House, “FACT SHEET: President Biden Announces the Americas Partnership for Economic Prosperity,” press release, June 8, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/>; Inside U.S. Trade, “USTR official: Administration wants to update FTAs alongside APEP,” Brett Fortnam, December 14, 2022, <https://insidetrade.com/daily-news/ustr-official-administration-wants-update-ftas-alongside-apep>.

²³ The White House, “Joint Declaration on The Americas Partnership for Economic Prosperity,” press release, January 27, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/27/joint-declaration-on-the-americas-partnership-for-economic-prosperity/>; Office of the U.S. Trade Representative, “Free Trade Agreements,” <https://ustr.gov/trade-agreements/free-trade-agreements>.

²⁴ Rice University Baker Institute for Public Policy, “The United States-Mexico-Canada Agreement: Settlement of Disputes,” David A. Gantz, May 2, 2019, <https://www.bakerinstitute.org/research/united-states-mexico-canada-agreement-settlement-disputes>.

EXEMPTION 6

Brian Schatz
United States Senator

EXEMPTION 6

Sherrod Brown
United States Senator

EXEMPTION 6

Bernard Sanders
United States Senator

EXEMPTION 6

Sheridan Whitehouse
United States Senator

EXEMPTION 6

Susan Wild
Member of Congress

EXEMPTION 6

Rosa L. DeLauro
Member of Congress

EXEMPTION 6

Jamie Raskin
Member of Congress

EXEMPTION 6

Raúl M. Grijalva
Member of Congress

EXEMPTION 6

Greg Casar
Member of Congress

EXEMPTION 6

Jesús G. "Chuy" García
Member of Congress

EXEMPTION 6

Jamaal Bowman, Ed.D.
Member of Congress

EXEMPTION 6

Paul D. Tonko
Member of Congress

EXEMPTION 6

Jan Schakowsky
Member of Congress

EXEMPTION 6

Pramila Jayapal
Member of Congress

EXEMPTION 6

Mark Pocan
Member of Congress

EXEMPTION 6

Brad Sherman
Member of Congress

EXEMPTION 6

Veronica Escobar
Member of Congress

EXEMPTION 6

Nydia M. Velázquez
Member of Congress

EXEMPTION 6

Eleanor Holmes Norton
Member of Congress

EXEMPTION 6

James P. McGovern
Member of Congress

EXEMPTION 6

Rashida Tlaib
Member of Congress

EXEMPTION 6

Cori Bush
Member of Congress

EXEMPTION 6

Jared Huffman
Member of Congress

EXEMPTION 6

Summer Lee
Member of Congress

EXEMPTION 6

Donald Norcross
Member of Congress

EXEMPTION 6

Ilhan Omar
Member of Congress

EXEMPTION 6

Barbara Lee
Member of Congress

EXEMPTION 6

JT Tokuda
Member of Congress

EXEMPTION 6

Ro Khanna
Member of Congress

EXEMPTION 6

Henry C. "Hank" Johnson, Jr.
Member of Congress

EXEMPTION 6

Marcy Kaptur
Member of Congress



THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

May 25, 2023

The Honorable Elizabeth Warren
United States Senate
Washington, DC 20510

The Honorable Lloyd Doggett
United States House of Representatives
Washington, DC 20510

Dear Senator Warren and Representative Doggett:

Thank you for your letter to Secretary Blinken and me regarding Investor-State Dispute Settlement (ISDS) provisions found in some international trade and investment agreements. I appreciate you sharing your views on these important issues.

President Biden does not believe corporations should receive special tribunals in trade agreements that are not available to other organizations, and he opposes the ability of private corporations to attack labor, health, and environmental policies through ISDS. I share these views, and the United States is not currently pursuing any trade or investment agreements that would establish ISDS.

Regarding the request for arbitration filed by Prospera against Honduras under the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), USTR is closely tracking these developments. As you may be aware, CAFTA-DR provides that a non-disputing party has the right to make written and oral submissions to an ISDS tribunal on issues of interpretation of the agreement. USTR would coordinate with the State Department and other agencies should any such submissions be made.

Going forward, the Biden Administration will continue to advance worker-centered trade policies that deliver sustainable and inclusive economic growth and benefit workers, consumers, and businesses of all sizes, including through initiatives such as the Indo-Pacific Economic Framework for Prosperity and the Americas Partnership for Economic Prosperity.

Thank you again for your letter, and please do not hesitate to contact me in the future about this or other matters of concern. I look forward to continuing to partner with you and other Members of Congress going forward.

Sincerely,

EXEMPTION 6

Ambassador Katherine Tai

cc:

The Honorable Brian Schatz
The Honorable Sherrod Brown
The Honorable Bernard Sanders
The Honorable Sheldon Whitehouse
The Honorable Susan Wild
The Honorable Rosa L. DeLauro
The Honorable Jamie Raskin
The Honorable Raúl M. Grijalva
The Honorable Greg Casar
The Honorable Jesús G. "Chuy" García
The Honorable Jamaal Bowman, Ed.D.
The Honorable Paul D. Tonko
The Honorable Jan Schakowsky
The Honorable Pramila Jayapal
The Honorable Mark Pocan
The Honorable Brad Sherman
The Honorable Veronica Escobar
The Honorable Nydia M. Velázquez
The Honorable Eleanor Holmes Norton
The Honorable James P. McGovern
The Honorable Rashida Talib
The Honorable Cori Bush
The Honorable Jared Huffman
The Honorable Summer Lee
The Honorable Donald Norcross
The Honorable Ilhan Omar
The Honorable Barbara Lee
The Honorable Jill Tokuda
The Honorable Ro Khanna
The Honorable Henry C. "Hank" Johnson, Jr.
The Honorable Mary Kaptur

Re: Chat?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" EXEMPTION 6 warren.senate.gov>
Date: Tue, 06 Jun 2023 15:41:41 -0400

Great, thanks

On Jun 6, 2023, at 3:23 PM, Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov> wrote:

Thanks, Dan. This afternoon is a bit of a mess, but I can call you at 5pm.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Tuesday, June 6, 2023 11:56 AM
To: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Subject: Chat?

Hey there,

Do you have 5 minutes to chat? My boss would like to have another meeting with your boss and I wanted to give you context before I put in the official request. I am free today: 1:45, 2:30, 3:30, 4:30-5:30.

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

Re: Looking ahead to meeting next week

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
Date: Fri, 09 Jun 2023 11:55:12 -0400

Great. Let's do 130

On Jun 9, 2023, at 11:48 AM, Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov> wrote:

Thanks! May be easiest to connect by phone. I'm available 1:30-3pm today if there's a time in there that works. Otherwise Monday 11-12, 1-2, after 4pm.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Thursday, June 8, 2023 4:55 PM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: Looking ahead to meeting next week

Hey there,

Following up to get on the same page as we look ahead to the meeting next Thursday. [REDACTED]

[REDACTED]

So, I think the question my boss will want to get clarity from your boss on will be:

1) **EXEMPTION 5**

Let me know how I can help you help your boss answer those questions or if you have other thoughts/guidance for me. I am happy to provide more info on the newer more progressive things or set up a call to walk through the various provisions.

-Dan

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

RE: Amb Tai. - Warren meeting request

From: "Kutzen, Amielle (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>
:
To: "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>, "Laporte-Oshiro, Catherine (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>, "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>, "Gerrard, Laura (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>, "Seiler, Whitney (Warren)" [REDACTED] <[REDACTED]@warren.senate.gov>
Cc: "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>
Date: Wed, 14 Jun 2023 11:36:35 -0400

Thank you so much, I so appreciate it!

From: Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Sent: Wednesday, June 14, 2023 11:32 AM
To: Kutzen, Amielle (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Gerrard, Laura (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; Seiler, Whitney (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Cc: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Amb Tai. - Warren meeting request

Hi Ami,

Not as problem, we can absolutely do 9:45am tomorrow. Ambassador tai will look froward to seeing Senator Warren then.

Thanks so much!
AZA

From: Kutzen, Amielle (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>
Sent: Wednesday, June 14, 2023 11:19 AM
To: Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Laporte-Oshiro, Catherine (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Gerrard, Laura (Warren) [REDACTED] <[REDACTED]@warren.senate.gov>;

Seiler, Whitney (Warren) [EXEMPTION 6](#) warren.senate.gov>
Cc: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Amb Tai. - Warren meeting request

Hi Angelica – so sorry to reach out with a change, but we've just had a member meeting scheduled at this time that we're unfortunately not able to move!

Any chance that you're available at 9:45am instead? We could also try and make 12:15pm work if that's better for you. Thank you and apologies again!

Best,
Ami

From: Kutzen, Amielle (Warren)
Sent: Thursday, June 8, 2023 9:46 AM
To: 'Annino, Angelica Z. EOP/USTR' <Angelica.Z.Annino@ustr.eop.gov>; Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Gerrard, Laura (Warren) [EXEMPTION 6](#) warren.senate.gov>; Seiler, Whitney (Warren) [EXEMPTION 6](#) warren.senate.gov>
Cc: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Amb Tai. - Warren meeting request

Angelica – that's perfect, thank you!

From: Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>
Sent: Thursday, June 8, 2023 8:02 AM
To: Kutzen, Amielle (Warren) [EXEMPTION 6](#) warren.senate.gov>; Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Gerrard, Laura (Warren) [EXEMPTION 6](#) warren.senate.gov>; Seiler, Whitney (Warren) [EXEMPTION 6](#) warren.senate.gov>
Cc: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Amb Tai. - Warren meeting request

Good morning, Ami:

It's so nice to be connected! Thursday the 15th at 10:15am works beautifully on our end. Can we go ahead and lock it in?

Thanks so much and Ambassador Tai will look forward to meeting with Senator Warren then.

With kind regards,
Angelica

Angelica Zen Annino
Director of Scheduling and Advance
Office of the US Trade Representative
Angelica.Z.Annino@ustr.eop.gov

From: Kutzen, Amielle (Warren) EXEMPTION 6@warren.senate.gov
Sent: Tuesday, June 6, 2023 6:29 PM
To: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6@warren.senate.gov; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Gerrard, Laura (Warren) EXEMPTION 6@warren.senate.gov; Seiler, Whitney (Warren) EXEMPTION 6@warren.senate.gov
Cc: Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Amb Tai. - Warren meeting request

Hi Dan – thanks for reaching out!

Senator Warren would be happy to connect with Amb. Tai Unfortunately, the schedule during the week of the 19th is entirely eaten up by the NDAA markup and it's one of the only times during the year we don't have any real flexibility.

We have a two week recess following the markup, so best would be to find a time for them to meet in person next week. I'm including a few dates below that work on our end, if these don't work I'm happy to look at your availability next week!

June 13th at 3:00pm

June 15th at 10:15am

June 15th at 1:00pm

Thanks,
Ami

From: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>
Sent: Tuesday, June 6, 2023 5:32 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Gerrard, Laura (Warren) [EXEMPTION 6](#) warren.senate.gov>; Kutzen, Amielle (Warren) [EXEMPTION 6](#) warren.senate.gov>; Seiler, Whitney (Warren) [EXEMPTION 6](#) warren.senate.gov>
Cc: Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Amb Tai. - Warren meeting request

Thanks, Dan. I'm looping in our scheduling team to see what might work.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Tuesday, June 6, 2023 5:31 PM
To: Laporte-Oshiro, Catherine (Warren) [EXEMPTION 6](#) warren.senate.gov>
Cc: Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: Amb Tai. - Warren meeting request

Hey Catherine,

Good to talk earlier. I wanted to follow up and put in a scheduling request for our bosses to meet in person again on IPEF digital. On our end, we were thinking the week of 6/19 would work great.

Thanks,

Dan

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

Re: Thanks

From: "Laporte-Oshiro, Catherine (Warren)" EXEMPTION 6 warren.senate.gov>

To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

Date: Thu, 15 Jun 2023 11:46:07 -0400

Thanks, agree. Let me know if it'd be helpful to have another staff level conversation in the next few weeks, especially if you all are zoning in on an approach.

> On Jun 15, 2023, at 11:07 AM, McCarthy, Daniel M. EOP/USTR

<Daniel.M.McCarthy@ustr.eop.gov> wrote:

>

> That was very helpful

RE: Checking in

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" EXEMPTION 6 warren.senate.gov>
Date: Mon, 26 Jun 2023 13:06:29 -0400

Great

From: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Sent: Monday, June 26, 2023 1:06 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: Checking in

1:45pm works, thanks.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Monday, June 26, 2023 1:05 PM
To: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Subject: RE: Checking in

I'm on a call that should wrap at 1:45 and can call you then? If we need more time, I can do 1 tomorrow

From: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Sent: Monday, June 26, 2023 1:03 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: RE: Checking in

I'm free until 2pm today, but have something then. Could you do sometime 12-1:30pm ET tomorrow?

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Saturday, June 24, 2023 4:16 PM
To: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>
Subject: Re: Checking in

Of course! Monday afternoon? 2? 3?

On Jun 24, 2023, at 11:21 AM, Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6**
EXEMPTION 6 warren.senate.gov> wrote:

Dan -

Could we check in next week? I'm on leave but have some flexibility.

Thanks.

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
EXEMPTION 6 warren.senate.gov
she/her/hers

(Sent from a phone, please excuse brevity, typos, and auto-correct issues.)

Re: Connect?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Sun, 09 Jul 2023 08:42:22 -0400

Sure thing. I just got back from my trip abroad. Happy to connect Monday. I'll give you a call.

On Jul 7, 2023, at 1:25 PM, Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6**
EXEMPTION 6 warren.senate.gov> wrote:

Dan –

Do you have time to connect this afternoon or on Monday? **EXEMPTION 6**

Thanks.

Catherine Laporte-Oshiro, Ph.D.
Economic Policy Advisor
Office of Senator Elizabeth Warren
EXEMPTION 6 warren.senate.gov
she/her/hers

RE: Hello!

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Date: Fri, 28 Jul 2023 09:52:46 -0400

Thanks. I'm flexible today apart from 11:30am-1pm today if you want to just call.

-----Original Message-----

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Friday, July 28, 2023 8:57 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: Hello!

Hey there,

Have a few minutes later today or next week? Wanted to follow up on your question yesterday during the IPEF briefing.

If you have Qs on the text/details we can hold them until the end and kick off staff w/o clearance

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>
Date: Mon, 31 Jul 2023 13:12:16 -0400

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

Re: Letter from Senator Warren, Rep. Jayapal to Amb. Tai, Sec. Raimondo, Sec. Blinken

From: "Negatu, Samuel T. EOP/USTR" <samuel.t.negatu@ustr.eop.gov>
:
To: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>, "Durakoglu, Naz" [REDACTED] state.gov>
Cc: congressionalcorrespondence@doc.gov, "Kovalkoski, Caitlin (Federal)" [REDACTED]@doc.gov>, "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>, "Cohen, Brian (Warren)" [REDACTED] warren.senate.gov>
Date: Wed, 09 Aug 2023 19:00:51 -0400

Confirming receipt for USTR

--
Samuel Negatu
Deputy Assistant USTR for Congressional Affairs
Office of the U.S. Trade Representative
[REDACTED]

Sent from my iPhone

On Aug 9, 2023, at 6:09 PM, Durakoglu, Naz [REDACTED]@state.gov> wrote:

Received. Thank you!

CCU- please task.

Best,
Naz

From: Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>
Sent: Wednesday, August 9, 2023 5:58 PM

To: Samuel.T.Negatu@ustr.eop.gov; CongressionalCorrespondence@doc.gov; Kovalkoski, Caitlin (Federal) EXEMPTION 6@doc.gov>; Durakoglu, Naz EXEMPTION 6@state.gov>

Cc: Laporte-Oshiro, Catherine (Warren) EXEMPTION 6 warren.senate.gov>; Cohen, Brian (Warren) EXEMPTION 6 warren.senate.gov>

Subject: Letter from Senator Warren, Rep. Jayapal to Amb. Tai, Sec. Raimondo, Sec. Blinken

Good evening,

Please find attached a letter from Senator Warren and Rep. Jayapal regarding the trade advisory committees. When you have a chance, please confirm receipt.

Thanks in advance,
Nikhil

Nikhil Srinivasan (*he/him*)
Legislative Correspondent
Office of U.S. Senator Elizabeth Warren

EXEMPTION 6

Congress of the United States

Washington, DC 20515

August 9, 2023

Ambassador Katherine Tai
United States Trade Representative
Executive Office of the President
600 17th Street NW
Washington, DC 20508

The Honorable Gina Raimondo
Secretary
Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

The Honorable Antony Blinken
Secretary
Department of State
2202 C Street NW
Washington, DC 20520

Dear Ambassador Tai, Secretary Raimondo, and Secretary Blinken:

We write to express our concern about the undue influence exerted over secret trade negotiations by corporate interests through their dominance of official trade advisory committees. The Biden administration has made a historic commitment to advancing a worker-centered trade policy, breaking from a history of bad trade deals that have offshored American jobs, undermined labor and environmental protections, and forestalled government efforts to promote competition.¹ However, corporate lobbyists continue to fill out roughly 80 percent of the positions on Industry Trade Advisory Committees (ITACs),² granting them access to secret trade negotiating text that remains hidden from the public. As your agencies continue to lead the administration's efforts to establish new trade pacts in the Indo-Pacific and the Americas, we urge you to build on the work of the Office of the U.S. Trade Representative (USTR) to rebalance the trade advisory committee system to better reflect the interests of all stakeholders, not just large corporations.

The Biden Administration committed early on to a trade policy that centers workers,³ protects the environment,⁴ and promotes equity.⁵ President Biden and Ambassador Tai have both recognized the flaws in pursuing antiquated, tariff-cutting free trade agreements, and have repeatedly reiterated the

¹ See e.g., Public Citizen, "Since 2017, Hundreds of Thousands of American Jobs Were Offshored, Trade Deficit Is Up 22%," press release, September 28, 2020, <https://www.citizen.org/news/since-2017-hundreds-of-thousands-of-american-jobs-were-offshored-trade-deficit-is-up-18/>; Economic Policy Institute, "NAFTA, Twenty Years After: A Disaster," Jeff Faux, January 3, 2014, <https://www.epi.org/blog/nafta-twenty-years-disaster/>

² Rethink Trade, "LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System," <https://rethinktrade.org/ustr-advisors/>

³ Office of the U.S. Trade Representative, "U.S. Trade Representative Katherine Tai Outlines Biden-Harris Administration's Historic 'Worker-Centered Trade Policy'," press release, June 10, 2021, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/june/us-trade-representative-katherine-tai-outlines-biden-harris-administrations-historic-worker-centered>

⁴ Office of the U.S. Trade Representative, "Remarks from Ambassador Katherine Tai on Trade Policy, the Environment and Climate Change," press release, April 2021, <https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2021/april/remarks-ambassador-katherine-tai-trade-policy-environment-and-climate-change>

administration's commitment not to pursue such deals.⁶ In addition, USTR has made substantial efforts to consult with labor, environmental, and other public interest advocates on trade policy and negotiations.⁷ And USTR has not shied away from invoking the rapid-response dispute resolution mechanism provided by the United States-Mexico-Canada Agreement (USMCA) to crack down on labor standards violations in those countries, recently filing its 11th complaint to that end.⁸

At the same time, your agencies are pressing ahead with new trade negotiations without having fully addressed the dominance of giant corporations on trade advisory committees, granting their corporate lobbyists access to classified negotiating text that is kept secret from the public. These efforts include potential further negotiations in the U.S.-Taiwan 21st Century Trade Initiative, as well as the Indo-Pacific Economic Framework (IPEF) and the Americas Partnership for Economic Prosperity (APEP), which include a range of critical issues, including digital trade, clean energy and decarbonization, and supply chain resiliency.⁹ Congress recently reiterated the importance of congressional consultation in its passage of the *United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act*.¹⁰ But your agencies can and should consider publishing draft trade negotiation text for feedback from all stakeholders, not just corporate lobbyists. Regardless, addressing corporate dominance in trade advisory committees is a commonsense step towards a stronger trade policymaking process.

