

## RE: INVITATION TO SPEAK - Washington, Feb 15 - on Building a More Resilient and Secure Trading System

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**From:** "Stoneman, Jessica R. EOP/USTR" <jessica.r.stoneman@ustr.eop.gov>  
:  
**To:** Barry Lynn [REDACTED] <openmarketsinstitute.org>, "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>, "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>  
**Cc:** Ashley Woolheater [REDACTED] <openmarketsinstitute.org>  
**Date:** Wed, 11 Jan 2023 22:22:38 -0500

Wonderful, thank you so much, Barry!

**From:** Barry Lynn [REDACTED] <openmarketsinstitute.org>  
**Sent:** Wednesday, January 11, 2023 8:21 PM  
**To:** Stoneman, Jessica R. EOP/USTR <Jessica.R.Stoneman@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>  
**Cc:** Ashley Woolheater [REDACTED] <openmarketsinstitute.org>  
**Subject:** [EXTERNAL] Re: INVITATION TO SPEAK - Washington, Feb 15 - on Building a More Resilient and Secure Trading System

Dear Jesse

Thank you very much for letting us know. We look forward to working with the Ambassador in some other fashion, very soon.

And Beth Baltzan is a good friend. I will indeed call her when she gets back from Africa.

Until soon,

Barry

[REDACTED]

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**From:** Stoneman, Jessica R. EOP/USTR <[Jessica.R.Stoneman@ustr.eop.gov](mailto:Jessica.R.Stoneman@ustr.eop.gov)>  
**Sent:** Wednesday, January 11, 2023 4:13 PM  
**To:** Barry Lynn <[EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Cc:** Ashley Woolheater <[EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>  
**Subject:** RE: INVITATION TO SPEAK - Washington, Feb 15 - on Building a More Resilient and Secure Trading System

Hi Barry,

Thank you again for the invitation. Ambassador Tai will unfortunately be unable to attend, as she will be on international travel at that time.

I did want to follow up to see if it might make sense to loop in Elizabeth Baltzan, Senior Advisor to Amb. Tai, to participate in the program?

Thank you,  
Jesse

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**From:** Stoneman, Jessica R. EOP/USTR  
**Sent:** Friday, January 6, 2023 6:52 PM  
**To:** 'Barry Lynn' <[EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Cc:** Ashley Woolheater <[EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>  
**Subject:** RE: INVITATION TO SPEAK - Washington, Feb 15 - on Building a More Resilient and Secure Trading System

Hi Barry,

Thank you so much for your outreach and the kind invitation. We will be in touch early next week.

Have a wonderful weekend,  
Jesse

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**From:** Barry Lynn <[EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>  
**Sent:** Friday, January 6, 2023 12:08 PM  
**To:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Stoneman, Jessica R. EOP/USTR <[Jessica.R.Stoneman@ustr.eop.gov](mailto:Jessica.R.Stoneman@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>

Cc: Ashley Woolheater **EXEMPTION 6** [openmarketsinstitute.org](http://openmarketsinstitute.org)>

Subject: [EXTERNAL] INVITATION TO SPEAK - Washington, Feb 15 - on Building a More Resilient and Secure Trading System

Dear Ms Annino, Ms Stoneman, and Mr. Hoeck

It's our deep honor here at Open Markets to invite Ambassador Tai to speak at the important event we are hosting Feb. 15 in Washington. I have attached a formal invitation and also included the text of the invitation below.

Please feel free to reach out to me any time, should you have any questions.

Thank you,

Barry Lynn

**EXEMPTION 6**

Dear Ambassador Tai:

I am writing to invite you to speak at a major conference the Open Markets Institute – in partnership with the *Financial Times* – plans to host in person in Washington on February 15. The topic is how concentration of economic power and control threatens liberal democracy, and how to use competition policy to build a more secure, just, and democratic society.

*Financial Times* columnist Rana Foroohar - who recently published the important book "Homecoming" and who serves on the Open Markets board - is a co-host and co-designer of the event. Another co-host is Caroline Frederickson, the former president of the American Constitution Society, and a former director at the ACLU. Caroline recently joined Open Markets as director of strategic initiatives.

Sen. Elizabeth Warren will deliver a keynote at the conference. Ayad Aktar, president of PEN America, will also deliver a keynote. As you know, Aktar is a Pulitzer Prize winning playwright and author of the novel "Homeland Elegies," which includes a long section on how concentration of economic power resulted in the stripping out of American community.

We have also invited Commissioner for Europe Thierry Breton to speak. We also plan to invite both Senator Marco Rubio and National Security Advisor Jake Sullivan to speak.

In addition, Congressman Ken Buck, chair of the House Antitrust Subcommittee, and Jonathan Kanter, the AAG for Antitrust within the DOJ, will speak about the foundational role of antimonopoly in protecting and expanding democracy.

Here's our working description of the event:

*Our goal in this conference is to detail how we can use antimonopoly principles to renew American democracy and construct a more peaceful and sustainable world. To do so, we will reconnect Americans to the ideas, narratives, and laws that previous generations used to preserve individual liberty, protect community, and engage every citizen in the day-to-day challenges of building a good society. We will see how from the first days of our Republic competition policy has been a foundation of our democracy, security, and prosperity*

*We will bring together leading thinkers in today's antimonopoly renaissance – from around the world and across the political spectrum. And we will learn how they are updating and expanding traditional visions of democracy to help us master the specific political and technological challenges of today.*

We believe your long close focus on the importance of using competition policy principles to help structure trade – in ways that target chokepoints and ensure the

resiliency of the overarching system and the full political independence of the United States – make you uniquely well qualified to speak about this great set of challenges.

I am of course more than glad to talk any time.

Thank you, and until very soon,

Barry Lynn

Executive Director

**EXEMPTION 6**

## [EXTERNAL] FW: Defending IRA from Trade Challenges - Letter from IAM, UAW, USW, Sierra Club, and Public Citizen

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Wed, 18 Jan 2023 07:46:49 -0500  
**Attachments:** Letter from IAM UAW USW Sierra Club Public Citizen - Defending IRA from Trade Challenges.pdf (661.46 kB)

Hi Beth,

Wanted to make sure you saw this letter that was just sent to the administration.

Warm regards,  
Melinda

+++++

Dear colleagues:

Please find attached a letter to President Biden from Public Citizen, United Steelworkers, United Auto Workers, International Association of Machinists and Aerospace Workers, and Sierra Club, urging the administration to implement the Inflation Reduction Act (IRA) as intended without delays or technical changes that could undermine its historic clean energy investments, despite the threatened trade challenges from the European Union and others. Our organizations were proud to work alongside the administration to get this historic climate legislation over the finish line, and strongly believe that outdated trade rules should not be used to undermine our laws intended to support a growing clean energy economy.

Please let us know if you have any questions.

Warm regards,.

**Melinda St. Louis | Director**  
Public Citizen's Global Trade Watch

1600 20<sup>th</sup> Street NW, Washington, DC 20009

TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)

*pronouns: she/her*



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Jan. 17, 2023

Dear President Biden:

The undersigned organizations worked hard alongside your administration and Congress to deliver the Inflation Reduction Act (IRA), which included historic investments to boost manufacturing in the clean energy economy. Unfortunately, its incentives that will help create and support good clean energy jobs are being threatened by antiquated trade rules that work against our national interest.

The European Union and a few other governments claim that the structure of tax incentives for electric vehicle, electric battery, and renewable energy production offered through the IRA violates World Trade Organization (WTO) and Free Trade Agreement rules. And they are threatening to launch trade dispute challenges, attempting to force us to change our domestic laws that we, and the world, desperately need.

Time is running out to meet our climate commitments and to invest in the local clean energy jobs for U.S. workers made possible by the IRA’s incentives. The IRA has the potential to be a gamechanger for the industrial towns hit hardest by decades of offshoring. By refusing to let outdated corporate-friendly trade rules stand in the way of swift and certain implementation of the IRA, the administration has a historic opportunity to usher in a new wave of manufacturing jobs and rebuild trust with American workers.

Thus, **we strongly urge you to ensure that the IRA is implemented as intended, without delays or technical changes** that erode its promises to U.S. workers and climate goals.

Out-dated trade rules should not be used to undermine our laws intended to support a growing clean energy economy.

Sincerely,

International Association of Machinists  
and Aerospace Workers (IAM)

International Union, United Automobile,  
Aerospace and Agricultural Implement  
Workers of America (UAW)

Sierra Club

Public Citizen

United Steelworkers (USW)



## RE: [EXTERNAL] Defending IRA from Trade Challenges - Letter from IAM, UAW, USW, Sierra Club, and Public Citizen

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Wed, 18 Jan 2023 10:07:44 -0500

Thanks! Appreciate it.

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**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** Wednesday, January 18, 2023 10:07 AM  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Subject:** Re: [EXTERNAL] Defending IRA from Trade Challenges - Letter from IAM, UAW, USW, Sierra Club, and Public Citizen

Thanks Melinda , I will make sure it gets sent around.

EH

Sent from my iPhone

On Jan 18, 2023, at 4:45 AM, Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)> wrote:

Hi Ethan,

I'd appreciate it if you could share this letter with relevant folks at USTR and in other agencies. If you could send me the contact information for Michael Pyle, I'd appreciate it as I would like for him to see it as well.

Thanks much,  
Melinda

++++  
Dear colleagues:

Please find attached a letter to President Biden from Public Citizen, United Steelworkers, United Auto Workers, International Association of Machinists and Aerospace Workers, and Sierra Club, urging the administration to implement the Inflation Reduction Act (IRA) as intended without

delays or technical changes that could undermine its historic clean energy investments, despite the threatened trade challenges from the European Union and others. Our organizations were proud to work alongside the administration to get this historic climate legislation over the finish line, and strongly believe that outdated trade rules should not be used to undermine our laws intended to support a growing clean energy economy.

Please let us know if you have any questions.

Warm regards,

**Melinda St. Louis | Director**  
Public Citizen's Global Trade Watch

1600 20<sup>th</sup> Street NW, Washington, DC 20009

TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)

*pronouns: she/her*

<[image001.png](#)>

<[image002.png](#)>

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<Letter from IAM UAW USW Sierra Club Public Citizen - Defending IRA from Trade Challenges.pdf>

## [EXTERNAL] Memo on IPEF digital trade rebalance to preserve policy space

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**From:** Lori Wallach [REDACTED]@rethinktrade.org>  
**To:** "Tai, Katherine C. EOP/USTR" [REDACTED]@ustr.eop.gov>  
**Cc:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>, "Hurlburt, Heather F. EOP/USTR" <heather.f.hurlburt@ustr.eop.gov>  
**Date:** Thu, 19 Jan 2023 16:08:46 -0500  
**Attachments** Preserving policy space in IPEF digital text sent.pdf (628.28 kB)

:

Hello Katherine,

Congratulations on your WEF speech. Godspeed and safe travels.

Please find attached a detailed memo regarding how to rebalance for IPEF some of what we consider the five most problematic provisions included in the past U.S. approach to digital trade rules. And also ideas on an issue often left out of the digital chapters that bears considering.

I am also sending this directly to Sarah Bianchi and Ken Schagrin.

The goal of the proposals in this paper is to maximize policy space for the domestic digital governance initiatives that administration agencies and Congress are currently creating. It recognizes that negotiations on digital issues are different than on many topics because Congress and the regulatory agencies have not already developed what the U.S. policy is with respect to most facets of digital governance.

This is not Rethink Trade's or my personal *tabula rasa* approach, but rather ways to modify the current construct to maximize policy space. I dug through a lot of other agreements to review alternative approaches – or if other pacts even include each of the five most threatening provisions included in the USMCA-TPP approach. (And after some extended back and forths and unhappiness from various civil society and academic experts, who seek a totally new approach to digital rules in trade pacts, I was able to get a number of peer reviews to critique and refine the work.)

This memo spells out specific conflicts that the old approach poses to *actual* digital governance policies and plans of the administration and bills in Congress, and what changes to the USMCA-TPP digital trade text can address those conflicts. (It also cites a much more

detailed analysis with side-by-side language excerpts that we recently published of how the USMCA text would undermine core aspects of the 117<sup>th</sup> Congress' main privacy, AI civil rights and anti-monopoly bills and administration proposals on these topics.)

I hope you will find this analysis useful.

Yours, Lori

**Lori Wallach**

Director, Rethink Trade at American Economic Liberties Project

**EXEMPTION 6** [RethinkTrade.org](https://RethinkTrade.org) || **EXEMPTION 6**

Twitter @WallachLori || Skype lori\_wallach

TO: USTR Tai, Deputy USTR Bianchi

FR: Lori Wallach, Rethink Trade

DT: January 2023

RE: For IPEF and Other Pacts, the Administration Must Create New “Digital Trade” Rules to Preserve Government Policy Space to Regulate Data Flows for Privacy and Security and to Achieve Anti-Monopoly, Civil Rights, and Pro-Worker Goals

***Extension of the USMCA/TPP “Digital Trade” Rules that Big Tech Favors Would Undermine AI Justice, Privacy, Competition, and Worker Rights Policy***

Thankfully, the Biden administration and Congress, as well as other countries’ governments, are taking action to confront the significant problems caused for workers, competing businesses, consumers, and democracy itself by an unregulated digital sphere largely shaped by dominant digital platforms, data miners and traders, and other commercial interests for their financial gain.