For decades, the membership of trade advisory committee system has leaned heavily in favor of multinational companies and their industry associations, contributing to trade deals that have incentivized offshoring, moved thousands of American jobs overseas, and decimated families and communities. The *Trade Act of 1974* established the trade advisory committee system to ensure that certain private and non-federal public sector stakeholders had a seat at the table with regard to trade policy.¹¹ The statute grants USTR, Commerce, and other involved agencies broad discretion in terms of what committees to establish and how to determine their membership. And in fact, the *Federal Advisory*

⁵ Office of the U.S. Trade Representative, "FACT SHEET: USTR Releases 2023 Trade Policy Agenda and 2022 Annual Report," press release, March 2023, <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2023/march/fact-sheet-ustr-releases-2023-trade-policy-agenda-and-2022-annual-report>

⁶ See e.g., New York Times, "In Washington, 'Free Trade' Is No Longer Gospel," Ana Swanson, March 18, 2021, <https://www.nytimes.com/2021/03/17/business/economy/free-trade-biden-tai.html>; New York Times, "Biden's Reluctant Approach to Free Trade Draws Backlash," Ana Swanson, April 3, 2023, <https://www.nytimes.com/2023/04/03/us/politics/biden-free-trade.html>

⁷ See e.g., Office of the U.S. Trade Representative, "USTR to Hold Stakeholder IPEF Listening Sessions for Second Negotiating Round," press release, February 14, 2023, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/february/ustr-hold-stakeholder-ipef-listening-session-second-negotiating-round>

⁸ Inside U.S. Trade, "U.S. again expands use of USMCA labor tool to address another sector," Margaret Spiegelman, June 16, 2023, <https://insidetrade.com/daily-news/us-again-expands-use-usmca-labor-tool-address-another-sector>

⁹ The White House, "FACT SHEET: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity," press release, May 23, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/>; The White House, "FACT SHEET: President Biden Announces the Americas Partnership for Economic Prosperity," press release, June 8, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/>;

Office of the U.S. Trade Representative, "USTR Announcement Regarding U.S.-Taiwan Trade Initiative," press release, May 18, 2023, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/may/ustr-announcement-regarding-us-taiwan-trade-initiative>

¹⁰ United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act, H.R. 404, <https://www.congress.gov/bill/118th-congress/house-bill/4004>

¹¹ 19 U.S.C. 2155.

Committee Act of 1972 (FACA) requires that membership in federal advisory committees—including trade advisory committees—be “fairly balanced in terms of the points of view represented and the functions to be performed” by the committee.¹² Indeed, one of Congress’ primary purposes in passing FACA was “to end industry domination of advisory bodies.”¹³

We have been glad to see USTR under President Biden rebalance its highest-level advisory committee: the Advisory Committee for Trade Policy and Negotiations (ACTPN), which provides “overall policy advice”¹⁴ on trade-related matters. Of the committee’s 14 members, only four represent large corporations or industry groups; the remaining 10 members hail from labor unions, research institutions and think tanks, non-profit organizations, state government, and small businesses. This is in stark contrast with the Trump administration’s ACTPN, which featured nearly 20 corporate executives counterbalanced by a single labor representative.¹⁵ USTR’s rebalancing of the ACTPN is a significant step in the right direction towards realigning U.S. trade policy to center workers and other stakeholders who have been left behind by past trade deals, and to rein in undue corporate influence over trade negotiations.

¹² 5a U.S.C. 5(b)(2).

¹³ NORTHWEST ECOSYSTEM ALLIANCE, et al., v. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE and UNITED STATES DEPARTMENT OF COMMERCE, November 9, 1999, on file with the office of Senator Elizabeth Warren.

¹⁴ 19 U.S.C. 2155(b)(1).

¹⁵ Office of the U.S. Trade Representative, “Advisory Committee for Trade Policy and Negotiations (ACTPN),” accessed via the Internet Archive on December 19, 2020, <https://web.archive.org/web/20201219145943/https://ustr.gov/about-us/advisory-committees/advisory-committee-trade-policy-and-negotiations-actpn>



Source: Rethink Trade, "LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System," <https://rethinktrade.org/ustr-advisors/>

However, the other committees remain heavily overloaded with corporate representatives.¹⁶ The *Trade Act of 1974* provides for two additional types of committees, administered jointly by USTR and another relevant cabinet department: "general policy advisory committees"¹⁷ and "sectoral or functional advisory committees."¹⁸ For both of these, USTR and partner agencies like Commerce retain significant discretion as to the membership, provided those members are "fairly balanced" and represent the full breadth of interests described in the statute. The Industry Trade Advisory Committees (ITAC), sectoral advisory committees jointly administered by USTR and Commerce, are particularly troubling.¹⁹ ITAC members make up nearly 45 percent of the entire trade advisor corps, with more than 200 members across 15 committees.²⁰ But only two ITACs have a labor representative, in spite of the statutory requirement that ITACs' membership represent "all industry, labor, agricultural, or service interests"²¹ in the sector, and while workers have a central interest in the work of key ITAC industries like energy, textile and clothing, and the digital economy.²² Meanwhile, 178 ITAC members—roughly 80 percent—come from large corporations or their trade associations.²³ This extreme imbalance means that much of the esoteric process of negotiating trade deals is only visible to these corporate lobbyists and leaves the American public—and most of Congress—in the dark. And unlike Members of Congress and their staff who have to trek to a Sensitive Compartmented Information Facility (SCIF) if they want to view text, these cleared advisors are able to access classified text from their offices or homes, on their personal computers, whenever they want.

While the State Department does not co-administer any USTR-led trade advisory committees, it has established its own advisory committees with equally problematic membership. State's International Digital Economy and Telecommunications (IDET) advisory committee, which advises the Department on the digital economy and information policy,²⁴ has 25 members (excluding designated federal officers); of those 25 members, more than two-thirds are representatives from the largest tech and telecommunications companies like Amazon, Google, and Meta, as well as their industry coalitions.²⁵

¹⁶ Rethink Trade, "LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System," <https://rethinktrade.org/ustr-advisors/>

¹⁷ 19 U.S.C 2155(c)(1).

¹⁸ 19 U.S.C 2155(c)(2).

¹⁹ International Trade Administration, "Industry Trade Advisory Committees," <https://www.trade.gov/itac-committees>

²⁰ Rethink Trade, "LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System," <https://rethinktrade.org/ustr-advisors/>

²¹ 19 U.S.C 2155(c)(2).

²² Rethink Trade, "LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System," <https://rethinktrade.org/ustr-advisors/>

²³ *Id.*

²⁴ U.S. Department of State, "Charter of the United States International Digital Economy and Telecommunication Advisory Committee," June 30, 2020, <https://www.state.gov/charter-of-the-united-states-international-digital-economy-and-telecommunication-advisory-committee/>

²⁵ FACADATABASE.GOV, "United States International Digital Economy and Telecommunication Advisory Committee," <https://www.facadatabase.gov/FACA/s/meeting-members-advisory-reports?>

More broadly, State Department advisory committees provide limited representation to labor unions, environmental activists, and other non-corporate stakeholders. Unlike USTR, State appears not to have convened a labor advisory committee.²⁶ And its Clean Energy Resources Advisory Committee only has two members from any organization representing environmental or labor interests, but has 27 members from major automobile companies and other producers.²⁷ These data reveal a severe imbalance in State's approach to structuring its advisory committees' membership, raising particular concerns as the State Department leads negotiations on APEP alongside USTR.

Allowing corporate interests to continue to dominate the trade advisory committee system clearly harms workers, consumers, and small businesses. We urge your agencies to continue to rebalance membership in those committees to ensure that all Americans impacted by trade have fair representation in the trade policymaking process.

Thank you for your attention to this matter.

Sincerely,

EXEMPTION 6

Elizabeth Warren
United States Senator

EXEMPTION 6

Pramila Jayapal
Member of Congress

[recordId=a10t0000001gzsJAAQ](#)

²⁶ FACADATABASE.GOV, "Department of State,"

<https://www.facadatabase.gov/FACA/s/account/001t000000DCAotAAH/departement-of-state>

²⁷ FACADATABASE.GOV, "United States Department of State Clean Energy Resources Advisory Committee,"

<https://www.facadatabase.gov/FACA/s/meeting-members-advisory-reports?recordId=a10t000000ErN5JAAV>

RE: Call

From: "Laporte-Oshiro, Catherine (Warren)" [REDACTED] warren.senate.gov>
To: "Negatu, Samuel T. EOP/USTR" <samuel.t.negatu@ustr.eop.gov>
Date: Wed, 09 Aug 2023 10:54:08 -0400

Yes, thanks.

-----Original Message-----

From: Negatu, Samuel T. EOP/USTR <Samuel.T.Negatu@ustr.eop.gov>
Sent: Wednesday, August 9, 2023 10:53 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: RE: Call

Can you do 3pm today with Beth Baltzan?

-----Original Message-----

From: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Sent: Tuesday, August 8, 2023 11:12 AM
To: Negatu, Samuel T. EOP/USTR <Samuel.T.Negatu@ustr.eop.gov>
Subject: RE: Call

Thanks, Samuel. I'm flexible on Thursday apart from 11-12pm.

-----Original Message-----

From: Negatu, Samuel T. EOP/USTR <Samuel.T.Negatu@ustr.eop.gov>
Sent: Tuesday, August 8, 2023 10:56 AM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: RE: Call

Hey Catherine. Can you send me your availability for a call with Beth this Thursday?

-----Original Message-----

From: Negatu, Samuel T. EOP/USTR <Samuel.T.Negatu@ustr.eop.gov>
Sent: Monday, August 7, 2023 2:14 PM
To: [REDACTED] warren.senate.gov
Subject: Call

Hey Catherine,

We got a request from your boss to chat this week. Can you give me a call? **EXEMPTION 6**

-Samuel

RE: Phone Call - Amb. Tai / Sen. Warren

From: "Kutzen, Amielle (Warren)" [REDACTED] <warren.senate.gov>
To: "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>
Date: Wed, 09 Aug 2023 14:16:38 -0400

You're the best – thank you!!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Wednesday, August 9, 2023 2:16 PM
To: Kutzen, Amielle (Warren) [REDACTED] <warren.senate.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Ami,

2:15pm tomorrow works for the Ambassador! Providing our dial in below. Thanks for patience!

Participant Info

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Sincerely,

Matthew Hoeck

From: Kutzen, Amielle (Warren) [REDACTED] <warren.senate.gov>
Sent: Wednesday, August 9, 2023 1:42 PM
To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Matthew – any chance 2:15pm works on your end? We just had something added 1-2 but have flexibility after that! If not, I can also see if our 1pm can move.

Thank you!
Ami

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Wednesday, August 9, 2023 1:40 PM
To: Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Ami,

Is the Senator available tomorrow at 1:30pm? We also have some flexibility that afternoon so if there is a time that works better let me know. Thanks!

Sincerely,

Matthew Hoeck
Special Assistant to the U.S. Trade Representative
Office of the U.S. Trade Representative
EXEMPTION 6
Matthew.J.Hoeck@ustr.eop.gov

From: Hoeck, Matthew J. EOP/USTR
Sent: Tuesday, August 8, 2023 12:56 PM
To: 'Kutzen, Amielle (Warren)' **EXEMPTION 6** <warren.senate.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Heard Chef! Will relay and get back to you. And I'm personally glad no CRANES IN THE SKY hurt you. Keep rocking!

From: Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>
Sent: Tuesday, August 8, 2023 12:54 PM
To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Truly a whole big nothing, there's a crane outside my apartment and I felt extremely silly for wondering if it would crush me.

My boss is going to be traveling internationally next week and is going to be mostly unreachable unfortunately! She's flying out Saturday morning, but I can try and make any time you're potentially available before then work. August is always hard, thanks for working with me here!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Tuesday, August 8, 2023 12:15 PM
To: Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Well that storm turned into a big nothing...I was like is the Washington Monument about to fall...

Anyway... is there any availability by chance next week for our bosses to connect? Would be greatly appreciated. Let me know!

From: Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>
Sent: Monday, August 7, 2023 3:10 PM
To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Thank you!

And TRULY wild. I just relocated home just in case that option is taken away from me later, stay safe!!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Monday, August 7, 2023 2:58 PM
To: Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>
Subject: RE: Phone Call - Amb. Tai / Sen. Warren

Ami,

Confirming receipt. Ambassador Tai is out this week for personal travel but I will revert back when I hear if this can work. Appreciate your patience and understanding.

PS. Be safe out there. This storm is gonna be WILD.

Sincerely,

Matthew Hoeck
Special Assistant to the U.S. Trade Representative
Office of the U.S. Trade Representative
EXEMPTION 6
Matthew.J.Hoeck@ustr.eop.gov

From: Kutzen, Amielle (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Monday, August 7, 2023 1:53 PM

To: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>

Subject: Phone Call - Amb. Tai / Sen. Warren

Hi Matthew – hope you're well!

Sen. Warren was hoping to connect with Amb. Tai over the phone this week briefly. We have some flexibility Thursday after 1:00pm ET, any chance you have availability then?

Thank you!

Ami

Amielle Kutzen

Director of Scheduling

Office of Senator Elizabeth Warren

EXEMPTION 6

RE: E-Commerce JST Text Review

From "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>

:

To: "Laporte-Oshiro, Catherine (Warren)" **EXEMPTION 6** warren.senate.gov>,
"McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

Date: Thu, 31 Aug 2023 17:07:40 -0400

Catherine,

Let's lock in 11:30am on Tuesday, September 5th. Will send an invite shortly. Thanks!

Sincerely,

Matthew Hoeck
Special Assistant to the U.S. Trade Representative
Office of the U.S. Trade Representative
EXEMPTION 6
Matthew.J.Hoeck@ustr.eop.gov

From: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Sent: Thursday, August 31, 2023 5:01 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: RE: E-Commerce JST Text Review

Thanks, both. I'm available on Tuesday before 10:15am and 11am-12:30pm.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Thursday, August 31, 2023 4:40 PM
To: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>
Cc: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Subject: E-Commerce JST Text Review

Hey Catherine,

Following up to our discussion. We're good to screenshare a unique version of the text on zoom on Tuesday ahead of the briefing. Matthew here can find a time that works best.

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

Time for a quick call?

From: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>
To: "Negatu, Samuel T. EOP/USTR" <samuel.t.negatu@ustr.eop.gov>
Date: Tue, 12 Sep 2023 11:52:15 -0400

Hi Samuel,

Hope you're well! I'm Nikhil, and I work on trade issues for Sen. Warren with Catherine. Do you have a few minutes to quickly touch base today or in the next couple days? Feel free to give me a call at [REDACTED] whenever you have a moment, or happy to set up a time if that's easier, should only take 5 or so minutes.

Thanks!

Nikhil Srinivasan (*he/him*)

Legislative Correspondent

Office of U.S. Senator Elizabeth Warren

[REDACTED]

Re: Amb Tai - SFC Dems mtg

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <[redacted]@warren.senate.gov>
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Cc: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Mon, 18 Sep 2023 21:27:13 -0400

Thank you! 11:30 works for me.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Monday, September 18, 2023 9:34:23 AM
To: Srinivasan, Nikhil (Warren)
Cc: McGrath, Jillian M. EOP/USTR
Subject: RE: Amb Tai - SFC Dems mtg

Sorry to hear that! I can do 9:30, 11:30 and 1:30-2:30 Tuesday.

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <[redacted]@warren.senate.gov>
Sent: Monday, September 18, 2023 7:48 AM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: Amb Tai - SFC Dems mtg

Hi both, apologies, running a fever today and feeling quite ill so likely will not be able to chat at 1:30. Any chance you're free tomorrow morning? I'm open, so let me know when works for you. Thanks, & sorry again!

On Sep 14, 2023, at 5:24 PM, Srinivasan, Nikhil (Warren) [EXEMPTION 6] <[redacted]@warren.senate.gov> wrote:

Great, thanks! Talk then.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Thursday, September 14, 2023 3:38:50 PM
To: Srinivasan, Nikhil (Warren)

Cc: McGrath, Jillian M. EOP/USTR
Subject: Re: Amb Tai - SFC Dems mtg

Great. Just sent an invite

On Sep 14, 2023, at 1:22 PM, Srinivasan, Nikhil (Warren)

EXEMPTION 6 warren.senate.gov> wrote:

Happy to chat in advance, maybe early next week? Still thinking through exactly what she might raise, but digital is of course a likely choice.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Thursday, September 14, 2023 1:19:41 PM
To: Srinivasan, Nikhil (Warren)
Cc: McGrath, Jillian M. EOP/USTR
Subject: RE: Amb Tai - SFC Dems mtg

Great. Could we chat beforehand? Assume she'd want to raise digital?

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** warren.senate.gov>
Sent: Thursday, September 14, 2023 1:19 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: Amb Tai - SFC Dems mtg

Thanks Dan, will pass along the congrats!

My expectation is that Senator Warren will be able to attend, but will let you know if that changes.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Thursday, September 14, 2023 1:07:04 PM
To: Srinivasan, Nikhil (Warren)
Cc: McGrath, Jillian M. EOP/USTR
Subject: FW: Amb Tai - SFC Dems mtg

Got Catherin's message (please send her congrats!)..

Let me know if your boss is planning to attend!

From: McCarthy, Daniel M. EOP/USTR

Sent: Thursday, September 14, 2023 1:06 PM

To: Laporte-Oshiro, Catherine (Warren) **EXEMPTION 6** warren.senate.gov>

Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Amb Tai - SFC Dems mtg

Hey,

Checking in ahead of this. Is your boss planning to attend?

Dan McCarthy

Assistant United States Trade Representative for Congressional Affairs

EXEMPTION 6

Re: Good news for cranberries!

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>
Cc: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Mon, 18 Sep 2023 09:02:25 -0400

Great thanks!!

On Sep 17, 2023, at 1:08 PM, Srinivasan, Nikhil (Warren)
[REDACTED] warren.senate.gov> wrote:

Hi Dan, hope you're having a good weekend! Responding in lieu of Catherine here to thank you for flagging this, and to share my boss's [tweet in support](#).

Nikhil Srinivasan (*he/him*)
Legislative Correspondent
Office of U.S. Senator Elizabeth Warren

[REDACTED]

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Friday, September 8, 2023 12:43 PM
To: Laporte-Oshiro, Catherine (Warren) [REDACTED] warren.senate.gov>
Subject: Good news for cranberries!

Hey there,

Writing with good news on cranberries, a fine MA product. We reached agreement with India to have them reduce retaliatory tariffs on a number of ag products including cranberries in exchange for resolving a WTO dispute. We expect stakeholders to be enthused and we would welcome statements of support. This will be publicly announced shortly.

Information on the agreement:

The dispute that we are agreeing to terminate once India implements their obligations is *India – Measures Concerning the Importation of Certain Agricultural Products* (DS430), also commonly referred to as the Poultry-Avian Influenza dispute.

Here are the agreed upon tariff reductions (all from the current 30% to the “MFN” rate).

- Frozen turkey under HS 0207.25 and HS 0207.27 reduced to 5%
- Fresh cranberries and blueberries under HS 0810.40 reduced 10%
- Frozen cranberries and blueberries under HS 0811.90 reduced to 10%
- Dried cranberries and blueberries under HS 0813.40 reduced to 10%
- Processed cranberry products under HS 2008.93 reduced to 5%
- Processed blueberries under HS 2008.99 reduced to 10%
- Frozen duck (under HS Codes 0207.42 and 0207.45) will be reduced to 5% for product destined for high end hotels. The agreement will also establish a mechanism to identify restaurants that will be eligible to import at the reduced 5% rate as well.

India will have 180 days to implement, but we expect them to implement the tariff reductions on February 1st as part of their budget process. We agreed to that long of a timeline because they said they had to reduce the tariffs through the budget.

Dan McCarthy
Assistant United States Trade Representative for Congressional Affairs
EXEMPTION 6

USTR Response: Letter from Senator Warren

From: "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>
To: EXEMPTION 6 warren.senate.gov
Date: Mon, 02 Oct 2023 17:05:12 -0400
Attachments: 08.09.2023 Response to Warren Jayapal re Advisory Committees_final.pdf (140 kB)

Nikhil,

Please find attached USTR's response to letter from Senator Warren and Rep. Jayapal regarding trade advisory committees. We appreciate your outreach. Thanks!

Sincerely,

Matthew Hoeck
Office of the U.S. Trade Representative
EXEMPTION 6
Matthew.J.Hoeck@ustr.eop.gov



THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

October 2, 2023

The Honorable Elizabeth Warren
United States Senate
Washington, D.C. 20510

The Honorable Pramila Jayapal
United States House of Representatives
Washington, D.C. 20515

Dear Senator Warren and Representative Jayapal,

Thank you for your letter expressing concerns about corporate influence exerted over trade negotiations through official trade advisory committees.

As you referenced, the Biden-Harris administration is working to rebuild our economy from the bottom up and the middle out. To further this mission, the Office of the U.S. Trade Representative (USTR) is focused on crafting a worker-centered trade policy that fosters inclusive prosperity through our domestic engagements and conversations with various stakeholders, which is where trade advisory committees play a pivotal role.

The Office of the United States Trade Representative (USTR) directly oversees four advisory committees: 1) The Advisory Committee on Trade Policy Negotiations (ACTPN); 2) The Intergovernmental Policy Advisory Committee (IGPAC); 3) The Trade Advisory Committee on Africa; and 4) The Trade and Environment Policy Advisory Committee (TEPAC). USTR also co-manages 22 interagency trade advisory committees in conjunction with the U.S. Department of Commerce, the U.S. Department of Agriculture, or the U.S. Department of Labor.

We recognize your concern that the trade advisory committee members primarily represent larger corporations. We have taken deliberate steps and are actively working to recruit candidates representing business of all sizes, with a particular emphasis on identifying small and medium-sized enterprises. As USTR establishes new four-year charter terms for our four advisory committees, the new charters are being developed in accordance with USTR's Strategic Plan, incorporating the Executive Order (EO 13985) on *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, the Presidential Memorandum on *Tribal Consultation and Strengthening the Nation-to-National Relationship*, and a number of other strategic directives. In seeking the advice and counsel of the advisory committees it manages, USTR will continue to request that cleared advisors provide input, guidance, and feedback on racial and gender equity in trade and investment policy. USTR's inclusive, worker-

centered trade policy strives to allow U.S. workers, producers, and businesses to better grow, compete, and innovate in the global marketplace.

Thank you for contacting Secretary Blinken, Secretary Raimondo, and me on this issue of importance, and please do not hesitate to reach out regarding other matters that are of concern moving forward.

Sincerely,

EXEMPTION 6
[Redacted Signature]

Ambassador Katherine Tai

RE: checking in on a few things

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Srinivasan, Nikhil (Warren)" EXEMPTION 6 warren.senate.gov>
Date: Tue, 10 Oct 2023 10:20:31 -0400

Great, just sent an invite and noting the hard stop

From: Srinivasan, Nikhil (Warren) EXEMPTION 6 warren.senate.gov>
Sent: Monday, October 9, 2023 4:04 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: Re: checking in on a few things

Hey Dan, likewise hope you're well! Would be great to chat with Beth about both. Thursday at 1:30 works for me, but I have a hard out at about 1:55p, so if more time would be preferable, I'm open Thursday morning and most of Friday.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Friday, October 6, 2023 12:57 PM
To: Srinivasan, Nikhil (Warren)
Subject: checking in on a few things

Hey Nikhil,

Hope you're good. I wanted to reach out and see if we could schedule a call with Beth Baltzan, Sr. Adviser here at USTR to chat ISDS and check in on the WTO TRIPS Waiver. Would you have some time next week? Thursday 130-330 is open

Re: Amb Tai - Warren meeting request

From keziah.e.clarke@ustr.eop.gov

:

To: "Gerrard, Laura (Warren)" [REDACTED] warren.senate.gov>

Cc: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>, "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>, "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>, Scheduling <scheduling@ustr.eop.gov>, "Kutzen, Amielle (Warren)" [REDACTED] warren.senate.gov>, "Seiler, Whitney (Warren)" [REDACTED] warren.senate.gov>, "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>, "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>, "Candaele, Camille R. EOP/USTR" <camille.r.candaele@ustr.eop.gov>

Date: Wed, 11 Oct 2023 16:36:20 -0400

Thanks Laura -

Sent from my iPhone

On Oct 11, 2023, at 1:19 PM, Gerrard, Laura (Warren) [REDACTED] warren.senate.gov> wrote:

Wonderful – thanks, Keziah. Confirmed for 3:30pm on 10/17 in our office – Hart 309. Would you mind sharing the best day-of contact when you have a chance? Appreciate it!

Laura

From: Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>

Sent: Wednesday, October 11, 2023 1:00 PM

To: Gerrard, Laura (Warren) **EXEMPTION 6** warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Srinivasan, Nikhil (Warren) **EXEMPTION 6** warren.senate.gov>

Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Scheduling <Scheduling@USTR.eop.gov>; Kutzen, Amielle (Warren) **EXEMPTION 6** warren.senate.gov>; Seiler, Whitney (Warren) **EXEMPTION 6** warren.senate.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>

Subject: RE: Amb Tai - Warren meeting request

Good afternoon –

Yes, Tuesday at 3:30pm currently works for Amb Tai.

Best,

Keziah

Keziah Clarke

Special Assistant to the U.S. Trade Representative

Executive Office of the President

Keziah.E.Clarke@ustr.eop.gov **EXEMPTION 6**

Please send all meeting and event requests to scheduling@ustr.eop.gov.

From: Gerrard, Laura (Warren) EXEMPTION 6@warren.senate.gov
Sent: Wednesday, October 11, 2023 12:48 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov
Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Kutzen, Amielle (Warren) EXEMPTION 6@warren.senate.gov; Seiler, Whitney (Warren) EXEMPTION 6@warren.senate.gov; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>
Subject: RE: Amb Tai - Warren meeting request

Great – thanks!

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Wednesday, October 11, 2023 9:38 AM
To: Gerrard, Laura (Warren) EXEMPTION 6@warren.senate.gov; Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov
Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Kutzen, Amielle (Warren) EXEMPTION 6@warren.senate.gov; Seiler, Whitney (Warren) EXEMPTION 6@warren.senate.gov; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>
Subject: RE: Amb Tai - Warren meeting request

Thanks. Adding our scheduling team

From: Gerrard, Laura (Warren) [EXEMPTION 6](#) warren.senate.gov>
Sent: Tuesday, October 10, 2023 9:46 PM
To: Srinivasan, Nikhil (Warren) [EXEMPTION 6](#) warren.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Kutzen, Amielle (Warren) [EXEMPTION 6](#) warren.senate.gov>; Seiler, Whitney (Warren) [EXEMPTION 6](#) warren.senate.gov>
Subject: Re: Amb Tai - Warren meeting request

Thanks, Nikhil. Dan - great to be connected and thanks for reaching out on this. Senator Warren would be happy to meet next week. Would Tuesday 10/17 at 3:30pm be possible on the Ambassador's schedule? Thanks so much!

Laura

From: Srinivasan, Nikhil (Warren)
Sent: Tuesday, October 10, 2023 4:26:18 PM
To: McCarthy, Daniel M. EOP/USTR
Cc: McGrath, Jillian M. EOP/USTR; Kutzen, Amielle (Warren); Seiler, Whitney (Warren); Gerrard, Laura (Warren)
Subject: Re: Amb Tai - Warren meeting request

Apologies, slipped my mind that Ami on our team is out, so looping Laura from our team as well.

From: Srinivasan, Nikhil (Warren)
Sent: Tuesday, October 10, 2023 4:23:13 PM
To: McCarthy, Daniel M. EOP/USTR
Cc: McGrath, Jillian M. EOP/USTR; Kutzen, Amielle (Warren); Seiler, Whitney (Warren)
Subject: Re: Amb Tai - Warren meeting request

Hey Dan, thanks for reaching out on this! I'm looping the senator's scheduling team to see what's possible.

Thanks,
Nikhil

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Sent: Tuesday, October 10, 2023 4:21:17 PM

To: Srinivasan, Nikhil (Warren)

Cc: McGrath, Jillian M. EOP/USTR

Subject: Amb Tai - Warren meeting request

Hey Nikhil,

In addition to the items I mentioned in my other email, Ambassador Tai was hoping to talk with Senator Warren next week, ideally in person. She'd like to discuss **EXEMPTION 5** [REDACTED]. She may also mention **EXEMPTION 5** [REDACTED] (which we briefed Catherine on before she went on leave). Let us know if we can set something up and if so we can have our schedulers work on locking it in.

Thanks,

Dan

RE: Amb. Tai/Warren Mtg

From: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
To: "Srinivasan, Nikhil (Warren)" <EXEMPTION 6@warren.senate.gov>
Date: Mon, 16 Oct 2023 11:36:43 -0400

Wonderful, thanks for your flexibility!!

From: Srinivasan, Nikhil (Warren) <EXEMPTION 6@warren.senate.gov>
Sent: Monday, October 16, 2023 11:28 AM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: Amb. Tai/Warren Mtg

That works for me!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Monday, October 16, 2023 11:26:01 AM
To: Srinivasan, Nikhil (Warren)
Subject: Re: Amb. Tai/Warren Mtg

Hey Nikhil, can we move up our call to noon?

Sent from my iPhone

On Oct 13, 2023, at 3:33 PM, Srinivasan, Nikhil (Warren) <EXEMPTION 6@warren.senate.gov> wrote:

Works for me, I'll give you a call then! Have a good weekend.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Friday, October 13, 2023 3:28:20 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: Amb. Tai/Warren Mtg

Sounds great, can we do 1pm? I'm **EXEMPTION 6**

Talk soon!

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** warren.senate.gov

Sent: Friday, October 13, 2023 2:02 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: Amb. Tai/Warren Mtg

Hey Jillian, yes that'd be great! I'm open from 12-2p and 4-5p, and if those don't work, potentially 2:30-3p.

Nikhil Srinivasan (*he/him*)

Office of U.S. Senator Elizabeth Warren

EXEMPTION 6

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Friday, October 13, 2023 1:54 PM

To: Srinivasan, Nikhil (Warren)

Subject: Amb. Tai/Warren Mtg

Hi Nikhil, I wanted to touch base before our bosses chat on Tuesday. Do you have 10-15 mins to hop on the phone on Monday? I generally know the content of the conversation but would like to hear if your boss has specific questions I can work to answer beforehand.

Thanks!

Jillian McGrath

Director of Congressional Affairs

EXEMPTION 6

Re: Follow Up from Amb. Tai/Warren

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Wed, 18 Oct 2023 16:55:57 -0400

Anytime 10a-12:30p works, thanks!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Wednesday, October 18, 2023 4:54:28 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: Follow Up from Amb. Tai/Warren

Sounds great, [EXEMPTION 5]

[REDACTED], what works for a call Friday morning?

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <warren.senate.gov>
Sent: Wednesday, October 18, 2023 4:34 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: Follow Up from Amb. Tai/Warren

Hey Jillian, great seeing you in person yesterday, and likewise thanks for setting this up!

[EXEMPTION 5]

[EXEMPTION 5]

[REDACTED] if you have a couple of minutes this week to chat.

Happy to discuss any of this further, and thanks again!

Nikhil

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Wednesday, October 18, 2023 4:04 PM

To: Srinivasan, Nikhil (Warren)

Subject: Follow Up from Amb. Tai/Warren

Hi Nikhil, it was great meeting with your boss yesterday! Thanks for all your help making the meeting a success.

A few points to follow up on: **EXEMPTION 5**

I also wanted to follow up on the substance of their conversation. I believe your boss **EXEMPTION 5**

EXEMPTION 5
EXEMPTION 5
EXEMPTION 5
EXEMPTION 5 we're happy to set up a full briefing.

EXEMPTION 5

Thanks again,

Jillian

Jillian McGrath

Director of Congressional Affairs

EXEMPTION 6

Re: Late

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Fri, 20 Oct 2023 10:02:55 -0400

No worries! Just pinged you but can't seem to reach you on your number so if you're able to give me a call whenever you're free, that'd be great. I'm at [EXEMPTION 6]. Thanks!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Friday, October 20, 2023 10:01:56 AM
To: Srinivasan, Nikhil (Warren)
Subject: Late

Hi Nikhil, the Amb just grabbed me to chat quickly so I'll be a few mins late.

Sent from my iPhone

Re: Jillian/Nikhil re: Australia

From: "Srinivasan, Nikhil (Warren)" [REDACTED] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Fri, 20 Oct 2023 10:01:59 -0400

Hey Jillian, just tried that number but for some reason got the voicemail of someone at OMB. Any chance you could give me a call at [REDACTED] Thanks!

From: McGrath, Jillian M. EOP/USTR
Sent: Wednesday, October 18, 2023 4:57 PM
To: McGrath, Jillian M. EOP/USTR; Srinivasan, Nikhil (Warren)
Subject: Jillian/Nikhil re: Australia
When: Friday, October 20, 2023 10:00 AM-10:30 AM.
Where:

Nikhil call Jillian: [REDACTED]

WH Digital Trade Letter

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Kanne, Megan" **EXEMPTION 6** <[REDACTED]@mail.house.gov>, "Srinivasan, Nikhil (Warren)"
EXEMPTION 6 <[REDACTED]@warren.senate.gov>
Cc: "Durkin, Kate" **EXEMPTION 6** <[REDACTED]@mail.house.gov>
Date: Mon, 23 Oct 2023 11:15:52 -0400
Attachments Oct 2023 WH Digital Trade Letter Draft.docx (19.5 kB)

:

Hey guys,

Some suggested edits per our discussion Friday.

Dear President Biden,

We strongly support your whole-of-government competition policy agenda and your 2023 State of the Union commitment to protect all Americans' privacy, our children's wellbeing, and smaller businesses' opportunities by countering Big Tech abuses. Opinion research shows that these goals also are strongly supported by a broad majority of Americans united across partisan and regional lines.

We are writing today to express our appreciation for your efforts to try to ensure that the "digital trade" provisions of the Indo-Pacific Economic Framework (IPEF) are consistent with these goals.

Congress and administration agencies focused on digital governance are working to promote competition, safeguard Americans' privacy and civil rights and liberties and develop policies to prevent harms related to artificial intelligence (AI). But some Big Tech interests seek to use their lobbyists and money to hijack IPEF negotiations to impose binding rules branded as "digital trade" that derail such government action. This form of international preemption would thwart domestic policies that address problems for workers, consumers, competing businesses, and democracy itself caused by an unregulated digital sphere shaped by dominant platforms.

According to media reports, we understand that you have suspended negotiations on aspects of the IPEF digital text that can be misused to frustrate privacy, AI, civil rights and liberties, anti-monopoly, gig worker and other digital safeguards that Congress and the administration seek. This includes terms covering personal data, which could be used to derail policies to protect consumer privacy and our kids online and to secure data related to infrastructure and other sensitive sectors. Another rightly suspended provision risks allowing genuine antimonopoly measures to be branded as "discriminatory" when the monopolies in question share one nationality.

In the U.S.-Mexico-Canada Agreement (USMCA) industry pushed the Trump administration to include dangerous digital terms. It is important to exclude these same terms in IPEF. This includes rules that can be read as restricting government efforts to obtain information on algorithms to systematically enforce against self-preferencing and other competition policy threats and wage and hour and other labor violations done via "bossware" programs. This term could also implicate pre-screening of AI for racial bias and other violations of civil liberties and rights, as the administration's AI Bill of Rights proposes, and gut the right-to-repair laws being enacted in states nationwide and that the administration and many in Congress seek to enact nationally.

We believe there is an opportunity to reconceive of these rules in a way that more appropriately reflects legislative and regulatory equities. We urge you to continue to work with us to craft rules that allow us to collectively protect the interests of American workers, consumers, and small businesses.

Additionally, we were particularly glad to see Ambassador Tai's appointment to the White House Competition Council, which coordinates administration-wide policy on competition in accordance with President Biden's "Executive Order on Promoting Competition in the American Economy." Ambassador Tai's appointment signals the administration's recognition that President Biden's domestic competition agenda must extend to trade policy as well. The U.S.'s trade agreements cannot impede, and should in fact promote, fair competition in the global economy.

Unsurprisingly, the U.S. Chamber of Commerce and various lobbying organizations representing Big Tech vehemently oppose such changes. They had hoped to lock the pro-Big-Tech USMCA digital trade rules into IPEF before Congress and the agencies responsible for protecting our privacy, fair markets, civil rights or labor rights realized what was at stake. Various letters that the Chamber of Commerce and Big Tech lobby shops have sent to Congress suggest that these interests are unhappy that their stealthy strategy was exposed.

In contrast, on behalf of the American people, we thank the Biden administration for uncovering this ploy and acting to protect the interest of American workers, consumers and small businesses. Over and over, we have seen the damage wrought when the Chamber of Commerce and its corporate allies are able to shape U.S. trade policy against the interests of most Americans.

We look forward to working with you to fix the IPEF digital rules and create a new model that can be deployed for all U.S. negotiations to ensure your administration's smart competition and tech policies are reinforced, not undermined, in trade agreements.

Re: WTO JSI Announcement

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Tue, 24 Oct 2023 14:10:17 -0400

Works for me, thanks!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Tuesday, October 24, 2023 2:09:54 PM
To: Srinivasan, Nikhil (Warren)
Subject: Re: WTO JSI Announcement

In a briefing until about 330, can I call you then?

Sent from my iPhone

> On Oct 24, 2023, at 12:16 PM, McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
wrote:

>

> Hey Nikhil, it looks like we will be doing press on the upcoming announcement. Is your boss willing
to provide a quote/statement for a potential Bloomberg story on it?

>

> -Jillian

Re: WTO reporting

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Wed, 25 Oct 2023 17:09:52 -0400

Definitely hear you. We'll do what we can over here!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Wednesday, October 25, 2023 5:08:12 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO reporting

Candidly, I think this is pretty niche and wasn't on anyone's radar (except for your boss') [EXEMPTION 5]

Thanks for all your help!

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <warren.senate.gov>
Sent: Wednesday, October 25, 2023 4:45 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO reporting

Ok great! We're going to get a tweet up soon [EXEMPTION 5]

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Wednesday, October 25, 2023 4:44 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO reporting

Ha, no worries. I didn't mention it!

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <warren.senate.gov>
Sent: Wednesday, October 25, 2023 4:43 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO reporting

EXEMPTION 5

recommend EXEMPTION 5

From: Srinivasan, Nikhil (Warren)

Sent: Wednesday, October 25, 2023 4:05:46 PM

To: McGrath, Jillian M. EOP/USTR

Subject: Re: WTO reporting

Working on EXEMPTION 5

On Oct 25, 2023, at 4:03 PM, Srinivasan, Nikhil (Warren)

EXEMPTION 6 <warren.senate.gov> wrote:

Cool let me ask. EXEMPTION 5

On Oct 25, 2023, at 4:02 PM, McGrath, Jillian M. EOP/USTR

<Jillian.M.McGrath@ustr.eop.gov> wrote:

EXEMPTION 5

Thanks so much!!

From: Srinivasan, Nikhil (Warren) EXEMPTION 6 <warren.senate.gov>

Sent: Wednesday, October 25, 2023 3:58 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO reporting

Ah, got it, good to know! & Yes I saw a lot of that. EXEMPTION 5

I think EXEMPTION 5

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Wednesday, October 25, 2023 3:45:08 PM

To: Srinivasan, Nikhil (Warren)

Subject: RE: WTO reporting

Ok great. We discussed internally and I think the full statement we provided outlets made the nuance more clear but one quote our press sec provided wasn't as explicit, and of course, reporters mostly wrote off the quote.

EXEMPTION 5

EXEMPTION 5 do
you have **EXEMPTION 5**

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Wednesday, October 25, 2023 3:30 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO reporting

Kuttner's TAP today mentions nondiscrimination.

<https://prospect.org/blogs-and-newsletters/tap/2023-10-25-big-tech-loses-one/>

From: Srinivasan, Nikhil (Warren)

Sent: Wednesday, October 25, 2023 1:23:44 PM

To: McGrath, Jillian M. EOP/USTR

Subject: Re: WTO reporting

Will do! I think Inside Trade left it out as well.

On Oct 25, 2023, at 1:22 PM, McGrath, Jillian M. EOP/USTR

<Jillian.M.McGrath@ustr.eop.gov> wrote:

Copy that. If there are other stories you see that leave it out can you flag them for me? I think it's just Morning Trade so far but I could be wrong.

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6](#) warren.senate.gov>
Sent: Wednesday, October 25, 2023 1:21 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO reporting

Ok great! [EXEMPTION 5](#) my two cents would be to
[EXEMPTION 5](#) Thanks
again!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Wednesday, October 25, 2023 1:06:01 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO reporting

[EXEMPTION 5](#)

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6](#) warren.senate.gov>
Sent: Wednesday, October 25, 2023 12:49 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO reporting

Great, thank you!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Wednesday, October 25, 2023 12:49:03 PM
To: Srinivasan, Nikhil (Warren)
Subject: Re: WTO reporting

[EXEMPTION 5](#)

On Oct 25, 2023, at 12:46 PM, Srinivasan, Nikhil (Warren)
[EXEMPTION 6](#) warren.senate.gov> wrote:

Hey! EXEMPTION 5
[Redacted]
[Redacted]
[Redacted]

Thanks in advance!

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren

EXEMPTION 6
[Redacted]

Re: WTO reporting

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Thu, 26 Oct 2023 14:33:49 -0400

Don't think they've replaced her yet, I think Andy and their LD Jeremy are handling for now. Not quite sure where she's going, I haven't asked yet.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, October 26, 2023 2:32:42 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO reporting

Yeah I think we'll hold off on an LAs briefing for now. Do you know where Carolina is going or if they've replaced her yet?

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <warren.senate.gov>
Sent: Thursday, October 26, 2023 1:10 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO reporting

[EXEMPTION 5]

I think [EXEMPTION 5]

[EXEMPTION 5]

our take is [EXEMPTION 5]

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, October 26, 2023 12:15:51 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO reporting

Oh wonderful, thanks for the update. EXEMPTION 5

On timing, we're thinking through a potential Finance LAs briefing on this. We could bring in Amb. Pagan to dispel concerns about ceding ground to China and abandoning our allies. I personally suspect the issue might be a little too niche and could backfire in terms of the Wyden team's response, but open to your thoughts.

From: Srinivasan, Nikhil (Warren) EXEMPTION 6 <warren.senate.gov>
Sent: Thursday, October 26, 2023 12:01 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO reporting

Hey! Yes, just recirculated the letter to Senate and House friends with some edits based on Dan's/Beth's thoughts. We have Klobuchar on in the Senate and several usual suspects in the House, but others have been slow to get answers back with their bosses at CODELs and so forth. I'm hoping we can get something out mid to late next week, but if there's a timing hook in advance of which it'd be helpful for us to get the letter out (e.g. a meeting with members) let me know and we can try our best.