Unsurprisingly, Big Tech interests that dominate global retail, transport, advertising, and other sectors seek to derail these digital governance initiatives. One powerful means is international preemption through binding international “digital trade” rules that limit the parameters for how governments can address these problems and forbid some actions outright. The U.S.-Mexico-Canada Agreement’s (USMCA) “Digital Trade” chapter included such rules, which expanded on terms demanded by Big Tech interests in the Trans-Pacific Partnership (TPP). These terms conflict with Biden administration and congressional privacy, AI civil rights, anti-monopoly, and other digital initiatives. (See our side-by-side analyses.<sup>1</sup>) As USTR Tai noted in her 2021 digital trade speech, a new approach is necessary.

The lack of U.S. domestic digital governance policy makes international preemption via “digital trade” terms particularly fraught. Congress has not enacted national privacy protections or data safety policy for critical infrastructure and national security or laws to prevent AI from undermining civil, labor, and other rights or rules for fair digital markets. U.S. regulatory agencies are creating the competition, AI justice, and other policies President Biden has announced. Without established domestic law to follow, officials negotiating the Indo-Pacific Economic Framework (IPEF) and other pacts must not set binding proscriptive rules that could conflict with domestic policies now being created and thus must seek terms that maximize domestic policy space. **As Congress and the administration act to address growing public concern about Big Tech abuses, the USMCA/TPP digital trade rules cannot serve as a model or starting text for future talks.** Some USMCA/TPP digital rules must never be replicated in future pacts, while others require significant modification.

Indeed, key USMCA and TPP restrictions on domestic policy are uniquely extreme, unbalanced, and are not included in other nations’ digital deals. Only 11 of the 181 agreements with digital trade or e-commerce terms have secrecy guarantees for source code like USMCA and TPP do, which impede governments from pre-screening AI for racial discrimination or other law violations.<sup>2</sup> Such pre-review is what the administration’s Blueprint for an AI Bill of Rights and numerous bills propose to ensure AI programs are not abused for illegal police surveillance, denial of credit or employment

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<sup>1</sup> Rethink Trade, ““Digital Trade” Rules that Undermine Congressional and Administration Privacy, AI Civil Rights, and Anti-Monopoly Initiatives: Side by Sides,” Nov. 2022, updated Jan. 2023. Available at: <https://tinyurl.com/2pjf7v86>.

<sup>2</sup> Calculations made using the TAPED dataset, “The Governance of Big Data in Trade Agreements,” Universities of Lucerne and Bern. Accessed on Oct. 3, 2022. Available at: <https://www.unilu.ch/en/faculties/faculty-of-law/professorships/managing-director-internationalisation/research/taped/>.

opportunities otherwise violate Americans’ civil rights and liberties. The relevant USMCA provision even prohibits governments from requiring *descriptions* of algorithms. This would ensnare even less expansive pre-screening protocols, such as those in the civil rights title of the American Data Privacy and Protection Act (ADPPA), which require certain entities to submit algorithm design descriptions to the Federal Trade Commission.<sup>3</sup> ADPPA was approved by a large bipartisan House Energy and Commerce Committee majority in 2022 and likely will be reintroduced this Congress.<sup>4</sup> Notably, prior to TPP and USMCA, no U.S. pacts included these secrecy terms. Going forward, U.S. agreements simply must not do so to avoid chilling civil rights and other law enforcement.

Other terms included in USMCA and TPP can be modified to protect policy space, such as those that grant firms freedom to access, store, and process data, including our personal data, however and wherever they wish. These rules explicitly prohibit countries from restricting cross-border data flows or the location of processing and storage facilities. But U.S. security agencies and some in Congress proposed limiting access to U.S. data by the Chinese government and related firms. There are several congressional proposals to ensure that Americans have the right to get sensitive medical and other data deleted, including related to reproductive rights, and also proposals to limit what brokers can do with our data. Given many of the IPEF countries have strong economic connections with China and some have agreements with open data flows obligations with China, inclusion of the USMCA/TPP terms in IPEF would run afoul of national security-related limits on data flows to China. Meanwhile consumer rights to get data deleted or limits on brokers’ sale of sensitive data would be undermined if the data can be readily moved to locations where those rules do not apply.

The USMCA/TPP model for “non-discrimination” rules also requires significant change or it will undermine the administration’s tech anti-monopoly agenda. That is the case because it forbids facially neutral policies of general application that treat foreign and domestic firms the same but may have a greater impact on some firms not because of their nationality, but because they are bigger. The Coalition for App Fairness recently wrote to the United States Trade Representative and Commerce Secretary urging that the IPEF not include the USMCA/TPP approach, which the business association notes would threaten the Biden administration’s initiatives on competition.<sup>5</sup>

That Big Tech interests are calling on U.S. trade negotiators to impose policies via “diplomatic legislating” and internationally preempt the U.S. domestic policy process must serve as a warning, not as guidance, for IPEF and other U.S. trade negotiations.

## **A. A Real E-Commerce Problem to Address**

### **1. De Minimis Must be Fixed to End Flood of E-Commerce Import Shipments Evading Forced Labor Ban and Skirting Inspection, Taxes, and Sec. 301 Tariffs**

An actual problem with e-commerce is the ever-rising flood of uninspected, potentially unsafe and/or forced labor and endangered species bans-violating imports entering the United States as de

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<sup>3</sup> Section 207(c) of the American Data Privacy and Protection Act. Accessed on Sept. 25, 2022. Available at: <https://www.congress.gov/bill/117th-congress/house-bill/8152/text#toc-H6332551148B14109B1F2D9598E099E38>.

<sup>4</sup> Aysha Allos, “American Data Privacy and Protection Act: Are We Finally Getting Federal Data Privacy Protection?” The National Law Review, Sept. 21, 2022. Available at: <https://www.natlawreview.com/article/american-data-privacy-and-protection-act-are-we-finally-getting-federal-data-privacy>.

<sup>5</sup> Coalition for App Fairness letter to USTR Tai and Secretary Raimondo, Jan. 11, 2023. Available at: <https://subscriber.politicopro.com/f/?id=00000185-a32b-de44-a7bf-eb3fd9770000>.

de minimis shipments. The Department of Homeland Security projects one billion such shipments in 2022 – which enter without normal Customs information or HTS, SIC, or NAICS codes – which is an increase from 150 million in 2016. It is a non-starter to have any new “digital trade” agreements without significant fixes to the de minimis program. This includes the president using his existing discretion to issue new Treasury regulations that:

- exclude from de minimis treatment and informal entry all goods listed on the risk assessment lists of the Consumer Product Safety Commission and other “co-located” agencies, all goods subject to the rebuttable presumption under the Uyghur Forced Labor Prevention Act and subject to Section 307 of the Tariff Act of 1930, all goods subject to Section 301 tariffs, all goods subject to tariffs above 10%, and all goods from non-market economies, and
- require new Customs forms that require, in addition to the information already required through informal entry proceedings, a complete description of goods including an HTS, SIC, or NAICS code so goods can be tracked and risk assessed for inspection, and information about the goods’ manufacturer and seller, and mode of transport.

But in addition, with respect to IPEF, the U.S. government should:

- not bind its current \$800 de minimis level under any circumstance so that Congress has the ability to bring the U.S. level in line with the rest of the world. Only Australia and Uzbekistan have de minimis levels near to the current U.S. \$800. The EU level is similar to the \$200 level used by the United States until 2016, when it was raised to \$800. Both Canada and Mexico are dramatically lower.
- include a footnote like that in USMCA<sup>6</sup> or otherwise schedule a reservation that reserves the right for the United States to bring its de minimis level down if IPEF touches on de minimis;
- obtain new commitments in the Trade Facilitation chapter that IPEF countries will require for de minimis shipments from their country to the United States documentation that includes country-of-origin of goods and the country from which they are being shipped, a complete description of goods including an HTS, SIC, or NAICS code so goods can be tracked and risk assessed for inspection, and information about the goods’ manufacturer and seller, and mode of transport.

## **B. To Preserve Critical Policy Space, USMCA Digital Trade and TPP E-Commerce Provisions that Must Not Be Used as a Model for IPEF**

### **1. “Non-Discrimination” Rules Must Be Limited to De Facto Discrimination or Proof of Discriminatory Intent to Avoid Anti-Monopoly Policies and Labor or Other Laws of General Application From Ensnarement as Illegal Trade Barriers**

To avoid undermining President Biden’s Executive Order on “Promoting Competition in the American Economy”<sup>7</sup> and various bipartisan Big Tech anti-monopoly bills, any “non-discrimination” language in future trade pacts’ digital terms must be strictly limited. Namely, such

<sup>6</sup> See USMCA Chapter 7, footnote 3.

<sup>7</sup> Executive Order 14036, “Promoting Competition in the American Economy,” Jul. 9, 2021. Available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.

rules cannot ensnare origin-neutral policies that may have a disproportionate *effect* on certain platforms simply because they are larger. Instead, any such terms must take a bifurcated approach, as earlier U.S. trade agreements did. This means different standards for de jure discrimination versus facially neutral policies not motivated by the location from which digital services are provided or by a firm's country of incorporation, even if such policies may have greater impact on firms that dominate a market. An example of the latter would be a domestic policy that requires *all domestic and foreign* online ride-hailing services to register as taxi companies and meet policies applicable to other such firms. This policy is not discriminatory on its face, but it would have a greater effect on, say, Uber, if Uber had the largest share of a country's online ride-hailing services. The USMCA/TPP approach to non-discrimination rules would label this neutral policy as an illegal trade barrier and indeed would undermine many anti-monopoly and pro-competition policies, as well as labor, health, and other laws of general application.

The chart below includes the relevant USMCA provision that must not be replicated. It also includes the e-commerce chapter language in the U.S.-Korea FTA (KORUS) as an example of the bifurcated approach. The KORUS provision requires a thorough analysis of the design, architecture, and structure of a measure to find a facially neutral policy that may have a differential impact to be an illegal trade barrier. This approach protects U.S. firms from being singled out and discriminated against for being American. With some language modifications, it also could safeguard more policy space and is less likely to capture policies of general application that may have a discriminatory effect than the expansive USMCA/TPP version of non-discrimination language.

The KORUS language, while an improvement on the USMCA/TPP version, is not entirely clear with respect to what must be shown to find a facially neutral measure to violate the rules. Given how WTO tribunals have interpreted the clause "so as to afford protection," for instance explicitly noting that proof of intent is not necessary, modification of the KORUS language is needed to effectively protect the policy space for facially neutral policies that may have disparate effects.<sup>8</sup> This could be achieved by clarifying the "so as otherwise to afford protection" language in KORUS Article 2(b) to make clear a finding of discriminatory intent is required by adding "with the objective or predominant intent to afford protection" to the provision. As well, it is critical to add a "for greater certainty" footnote clarifying what is and is not intended to be captured as a violation. This could be achieved with a footnote along the lines of: "For greater certainty, a Party has not violated this obligation merely because a Party's treatment that is the same for domestic digital products and other like digital products may result in differential effects on other Parties' digital products relative to the digital products "hat are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its territory."

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<sup>8</sup> See Japan - Alcoholic Beverages II, Report of the Appellate Body AB-1996-2, Oct. 4, 1996. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/DS/8ABR.pdf&Open=True>



### **KORUS Article 15.3.2: Digital Products**

2. Neither Party may accord less favorable treatment to some digital products<sup>3</sup> than it accords to other like digital products

(a) on the basis that: *[Note: It is critical to distinguish prohibitions against de jure discrimination, as is done here in subparagraphs (i) and (ii), in contrast to preserving policy space for facially neutral measures and that may have a differential impact, perhaps because of the size or operational choices of the regulated entity, not because of any discriminatory intent.]*

(i) the digital products receiving less favorable treatment are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of the other Party, or

(ii) the author, performer, producer, developer, distributor, or owner of such digital products is a person of the other Party; or

(b) so as otherwise to afford protection to other like digital products that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its territory. *(Emphasis added) [Note: The “so as otherwise to afford protection” language aims to clarify that for claims of de facto discrimination the intent should be considered, but this language needs improvement, for instance by adding: “with the objective or predominant intent to afford protection.” As well, it is critical to add a ‘for greater certainty’ footnote along the lines of: “For greater certainty, a Party has not violated its obligation merely because a Party’s treatment that is the same for domestic digital products and other like digital products may result in differential effects on other Parties’ digital products relative to the digital products ‘that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its territory.’”]*

### **USMCA Article 19.4: Non-Discriminatory Treatment of Digital Products**

1. No Party shall accord less favorable treatment to a digital product created, produced, published, contracted for, commissioned, or first made available on commercial terms in the territory of another Party, or to a digital product of which the author, performer, producer, developer, or owner is a person of another Party, than it accords to other like digital products.<sup>3</sup>

<sup>3</sup> For greater certainty, to the extent that a digital product of a non-Party is a “like digital product,” it will qualify as an “other like digital product” for the purposes of Article 19.4.1 (Non-Discriminatory Treatment of Digital Products).