And that's great about Warner and Bennet!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, October 26, 2023 10:32:31 AM
To: Srinivasan, Nikhil (Warren)
Subject: Re: WTO reporting

Good morning! Is your boss still working on a letter with Schakowsky on digital trade? We are thinking that might be useful for the Ambassador to point to in conversations with members upset about this decision. Do you have an update on in timing or other members interested in potentially signing? No rush, just want to see where you're at in the process.

Also, I spoke with Warner and Bennet's staff and they were receptive and understanding, so thanks again for your soft touches and help on this!

-Jillian

On Oct 25, 2023, at 5:08 PM, McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov> wrote:

Candidly, I think this is pretty niche and wasn't on anyone's radar (except for your boss') [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Thanks for all your help!

From: Srinivasan, Nikhil (Warren) [REDACTED] <warren.senate.gov>

Sent: Wednesday, October 25, 2023 4:45 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO reporting

Ok great! We're going to get a tweet up soon [REDACTED]

[REDACTED]

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Wednesday, October 25, 2023 4:44 PM

To: Srinivasan, Nikhil (Warren)

Subject: RE: WTO reporting

Ha, no worries. I didn't mention it!

From: Srinivasan, Nikhil (Warren) [REDACTED] <warren.senate.gov>

Sent: Wednesday, October 25, 2023 4:43 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO reporting

[REDACTED] recommend [REDACTED]

[REDACTED]

From: Srinivasan, Nikhil (Warren)

Sent: Wednesday, October 25, 2023 4:05:46 PM

To: McGrath, Jillian M. EOP/USTR

Subject: Re: WTO reporting

Working on [REDACTED]

On Oct 25, 2023, at 4:03 PM, Srinivasan, Nikhil (Warren)

EXEMPTION 6 <warren.senate.gov> wrote:

Cool let me ask. **EXEMPTION 5**

On Oct 25, 2023, at 4:02 PM, McGrath, Jillian M. EOP/USTR

<Jillian.M.McGrath@ustr.eop.gov> wrote:

EXEMPTION 5

Thanks so much!!

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Wednesday, October 25, 2023 3:58 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO reporting

Ah, got it, good to know! & Yes I saw a lot of that. **EXEMPTION 5**

. I think **EXEMPTION 5**

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Wednesday, October 25, 2023 3:45:08 PM

To: Srinivasan, Nikhil (Warren)

Subject: RE: WTO reporting

Ok great. We discussed internally and I think the full statement we provided outlets made the nuance more clear but one quote our press sec provided wasn't as explicit, and of course, reporters mostly wrote off the quote.

EXEMPTION 5

do you have **EXEMPTION 5**

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>

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To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO reporting

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<https://prospect.org/blogs-and-newsletters/tap/2023-10-25-big-tech-loses-one/>

From: Srinivasan, Nikhil (Warren)
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Subject: Re: WTO reporting

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Sent: Wednesday, October 25, 2023 1:21 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO reporting

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be to **EXEMPTION 5**
Thanks again!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Wednesday, October 25, 2023 1:06:01 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO reporting

EXEMPTION 5

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>
Sent: Wednesday, October 25, 2023 12:49 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO reporting

Great, thank you!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Wednesday, October 25, 2023 12:49:03 PM
To: Srinivasan, Nikhil (Warren)
Subject: Re: WTO reporting

EXEMPTION 5

On Oct 25, 2023, at 12:46 PM, Srinivasan, Nikhil (Warren)

EXEMPTION 6 @warren.senate.gov> wrote:

Hey! EXEMPTION 5

[REDACTED]

Thanks in advance!

Nikhil Srinivasan (*he/him*)

Office of U.S. Senator Elizabeth Warren

EXEMPTION 6

Re: Have a minute to chat?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
To: "Srinivasan, Nikhil (Warren)" **EXEMPTION 6** warren.senate.gov>
Cc: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Fri, 27 Oct 2023 17:26:40 -0400

Great. Monday tweets sounds great!

On Oct 27, 2023, at 5:16 PM, Srinivasan, Nikhil (Warren)
EXEMPTION 6 warren.senate.gov> wrote:

[Trahan](#) tweet, the first of what sounds like many to come, likely mostly on Monday morning! Will try to flag as I hear. And Dan, will let you know what I hear from Jon.

From: Srinivasan, Nikhil (Warren)

Sent: Friday, October 27, 2023 12:29:18 PM

To: McCarthy, Daniel M. EOP/USTR

Cc: McGrath, Jillian M. EOP/USTR

Subject: Re: Have a minute to chat?

Hey! Happy to. I'm in meetings for the next little while, but I can call you around 2p if that works?
If not I'm free 2-4p so can do anywhere in there.

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>

Sent: Friday, October 27, 2023 12:25:48 PM

To: Srinivasan, Nikhil (Warren)

Cc: McGrath, Jillian M. EOP/USTR

Subject: Have a minute to chat?

EXEMPTION 6

Have a minute today?

From: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>

To: "Donenberg, Jon (Warren)" EXEMPTION 6 warren.senate.gov>

Date: Fri, 27 Oct 2023 11:01:24 -0400

Heard about the new gig. Congrats! You have a minute to talk today? EXEMPTION 6

RE: Letter from Warren, Whitehouse, Cohen

From: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
:
To: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>, "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov> [REDACTED] state.gov
Cc: "RuBoss, Dan (Budget)" [REDACTED]@budget.senate.gov>, "Bell, Sion (Budget)" [REDACTED]@budget.senate.gov>, "Citron, Rachel" [REDACTED]@mail.house.gov>, "Buster, Reisha" [REDACTED]@mail.house.gov>
Date: Wed, 01 Nov 2023 16:54:43 -0400

Hi Nikhil, confirming receipt! Thanks so much.

From: Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>
Sent: Wednesday, November 1, 2023 4:38 PM
To: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>; McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; [REDACTED]@state.gov
Cc: RuBoss, Dan (Budget) [REDACTED]@budget.senate.gov>; Bell, Sion (Budget) [REDACTED]@budget.senate.gov>; Citron, Rachel [REDACTED]@mail.house.gov>; Buster, Reisha [REDACTED]@mail.house.gov>
Subject: Letter from Warren, Whitehouse, Cohen

Hi all,

Please find attached a letter from Senators Warren and Whitehouse and Rep. Cohen for Ambassador Tai and Secretary Blinken. When you have a moment, would appreciate if you're able to acknowledge receipt.

Thanks in advance,
Nikhil

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren
[REDACTED]

Congress of the United States

Washington, DC 20515

November 1, 2023

The Honorable Katherine Tai
U.S. Trade Representative
Office of the U.S. Trade
Representative
600 17th Street NW
Washington, D.C. 20508

The Honorable Antony Blinken
Secretary of State
Department of State
2201 C Street NW
Washington, D.C. 20520

Dear Ambassador Tai and Secretary Blinken:

We are writing to express our concern about the investor-state dispute settlement (ISDS) regime and its use by corporations to attack governments—including the United States—for pursuing important public policies. President Biden took powerful action when he shut down the Keystone XL pipeline project, preventing the construction of a tar sands oil pipeline that would have devastated the environment and threatened the safety, health, and sovereignty of tribal nations. But TC Energy (formerly known as TransCanada) – the company behind the now-defunct pipeline – has filed an ISDS claim for billions of dollars to be litigated not in an American court, but in a shady international tribunal. We are glad that the Biden administration opposes ISDS and remains committed not to include ISDS provisions in future trade or investment agreements.¹ Yet many of the United States’ existing free trade agreements (FTAs) still contain ISDS provisions that foreign corporations like TC Energy continue to exploit. We urge you to pursue any and all options at your disposal—including new regional frameworks like the Americas Partnership for Economic Prosperity (APEP), which your agencies are spearheading²—to remove ISDS from existing U.S. trade deals.

Large multinational corporations successfully lobbied for the right to bypass domestic courts in past international trade deals and continue to exploit that benefit by challenging American laws in a process not offered to workers or consumers.³ Through ISDS mechanisms in trade and investment agreements, foreign corporate investors can challenge governments for adopting policies – including labor and environmental protections – that they claim violate their investor protections and negatively impact their investments. These corporate complaints are handled not through the judicial systems of the United States or our trading partners, but through industry-friendly arbitration tribunals that can order taxpayers to shell out massive sums to big

¹ Letter from Ambassador Tai to Senator Warren and Rep. Doggett, May 25, 2023, on file with the Office of Senator Elizabeth Warren.

² U.S. Department of State, “Americas Partnership for Economic Prosperity,” <https://www.state.gov/americas-partnership-for-economic-prosperity/>.

³ See e.g., Public Citizen, “At Hill Forum, Conservative and Progressive Trade and Legal Experts Support Removal of ISDS From NAFTA, Revealing Isolation of Corporate Lobby Defending NAFTA Job Outsourcing Incentives,” press release, December 5, 2017, <https://www.citizen.org/news/at-hill-forum-conservative-and-progressive-trade-and-legal-experts-support-removal-of-isds-from-nafta-revealing-isolation-of-corporate-lobby-defending-nafta-job-outsourcing-incentives/>.

corporations, with no opportunity to appeal.⁴ Unlike the courts, ISDS arbitrations lack “set procedures or precedents” and standards of evidence, and “mistruths or exaggerations go unpunished.”⁵ And the arbitrators in these cases are not judges but corporate lawyers, presenting the potential for significant conflicts of interest: an arbitrator can hand down a business-friendly ruling one day, then argue a case based on that very same ruling before a tribunal the next.⁶ ISDS tilts the playing field even further in favor of large corporations, incentivizing offshoring, fueling a global race-to-the-bottom in worker and environmental protections, and undermining the sovereignty of the United States and other governments.⁷

The Biden Administration has taken a strong stand against ISDS. President Biden committed early on not to include ISDS in future trade agreements.⁸ And in recent letters, USTR and the State Department both reaffirmed that commitment, saying that “President Biden . . . opposes the ability of private corporations to attack labor, health, and environmental policies through ISDS”⁹ and that Ambassador Tai and Secretary Blinken “share these views” and are “pleased the United States is not currently pursuing any trade or investment agreements that would establish ISDS.”¹⁰

However, legitimate U.S. policy remains vulnerable to corporate attacks under old trade deals that include ISDS. Until recently, foreign corporations could sue the U.S. government using the now-defunct North American Free Trade Agreement’s (NAFTA) ISDS mechanism. NAFTA’s successor, the United States-Mexico-Canada Agreement (USMCA), set that provision to sunset on July 1, 2023,¹¹ three years after USMCA entered into force. While this was a significant and historic improvement over traditional investment treaties,¹² it still left enough time for companies to exploit NAFTA’s ISDS provision. One giant energy company is doing just that, suing the U.S. government for billions of dollars for canceling the disastrous Keystone XL pipeline.¹³ While

⁴ Public Citizen, “More Information on Investor-State Dispute Settlement,” <https://www.citizen.org/article/more-information-on-investor-state-dispute-settlement/>; Congressional Research Service, “U.S. International Investment Agreements (IIAs),” Martin A. Weiss and Shayerah I. Akhtar, April 1, 2022, <https://crsreports.congress.gov/product/pdf/IF/IF10052>.

⁵ The American Prospect, “How Biden Can End Secretive Corporate Tribunals,” Sarah Lazare, February 2, 2023, <https://prospect.org/world/2023-02-02-investor-state-dispute-settlement/>.

⁶ Public Citizen, “More Information on Investor-State Dispute Settlement,” <https://www.citizen.org/article/more-information-on-investor-state-dispute-settlement/>.

⁷ Green America and American Sustainable Business Council, “Small Business Leaders to Trump: End Advantage for Multinationals Over U.S. Small Businesses in NAFTA,” press release, July 12, 2017, https://www.citizen.org/wp-content/uploads/small_business_letter.pdf

⁸ United Steelworkers endorsement questionnaire for Joe Biden, May 17, 2020, <https://www.uswvoices.org/endorsed-candidates/biden/BidenUSWQuestionnaire.pdf>.

⁹ Letter from Ambassador Tai to Senator Warren and Rep. Doggett, May 25, 2023, on file with the Office of Senator Elizabeth Warren.

¹⁰ *Id.*; Letter from Naz Durakoğlu, Assistant Secretary for Legislative Affairs, State Department, to Senator Warren and Rep. Doggett, June 26, 2023, on file with the Office of Senator Elizabeth Warren.

¹¹ Lexology, “Investors’ rights to bring Investment Claims under the NAFTA Investment Chapter expires soon,” Nicholas A. Lawn and Adriana Pérez-Gil, March 13, 2023, <https://www.lexology.com/library/detail.aspx?g=6abdca5d-ae9c-4b66-a244-a5eeeb40ba0e#:~:text=Accordingly%2C%20the%20legacy%20clause%20will,submitted%20before%20July%201%2C%202023.>

¹² ArentFoxSchiff, “NAFTA Chapter 11 (Investments): Time to bring “Legacy Investment” Claims Running Out Soon,” Riyaz Dattu et al., March 8, 2023, <https://www.afslaw.com/perspectives/international-arbitration-dispute-resolution-blog/nafta-chapter-11-investments-time>.

¹³ *TransCanada Corporation & TransCanada PipeLines Limited v. The Government of the United States of America*, ICSID Case No. ARB/16/21, Request for Arbitration (June 24, 2016). Available at:

NAFTA's ISDS mechanism has since expired, the U.S. still has more than 50 trade and investment agreements, most containing ISDS clauses,¹⁴ meaning that corporations can continue to file this type of dangerous, extra-judicial lawsuit.

The Keystone XL case clearly shows the dangers of allowing ISDS mechanisms to persist. In 2016, Canadian company TC Energy brought a case against the U.S. government under the NAFTA ISDS provision.¹⁵ TC Energy alleged that the Obama administration's denial of permits required for construction of its new 1,200-mile Keystone XL pipeline contravened its investor protections under the trade agreement.¹⁶ In its initial claim, TC Energy demanded an astounding \$15 billion from the U.S. government, claiming that in addition to its initial \$3.1 billion investment in the pipeline, American taxpayers should compensate the company for lost expected future profits.¹⁷ Under President Trump, TC Energy purportedly used its ISDS claim as collateral to successfully resubmit its permits for construction.¹⁸ Legal questions swirled around the permitting process for years, until President Biden unequivocally put an end to the pipeline on his first day in office.¹⁹ In retaliation, TC Energy lodged a second ISDS complaint against the U.S. in 2021, once again seeking \$15 billion in damages.²⁰

The Biden administration has rightfully shut the door on continuation of the Keystone XL pipeline,²¹ which would have undermined tribal sovereignty, devastated the surrounding environment, and hastened climate change. Along its path from Alberta to south Texas, Keystone XL would have "directly threatened scores of imperiled plants and animals."²² The pipeline would have "crossed more than 340 perennial water bodies and [risked] contaminating the

<https://www.italaw.com/sites/default/files/case-documents/italaw7407.pdf>.

¹⁴ The American Prospect, "How Biden Can End Secretive Corporate Tribunals," Sarah Lazare, February 2, 2023, <https://prospect.org/world/2023-02-02-investor-state-dispute-settlement/>; International Trade Administration, "Free Trade Agreements," https://tcc.export.gov/Trade_Agreements/Free_Trade_Agreements/index.asp; International Trade Administration, "Bilateral Investment Treaties,"

https://tcc.export.gov/Trade_Agreements/Bilateral_Investment_Treaties/index.asp.

¹⁵ *TransCanada Corporation & TransCanada PipeLines Limited v. The Government of the United States of America*, ICSID Case No. ARB/16/21, Request for Arbitration (June 24, 2016). Available at:

<https://www.italaw.com/sites/default/files/case-documents/italaw7407.pdf>.

¹⁶ *Id.*; U.S. Chamber of Commerce Global Energy Institute, "Background of Keystone XL,"

<https://www.globalenergyinstitute.org/background-keystone-xl#:~:text=The%20Keystone%20XL%20pipeline%20is,barrels%20of%20oil%20a%20day>.

¹⁷ *TransCanada Corporation & TransCanada PipeLines Limited v. The Government of the United States of America*, ICSID Case No. ARB/16/21, Request for Arbitration (June 24, 2016). Available at:

<https://www.italaw.com/sites/default/files/case-documents/italaw7407.pdf>; Public Citizen, "Case Studies: Investor-State Attacks on Public Interest Policies," https://www.citizen.org/wp-content/uploads/egregious-investor-state-attacks-case-studies_4.pdf.

¹⁸ Public Citizen, "Case Studies: Investor-State Attacks on Public Interest Policies," https://www.citizen.org/wp-content/uploads/egregious-investor-state-attacks-case-studies_4.pdf.

¹⁹ Ballotpedia, "Keystone XL Pipeline political timeline,"

https://ballotpedia.org/Keystone_XL_Pipeline_political_timeline.

²⁰ Public Citizen, "U.S. May Face \$15 Billion Penalty for Rejection of Keystone XL Pipeline," Alex Durham and Sally King, November 21, 2022, <https://www.citizen.org/news/u-s-may-face-15-billion-penalty-for-rejection-of-keystone-xl-pipeline/>.

²¹ The White House, "Fact Sheet: President-elect Biden's Day One Executive Actions Deliver Relief for Families Across America Amid Converging Crises," press release, January 20, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-elect-bidens-day-one-executive-actions-deliver-relief-for-families-across-america-amid-converging-crises/>.

Ogallala Aquifer — the main source of drinking water for millions of Americans.”²³ The oil transmitted by the Keystone XL pipeline would have been extracted from tar sands, a fuel source that “release[s] significantly more carbon pollution” – by some estimates roughly 81 percent more – than the average crude oil used in the U.S.,²⁴ requires input of three barrels of water per barrel of oil, and has been dubbed “game over” for averting the climate crisis.²⁵ The expansion of tar sands oil production to feed the pipeline would also have decimated Alberta’s Boreal forest, a critical carbon sink, raising emissions even further by up to 47.3 million metric tons of carbon dioxide equivalent.²⁶ Broadly, over its 50-year project timeline, the Keystone XL pipeline would have added “more carbon to our atmosphere ... than the combined tailpipe emissions of every single car in America over an entire year,” or roughly 1.2 billion metric tons.²⁷ In addition, the construction of the Keystone XL pipeline would have posed a real threat to the safety and sovereignty of Native nations, violating treaties and desecrating tribal lands, and causing irreparable harm to essential tribal water sources.²⁸ Tar sands oil development in Canada has already wreaked havoc on the water and land of Canadian First Nations communities and has threatened the local wildlife, with adverse effects on human health.²⁹ And as the December 2022 oil spill from a separate TC Energy-built Keystone pipeline demonstrated, tar sands oil spills take years to clean up³⁰ and have far graver consequences for the surrounding community than standard oil spills.³¹ Tribes have repeatedly sued the U.S. government to protest the lack of adequate consultation with affected tribal governments in awarding the requisite permits to TC Energy, stating that the Trump administration’s permitting process “overlooked tribal treaties with the federal government.”³²

²² Center for Biological Diversity, “KEYSTONE XL PIPELINE,” https://www.biologicaldiversity.org/programs/public_lands/energy/keystone_xl_pipeline/.

²³ *Id.*

²⁴ Sierra Club, “Fail: How the Keystone XL Tar Sands Pipeline Flunks the Climate Test,” https://content.sierraclub.org/grassrootsnetwork/sites/content.sierraclub.org/activistnetwork/files/teams/documents/FAIL_KeystoneClimateReport_08_print%20%281%29.pdf; Natural Resources Defense Council, “Climate Impacts of the Keystone XL Tar Sands Pipeline,” October 2013, <https://www.nrdc.org/sites/default/files/tar-sands-climate-impacts-IB.pdf>.

²⁵ Center for Biological Diversity, “Keystone XL Pipeline,” https://www.biologicaldiversity.org/programs/public_lands/energy/keystone_xl_pipeline

²⁶ Natural Resources Defense Council, “Climate Impacts of the Keystone XL Tar Sands Pipeline,” October 2013, <https://www.nrdc.org/sites/default/files/tar-sands-climate-impacts-IB.pdf>.

²⁷ *Id.*

²⁸ Native American Rights Fund, “KEYSTONE XL PIPELINE (ROSEBUD SIOUX TRIBE V. TRUMP),” <https://narf.org/cases/keystone/>.

²⁹ Environmental Conservation Laboratory, “Environmental and Human Health Implications of the Athabasca Oil Sands for the Mikisew Cree First Nation and Athabasca Chipewyan First Nation in Northern Alberta,” Stéphane M. McLachlan and Clayton H. Riddell, July 7, 2014, https://landuse.alberta.ca/Forms%20and%20Applications/RFR_ACFN%20Rcply%20to%20Crown%20Submission%206%20-%20TabD11%20Report_2014-08_PUBLIC.pdf.

³⁰ Salon, “Cleanup is underway for the US’s second-largest tar sands oil spill,” John McCracken, December 19, 2022, https://www.salon.com/2022/12/19/cleanup-is-underway-for-the-uss-second-largest-tar-sands-oil-spill_partner/#:~:text=This%20oil%20spill%2C%20which%20took,spill%20in%20the%20nation's%20history.

³¹ NPR, “The Keystone pipeline leaked in Kansas. What makes this spill so bad?,” Jaelyn Diaz, December 17, 2022, <https://www.npr.org/2022/12/17/1142675809/cleanup-for-keystone-pipeline-oil-spill-kansas>.

³² The World, “Native American tribes unite to fight the Keystone pipeline and government ‘disrespect,’” Robert Boos, February 19, 2015, <https://theworld.org/stories/2015-02-19/native-american-tribes-unite-fight-keystone-pipeline-and-government-disrespect>.

The stakes of allowing projects like the Keystone XL pipeline to move forward are extremely high – for some communities, they are life-and-death. It is critical that any decisions about what happens in our communities are made at home, in America. That means corporations cannot be allowed to push the concerns of environmentalists, Indigenous communities, and the U.S. government itself to the side through the use of the deeply flawed and imbalanced ISDS process.

Moreover, when a foreign corporation lodges an ISDS complaint against the United States, American taxpayers must pay the price. The U.S. government has already spent as much as \$250,000 simply to cover the initial fees of the tribunal for the TC Energy ISDS claim, in addition to the costs of U.S. government officials and attorneys who must spend time defending against the claim.³³ This means the very people who would have been harmed by the project must foot the bill for the Canadian company's spurious claim – and not just for the initial fees, but potentially for the more than \$15 billion demanded by the company. This system is particularly harmful for developing countries, for which claims to the tune of tens of billions of dollars can represent huge fractions of their annual budgets.³⁴ Losing an ISDS case and being forced to shell out massive awards to foreign corporations can mean cutting critical social welfare and aid programs for their people. The U.S. government cannot continue to allow corporations to bankrupt developing nations using ISDS. And American taxpayers should not have to shell out thousands – let alone billions – of dollars to line the pockets of foreign corporations.

Your agencies have an opportunity to put an end to this system of corporate exploitation of developing countries, Indigenous communities, the environment, and workers and consumers worldwide. You have announced plans to negotiate the Americas Partnership for Economic Prosperity with 11 partner countries in the Western Hemisphere.³⁵ Ten of those partner countries have existing FTAs or investment treaties with the United States that contain ISDS provisions.³⁶ ISDS cases are especially rife in Latin America: as of December 2022, 22 Latin American nations had faced 371 ISDS claims, representing nearly a third of worldwide ISDS cases.³⁷ There are many ways your agencies could harness the APEP process to remove ISDS from U.S. trade and investment agreements in the Americas, and we note that USTR has signaled its openness to using APEP to revisit the substance of those agreements, as occurred with respect to ISDS in the USMCA.³⁸

³³ Public Citizen, "U.S. Government Seeks to Dismiss Keystone XL Pipeline Case, While Taxpayers Have Already Spent \$250,000 to NAFTA Arbitration Tribunal," press release, January 19, 2023, <https://www.citizen.org/news/u-s-government-seeks-to-dismiss-keystone-xl-pipeline-case-while-taxpayers-have-already-spent-250000-to-nafta-arbitration-tribunal/>.

³⁴ See e.g., Letter from Senator Warren to Amb. Tai and Sec. Blinken, May 2, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.05.02%20Letter%20to%20Tai,%20Blinken%20re%20elimination%20of%20ISDS.pdf>.

³⁵ U.S. Department of State, "Americas Partnership for Economic Prosperity," <https://www.state.gov/americas-partnership-for-economic-prosperity/>.

³⁶ The White House, "Joint Declaration on The Americas Partnership for Economic Prosperity," press release, January 27, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/27/joint-declaration-on-the-americas-partnership-for-economic-prosperity/>; Office of the U.S. Trade Representative, "Free Trade Agreements," <https://ustr.gov/trade-agreements/free-trade-agreements>.

³⁷ Center for the Advancement of the Rule of Law in the Americas, "Investor-State Dispute Settlement in Latin America and the Caribbean," <https://isdslac.georgetown.edu/>

The ISDS system allows large corporations to hold the U.S. government and our trading partners hostage, demanding billions of dollars unless they are allowed to move forward with projects like the Keystone XL pipeline that would undermine tribal sovereignty, harm Native communities, and devastate the environment. Your agencies must take advantage of every opportunity to pursue the removal of ISDS provisions from the United States' existing trade and investment agreements, including through APEP. We respectfully request a response to this letter by December 1, and ask that in that letter you provide us with information on plans to do so.

Thank you for your attention to this matter.

Sincerely,

EXEMPTION 6

Elizabeth Warren
United States Senator

EXEMPTION 6

Steve Cohen
Member of Congress

EXEMPTION 6

Sheldon Whitehouse
United States Senator

EXEMPTION 6

Eleanor Holmes Norton
Member of Congress

EXEMPTION 6

Raúl M. Grijalva
Member of Congress

EXEMPTION 6

Rashida Tlaib
Member of Congress

³⁰ Inside U.S. Trade, "USTR official: Administration wants to update FTAs alongside APEP," Brett Fortnam, December 14, 2022, <https://insidetrade.com/daily-news/ustr-official-administration-wants-update-ftas-alongside-apep>.

EXEMPTION 6

Jésús G. "Chuy" García
Member of Congress

EXEMPTION 6

Jamaal Bowman, Ed.D.
Member of Congress

EXEMPTION 6

Jamie Raskin
Member of Congress

EXEMPTION 6

Dina Titus
Member of Congress

EXEMPTION 6

Paul D. Tonko
Member of Congress

EXEMPTION 6

Henry C. "Hank" Johnson, Jr.
Member of Congress

EXEMPTION 6

Shri Thanedar
Member of Congress

EXEMPTION 6

Ro Khanna
Member of Congress

EXEMPTION 6

Jared Huffman
Member of Congress

EXEMPTION 6

Melanie Stansbury
Member of Congress

EXEMPTION 6

Ilhan Omar
Member of Congress

EXEMPTION 6

Bernard Sanders
United States Senator

EXEMPTION 6

Frederica S. Wilson
Member of Congress

EXEMPTION 6

Cori Bush
Member of Congress

EXEMPTION 6

James P. McGovern
Member of Congress

EXEMPTION 6

Jeffrey A. Merkley
United States Senator

EXEMPTION 6

Pramila Jayapal
Member of Congress

EXEMPTION 6

Barbara Lee
Member of Congress

EXEMPTION 6

Nydia M. Velázquez
Member of Congress

EXEMPTION 6

Lloyd Doggett
Member of Congress

EXEMPTION 6

Summer Lee
Member of Congress

EXEMPTION 6

Jan Schakowsky
Member of Congress

EXEMPTION 6

Greg Casar
Member of Congress

EXEMPTION 6

Veronica Escobar
Member of Congress

EXEMPTION 6

Betty McCollum
Member of Congress

EXEMPTION 6

Alexandria Ocasio-Cortez
Member of Congress

EXEMPTION 6

Edward J. Markey
United States Senator

EXEMPTION 6

Alma S. Adams, Ph.D.
Member of Congress

EXEMPTION 6

Peter Welch
United States Senator

EXEMPTION 6

Brian Schatz
United States Senator

EXEMPTION 6

Mark Pocan
Member of Congress

EXEMPTION 6

Donald M. Payne, Jr.
Member of Congress

EXEMPTION 6

J. Tokuda
Member of Congress

EXEMPTION 6

Marcy Kaptur
Member of Congress

EXEMPTION 6

Rosa L. DeLauro
Member of Congress

Can you give me a call?

From: "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>

To: EXEMPTION 6 warren.senate.gov

Date: Thu, 02 Nov 2023 10:07:19 -0400

EXEMPTION 6 I have an 11 but generally otherwise free. Thanks!

Re: WTO JSI Q

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Thu, 02 Nov 2023 16:27:23 -0400

[EXEMPTION 5]

[EXEMPTION 5] I think [EXEMPTION 5]

[EXEMPTION 5] Also yes, I'd heard, it's terrific!! And hopefully means extending the digital trade brain trust to the VP's office...

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, November 2, 2023 12:30:54 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO JSI Q

Other offices that joined: Casey, Murphy, Merkley, Bennet, Warner. I was frankly heartened to see moderate engagement on this.

Question [EXEMPTION 5]

[EXEMPTION 5] Also not sure if you saw Carolina's new gig but it's awesome! She's VP Harris' new chief economic advisor! Super exciting.

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <warren.senate.gov>
Sent: Thursday, November 2, 2023 12:21 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO JSI Q

Hey! No problem, Beth mentioned this morning y'all had been thinking about how to respond to that and had been hearing the concern from others so wanted to give that space. & Happy to spend the time, definitely in both of our interests.

Thought the turnout was great, as was engagement. [EXEMPTION 5]

[EXEMPTION 5] I think [EXEMPTION 5]

[EXEMPTION 5] Think it might be helpful [EXEMPTION 5]

On letter timing, I forget the House folks but we have Klobuchar, Sanders, Blumenthal, and Welch here. I'm not quite sure on timing, Megan in Schakowsky's office has been underwater so I'm trying to get my comms team to pitch, but they're low on capacity so it may be early next week instead of this week. I'll say I was glad to see Morning Trade cover the groups letter + Klobuchar's tweet.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Thursday, November 2, 2023 11:46:38 AM

To: Srinivasan, Nikhil (Warren)

Subject: RE: WTO JSI Q

Hi! Thank you for joining the call and asking a helpful question! Really appreciate all your time and focus on this, it's been instrumental. How do you think it went? I felt like we had a good turnout and constructive engagement.

Any updates on letter timing/signees? No pressure on timing from us.

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Wednesday, November 1, 2023 3:43 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO JSI Q

Oh great! Blumenthal definitely, and Welch just joined our letter so him too. **EXEMPTION 5**
[REDACTED]

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Wednesday, November 1, 2023 2:42:05 PM

To: Srinivasan, Nikhil (Warren)

Subject: RE: WTO JSI Q

Helpful, thank you!

We're organizing a briefing on this tomorrow for interested staff, I will invite you **EXEMPTION 5**
[REDACTED] Any other
off-committee offices you can think of adding?

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Wednesday, November 1, 2023 2:35 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: WTO JSI Q

EXEMPTION 5 may be worth EXEMPTION 5

From: Srinivasan, Nikhil (Warren)
Sent: Tuesday, October 31, 2023 4:10:23 PM
To: McGrath, Jillian M. EOP/USTR
Subject: Re: WTO JSI Q

Hey, sorry I missed your call, just tried you back. I hadn't heard about the Wyden letter, but hopefully we can get ours out tomorrow night or Thursday. We're hearing positive signs from our usual allies, but it's been slow going unfortunately.

Feel free to call back so we can talk more in depth -- I'm free til 4:30 and after 5.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Tuesday, October 31, 2023 3:50:35 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO JSI Q

Hi Nikhil, just gave you a quick call because I heard through the grapevine that the Wydens are whipping support for a letter to counter your letter. I think they're making the rounds on Senate Finance now. Have you heard about this?

From: Srinivasan, Nikhil (Warren) EXEMPTION 6 <nwarren.senate.gov>
Sent: Tuesday, October 31, 2023 2:23 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO JSI Q

Hey! EXEMPTION 5

Good to know that there will be Amb. Tai-member meetings next week, think EXEMPTION 5

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Tuesday, October 31, 2023 2:16:15 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: WTO JSI Q

Hey there! I've chatted with Warner and Vance's staff who are both tracking and supportive. I'm not sure what your letter looks like right now but they could both be good leads to sign.

Otherwise, how's it going? We're working to set up outreach between Amb. Tai and members next week on this.

From: Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov
Sent: Monday, October 30, 2023 12:24 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: WTO JSI Q

Here's [Jayapa!](#)

From: Srinivasan, Nikhil (Warren)
Sent: Monday, October 30, 2023 11:57:33 AM
To: McGrath, Jillian M. EOP/USTR
Subject: Re: WTO JSI Q

Hey, hope you had a good weekend! Yes, I was hoping to see some tweets this morning but was offline all weekend and haven't had a chance to check in with folks. I think Rosa ended up just retweeting EW's tweet, but haven't seen anything else this morning.

I'm planning to check in with offices later today, but definitely feel free to check in with offices on your end too!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Monday, October 30, 2023 9:58:03 AM
To: Srinivasan, Nikhil (Warren)
Subject: WTO JSI Q

Hey Nikhil, happy Monday! I believe when we'd talked on Friday you'd mentioned other offices planning to tweet this morning. Can you let me know who/when you think these might be coming if you have an idea? We want to flag for our comms team ahead of time if possible.

If you don't know I can check in with offices from our outreach too, but wanted to ask you first in case you already know. Thanks!

-Jillian

Re: Conversations post-letter

From: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Tue, 07 Nov 2023 18:33:40 -0500

Had not perused yet, thanks for flagging!

On Nov 7, 2023, at 6:26 PM, McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov> wrote:

In Politico huddle tonight if you haven't seen it:

INSIDE THE SENATE DEM CAUCUS ROOM

Senate Banking Committee Chair Sherrod Brown told fellow Senate Democrats at Tuesday's caucus lunch that he will oppose the Biden administration's Indo-Pacific [Economic Framework for Prosperity](#) unless the trade pillar is dropped from the deal, according to a person briefed on the meeting.

Brown specifically cited concerns over the deal's labor standards.

Just a guess: The Biden administration – and the Democratic Party – probably don't want Brown or other trade hawks on the warpath over trade going into the 2024 election.

Sent from my iPhone

On Nov 7, 2023, at 5:24 PM, Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov> wrote:

My 5pm ended early so I tried you, but no rush! I'm open from now on so feel free to call whenever.

From: Srinivasan, Nikhil (Warren)
Sent: Tuesday, November 7, 2023 4:26:58 PM
To: McGrath, Jillian M. EOP/USTR
Subject: Re: Conversations post-letter

Awesome , that'd be great, also have some new info I want to get your read on

On Nov 7, 2023, at 4:26 PM, McGrath, Jillian M. EOP/USTR
<Jillian.M.McGrath@ustr.eop.gov> wrote:

Let's do 530pm. The response has been positive but happy to do full debrief.

From: Srinivasan, Nikhil (Warren) EXEMPTION 6 <warren.senate.gov>
Sent: Tuesday, November 7, 2023 4:25 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: Conversations post-letter

No worries! With the boss right now but can talk around 5:30 or after? If not I can talk right at 5 for like a couple minutes

On Nov 7, 2023, at 4:23 PM, McGrath, Jillian M. EOP/USTR
<Jillian.M.McGrath@ustr.eop.gov> wrote:

Hi! So sorry I missed your call, it's a chaotic week between WTO and IPEF. Got time for a call back?

From: Srinivasan, Nikhil (Warren) EXEMPTION 6 <warren.senate.gov>
Sent: Tuesday, November 7, 2023 11:58 AM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Conversations post-letter

Hey! I imagine you saw that our letter with Schakowsky went to y'all and the WH yesterday, with coverage this morning. I know it's been less than 24 hours, but

has that changed the tone of the conversation within the admin at all? Happy to chat by phone too.

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren

EXEMPTION 6

Re: Conversation re. ISDS

From: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>
:
To: "Dorelien, Astrid" [REDACTED] state.gov>, "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Cc: "Khan, Saadia" [REDACTED] state.gov>, "Carland, Raphael" [REDACTED] state.gov>, "RuBoss, Dan (Budget)" [REDACTED] budget.senate.gov>, "Bell, Sion (Budget)" [REDACTED] budget.senate.gov>
Date: Wed, 08 Nov 2023 13:27:37 -0500

Thanks Astrid, 1pm on Thurs 11/16 works for Dan, and Sion, and me. We'll look out for the Teams invite, thanks! And it's just the three of us for now.

Thanks again!

From: Dorelien, Astrid [REDACTED] state.gov>
Sent: Wednesday, November 8, 2023 11:04:25 AM
To: Srinivasan, Nikhil (Warren); McCarthy, Daniel M. EOP/USTR
Cc: Khan, Saadia; Carland, Raphael; RuBoss, Dan (Budget); Bell, Sion (Budget)
Subject: Re: Conversation re. ISDS

Hello Nikhil,

It looks like the 16th would work for State and USTR briefers. We also have some availability on the 17th. Is there a specific time that works best? If so, I can send out an MS Teams invite. Also, would you be able to share the names of others staffers that are expected to join or will it be the three of you?

Thursday, 11/16, 11a-2p or 3-4p

Friday, 11/17 before 11AM

Many thanks,

Astrid

From: Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>
Sent: Tuesday, November 7, 2023 9:23 PM
To: Dorelien, Astrid [REDACTED] state.gov>; McCarthy, Daniel M. EOP/USTR

<Daniel.M.McCarthy@ustr.eop.gov>

Cc: Khan, Saadia [REDACTED]state.gov>; Carland, Raphael [REDACTED]state.gov>;
RuBoss, Dan (Budget) [REDACTED]@budget.senate.gov>; Bell, Sion (Budget)
[REDACTED]@budget.senate.gov>

Subject: Re: Conversation re. ISDS

Hi Astrid, hope you've been well! Just wanted to re-up this and share some times I'm available below to facilitate scheduling:

- Mon. 11/13, 11a-2p and 4-5p
- Tues. 11/14, 11a-2p and 3-5p
- Thurs. 11/16, 11a-4p

Thanks again!

From: Srinivasan, Nikhil (Warren)

Sent: Wednesday, November 1, 2023 5:51 PM

To: Dorelien, Astrid; McCarthy, Daniel M. EOP/USTR

Cc: Khan, Saadia; Carland, Raphael; RuBoss, Dan (Budget); Bell, Sion (Budget)

Subject: Re: Conversation re. ISDS

Thanks Astrid, looping in Dan and Sion from Senator Whitehouse's team. I think if it's alright with you all, we'd like to keep this briefing to just our offices for now. I'm currently pretty open the week of 11/13, so happy to work around your/team Budget's availability.

From: Dorelien, Astrid [REDACTED]state.gov>

Sent: Wednesday, November 1, 2023 12:35 PM

To: Srinivasan, Nikhil (Warren); McCarthy, Daniel M. EOP/USTR

Cc: Khan, Saadia; Carland, Raphael

Subject: Re: Conversation re. ISDS

Many thanks, Nikhil.

Please feel free to extend the invitation to Senator Whitehouse's Budget committee staff. May we flag this for SFRC staff as well in case they are interested? If not, we can offer them a separate briefing but wanted to check if that would be feasible.

I will follow up with specific windows that would work for briefers.

Thanks again,

Astrid

From: Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>
Sent: Monday, October 30, 2023 7:57 PM
To: Dorelien, Astrid [REDACTED] state.gov>; McCarthy, Daniel M. EOP/USTR
<Daniel.M.McCarthy@ustr.eop.gov>
Cc: Awabdeh, Roy S [REDACTED]@state.gov>; Khan, Saadia [REDACTED]@state.gov>;
Carland, Raphael [REDACTED] state.gov>
Subject: Re: Conversation re. ISDS

Thanks Astrid, that time frame works for me. Happy to share some availability, but first -- a couple folks from Senator Whitehouse's Budget committee staff were interested in joining the call, would that be alright with you all?

From: Dorelien, Astrid [REDACTED] state.gov>
Sent: Monday, October 30, 2023 11:55 AM
To: Srinivasan, Nikhil (Warren); McCarthy, Daniel M. EOP/USTR
Cc: Awabdeh, Roy S; Khan, Saadia; Carland, Raphael
Subject: Re: Conversation re. ISDS

Hello Nikhil,
Thank you for your patience. Due some travel and scheduling challenges, are there dates & times after November 13 that would work well for a discussion on ISDS?
I am also copying Dan McCarthy from USTR/Leg as this will likely be a joint briefing.
Many thanks,
Astrid

From: Dorelien, Astrid
Sent: Tuesday, October 24, 2023 12:35 PM
To: Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>
Cc: Giampapa, Phillip J [REDACTED] state.gov>
Subject: RE: Conversation re. ISDS

Many thanks, Nikhil. Very useful.

I will revert as soon as possible.

Best,

Astrid

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6](#) warren.senate.gov>
Sent: Monday, October 23, 2023 5:37 PM
To: Dorelien, Astrid [EXEMPTION 6](#)state.gov>
Cc: Giampapa, Phillip J [EXEMPTION 6](#)@state.gov>
Subject: Re: Conversation re. ISDS

Hi Astrid, thanks for following up. I'd like to specifically discuss the Department's role in ISDS and its thinking about pathways to removing ISDS from the US's existing FTAs, BITs, etc. and the potential use of APEP as a forum for that. We of course appreciate the Department's commitment to opposing the inclusion of ISDS in future agreements, but existing ISDS obligations continue to pose a problem for us and our trading partners.

Hope this is helpful context, but let me know if there's any other background that would be helpful!