*[Note: This broad standard treats de facto and de jure discrimination claims the same: If a policy has greater impact on some firms/digital services than others, it is considered discriminatory even if the reason is size of firm and is unrelated to nationality.]*

Rethink Trade published a report analyzing dozens of National Trade Estimate submissions to the U.S. government that reveals a pattern of corporate lobby groups trying to use broad trade “non-discrimination” arguments to undermine other countries’ anti-monopoly initiatives.<sup>9</sup> This included attacks on an Australian law to break up the Google-Facebook duopoly over online ads that is almost identical to the U.S. Journalism Competition and Preservation Act (JCPA) (S.673/H.R.1735 in the 117<sup>th</sup> Congress); South Korea’s app stores legislation that resembles the U.S. Open App Markets Act (S.2710/H.R.5017 in the 117<sup>th</sup> Congress); and the EU’s Digital Markets Act, which shares some elements with the American Innovation and Choice Online Act (S.2992/H.R.3816 in the 117<sup>th</sup> Congress). However, these attacks were conceptual, as neither the U.S.-Australia nor KORUS pacts included the extreme USMCA/TPP language. In contrast, more recently tech industry lobbyists launched an attack on a Canadian bill almost identical to the Australian law and the JCPA proposal, citing the overly broad USMCA digital trade non-discrimination terms.<sup>10</sup>

Commerce Secretary Gina Raimondo has sometimes repeated this corporate trope. One example is her late 2021 attack on the EU’s Digital Markets Act (DMA) as discriminatory. The Act focusses on the largest “gatekeeper” digital platforms, which unsurprisingly encompass the giant U.S. firms that dominate the space. The DMA hits U.S. firms because they are huge and thus trigger numeric qualifiers in the policy, not because they are American. In attacking the Biden administration’s support for Big Tech anti-monopoly legislation before Congress, the U.S. Chamber of Commerce then argued that “*the White House needs to read its own talking points [regarding the DMA], before it takes a final position on the legislation [the American Innovation and Choice Online Act]. Providing support for similarly misguided domestic bills, the administration could transform the world’s most innovative economy into one that reeks of stagnation.*”<sup>11</sup>

## **2. IPEF and all Future Agreements Must Rebalance Data Flows and Computing Facility Location Terms in Favor of Governments Maintaining Broad Policy Space to Ensure Privacy and Security**

The USMCA provides digital firms almost absolute rights to control user data via Articles 19.11 (Cross-Border Transfer of Information by Electronic Means) and 19.12 (Location of Computing Facilities). But this is a relatively new concept. Past U.S. FTAs with e-commerce chapters did not include such terms. (The Korea-U.S. FTA had a “shall endeavor” commitment with many

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<sup>9</sup> “Digital Trade’ Doublespeak: Big Tech’s Hijack of Trade Lingo to Attack Anti-Monopoly and Competition Policies,” Rethink Trade, Nov. 2, 2022. Available at: <https://rethinktrade.org/fact-sheet/digital-trade-doublespeak-big-techs-hijack-of-trade-lingo-to-attack-anti-monopoly-and-competition-policies/>.

<sup>10</sup> For instance, the Computer & Communications Industry Association (CCIA) claimed that Canada’s Online News Act: “would force ‘digital news intermediaries’—targeted at two U.S. companies based on testimony from Parliament and analyses from the Parliamentary Budget Officer—to pay Canadian news publishers for any content of theirs reproduced in any way. (...) The legislation is in conflict with several of Canada’s international trade obligations. These obligations include the U.S.-Mexico-Canada Free Trade Agreement Articles 14.4 (Investment) and 15.3 (Cross-border Services) regarding National Treatment; USMCA Articles 14.5 (Investment) and 15.4 (Cross-border Services) regarding Most-Favored Nation Treatment; USMCA Article 14.10 regarding Performance Requirements; USMCA Article 19.4 regarding Non-Discriminatory Treatment of Digital Products; and intellectual property obligations through the World Trade Organization’s absorption of the Berne Convention and the right to quotation in the Agreement on Trade-Related Aspects of Intellectual Property Rights.” CCIA Comment to USTR for 2023 NTE, Oct. 28, 2022. Available at: <https://www.regulations.gov/comment/USTR-2022-0013-0047>.

<sup>11</sup> “Striking Similarities: Comparing Europe’s Digital Markets Act to the American Innovation and Choice Online Act,” U.S. Chamber of Commerce, Jun. 17, 2022. Available at: <https://www.uschamber.com/finance/antitrust/striking-similarities-dma-american-innovation-act>.

caveats.<sup>12</sup>) Then suddenly, the 2015-signed TPP, which Congress never approved, and the 2019 USMCA, about which few in Congress realized there even were digital terms, were anomalies in establishing new absolutist data rights that Big Tech interests sought.

The public is increasingly aware of threats posed by online firms commodifying and trading in our personal data and using it to target us and our kids. A 2021 report commissioned by Facebook that is published on the Meta website helpfully if unexpectedly reveals the connection between data flows and job offshoring: “If transferring personal data were not permitted, offshoring business services to popular outsourcing destinations would no longer be possible.”<sup>13</sup> American workers in an array of sectors and professions are losing their jobs to digital offshoring. For call center and back-office work, jobs are often offshored to countries where workers are paid poverty wages and face severe repression for organizing trade unions and there are no data safety protections.

The Facebook paper is unusual in its candor. Demands for the absolutist data terms found in USMCA and the TPP are not typically promoted on the basis of the firms’ financial gains from offshoring or trading in our personal data. Rather, the industry typically promotes the unrestricted right for companies to transfer data across borders as a tool to counter authoritarian internet censorship. Clearly there are real problems with online censorship in some countries and there are targeted ways to effectively address it.<sup>14</sup> However, the remedy is not to forbid every and any government from setting any requirements or restrictions on how all data – especially sensitive or secure personal data, critical infrastructure data, and data that could implicate national security or our financial stability – may be handled with respect to movement and storage across borders.

Any IPEF terms on data flows and location of computing facilities must be rebalanced in favor of governments maintaining broad policy space to regulate data to ensure privacy, meet security goals, and limit digital offshoring and the privatization of government data-related services. There are several related approaches to achieving this. First is establishing core provisions that provide governments policy space while also recognizing that the functioning of the internet relies on data flows. The Argentina-Chile FTA, which was negotiated in 2017 and entered into force in 2019, provides an interesting alternative version of data flows language that seeks to preserve government regulatory policy space while also supporting data flows.<sup>15</sup> However, this FTA language uses some of the boilerplate language from the General Agreement on Tariffs and Trade (GATT) Article XX General Exceptions chapeau that has systematically foiled the successful use of that defense. We offer a modification of the Argentina-Chile FTA language in blue font, below. The language that we propose is based on the interesting analysis of the GATT General Exceptions recently published by

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<sup>12</sup> See KORUS Art. 15.8: Cross-Border Information Flows: “Recognizing the importance of the free flow of information in facilitating trade, and acknowledging the importance of protecting personal information, the Parties shall endeavor to refrain from imposing or maintaining unnecessary barriers to electronic information flows across borders.”

<sup>13</sup> See Rozi Kepes, Josh White, and Aaron Yeater, Analysis Group, “The Importance of Cross-Border Data Flows.” Jun. 2021 at 4, available at <https://about.fb.com/wp-content/uploads/2021/06/The-Importance-of-Cross-Border-Data-Flows.pdf>.

<sup>14</sup> See Lori Wallach, “Lessons from Big Tech’s Effort to Hijack the U.S. “Special 301” Trade Enforcement Tool to Protect Their Monopoly Power & Evade Regulation: How to Address Digital Censorship Without Undermining Digital Governance Globally,” Sep. 2022. Available at <https://rethinktrade.org/reports/lessons-from-big-techs-effort-to-hijack-the-u-s/>.

<sup>15</sup> That agreement also has a personal data protection article that includes the following helpful commitment: “The Parties are committed to apply to the personal data they receive from the other Party a level of protection at least similar to the one applicable in the jurisdiction of the Party from where the personal data is received, through mutual understandings, general or specific, or international frameworks, admitting for the private sector the implementation of contracts or autoregulation.”

Duke University School of Law Professor Tim Meyer, which we discuss below.<sup>16</sup> The modified Argentina-Chile FTA text we consider a good approach to data flows is:

“Article 11.6: Cross-Border Transfer of Information by Electronic Means<sup>17</sup>:

1. The Parties recognize that each Party may have its own regulatory requirements for the transfer of information by electronic means.
2. Each Party will allow cross-border transfer of information by electronic means if this activity is for the conduct of the business of a person from one Party.
3. The Parties can establish restrictions to cross-border transfer of information by electronic means to achieve a legitimate policy objective, provided that ~~the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.~~ **arbitrary or unjustifiable discrimination between countries where the same conditions prevail is not the predominant objective of such measures**

This language sets out a positive obligation to allow data flows while helpfully avoiding the “necessary” threshold found in the USMCA/TPP language regarding countries’ all-but-non-existent rights to set limits on flows. The “necessary” construct, as described in more detail below, has largely gutted the effectiveness of the GATT general exceptions. That is why it being prominently featured in the USMCA and TPP data flow language results in these pacts establishing an almost absolute ban against any data flow limits. The adjustment to the language in blue font remedies the Argentina-Chile FTA’s incorporation of problematic GATT Article XX chapeau language. The logic of the Argentina-Chile FTA data flows language and some of that pacts’ approach to computing facility location language also provides a good basis for an alternative approach.

The actual text of the Argentina-Chile FTA provision is:

“Article 11.7: Location of Computing Facilities<sup>18</sup>:

1. The Parties recognize the importance of not requiring a person of the other Party to use or locate the computer facilities in the territory of that party, as a condition for conducting business in that territory.
2. To that end, the Parties are committed to exchange good practices, experiences and current regulatory frameworks regarding location of servers.”

Building from the construct on data flows, we would propose language for a provision on the locations of computer facilities such as:

1. The Parties recognize the importance of not requiring a person of the other Party to use or locate the computer facilities in the territory of that party, as a condition for conducting business in that territory.
2. Each Party will allow the use or location of computing facilities in other Parties’ territories when such activity is for the conduct of the business of a covered person.

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<sup>16</sup> Timothy Meyer, The Political Economy of WTO Exceptions (Apr. 1, 2021). Washington Univ. Law Review, Vol. 99, 2022, Vanderbilt Law Research Paper No. 21-18, Available at <http://dx.doi.org/10.2139/ssrn.3817719>.

<sup>17</sup> We have not found an official English translation of the agreement, so provide our informal translation of the data flow provision with one adjustment, made by striking the FTA text and replacing it in blue font.

<sup>18</sup> We have not found an official English translation of the agreement, so provide our informal translation of the data flow provision with one adjustment, made by striking the FTA text and replacing it in blue font.

3. The Parties can establish requirements regarding the use or location of computing facilities in their territories to achieve a legitimate policy objective, provided that arbitrary or unjustifiable discrimination between countries where the same conditions prevail is not the predominant objective of such measures.”

The approach above achieves a reasonable balance. The Regional Comprehensive Economic Partnership (RCEP) provides another alternative aimed at preserving policy space for governments in contrast to the unbalanced pro-industry USMCA approach. The IPEF is designed to be the U.S. geopolitical competitor of RCEP, a pact launched by the Association of Southeast Asian Nations (ASEAN) that China and other non-ASEAN nations have joined. Given IPEF’s purpose is to create an attractive alternative approach to RCEP, it is counterproductive for IPEF to double down on the USMCA model only favored by Big Tech interests and viewed by many governments and civil society in IPEF countries as against their interests. It is worth considering the USMCA and RCEP terms side-by-side. Both include a prohibition on government limits on cross-border transfers or location of computing facilities. In RCEP, that obligation is limited by a clearly written totally self-judging security exception and a more limited exception for measures to achieve a legitimate public policy objective. Notably, a self-judging security exception is the standard that the United States has supported since the founding of the GATT. Given the RCEP language is broad and entirely self-judging it could be used to defend almost any measure, which is simultaneously its strength and weakness. The USMCA approach, which provides no policy space for governments, is described below. Certainly U.S. negotiators can create a new more balanced approach relative to USMCA.

Below is the USMCA and RCEP language for both data flows and computing facility locations side-by-side.