From: Dorelien, Astrid [EXEMPTION 6](#)state.gov>
Sent: Monday, October 23, 2023 5:24:03 PM
To: Srinivasan, Nikhil (Warren)
Cc: Giampapa, Phillip J
Subject: Re: Conversation re. ISDS

Hello Nikhil,

Moving Naz to bcc. I'd be happy to work with our Bureau of Economic and Business Affairs to arrange a call. Are there specific topics of particular interest, or will the call be a follow up to the correspondence from earlier this year?

All the best,
Astrid

Astrid Dorelien
Senior Congressional Advisor
Bureau of Legislative Affairs (H)
U.S. Department of State
[EXEMPTION 6](#)

From: Durakoglu, Naz EXEMPTION 6@state.gov>
Sent: Monday, October 23, 2023 4:51 PM
To: Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov>
Cc: Giampapa, Phillip J EXEMPTION 6@state.gov>; Dorelien, Astrid EXEMPTION 6@state.gov>
Subject: RE: Conversation re. ISDS

Hi Nikhil—Adding additional members of the team who can reach out to you.

Thanks,
Naz

From: Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov>
Sent: Monday, October 23, 2023 4:48 PM
To: Durakoglu, Naz EXEMPTION 6@state.gov>
Subject: Conversation re. ISDS

Hi Naz,

I hope you're doing well! I wanted to reach out to see if I might be able to set up a call this or next week with you or the appropriate team member to discuss investor-state dispute settlement. As you know, my boss sent a letter to Secretary Blinken and Amb. Tai about ISDS in March, and we appreciated your response. The issue remains a priority for Senator Warren, though, so wanted to touch base directly to discuss.

I'm quite flexible and can work around your / your team's availability, so let me know when works for you. Thanks in advance!

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren

EXEMPTION 6@state.gov

Re: Briefing with State and USTR on ISDS

From "Dorelien, Astrid" [REDACTED]@state.gov>
:
To: "Srinivasan, Nikhil (Warren)" [REDACTED]@warren.senate.gov>
Cc: "Bell, Sion (Budget)" [REDACTED]@budget.senate.gov>, "RuBoss, Dan (Budget)" [REDACTED]@budget.senate.gov>, "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>
Date: Wed, 08 Nov 2023 14:00:15 -0500

Thank you for your flexibility!

Best,
Astrid

From: Srinivasan, Nikhil (Warren) [REDACTED]@warren.senate.gov>
Sent: Wednesday, November 8, 2023 1:59 PM
To: Dorelien, Astrid [REDACTED]@state.gov>
Cc: Bell, Sion (Budget) [REDACTED]@budget.senate.gov>; RuBoss, Dan (Budget) [REDACTED]@budget.senate.gov>; McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Subject: Re: Briefing with State and USTR on ISDS

1:15 works for us, thanks!

> On Nov 8, 2023, at 1:56 PM, Dorelien, Astrid [REDACTED]@state.gov> wrote:

>
>

Fw: NSC, USTR at odds over digital trade decision at WTO

From: "Srinivasan, Nikhil (Warren)" [REDACTED] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Thu, 09 Nov 2023 18:07:08 -0500

Hey! Sorry to bug you at 6pm before a federal holiday, but any thoughts on this? [REDACTED]
[REDACTED]

From: Laporte-Oshiro, Catherine (Warren)
Sent: Thursday, November 9, 2023 5:46 PM
To: Srinivasan, Nikhil (Warren); Cano, Matias (Warren)
Subject: FW: NSC, USTR at odds over digital trade decision at WTO

From: POLITICO Pro Trade
Sent: Thursday, November 9, 2023 5:46:32 PM (UTC-05:00) Eastern Time (US & Canada)
To: Laporte-Oshiro, Catherine (Warren)
Subject: NSC, USTR at odds over digital trade decision at WTO



NSC, USTR at odds over digital trade decision at WTO

BY GAVIN BADE 11/09/2023 05:45 PM EST

The Biden administration is divided over how to represent the interests of big tech firms in global trade negotiations.

Last month, the U.S. Trade Representative Katherine Tai withdrew U.S. support for three e-commerce proposals at the World Trade Organization. The policies, first endorsed by the Trump administration, sought to set up global trade rules on data flows and source code amenable to American big tech companies like Alphabet and Meta.

The White House National Security Council took issue with the decision in recent weeks, worried it will cede ground to China. On Thursday, NSC spokesperson John Kirby acknowledged disagreement over the issue.

“The whole purpose of an interagency discussion is to gather and listen to multiple perspectives, and not all of them are going to be the same,” he said. “So we’re working this through the interagency process and we think that we’re gonna be able to continue to do that going forward.”

USTR’s action represents a dramatic trade policy shift for the United States, which has consistently pushed policies to help American tech companies operate in foreign markets. That pro-business position, which predates the Trump administration, has come under scrutiny among progressives who see efforts to help tech giants abroad as contradictory to the Biden administration’s aggressive anti-monopoly agenda aimed partly at big tech.

USTR’s move all but ensures that those proposals won’t be adopted by the WTO in the near term, and has been roundly criticized by moderate Democrats and Republicans on Capitol Hill, as well as tech industry groups in Washington. Labor unions and progressive lawmakers, meanwhile, have lined up in support of the move, saying they don’t want tech “monopolists” writing global rules for data flows. Insiders say that conflict is being replicated inside the administration.

There’s been an “ongoing meltdown” at the NSC over USTR’s decision, said one administration official familiar with the discussions. USTR did not comment.

The national security agency pushed against the move during interagency discussions in recent months, arguing it would not only provide an opening for China to push its influence in foreign digital markets but further damage U.S. credibility in Geneva where USTR is refusing to reverse a Trump-era blockade of the WTO’s highest dispute settlement panel, the official said.

The issue has driven a wedge between two agencies that have previously been aligned on some major aspects of Biden’s trade policy. Last year, both USTR and NSC were in agreement against

removing tariffs on China, facing off against officials at the Treasury and Commerce Departments, who wanted the duties lifted. USTR and NSC prevailed, and the tariffs remain in place pending the completion of a review from the trade office expected to conclude by year's end.

But the digital trade issue has tested that alliance. In internal discussions, USTR has argued that removing U.S. support from the WTO proposals is necessary to align the U.S. position in Geneva with the position that USTR has taken in negotiating the Indo-Pacific Economic Framework, Biden's new-look trade deal for Asia.

In IPEF talks, U.S. negotiators have paused discussions around digital trade, arguing they must give time for domestic policymaking to run its course. Congress is considering antitrust legislation regarding tech firms, they point out, and the Justice Department is pursuing antitrust action against Google, so trade officials don't want to agree to new rules in IPEF — or at the WTO — that could tie their hands at home.

As a result of the pause, U.S. negotiators do not expect to finalize a digital trade agreement as part of the IPEF agreement, set to be unveiled next week at the Asia-Pacific Economic Cooperation summit. While USTR [expects to reach agreement on some IPEF subjects](#) like agriculture and trade facilitation provisions, digital trade negotiations will likely continue into next year. The NSC insists they will continue to engage on the topic at the World Trade Organization as well.

"In the coming weeks and months, you're gonna see us step up our engagement with stakeholders that includes tech companies, large and small and as well as advocates in the privacy, safety, labor and human rights realm," Kirby said. "We're gonna work with all those partners to move forward in a way that appropriately balances all those objectives, [and] we're also gonna continue to engage vigorously on the WTO's Joint Statement Initiative on e-commerce."

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Re: Civil rights groups

From: "Srinivasan, Nikhil (Warren)" [REDACTED] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Thu, 09 Nov 2023 18:27:19 -0500

Oh great, ty! I / our office knows most if not all of those groups, will flag for the relevant folks here.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Thursday, November 9, 2023 6:20:46 PM

To: Srinivasan, Nikhil (Warren)

Subject: Civil rights groups

We're going to start with the folks who sent this

letter: <https://www.washingtonpost.com/documents/eea26d7a-08ef-4687-a4ba-c26e38ad7ffe.pdf>

Any plugs would be great!

Re: Quick call

From: "Srinivasan, Nikhil (Warren)" [REDACTED] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Tue, 14 Nov 2023 00:56:46 -0500

Hey, so sorry, was out sick today! Should be back Tuesday so happy to talk then.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Monday, November 13, 2023 12:25:42 PM

To: Srinivasan, Nikhil (Warren)

Subject: Quick call

Just gave you a ring to hear how your boss' call went last week and touch base on IPEF. No rush on a call back, I'm around the rest of the day.

-Jillian

Jillian McGrath
Director of Congressional Affairs
[REDACTED]

Re: ISDS USMCA

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>
Date: Thu, 16 Nov 2023 16:57:37 -0500

Thanks so much for sending this over, this is really great background! May have to see if the Senate library has the real thing...

Definitely looking forward to staying engaged on this, as you know my boss cares a ton about it!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>
Sent: Thursday, November 16, 2023 1:55:37 PM
To: Srinivasan, Nikhil (Warren)
Subject: ISDS USMCA

Nikhil,

You brought up an excellent point to this group on the USMCA and ISDS. Wanted to ensure you had the background. Lighthizer's book (not to plug) has written extensively on the backroom and negotiation of ISDS. Highly recommend (see attached). As an aside, also happy to assist with you on this issue.

Matthew Hoeck
Office of the U.S. Trade Representative
[EXEMPTION 6]
Matthew.J.Hoeck@ustr.eop.gov

RE: NYT + Dig Trade

From "Pearson, Beth (Warren)" [REDACTED] warren.senate.gov>
:
To: "McCarthy, Daniel M. EOP/USTR" <daniel.m.mccarthy@ustr.eop.gov>, "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>
Cc: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Fri, 24 Nov 2023 20:06:44 -0500

Thanks, Dan! We've shared with our comms folks and will put our heads together.

-----Original Message-----

From: McCarthy, Daniel M. EOP/USTR <Daniel.M.McCarthy@ustr.eop.gov>
Sent: Wednesday, November 22, 2023 4:28 PM
To: Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>; Pearson, Beth (Warren) [REDACTED]@warren.senate.gov>
Cc: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: NYT + Dig Trade

Hey guys,

The NYT Ed Board is writing about the digital trade debate, I think in the very near future and over Thanksgiving. We have been in touch with them [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Happy to chat: [REDACTED]

See below from the reporter and contact info:

[REDACTED]@nytimes.com

> I think the main thing I have to convey is the extent to which these international agreements on digital trade short-circuit the ability to moderate the monopolistic tendencies of Big Tech and also add safety features to AI. Some tech trade organizations insist that the old US trade proposal would NOT have been an obstacle to domestic regulations.....others say it WOULD have been an obstacle...

>

> Anyone who can shed light on those questions would be useful, although I realize it is Thanksgiving and the story might be needed....

RE: Amb. Tai/Warren call

From: "Candaele, Camille R. EOP/USTR" <camille.r.candaele@ustr.eop.gov>
:
To: "Kutzen, Amielle (Warren)" [REDACTED] warren.senate.gov>, "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>, "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>, "Seiler, Whitney (Warren)" [REDACTED] warren.senate.gov>
Cc: Scheduling <scheduling@ustr.eop.gov>
Date: Mon, 27 Nov 2023 13:55:37 -0500

Wonderful, thank you!

From: Kutzen, Amielle (Warren) [REDACTED] warren.senate.gov>
Sent: Monday, November 27, 2023 1:54 PM
To: Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>; McGrath, Jillian M. EOP/USTR <jillian.m.mcgrath@ustr.eop.gov>; Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>; Seiler, Whitney (Warren) [REDACTED] warren.senate.gov>
Cc: Scheduling <Scheduling@USTR.eop.gov>
Subject: RE: Amb. Tai/Warren call

Hi Camille – Senator Warren would be happy to host Amb. Tai in her office on Wednesday in Hart 309.

We'll see her then!

Best,
Ami

From: Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>
Sent: Monday, November 27, 2023 11:32 AM
To: Kutzen, Amielle (Warren) [REDACTED] warren.senate.gov>; McGrath, Jillian M. EOP/USTR <jillian.m.mcgrath@ustr.eop.gov>; Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov>; Seiler, Whitney (Warren) [REDACTED] warren.senate.gov>

Cc: Scheduling <Scheduling@USTR.eop.gov>

Subject: RE: Amb. Tai/Warren call

Hi Ami,

I hope you all enjoyed the holiday break! Amb. Tai is looking forward to chatting with the Senator this week. Is there any flexibility to have the meeting in person? The Ambassador is always happy to come to the hill.

Best,
Camille

From: Kutzen, Amielle (Warren) **EXEMPTION 6** <amielle.kutzen@warren.senate.gov>

Sent: Tuesday, November 21, 2023 11:48 AM

To: Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>; McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Srinivasan, Nikhil (Warren)

EXEMPTION 6 <amielle.kutzen@warren.senate.gov>; Seiler, Whitney (Warren)

EXEMPTION 6 <amielle.kutzen@warren.senate.gov>

Cc: Scheduling <Scheduling@USTR.eop.gov>

Subject: RE: Amb. Tai/Warren call

Definitely – thank you so much!

From: Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>

Sent: Tuesday, November 21, 2023 11:30 AM

To: Kutzen, Amielle (Warren) **EXEMPTION 6** <amielle.kutzen@warren.senate.gov>; McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Srinivasan, Nikhil (Warren)

EXEMPTION 6 <amielle.kutzen@warren.senate.gov>; Seiler, Whitney (Warren)

EXEMPTION 6 <amielle.kutzen@warren.senate.gov>

Cc: Scheduling <Scheduling@USTR.eop.gov>

Subject: RE: Amb. Tai/Warren call

Hi Ami – That sounds great! Could we please plan to use the dial-in below?

Participant Info

EXEMPTION 6

[REDACTED]

[REDACTED]

[REDACTED]

Best,
Camille

From: Kutzen, Amielle (Warren) [EXEMPTION 6 @warren.senate.gov](#)
Sent: Tuesday, November 21, 2023 11:21 AM
To: Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>; McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Srinivasan, Nikhil (Warren) [EXEMPTION 6 @warren.senate.gov](#); Seiler, Whitney (Warren) [EXEMPTION 6 @warren.senate.gov](#)
Cc: Scheduling <Scheduling@USTR.eop.gov>
Subject: RE: Amb. Tai/Warren call

Hi Camille – appreciate you reaching out!

Would Amb. Tai be able to connect at 2:00pm on Wednesday the 29th?

Thank you!
Ami

From: Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>
Sent: Tuesday, November 21, 2023 9:23 AM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Srinivasan, Nikhil (Warren) [EXEMPTION 6 @warren.senate.gov](#); Kutzen, Amielle (Warren) [EXEMPTION 6 @warren.senate.gov](#); Seiler, Whitney (Warren) [EXEMPTION 6 @warren.senate.gov](#)
Cc: Scheduling <Scheduling@USTR.eop.gov>
Subject: RE: Amb. Tai/Warren call

Thanks, Jillian! Nikhil – Is there a day that works particularly well for you all? We are fairly flexible outside of 11/28.

Best,
Camille

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Tuesday, November 21, 2023 9:14 AM
To: Srinivasan, Nikhil (Warren) [EXEMPTION 6 @warren.senate.gov](#); Kutzen, Amielle (Warren)

EXEMPTION 6 <warren.senate.gov>; Seiler, Whitney (Warren)

EXEMPTION 6 <warren.senate.gov>

Cc: Scheduling <Scheduling@USTR.eop.gov>

Subject: RE: Amb. Tai/Warren call

Awesome, looping our scheduling team in here too!

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Monday, November 20, 2023 4:14 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>; Kutzen, Amielle (Warren)

EXEMPTION 6 <warren.senate.gov>; Seiler, Whitney (Warren)

EXEMPTION 6 <warren.senate.gov>

Subject: Re: Amb. Tai/Warren call

Hey! Yes that'd be great. Looping our scheduling team.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Monday, November 20, 2023 4:12:15 PM

To: Srinivasan, Nikhil (Warren)

Subject: Amb. Tai/Warren call

Hey! My boss expressed a desire to touch base with yours on digital trade. Can we set something up for next week?

-Jillian

Jillian McGrath
Director of Congressional Affairs

EXEMPTION 6

Re: NYT Ed Piece

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Tue, 28 Nov 2023 16:41:05 -0500

Ah got it, good to know. Likewise, looking forward!

On Nov 28, 2023, at 4:35 PM, McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov> wrote:

Yeah we definitely are, Amb. Tai chatted with Sen. Warner yesterday and he brought up the same kind of talking points. But I agree, the Kuttner piece is helpful.

Looking forward to chatting tomorrow!

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <warren.senate.gov>
Sent: Tuesday, November 28, 2023 4:10 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: NYT Ed Piece

[Saw this from Kuttner today!](#) Though he did a great job pushing back on the China fearmongering. Are you still hearing that argument a lot internally/externally?

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Monday, November 27, 2023 2:45:52 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: NYT Ed Piece

Digital trade and ISDS sound great to us, nothing else on our end. Talk soon!

From: Srinivasan, Nikhil (Warren) EXEMPTION 6 <nswarren@warren.senate.gov>
Sent: Monday, November 27, 2023 1:26 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: NYT Ed Piece

Hey! Thanks, my holiday was super restful, hope yours was too. Saw the piece, and also quite happy with how it was framed!

Re this Wednesday conversation, my boss plans to raise digital and ISDS. Is there anything else the Ambassador wants to raise that I should flag for Senator Warren?

Thanks!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Monday, November 27, 2023 11:26:55 AM
To: Srinivasan, Nikhil (Warren)
Subject: NYT Ed Piece

Good morning Nikhil! Hope you had a lovely Thanksgiving. You likely already saw this piece but sharing in case you haven't: [How the Biden Administration Took the Pen Away From Facebook, Google and Amazon](#)

We're really pleased with the article and thank your team profusely for all your help. Also, looks like our bosses are chatting on Wednesday. Is there anything you think she'll raise other than WTO JSI/digital trade updates?

-Jillian

Jillian McGrath

Director of Congressional Affairs

EXEMPTION 6

Re: Wyden letter?

From: "Srinivasan, Nikhil (Warren)" [REDACTED] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Thu, 30 Nov 2023 13:32:06 -0500

Thank you! Is this setting off alarms at USTR / elsewhere in the admin?

And on vacancies, Beth actually called me an hour or so ago and filled me in so all good!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, November 30, 2023 11:18:39 AM
To: Srinivasan, Nikhil (Warren)
Subject: RE: Wyden letter?

Hey! Great to see you too. Here's the letter ad I'm happy to chat about the vacancy later today. How's 3-4pm?

From: Srinivasan, Nikhil (Warren) [REDACTED] <warren.senate.gov>
Sent: Thursday, November 30, 2023 10:59 AM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Wyden letter?

Hey! Good to see you yesterday. Any chance you're able to share the Wyden letter that broke in Morning Trade? Dan flagged to me on the phone last night but was of course a little busy haha. Also, speaking of, would be great to chat about the DUSTR vacancy if you have a sec later today!

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren

[REDACTED]

United States Senate

WASHINGTON, DC 20510

November 30, 2023

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:

We write to express our concerns with the decision of the United States Trade Representative (USTR) to stop supporting key commitments in the e-commerce negotiations at the World Trade Organization (WTO)—and potentially in other negotiations. These commitments reflect bipartisan principles that, until now, the United States has strongly supported across political parties, administrations, and the federal government: an open internet that promotes the flow of information across borders to support American exports and American values. USTR's decision to abandon these commitments at the WTO creates a policy vacuum that China and Russia will fill. Accordingly, before changing the longstanding U.S. position, we request that you work with Congress and run a comprehensive consultation process—with other federal agencies, with the public, and with us—to reach a consensus U.S. position on these issues that promotes U.S. competitiveness, innovation, and jobs.

For decades, the United States has been at the helm of global leadership on protecting, promoting, and expanding the open internet as both a means of worldwide connectivity and an engine of U.S. economic growth and opportunity. This effort has long been a feature of U.S. trade policy: the United States advocated for commitments to ensure the free flow of information in WTO rules agreed to almost 30 years ago, and our trade agreements with Korea, Mexico, Canada, and Japan include strong digital trade rules guaranteeing the right to move data across borders. In this vein, the United States joined negotiations on e-commerce at the WTO, working with like-minded democratic allies to create rules for a digital economy that is open, fair, and competitive for all. The United States has supported proposals to spur economic growth, encourage free expression and access to information, and promote consumer protections online, while also allowing countries to address concerns regarding security, privacy, surveillance, and competition. These negotiations are crucial to our strategic approach to outcompeting our adversaries: both China and Russia are at the negotiating table, actively pushing their cyber-agenda of censorship, repression, and surveillance that not only hurts their own citizens but also undercuts U.S. competitiveness. Indeed, China is actively seeking to weaken the very principles at issue so it can promote its own version of internet governance.