#### **USMCA Article 19.11: Cross-Border Transfer of Information by Electronic Means**

1. No Party shall prohibit or restrict the cross-border transfer of information, including personal information, by electronic means if this activity is for the conduct of the business of a covered person.
2. This Article does not prevent a Party from adopting or maintaining a measure inconsistent with paragraph 1 that is necessary to achieve a legitimate public policy objective, provided that the measure:
  - (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and
  - (b) does not impose restrictions on transfers of information greater than are necessary to achieve the objective.<sup>5</sup>

<sup>5</sup> A measure does not meet the conditions of this paragraph if it accords different treatment to data transfers solely on the basis that they are cross-border in a manner that modifies the conditions of competition to the detriment of service suppliers of another Party.

#### **RCEP Art. 12.15: Cross-border Transfer of Information by Electronic Means**

1. The Parties recognise that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.
2. A Party shall not prevent cross-border transfer of information by electronic means where such activity is for the conduct of the business of a covered person.<sup>13</sup>
3. Nothing in this Article shall prevent a Party from adopting or maintaining:
  - (a) any measure inconsistent with paragraph 2 **that it considers necessary to achieve a legitimate public policy objective,<sup>14</sup> provided that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; or**
  - (b) any measure **that it considers necessary for the protection of its essential security interests.** Such measures shall not be disputed by other Parties. (*Emphasis added.*)

### USMCA Article 19.12: Location of Computing Facilities:

No Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that territory.

### RCEP Article 12.14: Location of Computing Facilities

1. The Parties recognise that each Party may have its own measures regarding the use or location of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.
2. No Party shall require a covered person to use or locate computing facilities in that Party's territory as a condition for conducting business in that Party's territory.<sup>11</sup>
3. Nothing in this Article shall prevent a Party from adopting or maintaining:
  - (a) any measure inconsistent with paragraph 2 **that it considers necessary to achieve a legitimate public policy objective,<sup>12</sup> provided that the measure is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; or**
  - (b) any measure **that it considers necessary for the protection of its essential security interests.** Such measures shall not be disputed by other Parties.  
*(Emphasis added.)*

<sup>11</sup> Cambodia, Lao PDR, and Myanmar shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement, with an additional three years if necessary. Viet Nam shall not be obliged to apply this paragraph for a period of five years after the date of entry into force of this Agreement.

<sup>12</sup> For the purposes of this subparagraph, the Parties affirm that the necessity behind the implementation of **such legitimate public policy shall be decided by the implementing Party.**

<sup>13</sup> [same as footnote 11]

<sup>14</sup> For the purposes of this subparagraph, **the Parties affirm that the necessity behind the implementation of such legitimate public policy shall be decided by the implementing Party.**  
*(Emphasis added.)*

The most notable difference is that the RCEP approach provides policy space for countries to ensure that data flow and computing facility digital trade rules do not undermine domestic privacy or other goals while the USMCA version does not. Notably, the RCEP text empowers countries to self-judge what is "necessary" as far as exceptions to the free flow obligations. This is achieved with the "that it considers necessary" language. In contrast, the USMCA data flow provision is nigh absolute because its second paragraph replicates aspects of the GATT Article XX General Exceptions that have made the GATT affirmative defenses virtually useless, which is discussed below. The USMCA computing facilities rule simply provide no exception, not even an unusable one.

For non-security-related measures, the RCEP formulation imports some of the problematic language from the chapeau of the GATT General Exceptions chapeau that has foiled the use of

those defense, although without the least trade restrictive test that is included in the USMCA and TPP. Even so, unless these IPEF terms were made non-enforceable, as they are in the RCEP, the RCEP construct could imperil policies that may have “protectionist” elements, but that are otherwise geared to meet other policy objectives.

Unsurprisingly, the RCEP formulation has been attacked by Big Tech interests. However, their critique is premised on the notion that somehow the firms’ unfettered control over data provided by a few anomalous agreements is instead some natural right that undergirds a longstanding norm. In fact, the USMCA and TPP language is the anomaly.

The USMCA approach, with its outright ban on local storage and processing, without exception, and near-absolute guarantee on data flows cannot be the model for digital rules going forward. It conflicts with proposals to forbid offshore storage and computing for sensitive infrastructure-related data or to restrict certain U.S. data from flowing to China or to require sensitive personal data, perhaps including reproductive information, stay in the United States to ensure that U.S. law and enforcement covers the relevant entities dealing with the data to ensure the privacy rules are met.

The USMCA 19.11.2 language that ostensibly could be used by governments to defend regulations on where data can be stored or processed is foreseeably ineffective because of its use of the GATT Article XX General Exceptions formulation. Two-thirds of countries’ attempts to prove that a public interest policy is “necessary” under the World Trade Organization (WTO) Dispute Settlement system have failed.<sup>19</sup> To an important degree, this is due to the requirement in condition (b) of USMCA Article 19.11.2: Namely, a policy must “*not impose restrictions on transfers of information greater than are necessary to achieve the objective.*” This means if a U.S. policy that limits cross-border data flows to safeguard reproductive rights, for instance, is challenged under trade-pact language that is based on the expansive USMCA provision, a trade tribunal is empowered to second guess if there might be other ways in which the United States could have an *equivalent contribution* to this objective that are *less trade restrictive* and, thus, rule that the policy is an illegal trade barrier that must be eliminated.

Equally controversial is condition (a) of the USMCA Article 19.11.2 language, which requires that the policy “*is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade.*” Of the 48 cases where WTO countries have tried to use the general exception defenses, in only 14 has a WTO tribunal even proceeded to this test. In WTO law, this is the last step of the analysis to justify a policy under the general exceptions and most cases are thrown out on the “necessary” test or other earlier hurdles. Of the 14 cases that faced this test, 12 failed. Indeed, the WTO defense that is parallel to this USMCA exception has only been allowed in two of 48 attempts.<sup>20</sup> Duke University School of Law Professor Tim Meyer concluded that this high failure rate is explained by the lack of consideration that the “*arbitrary or unjustifiable discrimination or a disguised restriction on trade*” language gives to the nature of domestic policymaking.<sup>21</sup> These fundamental problems also underscore why language recently

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<sup>19</sup> Daniel Rangel, “WTO General Exceptions: Trade Law’s Faulty Ivory Tower,” Public Citizen’s Global Trade Watch, Jan. 2022, p.18-19. Available at: <https://www.citizen.org/article/wto-general-exceptions-trade-laws-faulty-ivory-tower/>.

<sup>20</sup> Ibid. P. 21

<sup>21</sup> Timothy Meyer, “The Political Economy of WTO Exceptions,” Washington University Law Review, Vol. 99, 2022, Apr. 1, 2021. Available at SSRN: <https://ssrn.com/abstract=3817719> or <http://dx.doi.org/10.2139/ssrn.3817719>.

submitted by a group of countries, including the United States, in the context of the WTO-proximate e-commerce Joint Statement Initiative (JSI) is deeply problematic.<sup>22</sup>

In addition to rebalancing the actual provision's terms, the second critical consideration in providing policy space while accommodating data flows are the exemptions and exclusions with respect to data flow and computer facilities provisions. There are compelling reasons to restrict cross border flows in sensitive categories, such as financial, health, biometric, geolocation, and infrastructure data. The IPEF approach to data flows must provide explicit exemptions for critical infrastructure (energy, water systems, transportation), national security, law enforcement, finance, and other areas where a data breach or disruption risks undermining economic or national security and personal data related to health, finances, biometrics, and geolocation (Even the TPP Source Code secrecy provisions include an exemption for critical infrastructure code!<sup>23</sup>). The IPEF will also need broad exemptions from certain digital provisions that implicate indigenous rights, especially given that New Zealand is engaged in IPEF talks and it needs to avoid the kind of violations a national tribunal in found with respect to digital terms in the TPP.<sup>24</sup>

In addition, the scope section of an IPEF digital chapter must make clear that U.S. government regulatory agencies retain full rights to limit offshore processing or storage of financial data. The TPP accomplished this important goal, which Treasury Department enforcement officials requested after not being able to access data during the 2007-2008 global financial crisis, by explicitly limiting the scope of coverage in its Article 14.1. (*“Covered person means: (a) a covered investment as defined in Article 9.1 (Definitions); (b) an investor of a Party as defined in Article 9.1 (Definitions), but does not include an investor in a financial institution; or (c) a service supplier of a Party as defined in Article 10.1 (Definitions), but does not include a “financial institution” or a “cross-border financial service supplier of a Party” as defined in Article 11.1 (Definitions) (emphasis added).*). Some e-commerce JSI countries have suggested a similar carve out that is delineated via reference to the scope of financial services as defined in the GATT Annex on Financial Services.

There is a growing consensus about the need to regulate the collection and processing of personal data to protect consumers' privacy and the security of the data. The goals and core terms of policies like the *American Data Privacy and Protection Act* (H.R.8152 in the 117<sup>th</sup> Congress) and *My Body, My Data Act of 2022* (H.R.8111/S.4434 in the 117<sup>th</sup> Congress) could be undermined if firms can evade obligations to eliminate data per users' requests or minimize collection by sharing it with firms in a jurisdiction where U.S. law enforcement cannot reach. Or, by moving it to a location where

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<sup>22</sup> “Attempt to Address Concerns in JSI,” Washington Trade Daily, Dec. 5, 2022. “The textual proposal, after taking those concerns into consideration, says “no [party/member] shall prohibit or restrict the cross-border transfer of information, including personal information, by electronic means, if this activity is the conduct of the business of a covered person.” In the same breadth, the proposal also says that “nothing in this Article shall prevent a [Party/Member] from adopting or maintaining a measure inconsistent with paragraph 4 [that is necessary] to achieve a legitimate public policy objective, provided that the measure: (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and (b) does not impose restrictions on transfers of information greater than are [necessary]/[required] to achieve the objective.”

<sup>23</sup> See TPP Art. 14.17: Source Code: 1. No Party shall require the transfer of, or access to, source code of software owned by a person of another Party, as a condition for the import, distribution, sale or use of such software, or of products containing such software, in its territory. 2. For the purposes of this Article, software subject to paragraph 1 is limited to mass-market software or products containing such software and does not include software used for critical infrastructure.)

<sup>24</sup> “Tribunal releases report on CPTPP,” The Waitangi Tribunal, 2021. Available at

<https://waitangitribunal.govt.nz/news/tribunal-releases-report-on-electronic-commerce-chapter-in-cptpp/>.



consumer protections are not available in a digital privacy race to the bottom.<sup>25</sup> Or, if an offshore data processing firm is able to sell data onward to another firm that is located in a country where no protections apply. This is not a hypothetical risk. In August 2022, the Federal Trade Commission (FTC) filed a lawsuit against data broker Kochava Inc. for selling geolocation data from hundreds of millions of mobile devices that can be used to trace the movements of individuals to and from sensitive locations. Kochava sells, among other types of data, information that can reveal people's visits to reproductive health clinics.<sup>26</sup> Law enforcement agencies are some of the main clients for these kinds of data. In September 2022, an Associated Press report unveiled how nearly two dozen agencies purchased software that allows local police departments to search hundreds of billions of records from 250 million mobile devices and harness the data for use in criminal investigations.<sup>27</sup>

In the absence of U.S. national policies regarding what data may be collected from users and where and how it can be processed and stored, private firms prioritizing their business goals have been able to exploit people's data for commercial surveillance and sell personal information to law enforcement agencies, among other abuses. How to effectively protect peoples' privacy, or even enforce existing privacy protections that current law confers for certain sensitive data, such as health data under the Health Insurance Portability and Accountability Act or financial data under statutes such as the Gramm-Leach-Bliley Act and the Fair Credit Reporting Act as amended by the Fair and Accurate Credit Transactions Act, has proven to be a daunting endeavor.

As legislators are working to address these challenges and narrower data-related threats, such as the use of geolocation data to track women who may seek abortions or companies targeting children and teenagers to advertise unsafe products, tech interests who profit from tracking, buying, selling and otherwise exploiting our private data are seeking to insert the USMCA-style terms in the IPEF and other trade pacts that would make limits on data flows "illegal trade barriers." Equally importantly, several of the privacy bills ban data brokers from divulging personal communications and records in general and without a court order to government agencies. Again, the issue is that obligations with respect to intermediary service providers are only enforceable for those companies located in the U.S. jurisdiction. Thus, legislation aimed at protecting privacy and data security would be undermined given the difficulties of enforcing these U.S. legal protections with respect to data that has been moved outside the United States. To truly neutralize the risk of personal reproductive data being used against women and their allies seeking to exercise reproductive health rights, the My Body, My Data Act should add strong protections against data offshoring. Similarly, bills seeking to regulate data brokers, such as the Fourth Amendment Is Not For Sale Act (S.1265/H.R.2738 in the 117<sup>th</sup> Congress) should factor in risks of data brokers having data hubs offshore. Yet, the fixes needed to these proposals to ensure that they meet their privacy goals directly conflict with the data free-flow rules in USMCA, which underscores why these terms must not be replicated in the IPEF, but rather a more balanced approach that preserves domestic policy space is critical.

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<sup>25</sup> See Jane Kelsey, "Digital Trade Rules and Big Tech: Surrendering the Public Good to Private Power," Public Services International, Feb. 2020, pp. 14-15. Available at <https://publicservices.international/resources/publications/digital-trade-rules-and-big-tech-surrendering-public-good-to-private-power?id=10825&lang=en>.

<sup>26</sup> "FTC Sues Kochava for Selling Data that Tracks People at Reproductive Health Clinics, Places of Worship, and Other Sensitive Locations," Federal Trade Commission, Aug. 29, 2022. Available at: <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-sues-kochava-selling-data-tracks-people-reproductive-health-clinics-places-worship-other>.

<sup>27</sup> Burke, Garance and Dearen, Jason. "Tech tool offers police 'mass surveillance on a budget,'" AP News, Sept. 2, 2022. Available at: <https://apnews.com/article/technology-police-government-surveillance-d395409ef5a8c6c3f6cdab5b1d0e27ef>.

### 3. No Special Secrecy Guarantees for Algorithms or Source Code

In contrast to the vast majority of agreements that include digital and e-commerce terms, the USMCA and TPP establish expansive new secrecy guarantees for source code and algorithms.<sup>28</sup> These terms impede governments from pre-screening AI source code and algorithms for racial discrimination, wage and hour labor law violations, anti-competitive self-referencing on e-commerce platforms, invasion of workers' privacy and rights to organize unions via snooping bossware or other law violations. Yet, such pre-screening is precisely what the administration's Blueprint for an AI Bill of Rights and numerous bills propose to ensure AI programs are not abused for illegal police surveillance, denial of credit or housing, violations of anti-trust and other fair market policies, or other actions that violate U.S. law or Americans' civil rights and liberties. In its official comments to USTR on the IPEF, the Labor Advisory Committee underscored the same concerns: "The IPEF must provide broad government authority to investigate, evaluate and regulate source codes and algorithms to both ensure that firms comply with current laws and to inform the development of effective regulatory oversight of emerging digital technology issues."

As the AFL-CIO Technology Center noted in recent testimony to the Finance Committee, there are many legitimate policy reasons for government authorities to examine source codes and algorithms: Financial regulators seeking to access source codes and trading algorithms to prevent high-frequency securities trading to engage in market manipulation; environmental regulators determining if pollution-evasion software facilitates increased emissions, as was the case with the Volkswagen diesel emissions fraud; and Labor Department officials seeking to check algorithmic management software and surveillance bossware to protect workers from unfair and illegal labor practices.<sup>29</sup>

Examples of real and potential damage to people, particularly minorities, from unregulated use of AI abound. U.S. policymakers are responding to a growing movement for AI accountability or transparency and algorithmic justice. The goal is for governments to have the tools to not only sanction specific violations, but to *prevent* discriminatory or abusive practices across systems in advance. Experts recommend policies that enable effective external audits of AI systems and governmental pre-market authorization conditioned upon access to source code for high-risk sectors like access to health services, credit scoring, education, or job opportunities.<sup>30</sup> Color of Change's "Black Tech Agenda" lists many of the bills from the 117<sup>th</sup> Congress that target these threats.<sup>31</sup> As

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<sup>28</sup> Only 11 of the 181 agreements with e-commerce or digital trade provisions negotiated since 2000 include the extreme secrecy guarantees for source code included in USMCA and TPP. Calculations made using the TAPED dataset under the project 'The Governance of Big Data in Trade Agreements', Universities of Lucerne and Bern, accessed on Oct. 3, 2022. Available at: <https://www.unilu.ch/en/faculties/faculty-of-law/professorships/managing-director-internationalisation/research/taped/>.

<sup>29</sup> Patrick Woodall, AFL-CIO technology Institute, "Testimony for Hearing on "Opportunities and Challenges for Trade Policy in the Digital Economy." Senate Finance Committee, Nov. 30, 2022, p.11. Available at: <https://www.finance.senate.gov/hearings/opportunities-and-challenges-for-trade-policy-in-the-digital-economy>.

<sup>30</sup> Data Ethics Commission, "Opinion of the Data Ethics Commission" (2019), p. 19. Available at: [https://www.bmj.de/SharedDocs/Downloads/DE/Themen/Fokusthemen/Gutachten\\_DEK\\_EN.pdf?\\_\\_blob=publicationFile&v=2](https://www.bmj.de/SharedDocs/Downloads/DE/Themen/Fokusthemen/Gutachten_DEK_EN.pdf?__blob=publicationFile&v=2); Irion, Kristina (2021). AI regulation in the EU and Trade Law: How Can Accountability of AI and a High Level of Consumer Protection Prevail over a Trade Discipline on Source Code? (Jan. 26, 2021). P. 25-26. Available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3786567](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3786567).

<sup>31</sup> Color of Change, The Black Tech Agenda, 2022. Available at: <https://blacktechagenda.org/>. See also Rethink Trade, "'Digital Trade' Rules that Undermine Congressional and Administration Privacy, AI Civil Rights, and Anti-Monopoly Initiatives: Side by Sides," Nov. 2022, updated Jan. 2023 at p. 3-11. Available at: <https://rethinktrade.org/wp-content/uploads/2023/01/Conflicts-between-key-digital-proposals-and-prospective-IPEF-digital-trade-terms-memo474.pdf>.

well, many U.S. agencies require access to source code to perform essential government functions related to tax collection, financial transaction oversight, car safety, and even gambling regulation.<sup>32</sup>

Until TPP and USMCA, U.S. pacts did not include extreme secrecy guarantees for source code and algorithms. Going forward, U.S. agreements simply must not include such secrecy terms to avoid chilling civil rights, labor, anti-trust, and other law enforcement. There is no justification for these special secrecy guarantees for Big Tech. The WTO's Agreement on Trade-Related Aspects of Intellectual Property Article 30 on "Protection of Undisclosed Information" already requires all WTO signatory countries to provide protections for firms' undisclosed information and for data submitted to government authorities for regulatory purposes.

Why would the Big Tech sector merit special additional secrecy guarantees in trade agreements relative to other industries? If the concern is that specific foreign governments might steal and pass to other firms the innovations created by U.S. firms, then the remedy is *action* against the suspect government or firms using the stolen technology. Establishing another set of secrecy obligations on paper in an agreement is not likely to change the conduct of countries willing to break the existing rules. But IPEF terms would not only bind foreign governments, but also the U.S. government. Such additional obligations would undermine the government pre-screenings for AI in sensitive sectors that are a cornerstone of the administration's Blueprint for an AI Bill of Rights and the assessments required in numerous bills expected to be reintroduced into the 118<sup>th</sup> Congress. Below are the relevant USMCA and TPP provisions, which have some notable differences in language and construction, but are both unacceptable as is any provision establishing additional secrecy rights.

**TPP Article 14.17: Source Code**

1. No Party shall require the transfer of, or access to, source code of software owned by a person of another Party, as a condition for the import, distribution, sale or use of such software, or of products containing such software, in its territory.
2. For the purposes of this Article, software subject to paragraph 1 is limited to mass-market software or products containing such software and does not include software used for critical infrastructure.
3. Nothing in this Article shall preclude: (a) the inclusion or implementation of terms and conditions related to the provision of source code in commercially negotiated contracts; or (b) a Party from requiring the modification of source code of software necessary for that software to comply with laws or regulations which are not inconsistent with this Agreement.
4. This Article shall not be construed to affect requirements that relate to patent applications or granted patents, including any orders made by a judicial authority in relation to patent disputes, subject to safeguards against unauthorised disclosure under the law or practice of a Party.

**USMCA Article 19.16: Source Code**

1. No Party shall require the transfer of, or access to, a source code of software owned by a person of another Party, *or to an algorithm expressed in that source code*, as a condition for the import, distribution, sale or use of that software, or of products containing that software, in its territory.
2. This Article does not preclude a regulatory body or judicial authority of a Party from requiring a person of another Party to preserve and make available the source code of software, or an algorithm expressed in that source code, to the regulatory body for a specific investigation, inspection, examination, enforcement action, or judicial proceeding,<sup>6</sup> subject to safeguards against unauthorized disclosure.

<sup>6</sup> This disclosure shall not be construed to negatively affect the software source code's status as a trade secret, if such status is claimed by the trade secret owner.

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<sup>32</sup> "Some preliminary implications of WTO source code proposal," Briefing, Dec. 2017. <https://www.twn.my/MC11/briefings/BP4.pdf>.

Some analysts rightly note that the USMCA language provides some exception to the secrecy rules for certain investigations, while the TPP does not. However, USMCA Article 19.16.2 would not protect the general reviews called for in most AI accountability measures, including those proposed in the White House Blueprint for an AI Bill of Rights, the Facial Recognition Act of 2022 (H.R.9061), and the Justice in Forensic Algorithms Act of 2021 (H.R.2438). (Please see the appendix on page 18 for the relevant language from each of the initiatives noted above.) Rather the USMCA language is limited to disclosure requests or orders by regulatory bodies or judicial authorities “for a *specific* investigation, inspection, examination, enforcement action, or judicial proceeding.” (emphasis added).

This means a government agency or private party must have sufficient evidence of the violation of a law or right to meet a burden of proof to be able to obtain more information whether through an agency investigation, court order, or civil suit discovery. But it likely would not be possible to meet that burden of proof without having access to the information about the source code or algorithm that reveals the civil rights or other violation. In addition to this chilling effect, this narrow language would preclude the sector-wide, practice-wide investigations conducted by agencies such as the FTC, Consumer Finance Protection Board, Department of Labor, and others to understand how businesses are operating on matters under their jurisdiction. For instance, the “specific” requirement could thwart Labor Department investigations of all AI recruitment or all workplace surveillance or productivity software or FTC investigations of how all platforms prioritize search results. Yet such investigations are important regulatory and enforcement tools.

The USMCA language is also considerably broader in coverage than the TPP language. It covers “a source code of software...,” which is also covered in the TPP, but also “an algorithm expressed in that source code.” The USMCA Article 19.1 definition is: “For the purposes of this Chapter: algorithm means a defined sequence of steps, taken to solve a problem or obtain a result.” This definition encompasses *descriptions* of algorithms, not only the source code itself. This would preclude even the less expansive pre-screening requirements for a detailed description of software required in measures such as the civil rights and algorithms provisions of the American Data Privacy and Protection Act. As well, the TPP secrecy rule apply to mass-market software, seemingly excluding bespoke internal source code, and explicitly excludes software used for critical infrastructure, such as that underlying the Texas electricity meltdown and Southwest’s scheduling collapse. The USMCA language appears to cover all uses and sectors except financial services, which are excluded from the digital chapter in that chapter’s scope provisions.

#### **4. No Lock-In or Export of Section 230-esque Liability Waivers for Platforms**

Another USMCA provision that must simply be dust-binned relates to requiring broad third-party liability waivers for online content. President Biden has declared that the expansive liability shield provided to tech platforms by Section 230 of the Communications Decency Act must be fixed, yet USMCA Art.19.17 requires other countries to adopt that very policy. How to address the ways in which certain online business practices, algorithms, and content moderation stoke racial and ethnic violence and contribute to other anti-social behavior is a hotly debated topic. Further Section 230, which was created to protect free speech online, has been stretched to allow massive corporations to evade product liability for dangerous and deadly goods sold online in a way that certainly was not intended. How and if to modify the policy must be worked out domestically. This rapidly evolving area of public policy must not be locked in with respect to the United States nor imposed on other

countries via trade pact. Even if this were not the case as a matter of policy, the concept of such terms being included in trade agreements is politically radioactive.

#### **USMCA Article 19.17: Interactive Computer Services**

1. The Parties recognize the importance of the promotion of interactive computer services, including for small and medium-sized enterprises, as vital to the growth of digital trade.

2. To that end, other than as provided in paragraph 4, no Party shall adopt or maintain measures that treat a supplier or user of an interactive computer service as an information content provider in determining liability for harms related to information stored, processed, transmitted, distributed, or made available by the service, except to the extent the supplier or user has, in whole or in part, created, or developed the information.<sup>7</sup>

3. No Party shall impose liability on a supplier or user of an interactive computer service on account of:  
(a) any action voluntarily taken in good faith by the supplier or user to restrict access to or availability of material that is accessible or available through its supply or use of the interactive computer services and that the supplier or user considers to be harmful or objectionable; or  
(b) any action taken to enable or make available the technical means that enable an information content provider or other persons to restrict access to material that it considers to be harmful or objectionable.

4. Nothing in this Article shall:

(a) apply to any measure of a Party pertaining to intellectual property, including measures addressing liability for intellectual property infringement; or

(b) be construed to enlarge or diminish a Party's ability to protect or enforce an intellectual property right; or

(c) be construed to prevent: (i) a Party from enforcing any criminal law, or (ii) a supplier or user of an interactive computer service from complying with a specific, lawful order of a law enforcement authority.<sup>8</sup>

5. This Article is subject to Annex 19-A.

<sup>7</sup> For greater certainty, a Party may comply with this Article through its laws, regulations, or application of existing legal doctrines as applied through judicial decisions.

<sup>8</sup> The Parties understand that measures referenced in paragraph 4(c)(ii) shall be not inconsistent with paragraph 2 in situations where paragraph 2 is applicable.