In spite of this, on October 25, 2023, USTR reversed course and announced that it was walking away from the negotiating table on several core commitments in the e-commerce negotiations. These commitments, which again have broad bipartisan support, are fundamental to the modern economy, supporting U.S. businesses of all sizes across all sectors. Specifically, USTR abandoned the following commitments:

- *Promoting the free flow of data.* Almost every sector of the U.S. economy requires cross-border data flows, from manufacturers sharing product specifications, to airlines diagnosing problems mid-flight, to farmers leveraging precision agriculture to maximize crop yield. Arbitrary and trade-distorting restrictions on cross-border data flows that serve no legitimate public policy purpose can prevent American firms from doing business abroad, stifle economic growth here at home, and trample on human rights in authoritarian countries. Russia, for example, has weaponized data-restrictive laws to crack down on dissent, control information, and expel civil society organizations amidst its ongoing invasion of Ukraine.¹ Recognizing the importance of data flows to U.S. economic and foreign policy goals, the United States' original proposal at the WTO sought to ensure that consumers, companies, and non-governmental organizations could move data across international borders, while recognizing that countries must be able to act in the public interest, such as to protect personal data from abuse and foreign surveillance.
- *Combating forced data localization.* China and Russia, as well as other countries emboldened by their actions, have increasingly pursued data localization measures that require certain domestic data to be stored or processed within their borders. These policies require companies to build or maintain capital- and energy-intensive infrastructure in every market they enter, a major expense for large businesses, but an insurmountable hurdle for small and medium-sized enterprises. Small and medium-sized businesses are then left with an impossible choice: enter a risky joint venture with a foreign enterprise or get shut out of the market entirely. In this way, authoritarian governments leverage data localization measures to discourage competition and facilitate governmental access to data within their borders, helping them access trade secrets, censor and surveil their citizens, and hide human rights abuses, including forced labor.² The United States' proposal sought to limit data localization, while acknowledging that in certain circumstances, data localization may be appropriate to address national security, law enforcement, and privacy concerns.
- *Preventing forced tech transfer.* The U.S. government opposes the Chinese government's practice of conditioning market access on the sharing of proprietary information belonging to U.S. innovators, creators, and start-ups—a threat to both our economic and national security.³ The United States' proposal sought to ensure that countries could not

¹ Justin Sherman, The Brookings Institution, *Russia is Weaponizing Its Data Laws Against Foreign Organizations* (Sept. 27, 2022), <https://www.brookings.edu/articles/russia-is-weaponizing-its-data-laws-against-foreign-organizations/>.

² Freedom House, *User Privacy or Cyber Sovereignty?* (2020), <https://freedomhouse.org/report/special-report/2020/user-privacy-or-cyber-sovereignty>.

³ Daniel Wagner, *The Global Implications of China's National and Cyber Security Laws*, International Policy Digest (Aug. 10, 2020), <https://intpolicydigest.org/the-global-implications-of-china-s-national-and-cyber-security->

force businesses to surrender their source code or share it with domestic competitors as a condition of doing business, while preserving the ability of governments to access source code to achieve legitimate public policy objectives, such as conducting investigations and examinations and promoting consumer health and safety.

- *Open, competitive markets for digital goods and services.* The principle of non-discrimination has been a central component of U.S. trade policy for decades and underlies the international trading system that the United States helped create. It has opened markets for American exporters across industries, from farmers to filmmakers. At its core, non-discrimination ensures that foreign governments treat U.S. companies fairly. It ensures that countries cannot gain a competitive edge by targeting their regulations on imports from one or multiple countries without regulating similarly situated domestic businesses. China, in particular, has leveraged discriminatory policies to handicap international competitors and nurture its domestic companies, many of which are state-owned enterprises that operate at the behest of the Chinese government.⁴ Not only do these homegrown giants facilitate human and worker rights abuses, particularly in the Uyghur community in Xinjiang, but they have the ability to grow without competition and then undercut American competitors in international markets. Recognizing this, the U.S. WTO proposal sought to ensure that protections against discrimination would apply to digital products (e.g., apps, music, games, and movies), ensuring that American creators, innovators, and businesses could operate on a level playing field around the world.

As indicated above, each of these commitments maintained flexibility to regulate for legitimate public policy reasons.

USTR provided no policy alternatives to these longstanding and bipartisan U.S. positions, nor a timeline for providing them. We are concerned that USTR's retreat will hurt workers and employers across all sectors of the U.S. economy, with disproportionate effects on small and medium-sized businesses in creative industries like film, music, and book publishing; innovative industries like software, medical devices, and precision agriculture; travel, tourism, and transportation; logistics, shipping, and supply chain management; and manufacturing, including the critical automotive and semiconductor sectors. Moreover, with this abrupt change in policy, USTR has not only turned its back on our democratic allies and undermined U.S. credibility in other negotiations and fora around the world, but it has also empowered authoritarian regimes like China and Russia, who are eager to fill the void and regulate U.S. jobs out of existence.

We recognize that there is much interest in the digital regulation space, particularly with the rapid adoption of artificial intelligence technology. We welcome discussions and debate on the best way to protect consumers, promote privacy, and ensure a competitive marketplace. However, these efforts do not require the United States to walk away from negotiating strong rules at the WTO that support U.S. businesses and workers—nor would these rules constrain the

[laws](#).

⁴ U.S.-China Economic and Security Review Commission, *2021 Annual Report to Congress* at p. 165, <https://www.uscc.gov/annual-report/2021-annual-report-congress> (“The Chinese Communist Party (CCP) views achieving technological self-sufficiency as essential for both economic growth and political survival.”).

ability of the United States to regulate. In fact, the commitments under discussion have built-in exceptions that ensure countries can legislate in the public interest. Retreating from our longstanding principles without offering a viable alternative does not help U.S. workers, it does not help U.S. consumers, it does not help U.S. businesses, and it does not help U.S. allies; it only helps our adversaries.

We continue to support the core commitments that USTR has distanced itself from in the WTO e-commerce negotiations. We request that you run a consultation process before changing the historical, consensus U.S. position on these important issues. We look forward to working with you to address this and other bipartisan Member concerns.

Sincerely,

EXEMPTION 6

Ron Wyden
United States Senator

EXEMPTION 6

Mike Crapo
United States Senator

EXEMPTION 6

Thomas R. Carper
United States Senator

EXEMPTION 6

Bill Cassidy, M.D.
United States Senator

EXEMPTION 6

Chris Van Hollen
United States Senator

EXEMPTION 6

Thom Tillis
United States Senator

EXEMPTION 6

Christopher A. Coons
United States Senator

EXEMPTION 6

John Barrasso, M.D.
United States Senator

EXEMPTION 6

Catherine Cortez Masto
United States Senator

EXEMPTION 6

Charles E. Grassley
United States Senator

EXEMPTION 6

Tim Kaine
United States Senator

EXEMPTION 6

Ted Budd
United States Senator

EXEMPTION 6

Angus S. King, Jr.
United States Senator

EXEMPTION 6

Todd Young
United States Senator

EXEMPTION 6

Patty Murray
United States Senator

EXEMPTION 6

Shelley Moore Capito
United States Senator

EXEMPTION 6

Kirsten Gillibrand
United States Senator

EXEMPTION 6

Steve Daines
United States Senator

EXEMPTION 6

Maria Cantwell
United States Senator

EXEMPTION 6

Kevin Cramer
United States Senator

EXEMPTION 6

Kyrsten Sinema
United States Senator

EXEMPTION 6

Cynthia M. Lummis
United States Senator

EXEMPTION 6

Benjamin L. Cardin
United States Senator

EXEMPTION 6

John Cornyn
United States Senator

EXEMPTION 6

Mark Kelly
United States Senator

EXEMPTION 6

James E. Risch
United States Senator

EXEMPTION 6

Ted Cruz
United States Senator

EXEMPTION 6

Ron Johnson
United States Senator

EXEMPTION 6

Jacky Rosen
United States Senator

EXEMPTION 6

Alex Padilla
United States Senator

EXEMPTION 6

Tim Scott
United States Senator

EXEMPTION 6

James Lankford
United States Senator

Re: Hi! Time to chat?

From: "Srinivasan, Nikhil (Warren)" EXEMPTION 6@warren.senate.gov
To: "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>
Date: Thu, 30 Nov 2023 10:45:10 -0500

Thank you!!

From: Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>
Sent: Thursday, November 30, 2023 10:43:40 AM
To: Srinivasan, Nikhil (Warren)
Subject: RE: Hi! Time to chat?

Not at all!

From: Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov
Sent: Thursday, November 30, 2023 10:41 AM
To: Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>
Subject: Re: Hi! Time to chat?

Hey, so sorry, mind if we chat closer to 12 instead?

From: Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>
Sent: Thursday, November 30, 2023 9:43:16 AM
To: Srinivasan, Nikhil (Warren)
Subject: RE: Hi! Time to chat?

Great. Talk then.

From: Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov
Sent: Thursday, November 30, 2023 9:43 AM
To: Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>
Subject: Re: Hi! Time to chat?

Hi Beth! Likewise good seeing you yesterday. Would be good to chat — I can give you a call just after 10:30.

On Nov 30, 2023, at 9:36 AM, Baltzan, Elizabeth V. EOP/USTR
<Elizabeth.V.Baltzan@ustr.eop.gov> wrote:

Hi Nikhil! Good to see you yesterday. Please let me know if you have some time to chat. I'm free between 10:30 and 1 today and also have a lot of flexibility tomorrow.

Thanks!

Re: SFC LAs briefing on Canada DST

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <[redacted]@warren.senate.gov>
:
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Cc: "Cano, Matias (Warren)" [EXEMPTION 6] <[redacted]@warren.senate.gov>, "RuBoss, Dan (Budget)" [EXEMPTION 6] <[redacted]@budget.senate.gov>
Date: Fri, 01 Dec 2023 16:49:34 -0500

Thanks Jillian, we'll do that!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Friday, December 1, 2023 3:49:45 PM
To: Srinivasan, Nikhil (Warren)
Cc: Cano, Matias (Warren); RuBoss, Dan (Budget)
Subject: RE: SFC LAs briefing on Canada DST

Hi all, thanks for the note! My understanding is that Treasury is taking the lead on engagement on Canada DST. I would recommend reaching out to Ron Storhaug, we're happy to coordinate on a briefing but I think their policy team is leading here.

-Jillian

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <[redacted]@warren.senate.gov>
Sent: Friday, December 1, 2023 3:31 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Cc: Cano, Matias (Warren) [EXEMPTION 6] <[redacted]@warren.senate.gov>; RuBoss, Dan (Budget) [EXEMPTION 6] <[redacted]@budget.senate.gov>
Subject: SFC LAs briefing on Canada DST

Hey! Following up on our conversation yesterday about a DST briefing, we'd definitely be interested. I'm copying Dan from Senator Whitehouse's team who'd also like to join. Sharing team Warren's availability for next week below:

- Mon. 12/4 after 4p
- Tues. 12/5 before 10:30a, 12:30-1:30p, after 3:30p
- Wed. 12/6, 10:30-11:30a, 2-3p, after 4p
- Thurs. 12/7, 11a-2p, after 2:30p
- Fri. 12/8, 12-2p, after 2:30p

Thanks in advance!!

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren

EXEMPTION 6

RE: Briefing on DST

From: EXEMPTION 6@treasury.gov
:
To: EXEMPTION 6@warren.senate.gov
Cc: EXEMPTION 6@warren.senate.gov EXEMPTION 6@budget.senate.gov, "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>, "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Fri, 08 Dec 2023 15:53:33 -0500

Great. Updating the invite now. Have a great weekend.

From: Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov>
Sent: Friday, December 8, 2023 3:51 PM
To: Storhaug, Ronald EXEMPTION 6@treasury.gov>
Cc: Cano, Matias (Warren) EXEMPTION 6@warren.senate.gov>; RuBoss, Dan (Budget) EXEMPTION 6@budget.senate.gov>; Matthew.J.Hoeck@ustr.eop.gov; Jillian.M.McGrath@ustr.eop.gov
Subject: Re: Briefing on DST

**** Caution:** External email from: EXEMPTION 6@warren.senate.gov] Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

No worries, 11:30a on Thursday 12/14 works for us.

On Dec 8, 2023, at 3:21 PM, EXEMPTION 6@treasury.gov wrote:

With my apologies, I mistakenly sent Tuesday instead of Thursday as an available time. Can this group do Thursday, 12/14 at 11:30am?

From: Storhaug, Ronald
Sent: Friday, December 8, 2023 2:18 PM
To: Srinivasan, Nikhil (Warren) EXEMPTION 6@warren.senate.gov>

Cc: Cano, Matias (Warren) [EXEMPTION 6 warren.senate.gov](#)>; RuBoss, Dan (Budget) [EXEMPTION 6 budget.senate.gov](#)>; Matthew.J.Hoeck@ustr.eop.gov;
Jillian.M.McGrath@ustr.eop.gov

Subject: RE: Briefing on DST

Sounds great. I will circulate an invite to the group.

Many thanks,
Ron

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6 warren.senate.gov](#)>

Sent: Friday, December 8, 2023 12:53 PM

To: Storhaug, Ronald [EXEMPTION 6 @treasury.gov](#)>

Cc: Cano, Matias (Warren) [EXEMPTION 6 warren.senate.gov](#)>; RuBoss, Dan (Budget) [EXEMPTION 6 budget.senate.gov](#)>; Matthew.J.Hoeck@ustr.eop.gov;
Jillian.M.McGrath@ustr.eop.gov

Subject: Re: Briefing on DST

**** Caution:** External email from: [EXEMPTION 6 warren.senate.gov](#)] Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

That works for us, thanks Ron! Should we look out for a Teams or other invite?

From: [EXEMPTION 6 @treasury.gov](#) [EXEMPTION 6 treasury.gov](#)>

Sent: Friday, December 8, 2023 11:12:08 AM

To: Srinivasan, Nikhil (Warren)

Cc: Cano, Matias (Warren); RuBoss, Dan (Budget); Matthew.J.Hoeck@ustr.eop.gov;
Jillian.M.McGrath@ustr.eop.gov

Subject: RE: Briefing on DST

Hi Nikhil,

Looping in USTR colleagues as well. Our teams should be free on Tuesday, 12/12 at 11:30am – would that work for you all?

Many thanks,
Ron

From: Srinivasan, Nikhil (Warren) [REDACTED] <[\[REDACTED\]@warren.senate.gov](mailto:[REDACTED]@warren.senate.gov)>
Sent: Wednesday, December 6, 2023 4:54 PM
To: Storhaug, Ronald [REDACTED] <[\[REDACTED\]@treasury.gov](mailto:[REDACTED]@treasury.gov)>
Cc: Cano, Matias (Warren) [REDACTED] <[\[REDACTED\]@warren.senate.gov](mailto:[REDACTED]@warren.senate.gov)>; RuBoss, Dan (Budget) [REDACTED] <[\[REDACTED\]@budget.senate.gov](mailto:[REDACTED]@budget.senate.gov)>
Subject: Re: Briefing on DST

**** Caution:** External email from: [REDACTED] <[\[REDACTED\]@warren.senate.gov](mailto:[REDACTED]@warren.senate.gov)>] Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Thanks Ron. I'll flag I had reached out to USTR initially on this and they directed us to you. I'm most curious about how engagement with the Canadians has been going and what retaliatory Sec 301 action would look like, if that's still being considered.

Mati and Dan should feel free to jump in with additional thoughts!

From: [REDACTED] <[\[REDACTED\]@treasury.gov](mailto:[REDACTED]@treasury.gov)> [REDACTED] <[\[REDACTED\]@treasury.gov](mailto:[REDACTED]@treasury.gov)>
Sent: Tuesday, December 5, 2023 10:40:00 AM
To: Srinivasan, Nikhil (Warren)
Cc: Cano, Matias (Warren); RuBoss, Dan (Budget)
Subject: RE: Briefing on DST

Good morning, all. I am happy to see what the team has available – while I do, is there a particular area of focus for your offices? Want to make sure I'm consulting the right folks and/or looping USTR as appropriate.

Many thanks,
Ron

From: Srinivasan, Nikhil (Warren) [REDACTED] <[\[REDACTED\]@warren.senate.gov](mailto:[REDACTED]@warren.senate.gov)>
Sent: Friday, December 1, 2023 4:53 PM
To: Storhaug, Ronald [REDACTED] <[\[REDACTED\]@treasury.gov](mailto:[REDACTED]@treasury.gov)>
Cc: Cano, Matias (Warren) [REDACTED] <[\[REDACTED\]@warren.senate.gov](mailto:[REDACTED]@warren.senate.gov)>; RuBoss, Dan (Budget) [REDACTED] <[\[REDACTED\]@budget.senate.gov](mailto:[REDACTED]@budget.senate.gov)>
Subject: Briefing on DST

**** Caution:** External email from: [REDACTED] <[\[REDACTED\]@warren.senate.gov](mailto:[REDACTED]@warren.senate.gov)>] Pay attention to suspicious links and attachments. Send suspicious email to suspect@treasury.gov **

Hi Ron,

I hope you're doing well! I'm reaching out to see if it would be possible to set up a briefing next week for our offices about the Canada DST discussions, since it sounds like Treasury is taking point there.

Sharing team Warren's availability for next week below -- let us know when works best!

1. Mon. 12/4 at 11:30a, 12:30p, 2:30p, or after 4p
2. Tues. 12/5 before 10:30a, 12:30-1:30p, or after 3:30p
3. Thurs. 12/7 anytime after 11a except 2-2:30p

Thanks in advance,
Nikhil

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren

EXEMPTION 6

Re: USTR Response RE: Letter from Warren, Whitehouse, Cohen

From: "Srinivasan, Nikhil (Warren)" [REDACTED] <warren.senate.gov>
:
To: "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>
Cc: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>, "RuBoss, Dan (Budget)" [REDACTED]@budget.senate.gov>, "Bell, Sion (Budget)" [REDACTED]@budget.senate.gov>, [REDACTED]@mail.house.gov, [REDACTED]@mail.house.gov
Date: Mon, 11 Dec 2023 11:25:51 -0500

Received, thank you!

From: Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>

Sent: Friday, December 8, 2023 12:47:18 PM

To: Srinivasan, Nikhil (Warren)

Cc: McGrath, Jillian M. EOP/USTR; RuBoss, Dan (Budget); Bell, Sion (Budget);

Rachel.Citron@mail.house.gov; Reisha.Buster@mail.house.gov

Subject: USTR Response RE: Letter from Warren, Whitehouse, Cohen

Nikhil,

Please find attached USTR's response to Senator Warren, Senator Whitehouse and Rep Cohen regarding ISDS. Thank you all for your advocacy on this issue.

Sincerely,

Matthew Hoeck
Office of the U.S. Trade Representative

[REDACTED]

Matthew.J.Hoeck@ustr.eop.gov



THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON

December 8, 2023

The Honorable Elizabeth Warren
United States Senate
Washington, DC 20510

The Honorable Steve Cohen
United States House of Representatives
Washington, DC 20501

Dear Senator Warren and Representative Cohen:

Thank you for your November 1 letter to Secretary Blinken and me regarding Investor-State Dispute Settlement (ISDS) provisions found in some international trade and investment agreements. I appreciate you sharing your views on these important issues.

As noted in my response to your May 2 letter, President Biden does not believe corporations should receive special tribunals in trade agreements that are not available to other organizations, and he opposes the ability of private corporations to attack labor, health, and environmental policies through ISDS. I share these views, and the United States is not pursuing any trade or investment agreements that would establish ISDS.

Your letter further raised the idea of removing ISDS provisions from the United States' existing trade and investment agreements, including through the Americas Partnership for Economic Prosperity (APEP). I look forward to working with you and other Members of Congress to identify the best path forward, recognizing the role of Congress in amending existing agreements.

The Biden-Harris Administration has and will continue to advance worker-centered trade policies, including through APEP, that deliver sustainable and inclusive economic growth and benefit workers, consumers, and businesses of all sizes.

Sincerely,

EXEMPTION 6

Ambassador Katherine Tai

cc:

The Honorable Sheldon Whitehouse
The Honorable Bernard Sanders
The Honorable Jeffrey A. Merkley
The Honorable Edward J. Markey
The Honorable Peter Welch
The Honorable Brian Schatz
The Honorable Eleanor Holmes Norton
The Honorable Raul M. Grijalva
The Honorable Rashida Tlaib
The Honorable Jesus G. "Chuy" Garcia
The Honorable Henry C. "Hank" Johnson, Jr.
The Honorable Jamaal Bowman, Ed.D.
The Honorable Shri Thanedar
The Honorable Jamie Raskin
The Honorable Ro Khanna
The Honorable Dina Titus
The Honorable Jared Huffman
The Honorable Paul D. Tonko
The Honorable Melanie Stansbury
The Honorable Ilhan Omar
The Honorable Frederica S. Wilson
The Honorable Cori Bush
The Honorable James P. McGovern
The Honorable Pramila Jayapal
The Honorable Barbara Lee
The Honorable Nydia M. Velazquez
The Honorable Lloyd Doggett
The Honorable Summer Lee
The Honorable Jan Schakowsky
The Honorable Greg Casar
The Honorable Veronica Escobar
The Honorable Betty McCollum
The Honorable Alexandria Ocasio-Cortez
The Honorable Alma S. Adams, Ph.D.
The Honorable Mark Pocan
The Honorable Donald M. Payne, Jr.
The Honorable Jill Tokuda
The Honorable Marcy Kaptur
The Honorable Rosa L. DeLauro

Re: Letter from Senator Warren and colleagues

From: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
To: "Srinivasan, Nikhil (Warren)" **EXEMPTION 6** warren.senate.gov>
Cc: "Nouri, Ali EOP/WHO" <ali.nouri@who.eop.gov>
Date: Tue, 12 Dec 2023 17:04:05 -0500

Hi Nikhil, letter received. Thanks so much for sharing.