### **C. Exceptions and Carveouts**

In addition to altering the design of a digital chapter's provisions to provide flexibility to protect policy space, a new approach is required to the scheduling of carveouts. While the scope of the digital chapter must make explicit that some sectors, such as financial data, critical infrastructure, or sensitive categories of personal data are excluded from coverage, categorical carveouts are also needed because it is not possible to see into future to name all needed scope exclusions.

To start with, U.S. negotiators must add the digital chapter's non-discrimination, cross-border data flows and location of computer facilities provisions to all of the carveouts (both reservations and non-conforming measures) that the United States includes in its agreements for the services, investment, and financial services chapters. Notably, this is precisely what the Australia-Singapore digital deal does, even as it is often touted as a model for expansive coverage of digital rules.

In addition, the U.S. must schedule reservations to be able to enact new policies regarding sensitive categories of data. The ADPPA provides a useful list of sensitive personal information regarding financial, medical, biometric, and geolocation data and data of children. Either via a digital chapter's scope provisions, which is how the EU-New Zealand FTA's Digital Trade chapter carves out sectors, or as a reservation scheduled in an annex applying to the entire agreement, governments' ability to enact new policy with respect to categories of data such as critical

infrastructure and financial also must also be preserved. Given the serial cyberattacks on pipelines, water systems, and more, that some companies and countries are moving towards domestic data hosting for critical infrastructure to increase security and accountability for systems like electricity and water delivery is entirely reasonable<sup>33</sup> and policy space to do so must be protected. The IPEF must also include a truly self-judging security exception.

## Conclusion

Given it remains unclear to what extent and how a prospective IPEF may be enforceable, it is worth noting that even if the agreement is not subject to formal dispute settlement, the rules it may contain will still have a significant impact. That is to say that the language that may be included in an IPEF, even if not formally enforceable, will be viewed as a model by other countries. Thus, rebalancing the “digital trade” language is critical regardless of IPEF’s enforcement mechanisms.

## Appendix: Administration and Congressional AI Proposals that Rely on General Reviews to Protect Against Civil Rights, other Violations

Threatened Domestic Policy Initiative	Provisions
<p><b><u>American Data Privacy and Protection Act (H.R.8152)</u></b>            Sponsor: Rep. Frank Pallone Jr. (D-NJ).            Cosponsors: Rep. Cathy McMorris Rodgers (R-WA), Rep. Janice Schakowsky (D-IL), and Rep. Gus Bilirakis (R-FL).              Senate Commerce Committee</p>	<p><b><u>American Data Privacy and Protection Act (H.R.8152)</u></b>  <b>SEC. 207. CIVIL RIGHTS AND ALGORITHMS.</b>            (...)                       (c) ALGORITHM IMPACT AND EVALUATION.—             (1) ALGORITHM IMPACT ASSESSMENT.—            (A) IMPACT ASSESSMENT.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this Act, and annually thereafter, a large data holder that uses an algorithm that may cause potential harm to an individual, and uses such algorithm solely or in part, to collect, process, or transfer covered data must <u>conduct an impact assessment</u> of such algorithm in accordance with subparagraph (B).            (B) IMPACT ASSESSMENT SCOPE.—The impact assessment required under subparagraph (A) shall provide the following:            (i) A <u>detailed description of the design process and methodologies of the algorithm.</u>            (ii) A statement of the purpose, proposed uses, and foreseeable capabilities outside of the articulated proposed use of the algorithm.            (iii) A detailed description of the data used by the algorithm, including the specific categories of data that will be processed as input and any data used to train the model that the algorithm relies on.            (iv) A description of the outputs produced by the algorithm.</p>

<sup>33</sup> “Mitigating risks through sovereign data services,” *CRN News*, Nov. 21, 2022. Available at: <https://www.crn.com.au/feature/mitigating-risks-through-sovereign-data-services-588052>.

<p><u>Ranking Sen. Roger Wicker (R-MS) also backs the bill.]</u></p>	<p>(v) An assessment of the necessity and proportionality of the algorithm in relation to its stated purpose, including reasons for the superiority of the algorithm over nonautomated decision-making methods.</p> <p>(...)</p> <p>(2) ALGORITHM DESIGN EVALUATION.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this Act, a covered entity or service provider that knowingly develops an algorithm, solely or in part, to collect, process, or transfer covered data or publicly available information shall <u>prior to deploying the algorithm in interstate commerce evaluate the design, structure, and inputs of the algorithm, including any training data used to develop the algorithm, to reduce the risk of the potential harms identified under paragraph (1)(B).</u></p> <p>(3) OTHER CONSIDERATIONS.—</p> <p>(...)</p> <p>(B) EXTERNAL, INDEPENDENT AUDITOR OR RESEARCHER.—To the extent possible, <u>a covered entity and a service provider shall utilize an external, independent auditor or researcher to conduct an impact assessment under paragraph (1) or an evaluation under paragraph (2).</u> [<i>Emphasis added</i>]</p> <p>(C) AVAILABILITY.— (i) IN GENERAL.—A covered entity and a service provider—</p> <p>(I) shall, not later than 30 days after completing an impact assessment or evaluation, <u>submit the impact assessment and evaluation conducted under paragraphs (1) and (2) to the Commission;</u></p> <p>(II) shall, upon request, make such impact assessment and evaluation available to Congress;</p> <p>(...)</p> <p>(ii) TRADE SECRETS.—Covered entities and service providers must make <u>all submissions under this section to the Commission in unredacted form,</u> but a covered entity and a service provider may redact and segregate any trade secrets (as defined in section 1839 of title 18, United States Code) from public disclosure under this subparagraph. [<i>Emphasis added</i>]</p>
<p><b><u>Facial Recognition Act of 2022 (H.R.9061)</u></b>  <u>Sponsor: Rep. Ted Lieu (D-CA).</u>  <u>Cosponsors: Rep. Sheila Jackson Lee (D-TX), Rep. Yvette Clarke (D-NY), and Rep. Jimmy Gomez (D-CA).</u></p>	<p>SEC. 106. ACCURACY AND BIAS TESTING.</p> <p>(a) Benchmark Testing.—<u>No investigative or law enforcement officers may use a facial recognition system or information derived from it unless that system is annually submitted to the National Institute of Standards and Technology’s benchmark facial recognition test for law enforcement to determine—</u></p> <p>(1) the accuracy of the system; and</p> <p>(2) whether the accuracy of the system varies significantly on the basis of race, ethnicity, gender or age.</p> <p>(b) Benchmark Testing For New Systems.—<u>No investigative or law enforcement officers may begin using a new facial recognition system or information derived from it unless that system is first submitted to independent testing to determine—</u></p> <p>(1) the accuracy of the system; and</p> <p>(2) whether the accuracy of the system varies significantly on the basis of race, ethnicity, gender, or age.</p> <p>(c) Prohibition.—Any investigative or law enforcement officer may not use facial recognition that has not achieved a sufficiently high level of accuracy, including in terms of overall accuracy and variance on the basis of race, ethnicity, gender, or age, as determined by the National Institute of Standards and Technology, on its annual benchmark test for law enforcement use.</p> <p>(d) Operational Testing.—<u>No investigative or law enforcement agencies may use a facial recognition system or information derived from it unless that system is annually submitted to</u></p>

	<p><u>operational testing conducted by an independent entity</u>, in accordance with National Institute of Standards and Technology’s training protocol for operational testing, to determine—</p> <ol style="list-style-type: none"> <li>(1) the accuracy of the system;</li> <li>(2) the impact of human reviewers on system accuracy; and</li> <li>(3) whether the accuracy of the system varies significantly on the basis of race, ethnicity, gender, or age.</li> </ol> <p>(...)</p> <p>SEC. 201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY ASSISTANCE.</p> <p>(a) In General.—The National Institute of Standards and Technology (hereinafter in this section referred to as “NIST”) shall—</p> <ol style="list-style-type: none"> <li>(1) develop best practices for law enforcement agencies to evaluate the accuracy and fairness of their facial recognition systems;</li> <li>(2) develop and offer an ongoing benchmark facial recognition test for law enforcement that— <ol style="list-style-type: none"> <li>(A) conducts evaluations of actual algorithms used by law enforcement agencies;</li> <li>(B) uses the types of probe images, including in terms of quality, actually used by law enforcement agencies in its testing;</li> <li>(C) evaluates algorithms on larger databases that reflect the size of databases actually used by law enforcement; and</li> <li>(D) evaluates whether the accuracy of a facial recognition algorithm varies on the basis of race, ethnicity, gender, or age and assessments of bias in facial recognition systems;</li> </ol> </li> <li>(3) develop an operational testing protocol that independent testers and law enforcement agencies may implement for annual operational testing to determine— <ol style="list-style-type: none"> <li>(A) the accuracy of the facial recognition system;</li> <li>(B) the impact of human reviewers on facial recognition system accuracy; and</li> <li>(C) whether the accuracy of the facial recognition system varies significantly on the basis of race, ethnicity, gender, or age; and</li> </ol> </li> <li>(4) study and develop training standards for human operators reviewing the results of facial recognition searches to ensure accuracy and prevent bias. <i>[Emphasis added]</i></li> </ol>
<p><b><u>Justice in Forensic Algorithms Act of 2021 (H.R.2438)</u></b>  Sponsor: Rep. Mark Takano (D-CA).  Cosponsor: Rep. Dwight Evans (D-PA).</p>	<p>SEC. 2. COMPUTATIONAL FORENSIC ALGORITHM TESTING STANDARDS.</p> <p>(c) Requirements For Federal Use Of Forensic Algorithms.—<u>Any Federal law enforcement agency or crime laboratory providing services to a Federal law enforcement agency using computational forensic software may use only software that has been tested under the National Institute of Standards and Technology’s Computational Forensic Algorithm Testing Program</u> and shall conduct an internal validation according to the requirements outlined in the Computational Forensic Algorithm Testing Standards and make the results publicly available. The internal validation shall be updated when there is a material change in the software that triggers a retesting by the Computational Forensic Algorithm Testing Program.</p> <p>(...)</p> <p>(f) Use Of Computational Forensic Software.—<u>Any results or reports resulting from analysis by computational forensic software shall be provided to the defendant, and the defendant shall be accorded access to both an executable copy of and the source code for the version of the computational forensic software—as well as earlier versions of the</u></p>



		software, necessary instructions for use and interpretation of the results, and relevant files and data—used for analysis in the case and suitable for testing purposes. <i>[Emphasis added]</i>
<p><b><u>White House Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People</u></b></p>		<p>“SAFE AND EFFECTIVE SYSTEMS  <b>You should be protected from unsafe or ineffective systems.</b> Automated systems should be developed with consultation from diverse communities, stakeholders, and domain experts to identify concerns, risks, and potential impacts of the system. Systems should undergo pre-deployment testing, risk identification and mitigation, and ongoing monitoring that demonstrate they are safe and effective based on their intended use, mitigation of unsafe outcomes including those beyond the intended use, and adherence to domain-specific standards. (...) <u>Independent evaluation and reporting that confirms that the system is safe and effective, including reporting of steps taken to mitigate potential harms, should be performed and the results made public whenever possible.</u></p> <p>ALGORITHMIC DISCRIMINATION PROTECTIONS  <b>You should not face discrimination by algorithms and systems should be used and designed in an equitable way.</b> Algorithmic discrimination occurs when automated systems contribute to unjustified different treatment or impacts disfavoring people based on their race, color, ethnicity, sex (including pregnancy, childbirth, and related medical conditions, gender identity, intersex status, and sexual orientation), religion, age, national origin, disability, veteran status, genetic information, or any other classification protected by law. Depending on the specific circumstances, such algorithmic discrimination may violate legal protections. Designers, developers, and deployers of automated systems should take proactive and continuous measures to protect individuals and communities from algorithmic discrimination and to use and design systems in an equitable way. This protection should include proactive equity assessments as part of the system design, use of representative data and protection against proxies for demographic features, ensuring accessibility for people with disabilities in design and development, pre-deployment and ongoing disparity testing and mitigation, and clear organizational oversight. <u>Independent evaluation and plain language reporting in the form of an algorithmic impact assessment, including disparity testing results and mitigation information, should be performed and made public whenever possible to confirm these protections.</u>” <i>[Emphasis added]</i></p>

## [EXTERNAL] Fwd: Statement: Biden's Americas "APEP" Plan Could Be a Big Deal...

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From: Lori Wallach [REDACTED]@rethinktrade.org>

:

To: "Tai, Katherine C. EOP/USTR" [REDACTED]@ustr.eop.gov>, "Hurlburt, Heather F. EOP/USTR" <heather.f.hurlburt@ustr.eop.gov>, "Hodge, Adam R. EOP/USTR" <adam.r.hodge@ustr.eop.gov>

Date: Fri, 27 Jan 2023 14:57:26 -0500

FYI, what we sent out

Begin forwarded message:

From: American Economic Liberties Project [REDACTED]@economicliberties.us>

Date: January 27, 2023 at 2:21:18 PM EST

To: team@economicliberties.us

Subject: Statement: Biden's Americas "APEP" Plan Could Be a Big Deal...

For Immediate Release: January 27, 2023

Press Contact: Jimmy Wyderko, [jwyderko@economicliberties.us](mailto:jwyderko@economicliberties.us)

### **The Biden Administration Can Only Achieve Its Laudable "Worker-Centered" Trade Policy for the Americas by Fixing the Existing U.S. Trade Deals with Most Prospective APEP Partners and Building On Solid New Foundations**

Washington, D.C. – Today, as USTR Katherine Tai and Secretary of State Tony Blinken hosted a virtual ministerial meeting revealing initial countries interested in negotiating on a proposed Americas Partnership for Economic Prosperity (APEP), Rethink Trade Director Lori Wallach released the following statement.

"The Biden administration's vision for this process is refreshing and hopeful. For an APEP to deliver gains for the millions of citizens of American nations suffering from past corporate-rigged trade agreements, talks must fix parts of existing pacts that cause ongoing harm, create new

enforceable rules to raise wages and working conditions in the hemisphere and unite us in combatting the climate crisis. Plus, negotiators must evade Big Tech's efforts to impose new constraints on countries' powers to protect our privacy, counter monopoly abuses and instead rebalance "digital trade" rules to ensure people throughout the Americans benefit from digital technologies.

The need for a new U.S. trade policy that delivers broader benefits is clear and the challenge will be in achieving terms that deliver on that mission while all of Trade Team Status quo – job-offshoring manufacturing interests, Big Tech monopolists, Wall Street and Big Oil – try to maintain all of the special privileges and powers they jammed into the old agreements between these countries and get some new boondoggles locked in, like for Big Tech on "digital trade."

All of the countries now engaged but for Barbados, Ecuador and Uruguay already have U.S. Free Trade Agreements (FTA) premised on the North American Free Trade Agreement (NAFTA) model. The NAFTA and its FTA clones caused considerable damage to people and the environment in all of the involved countries. NAFTA was replaced by the U.S.-Mexico-Canada Agreement (USMCA) in 2020. The USMCA added stronger labor standards and facility-specific Rapid Response Mechanism enforcement, eliminated the damaging Investor-State Dispute Settlement (ISDS) regime for the United States and Canada and greatly scaled back ISDS for U.S.-Mexico's relations, and rebalanced medicine patents and other monopoly protections in favor of consumer access to medicines. USMCA passed with overwhelming House and Senate bipartisan supermajorities. A successful APEP must build on the labor, medicines access and environment improvements, including elimination of ISDS, that were achieved with the USMCA by ensuring these reforms are incorporated in the legacy U.S. trade agreements with APEP partners while building further on these gains and fixing the USMCA rules on "digital trade" that Big Tech interests inserted to derail government oversight."

Learn more about Rethink Trade [here](#).

Learn more about Economic Liberties [here](#).

###

*The American Economic Liberties Project works to ensure America's system of commerce is structured to advance, rather than undermine, economic liberty, fair commerce, and a secure, inclusive democracy. Economic Liberties believes true economic liberty means entrepreneurs and businesses large and small succeed on the merits of their ideas and hard work; commerce empowers consumers, workers, farmers, and engineers instead of subjecting them to discrimination and abuse from financiers and monopolists; foreign trade arrangements support domestic security and democracy; and wealth is broadly distributed to support equitable political power.*

This email was sent to [team@economicliberties.us](mailto:team@economicliberties.us)

American Economic Liberties Project, 2001 Pennsylvania Avenue NW, Suite 540, Washington,

DC 20006, United States

[Unsubscribe](#)

## RE: Hi Peter!

---

**From:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**To:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Date:** Tue, 31 Jan 2023 14:06:21 -0500

Ha! Looking forward to chatting.

---

**From:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Sent:** Tuesday, January 31, 2023 2:05 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>  
**Subject:** [EXTERNAL] Re: Hi Peter!

I don't know about you, but there's enough zoom in my life already . :) talk soon

On Jan 31, 2023, at 2:03 PM, Baltzan, Elizabeth V. EOP/USTR  
<[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)> wrote:

Perfect. My cell is 202-881-8841, or we can zoom.

---

**From:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Sent:** Tuesday, January 31, 2023 2:02 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Re: Hi Peter!

I can do 5, up to 5:30

On Jan 31, 2023, at 2:00 PM, Baltzan, Elizabeth V. EOP/USTR  
<[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)> wrote:

Great! Any chance 5 works? Is that too late?

---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Sent:** Tuesday, January 31, 2023 1:58 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Hi Peter!

Hi Beth,

I believe I am (mostly) through my urgent tasks – I can make time to speak this afternoon if convenient for you? I'm a little more open today it turns out than upcoming days. But let me know what days and times may work for you. Thanks – I'm at **EXEMPTION 6**

Best

Peter

---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Sent:** Tuesday, January 24, 2023 12:34 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Subject:** RE: Hi Peter!

One week from today is perfect!

I think there's an opportunity for groups who understand the domestic side of the access to meds debate to help the conversation.

---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Sent:** Tuesday, January 24, 2023 11:42 AM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Hi Peter!

I do, always. How pressing is it? Life gets less stressful for me a week from today.

Can you give me a hint as to topics?

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**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Sent:** Tuesday, January 24, 2023 11:35 AM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Subject:** Hi Peter!

How are you? I wondered if you had some time to catch up.

Best,

Beth

## [EXTERNAL] Re: USITC notice

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**From:** Peter Maybarduk <pmaybarduk@citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Wed, 01 Feb 2023 17:41:00 -0500

Got it, thanks!

On Feb 1, 2023, at 5:31 PM, Baltzan, Elizabeth V. EOP/USTR  
<Elizabeth.V.Baltzan@ustr.eop.gov> wrote:

Hi Peter! As luck would have it, the ITC published its hearing notice today:

[USITC TO REPORT ON COVID-19 DIAGNOSTICS AND THERAPEUTICS AND FLEXIBILITIES UNDER THE TRIPS AGREEMENT | United States International Trade Commission](#)



## Wilson Center remarks

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**From:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>

**To:** [REDACTED] openmarketsinstitute.org

**Date:** Wed, 01 Feb 2023 08:46:08 -0500

**Attachments:** Remarks for Wilson Center event.fin.docx (33.62 kB)

Hi Barry! Attached find my check-against-delivery Wilson Center remarks. We didn't publish them, so please keep close, but you'll see where I talked about competition and trade.

Best,  
Beth

**Making Trade Inclusive: Toward a Worker-Centered Trade Policy**

- Thank you so much to the Wilson Center – and specifically to the Canada Institute – for inviting me to join this terrific group to talk about trade policy under the Biden-Harris Administration. Jeff and I have known each other for many years now, and I appreciate his thoughtful, empirical approach to understanding how to make trade work better for all.
- I myself have roots in Canada – Saskatchewan, to be specific -- so it's a particular pleasure to be here, where the temperature is comparatively balmy.
- President Biden is committed to growing the economy from the bottom up, and the middle out. That is true not only for our domestic economic policy, but for our foreign economic policy. The President's Trade Agenda reflects the Administration's commitment to ensuring that trade is aligned with the goal of a foreign policy for the middle class.
- In that vein, before we talk about trade, let's start by looking at some of the important aspects of the President's domestic economic agenda.

The President's Agenda

- **Labor.** President Biden has said that the middle class built this country, and unions built the middle class. Under his leadership, we are seeing a surge in organizing and the highest support for labor unions since 1965.

[APG]

- **The Environment.** He understands the urgency of protecting our planet, including by addressing the climate crisis. On Day One, he committed the United States to rejoining the Paris Agreement. His embrace of green industrial policy has seen the United States vault into a leadership role in green tech and renewables.
- **Competition.** He is focused on competition. In his words, “capitalism without competition isn’t capitalism. It’s exploitation.” His Executive Order on Competition emphasizes the importance of fair competition and recognizes the threats of excessive concentration to “basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers.”
- **Equity and Inclusion.** And he understands how critical it is for the economy to be inclusive. On Day One, the President recognized the importance of intentionality in advancing equity in federal policy in order to ensure that underserved and marginalized communities have a better – an equal -- shot at the American dream. Using the power of the federal government to be a convening force for good in designing policy and outcomes that contribute to our collective resiliency, prosperity, and competitiveness is a core component of the Administration’s mission.

## II. How Trade Fits In

- So let’s talk about how trade fits in.

[APG]

- In years past, trade policy has not necessarily been connected to domestic initiatives. Not so under this Administration.
- Under the leadership of Ambassador Tai, the President's pro-labor, pro-environment, pro-competition, pro-equity agenda is central to the Administration's trade policy, too.
- This is the heart of the worker-centered trade policy that was outlined in the President's trade agenda in March of this year.

### III. The Old Paradigm

- To understand the shift in thinking about trade and economic governance more generally, it is useful to provide some context.
- When the contemporary global trading system was created in the 1990s, the prevailing thinking was a modern take on laissez-faire economics – referred to by its critics as trickle-down economics.
- Roughly speaking, under this approach, the private sector is better than the government at making decisions that result in an “efficient” allocation of resources when it comes to investment and production.
- As the thinking went, over time, through this focus on maximized “efficiency” outcomes, the gains would be spread throughout society, and a

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rising tide would lift all boats. Wages and labor standards would rise, as would environmental protections.

- Thus, trade rules were oriented toward disciplining government behavior.
- This approach stands in contrast to the original Bretton Woods vision for the global trading system.
- That system recognized that the private sector, in its quest to maximize profits, might, in the context of a liberalizing global economy, engage in arbitrage that would be harmful to working people – and the planet.
  - Thus, at the request of the Global South, the original set of trade rules – which included but was not limited to what became the GATT – also included enforceable labor rules.
  - It included competition rules as well.
  - And – forward thinking for that time – it had exemptions for conservation agreements.
  - Unfortunately, these rules never entered into force.
- But the labor and competition elements of those rules reflect the views of Adam Smith himself, who was first and foremost an anti-monopolist.

[APG]

- His concern about tariffs related to the ways in which tariffs were used in 18<sup>th</sup> century England to prop up monopolies.
- Smith saw monopoly rents as harmful to the working class – and identified wage suppression as a systemic problem.
- But he also warned that tariff liberalization itself could lead to monopolization and urged governments to be mindful of the risks.
- These principles were not reflected in the system we implemented in the 1990s, however. And much of what can be seen as the “backlash” against globalization is understandable when seen through this broader economic lens.
  - The ability to engage in arbitrage has – as the architects of Bretton Woods anticipated – contributed to a race to the bottom.
  - A rising tide has not lifted all boats, as we have seen income inequality grow *within* countries. In fact, even the reduction in inequality *across* countries is, according to the World Bank, being reversed as a result of the pandemic.
  - This result, not surprisingly, erodes support for the version of globalization that got us here.

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- Jobs matter. The U.S. State Department in 1945 wisely recognized that high employment was a precursor to the ability of governments to liberalize trade – rather than a consequence of liberalized trade.
- John Maynard Keynes praised the original U.S. vision for post-war trade as providing safeguards against “the disastrous consequences of a laissez-faire system.”
- The pandemic – and Russia’s invasion of Ukraine – have further exposed flaws in the system. Product shortages, and an overall recognition that the private sector had not done enough to factor risk into its supply chain decisions, has led to a greater willingness to ask whether we need a new version of globalization – one that is more resilient.
- One of the first things Ambassador Tai did when she came back to USTR was to ask the International Trade Commission to study the distributional effects of U.S. trade and trade policy on workers.
- The ITC released its report on November 14.
  - As an overarching matter, the report highlighted the need for better data – especially disaggregated data -- in order to fill the gaps and give a more fulsome picture of the distributional effects.

[APG]

- But it also does clearly illustrate the significant adverse effects of job losses due to goods imports, specifically from China. Manufacturing jobs in particular took a big hit.
- It also illustrates that the neoclassical model assumption that labor is mobile turned out to be wrong. Labor is sticky.
- And some of the literature indicates that non-white workers experienced disproportionately negative effects with respect to import competition.
- For many years, the conversation on trade has focused on the net benefits, at an aggregate level.
  - But looking at aggregate data makes it too easy to gloss over the very real, devastating consequences concentrated in certain communities.
  - It is no surprise that disaffected workers, and their broader communities, have doubts about whether the rules of globalization work for them.
- If trickle-down economics doesn't work for our domestic economy, then it won't work for our trade policy, either.