Best,
Jillian

On Dec 12, 2023, at 4:51 PM, Srinivasan, Nikhil (Warren)
EXEMPTION 6 warren.senate.gov> wrote:

Good afternoon,

Please find attached a letter from Senator Warren and colleagues to President Biden, copying Ambassador Tai. When you have a moment, please confirm receipt.

Thanks,
Nikhil

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren
EXEMPTION 6

<2023.12.12 Letter from Senator Warren and colleagues.pdf>

Congress of the United States

Washington, DC 20515

December 12, 2023

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We strongly support your whole-of-government competition policy agenda, and greatly appreciate your administration's recent action at the World Trade Organization (WTO) to ensure that our trade policy aligns with those efforts. We are concerned that opponents of your agenda are continuing their efforts to use trade-related attacks to undermine our allies' efforts to rein in abuses by major technology companies.

We urge you to continue to reject claims that the European Union's *Digital Markets Act* (DMA) constitutes an illegal barrier to trade. The DMA will protect consumers and spur competition in the tech industry. The United States' trade policy must support the European Union's efforts to rein in Big Tech and facilitate similar American policies, rather than impair them.

As you know, Big Tech firms have aggressively fought common sense, bipartisan legislation in Congress. For example, last Congress, Big Tech spent hundreds of millions of dollars to stop the bipartisan *American Innovation and Choice Online Act* (AICOA) from being enacted.¹ While we continue to build momentum for this legislation, thus far Big Tech and its allies have stonewalled Congress from enacting other sensible, bipartisan bills to safeguard data privacy, stop the spread of disinformation, protect kids' safety and security online, increase competition in app stores, and address the crisis in local news.

Your administration has made immense strides in combating the abuses of Big Tech. After you issued a government-wide order directing agencies to promote competition in all sectors of the economy,² regulators across the administration took steps to protect consumers, workers, and small businesses, including in the tech sector. The Federal Trade Commission (FTC) has taken action against platforms that violate privacy protections,³ trick consumers,⁴ steal wages,⁵ and

¹ Bloomberg, "Big Tech's \$95 Million Spending Spree Leaves Antitrust Bill on Brink of Defeat," Anna Edgerton and Emily Birnbaum, September 6, 2022, <https://www.bloomberg.com/news/articles/2022-09-06/tech-giants-spree-leaves-antitrust-bill-on-brink-of-defeat>; Bloomberg, "Tech Industry's Ad Push Stalling Antitrust Bill, Klobuchar Says," Alexandra Barinka and Mark Gurman, September 6, 2022, <https://www.bloomberg.com/news/articles/2022-09-06/tech-industry-s-ad-push-stalling-antitrust-bill-klobuchar-says>.

² The White House, "Executive Order on Promoting Competition in the American Economy," press release, July 9, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.

limit consumers' ability to repair their own items.⁶ The Department of Justice (DOJ) has brought suit against Google for illegally monopolizing digital advertising markets⁷ and the online search market.⁸ The Office of the United States Trade Representative (USTR) withdrew support for Trump-era digital trade proposals at the WTO that conflict with, and could have undermined, the tech regulation and competition bills supported by your administration and bipartisan members of Congress. We applaud all that you have done to “stand[] up to special interests” and “to hold big technology companies accountable for the harms they cause.”⁹

We must support our allies' efforts to do the same. Last year the European Parliament adopted the *Digital Markets Act* (DMA), groundbreaking legislation to ensure “fair and open digital markets.”¹⁰ The DMA requires the largest online platforms, dubbed “gatekeepers,” to comply with basic protections for business and individual users such as allowing business users to promote products outside the gatekeeper's platform; ensuring business users can access data they generate on the gatekeeper's platform; prohibiting gatekeepers from tracking an individual user for advertising purposes; and guaranteeing individual users can choose which payment, browsing, and other services to use on their devices.¹¹ All told, the DMA will ensure that innovators and small businesses can compete in the online marketplace without facing unfair

³ Federal Trade Commission, “Fornite Video Game Maker Epic Games to Pay More Than Half a Billion Dollars over FTC Allegations of Privacy Violations and Unwanted Charges,” press release, December 19, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/12/fornite-video-game-maker-epic-games-pay-more-half-billion-dollars-over-ftc-allegations>.

⁴ Federal Trade Commission, “Fornite Video Game Maker Epic Games to Pay More Than Half a Billion Dollars over FTC Allegations of Privacy Violations and Unwanted Charges,” press release, December 19, 2022, <https://www.ftc.gov/news-events/news/press-releases/2022/12/fornite-video-game-maker-epic-games-pay-more-half-billion-dollars-over-ftc-allegations>; Federal Trade Commission, “FTC Takes Action Against Amazon for Enrolling Consumers in Amazon Prime Without Consent and Sabotaging Their Attempts to Cancel,” press release, June 21, 2023, <https://www.ftc.gov/news-events/news/press-releases/2023/06/ftc-takes-action-against-amazon-enrolling-consumers-amazon-prime-without-consent-sabotaging-their>.

⁵ Federal Trade Commission, “FTC Returns Nearly \$60 Million to Drivers Whose Tips Were Illegally Withheld by Amazon,” press release, November 2, 2021, <https://www.ftc.gov/news-events/news/press-releases/2021/11/ftc-returns-nearly-60-million-drivers-whose-tips-were-illegally-withheld-amazon>.

⁶ Federal Trade Commission, “FTC to Ramp Up Law Enforcement Against Illegal Repair Restrictions,” press release, July 21, 2021, <https://www.ftc.gov/news-events/news/press-releases/2021/07/ftc-ramp-law-enforcement-against-illegal-repair-restrictions>.

⁷ U.S. Department of Justice, “Justice Department Sues Google for Monopolizing Digital Advertising Technologies,” press release, January 24, 2023, <https://www.justice.gov/opa/pr/justice-department-sues-google-monopolizing-digital-advertising-technologies>.

⁸ NPR, “United States takes on Google in biggest tech monopoly trial of 21st century,” Dara Kerr, September 12, 2023, <https://www.npr.org/2023/09/12/1198558372/doj-google-monopoly-antitrust-trial-search-engine>.

⁹ The White House, “FACT SHEET: Biden-Harris Administration Announces Key Actions to Advance Tech Accountability and Protect the Rights of the American Public,” press release, October 4, 2022, <https://www.whitehouse.gov/ostp/news-updates/2022/10/04/fact-sheet-biden-harris-administration-announces-key-actions-to-advance-tech-accountability-and-protect-the-rights-of-the-american-public/>.

¹⁰ European Commission, “The Digital Markets Act: ensuring fair and open digital markets,” https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-markets-act-ensuring-fair-and-open-digital-markets_en.

terms and conditions.¹² It will also empower consumers with more options, fairer prices, and better data protections.¹³

Dominant online platforms are racing to neuter the DMA so they can continue smothering competition and skirting privacy protections. The European Commission designated an initial set of gatekeepers earlier this fall.¹⁴ Those gatekeepers – Alphabet, Amazon, Apple, ByteDance, Meta, and Microsoft – must comply with the DMA from March 2024 onward.¹⁵ The gatekeepers were chosen based on neutral criteria such as market capitalization and number of active end users and business users in the EU.¹⁶ But the tech giants, their trade associations, and their allies in government erroneously claim that the DMA is an illegal trade barrier because it disproportionately affects U.S. companies.¹⁷

The DMA shares many similarities with the bipartisan *American Innovation and Choice Online Act* that your administration supports.¹⁸ Last year, DOJ sent a views letter on behalf of the Biden Administration explaining that the agency “views the rise of dominant platforms as presenting a threat to open markets and competition, with risks for consumers, businesses, innovation, resiliency, global competitiveness, and our democracy.”¹⁹ The letter concluded that “the Department strongly supports the principles and goals animating the legislation.”²⁰

We have seen this playbook before. In their annual submissions for USTR’s National Trade Estimates report, Big Tech interests have attacked other countries’ competition policies and other platform accountability laws that they oppose as illegal trade barriers.²¹ In digital trade negotiations for the proposed Indo-Pacific Economic Framework for Prosperity (IPEF),

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Reuters, “How the EU’s Digital Markets Act challenges Big Tech,” Martin Coulter, September 6, 2023, <https://www.reuters.com/technology/how-eus-digital-markets-act-challenges-big-tech-2023-09-06/>.

¹⁵ Cyber Risk GmbH, “The Digital Markets Act (DMA),” <https://www.eu-digital-markets-act.com/>.

¹⁶ European Commission, “Digital Markets Act: Commission designates six gatekeepers,” press release, September 6, 2023, https://ec.europa.eu/commission/presscorner/detail/en/IP_23_4328; European Commission, “Questions and Answers: Digital Markets Act: Ensuring fair and open digital markets*,” press release, September 6, 2023, https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2349.

¹⁷ The American Prospect, “The EU’s Tough New Rules for Tech,” Robert Kuttner, October 3, 2023, <https://prospect.org/world/2023-10-03-eus-tough-new-rules-for-tech/>.

¹⁸ American Innovation and Choice Online Act, S. 2033, <https://www.congress.gov/bill/118th-congress/senate-bill/1094?s=3&r=1>.

¹⁹ Letter from Peter H. Hyun, Acting Assistant Attorney General to U.S. Representatives Jerrold Nadler, Jim Jordan, David Cicilline, and Ken Buck, March 28, 2022, <https://www.justice.gov/ola/page/file/1488741/download>.

²⁰ *Id.*

²¹ Rethink Trade, ““Digital Trade” Doublespeak: Big Tech’s Hijack of Trade Lingo to Attack Anti-Monopoly and Competition Policies,” Daniel Rangel, Taylor Buck, Erick Peinert and Lori Wallach, November 2, 2022, <https://rethinktrade.org/reports/digital-trade-doublespeak-big-techs-hijack-of-trade-lingo-to-attack-anti-monopoly-and-competition-policies/>.

monopoly tech platforms argued that other nations' competition policies would subject U.S. firms to "illegal trade discrimination."²² Industry groups cited these spurious discrimination concerns when asking the USTR to push back against Canada's *Online News Act*,²³ which, like the bipartisan *Journalism Competition and Preservation Act* in the U.S.,²⁴ would require Big Tech platforms to pay for the news they profit from. They also attacked South Korean legislation that is similar to the *Open App Markets Act*,²⁵ another bipartisan congressional proposal to rein in companies like Google and Apple from using their dominant app stores to extort app developers.²⁶ As a bicameral group of legislators told Ambassador Katherine Tai and Secretary Raimondo earlier this year, "it is not 'trade discrimination' for the U.S. government or any of our trading partners to regulate Google, Meta, Apple, Microsoft, and Amazon to protect online competition . . . it is common sense, and trade-pact terms should in no way inhibit it."²⁷

Thankfully, USTR has seen through these ploys. We were heartened to hear Ambassador Tai, who leads negotiations on digital trade for the U.S., note that in the trade context, domestic regulatory "measures that may look like they have a discriminatory effect may or may not be advanced with a discriminatory intent."²⁸ Ambassador Tai correctly observed that the intent behind domestic regulation is critical to determining whether such a policy is in fact discriminatory.²⁹ The DMA is not discriminatory because it does not target companies, platforms, services, investors or digital products by their national origin. Rather, it establishes a framework for regulating anticompetitive behavior by the largest firms in the digital market.³⁰ And if the effect of the DMA lands predominantly on massive tech corporations based in the United States, it is because they have engaged in anticompetitive tactics to achieve dominance in the industry, not because they are American.

²² Letter from Senator Elizabeth Warren to Ambassador Katherine Tai and Commerce Secretary Gina Raimondo, April 21, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.04.21%20Letter%20to%20USTR,%20Commerce%20re.%20digital%20trade%20and%20competition.pdf>.

²³ The Globe and Mail, "Biden urged to raise Canadian bills' impact on Google, Facebook, Netflix, Disney," Marie Woolf, March 22, 2023, <https://www.theglobeandmail.com/politics/article-biden-urged-to-raise-canadian-bills-impact-on-google-facebook-netflix/>.

²⁴ Journalism Competition and Preservation Act of 2023, S. 1094, <https://www.congress.gov/bill/118th-congress/senate-bill/1094>.

²⁵ Open App Markets Act, S. 2710, <https://www.congress.gov/bill/117th-congress/senate-bill/2710>.

²⁶ Reuters, "South Korea approves rules on app store law targeting Apple, Google," Joyce Lee, March 8, 2022, <https://www.reuters.com/technology/skorea-approves-rules-app-store-law-targeting-apple-google-2022-03-08/>.

²⁷ Letter from Senator Elizabeth Warren to Ambassador Katherine Tai and Commerce Secretary Gina Raimondo, April 21, 2023, <https://www.warren.senate.gov/imo/media/doc/2023.04.21%20Letter%20to%20USTR,%20Commerce%20re.%20digital%20trade%20and%20competition.pdf>.

²⁸ Center for American Progress, "President Biden's Worker-Centered Trade Policy: A Conversation With Ambassador Katherine Tai," October 10, 2023, at 58:46, <https://www.americanprogress.org/events/president-bidens-worker-centered-trade-policy-a-conversation-with-ambassador-katherine-tai/>.

²⁹ *Id.*

³⁰ European Commission, "Questions and Answers: Digital Markets Act: Ensuring fair and open digital markets*," https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2349.

Under your leadership, the FTC and DOJ have made significant strides in promoting competition to the benefit of workers, consumers, and small businesses, while resisting pressure from huge multinational corporations and their lobbyists. USTR has ensured that your trade policies support, rather than undermine, your administration's goals, including by withdrawing support for Trump-era proposals at the WTO that would have mislabeled facially neutral competition policies as illegal trade barriers.

Your administration must remain steadfast in the face of Big Tech's misleading trade discrimination claims. We urge you to continue to reject any trade or policy proposals that deem the DMA to be discriminatory nor an illegal trade barrier so as to protect the pro-competition priorities that your administration shares with our European allies.

Sincerely,

EXEMPTION 6

Elizabeth Warren
United States Senator

EXEMPTION 6

Amy Klobuchar
United States Senator

EXEMPTION 6

Mary Gay Scanlon
Member of Congress

EXEMPTION 6

Henry C. "Hank" Johnson, Jr.
Member of Congress

EXEMPTION 6

Bernard Sanders
United States Senator

EXEMPTION 6

Pramila Jayapal
Member of Congress

EXEMPTION 6

Jan Schakowsky
Member of Congress

EXEMPTION 6

Lori Trahan
Member of Congress

EXEMPTION 6

Rosa L. DeLauro
Member of Congress

Re: Steel / cranberries

From: "Srinivasan, Nikhil (Warren)" [REDACTED] warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Wed, 13 Dec 2023 09:10:24 -0500

Sounds good, really appreciate it!

On Dec 13, 2023, at 9:08 AM, McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov> wrote:

Hi! I'm in quarterly enforcement briefings from 10am-1pm today but I'll try to get an update for you and give you a call later today or early tomorrow if that works.

Sent from my iPhone

On Dec 12, 2023, at 6:36 PM, Srinivasan, Nikhil (Warren) [REDACTED] warren.senate.gov> wrote:

Hey! Sorry to bug, but wanted to see if you had a sec tomorrow morning about any updates on the steel front? I'm free anytime except 10:30-11.

Thanks in advance!

Nikhil Srinivasan (*he/him*)
Office of U.S. Senator Elizabeth Warren

[REDACTED]

Re: Quarterly enforcement

From: "Srinivasan, Nikhil (Warren)" [REDACTED] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Thu, 14 Dec 2023 16:22:15 -0500

Wonderful, thank you!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, December 14, 2023 4:21:23 PM
To: Srinivasan, Nikhil (Warren)
Subject: RE: Quarterly enforcement

Great, I will huddle up with the team and try to get something virtual on the books in the new year.

From: Srinivasan, Nikhil (Warren) [REDACTED] <warren.senate.gov>
Sent: Thursday, December 14, 2023 11:54 AM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: Quarterly enforcement

Hey, no word yet, but would certainly be interested in a new time if that's workable!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, December 14, 2023 10:09:12 AM
To: Srinivasan, Nikhil (Warren)
Subject: Quarterly enforcement

Hey Nikhil, wondering if you heard from the Brown office about an invitation to quarterly enforcement? We're trying to figure out if we should set up another time for offices that missed it.

-Jillian

Jillian McGrath
Director of Congressional Affairs
[REDACTED]

Re: IPEF SDR chapter

From: "Srinivasan, Nikhil (Warren)" [EXEMPTION 6] <warren.senate.gov>
To: "McGrath, Jillian M. EOP/USTR" <jillian.m.mcgrath@ustr.eop.gov>
Date: Tue, 19 Dec 2023 13:28:34 -0500

Oh no, sorry to hear that! Hope you feel better soon. And sounds good re the call, thanks!

On Dec 19, 2023, at 11:59 AM, McGrath, Jillian M. EOP/USTR
<Jillian.M.McGrath@ustr.eop.gov> wrote:

Hi Nikhil, wanted to let you know I'm home sick with the flu today but Matthew will be on the call from the congressional team along with a handful of policy staff.

-Jillian

On Dec 14, 2023, at 11:54 AM, Srinivasan, Nikhil (Warren)
[EXEMPTION 6] <warren.senate.gov> wrote:

Either of those times works. Thank you!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, December 14, 2023 11:12:04 AM
To: Srinivasan, Nikhil (Warren)
Subject: RE: IPEF SDR chapter

Hey Nihil, do either of these windows work to do IPEF SDR? Our IPEF and OGC teams can do this Tuesday (12/19) either 11:30am-12pm, 4:30pm-5pm.

From: Srinivasan, Nikhil (Warren) [EXEMPTION 6] <warren.senate.gov>
Sent: Thursday, December 7, 2023 11:59 AM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: IPEF SDR chapter

Aaaand just got the note about the briefing.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, December 7, 2023 11:52:13 AM
To: Srinivasan, Nikhil (Warren)
Subject: RE: IPEF SDR chapter

Awesome, thank you!

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>
Sent: Thursday, December 7, 2023 11:52 AM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: IPEF SDR chapter

For sure! Nothing yet but will circle back at EOD if nothing by then.

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Sent: Thursday, December 7, 2023 11:50:51 AM
To: Srinivasan, Nikhil (Warren)
Subject: RE: IPEF SDR chapter

Hey, can you let me know if a quarterly enforcement invite doesn't come through today? I want to make sure you guys get proper notice from SFC.

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>
Sent: Wednesday, December 6, 2023 5:00 PM
To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>
Subject: Re: IPEF SDR chapter

Congrats to him! He had mentioned this might happen soon, my thoughts are with you haha.

A briefing would be great! I'm open tomorrow after noon, or Tuesday between 10:30 and 4:30.

And does 10:30 ish work for talking cranberries? If so I can give you a call then.

Thanks (and good luck)!

From: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Sent: Wednesday, December 6, 2023 4:55 PM

To: Srinivasan, Nikhil (Warren)

Subject: RE: IPEF SDR chapter

Hi, thanks for bumping! Dan welcomed another child earlier this week so I'm covering the Senate-side solo, which I'm sure you know can be hectic.

On SDR – I can set up a briefing with our policy lead on SDR on an unclassified basis. What days work best for you later in the week/early next week?

On cranberries – can you give me a call to discuss tomorrow? Things are looking good but happy to chat further. Let know what works.

-Jillian

From: Srinivasan, Nikhil (Warren) **EXEMPTION 6** <warren.senate.gov>

Sent: Wednesday, December 6, 2023 2:27 PM

To: McGrath, Jillian M. EOP/USTR <Jillian.M.McGrath@ustr.eop.gov>

Subject: Re: IPEF SDR chapter

Hey! Hope your week's going well. Wanted to bump this, and also check in on the steel arrangement progress. Recently learned that cranberries are part of the tariffs that could snap back on Jan 1, so MA producers would be impacted.

Happy to chat by phone as always. Thanks in advance!

From: Srinivasan, Nikhil (Warren)

Sent: Friday, December 1, 2023 5:06:00 PM

To: McGrath, Jillian M. EOP/USTR

Subject: IPEF SDR chapter

Hey Jillian,

Reaching out on a non-digital matter! I had some questions about the IPEF Services Domestic Regulation chapter and its impact on state and local licensing fee and health laws around casinos, alcohol, and tobacco, so would be great to set up a call next week with whoever the right person is on your team. I'll flag that I'm not cleared and can't see the text, so happy to talk more generally about the chapter, or in the context of similarities/differences to the WTO SDR JSI.

Thanks in advance!

Nikhil Srinivasan (*he/him*)

Office of U.S. Senator Elizabeth Warren

EXEMPTION 6