#### IV. The New (Old) Paradigm

[APG]



- The problem is not with globalization itself, but with the rules that govern globalization.
- The thinking that underpinned the original Bretton Woods vision demonstrates that governments have choices in the kind of globalization they embrace.
- We can choose rules that promote a more equitable sustainable global economy, both across borders, and within borders.
- We can also choose rules that do a better job of incentivizing resiliency. The focus on “efficiency” – which is really a euphemism for the lowest possible cost – is precisely what facilitates the kind of arbitrage that puts downward pressure on labor and environmental regulation and enforcement. So that there is a link between a resilient system, and an inclusive system.
- We have to be mindful of all the nooks and crannies of our trade policy that reflect this “efficiency” mindset – including the opaque but critical industrial rules of origin in our trade agreements.
- The antitrust community is similarly rethinking the narrow lens focused on efficiency that has guided federal antitrust enforcement in the past decades. This is just another way we see alignment between our approach to domestic economic issues, and our approach to foreign economic issues.

[APG]

- The Biden-Harris Administration is working with our allies and partners to execute this more equitable trade policy. Some examples:
  - ***The Trade and Technology Council:*** The United States and the EU have worked hard to resolve longstanding irritants, such as large civil aircraft. The Russian invasion of Ukraine has only highlighted the importance of the EU/US alliance. The TTC is a mechanism that allows the US and the EU to cooperate on a range of issues, from forced labor to climate to supply chains. The TTC also has a working group that is looking at the power of online platforms to ensure effective competition and contestable markets. Of note as well is the creation of the Trans-Atlantic Trade and Labor Dialogue, providing a mechanism for a tripartite conversation about challenges facing workers in the global economy.
  - ***The Global Arrangement:*** Speaking of resolving irritants, the United States and the EU have worked together to develop the Global Arrangement, to address global steel and aluminum excess capacity and the serious threat market distortions in those sectors pose to workers, producers, and the climate.
  - ***The Indo-Pacific Economic Framework:*** The United States and critical partners in the Indo-Pacific are working together to advance trade relations that promote resilience, inclusion, and sustainability.

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Areas under discussion include labor, the environment, competition policy, and equity.

- ***U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade***: This initiative will include labor, the environment, and small and medium size enterprises - including SMEs owned by underrepresented groups and women entrepreneurs, and those in disadvantaged communities.
  
- ***The Strategic Trade and Investment Partnership with Kenya***: These negotiations will focus on enhancing engagement with a view to increasing investment; promoting sustainable and inclusive economic growth; benefiting workers, consumers, and businesses; and supporting African regional economic integration. There will be special emphases on micro, small, and medium enterprises, and women, youth, persons with disabilities and other vulnerable groups.
  
- ***The Americas Partnership for Economic Prosperity***: The United States already has many trade agreements with our neighbors to the South. But APEP reflects the importance of continuing to work with allies and partners in our own hemisphere. Still in its early stages, one of the goals of APEP is to ensure sustainable and inclusive trade.
  
- ***Canada***. And I would be remiss if I did not recognize the ongoing, strong partnership we have with Canada. Just last week Ambassador

[APG]

Tai and Minister Ng recognized the close relationship and emphasized the importance of U.S.-Canadian cooperation.

- Notably, these initiatives do not reflect a cookie-cutter approach. We have different partners, who have different priorities, but the United States is leading this effort to figure out the best approaches to design trade that contributes to our collective resiliency.
- This is a time of change. Change can be hard; we are accustomed to certain ways of doing things, and the prospect of doing things differently can be daunting. But there is a real opportunity here – to work together to foster a global economy that is more resilient, more sustainable – and more just.

[APG]

## [EXTERNAL] Re: Memo on IPEF digital trade rebalance to preserve policy space

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**From:** Taylor Buck [REDACTED]@rethinktrade.org>

:

**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>, "Bianchi, Sarah A. EOP/USTR" <sarah.a.bianchi@ustr.eop.gov>

**Cc:** "Thanhauser, Bart J. EOP/USTR" <bartholomew\_j\_thanhauser@ustr.eop.gov>, "Spiegel, Perry F. EOP/USTR" <peregrine.f.spiegel@ustr.eop.gov>, "Schagrin, Kenneth A. EOP/USTR" <kenneth\_schagrin@ustr.eop.gov>, "Hurlburt, Heather F. EOP/USTR" <heather.f.hurlburt@ustr.eop.gov>, "Tanner, Robb S. EOP/USTR" <robert\_tanner@ustr.eop.gov>

**Date:** Thu, 09 Feb 2023 15:57:22 -0500

Great, I'll send around a calendar invite with a Zoom link for 1pm 2/1 momentarily!

---

**From:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>

**Date:** Thursday, February 9, 2023 at 9:43 AM

**To:** Taylor Buck [REDACTED]@rethinktrade.org>, Bianchi, Sarah A. EOP/USTR <Sarah.A.Bianchi@ustr.eop.gov>

**Cc:** Thanhauser, Bart J. EOP/USTR <Bartholomew\_J\_Thanhauser@ustr.eop.gov>, Spiegel, Perry F. EOP/USTR <Peregrine.F.Spiegel@ustr.eop.gov>, Schagrin, Kenneth A. EOP/USTR <Kenneth\_Schagrin@ustr.eop.gov>, Hurlburt, Heather F. EOP/USTR <Heather.F.Hurlburt@ustr.eop.gov>, Tanner, Robb S. EOP/USTR <Robert\_Tanner@ustr.eop.gov>

**Subject:** RE: Memo on IPEF digital trade rebalance to preserve policy space

Thanks Taylor. We are back in the office with flexibilities for telework as needed, so a zoom would probably be the best way forward. Thank you!

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**From:** Taylor Buck [REDACTED]@rethinktrade.org>

**Sent:** Wednesday, February 8, 2023 5:03 PM

To: Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>; Bianchi, Sarah A. EOP/USTR <Sarah.A.Bianchi@ustr.eop.gov>  
Cc: Thanhauser, Bart J. EOP/USTR <Bartholomew\_J\_Thanhauser@ustr.eop.gov>; Spiegel, Perry F. EOP/USTR <Peregrine.F.Spiegel@ustr.eop.gov>; Schagrín, Kenneth A. EOP/USTR <Kenneth\_Schagrín@ustr.eop.gov>; Hurlburt, Heather F. EOP/USTR <Heather.F.Hurlburt@ustr.eop.gov>; Tanner, Robb S. EOP/USTR <Robert\_Tanner@ustr.eop.gov>  
Subject: [EXTERNAL] Re: Memo on IPEF digital trade rebalance to preserve policy space

Hi Beth, Thursday at 1pm would be great. Are you all in the office these days? I can send a Zoom around if not.

Thanks,  
Taylor

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From: Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
Date: Tuesday, February 7, 2023 at 4:49 PM  
To: Taylor Buck EXEMPTION 6 <[rethinktrade.org](mailto:taylor@rethinktrade.org)>, Bianchi, Sarah A. EOP/USTR <[Sarah.A.Bianchi@ustr.eop.gov](mailto:Sarah.A.Bianchi@ustr.eop.gov)>  
Cc: Thanhauser, Bart J. EOP/USTR <[Bartholomew\\_J\\_Thanhauser@ustr.eop.gov](mailto:Bartholomew_J_Thanhauser@ustr.eop.gov)>, Spiegel, Perry F. EOP/USTR <[Peregrine.F.Spiegel@ustr.eop.gov](mailto:Peregrine.F.Spiegel@ustr.eop.gov)>, Schagrín, Kenneth A. EOP/USTR <[Kenneth\\_Schagrín@ustr.eop.gov](mailto:Kenneth_Schagrín@ustr.eop.gov)>, Hurlburt, Heather F. EOP/USTR <[Heather.F.Hurlburt@ustr.eop.gov](mailto:Heather.F.Hurlburt@ustr.eop.gov)>, Tanner, Robb S. EOP/USTR <[Robert\\_Tanner@ustr.eop.gov](mailto:Robert_Tanner@ustr.eop.gov)>  
Subject: RE: Memo on IPEF digital trade rebalance to preserve policy space

Yes, of course.

We are free Monday at 2 or 4; Tuesday at 11 or 12; and Thursday at 1. We may have some other windows as well if none of those works.

Best,  
Beth

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**From:** Taylor Buck [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)

**Sent:** Tuesday, February 7, 2023 3:55 PM

**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Bianchi, Sarah A. EOP/USTR <[Sarah.A.Bianchi@ustr.eop.gov](mailto:Sarah.A.Bianchi@ustr.eop.gov)>

**Cc:** Thanhauser, Bart J. EOP/USTR <[Bartholomew\\_J\\_Thanhauser@ustr.eop.gov](mailto:Bartholomew_J_Thanhauser@ustr.eop.gov)>; Spiegel, Perry F. EOP/USTR <[Peregrine.F.Spiegel@ustr.eop.gov](mailto:Peregrine.F.Spiegel@ustr.eop.gov)>; Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Hurlburt, Heather F. EOP/USTR <[Heather.F.Hurlburt@ustr.eop.gov](mailto:Heather.F.Hurlburt@ustr.eop.gov)>; Tanner, Robb S. EOP/USTR <[Robert\\_Tanner@ustr.eop.gov](mailto:Robert_Tanner@ustr.eop.gov)>

**Subject:** [EXTERNAL] Re: Memo on IPEF digital trade rebalance to preserve policy space

Hi Beth,

Thanks so much for getting back to me! Unfortunately Lori has an in-person meeting Wednesday at 3pm that she is unable to move. Would it be possible to request your availability for the next week instead?

Thanks,  
Taylor

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**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Date:** Friday, February 3, 2023 at 4:26 PM

**To:** Taylor Buck [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org), Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org), Bianchi, Sarah A. EOP/USTR <[Sarah.A.Bianchi@ustr.eop.gov](mailto:Sarah.A.Bianchi@ustr.eop.gov)>

**Cc:** Thanhauser, Bart J. EOP/USTR <[Bartholomew\\_J\\_Thanhauser@ustr.eop.gov](mailto:Bartholomew_J_Thanhauser@ustr.eop.gov)>, Spiegel, Perry F. EOP/USTR <[Peregrine.F.Spiegel@ustr.eop.gov](mailto:Peregrine.F.Spiegel@ustr.eop.gov)>, Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>, Hurlburt, Heather F. EOP/USTR <[Heather.F.Hurlburt@ustr.eop.gov](mailto:Heather.F.Hurlburt@ustr.eop.gov)>, Tanner, Robb S. EOP/USTR <[Robert\\_Tanner@ustr.eop.gov](mailto:Robert_Tanner@ustr.eop.gov)>

**Subject:** RE: Memo on IPEF digital trade rebalance to preserve policy space

Taylor, thanks so much for your patience!

We could meet next week but would not have the benefit of Perry's presence. We could do Tuesday at 11 or Wednesday at 3.

We could also meet the week after, and Perry could join us.

Please let us know what works for you.

Best,

Beth

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**From:** Taylor Buck [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)

**Sent:** Tuesday, January 31, 2023 11:57 AM

**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); Bianchi, Sarah A. EOP/USTR <[Sarah.A.Bianchi@ustr.eop.gov](mailto:Sarah.A.Bianchi@ustr.eop.gov)>

**Cc:** Thanhauser, Bart J. EOP/USTR <[Bartholomew\\_J\\_Thanhauser@ustr.eop.gov](mailto:Bartholomew_J_Thanhauser@ustr.eop.gov)>; Spiegel, Perry F. EOP/USTR <[Peregrine.F.Spiegel@ustr.eop.gov](mailto:Peregrine.F.Spiegel@ustr.eop.gov)>; Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Hurlburt, Heather F. EOP/USTR <[Heather.F.Hurlburt@ustr.eop.gov](mailto:Heather.F.Hurlburt@ustr.eop.gov)>

**Subject:** [EXTERNAL] Re: Memo on IPEF digital trade rebalance to preserve policy space

Hi all, just wanted to follow up on Beth's message from last Thursday and Sarah's message from last Monday. Are there any times this or next week that would work well to set up a meeting?

Thanks,

Taylor

**Taylor Buck** | Program Associate, Rethink Trade

American Economic Liberties Project | [EXEMPTION 6](mailto:EXEMPTION 6@economicliberties.us) | Email: [EXEMPTION 6@economicliberties.us](mailto:EXEMPTION 6@economicliberties.us)

[Website](#) | [Facebook](#) | [Twitter](#)



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**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Date:** Thursday, January 26, 2023 at 11:57 AM  
**To:** Lori Wallach [EXEMPTION6@rethinktrade.org](mailto:EXEMPTION6@rethinktrade.org)>, Bianchi, Sarah A. EOP/USTR <[Sarah.A.Bianchi@ustr.eop.gov](mailto:Sarah.A.Bianchi@ustr.eop.gov)>  
**Cc:** Thanhauser, Bart J. EOP/USTR <[Bartholomew\\_J\\_Thanhauser@ustr.eop.gov](mailto:Bartholomew_J_Thanhauser@ustr.eop.gov)>, Spiegel, Perry F. EOP/USTR <[Peregrine.F.Spiegel@ustr.eop.gov](mailto:Peregrine.F.Spiegel@ustr.eop.gov)>, Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>, Hurlburt, Heather F. EOP/USTR <[Heather.F.Hurlburt@ustr.eop.gov](mailto:Heather.F.Hurlburt@ustr.eop.gov)>, Taylor Buck [EXEMPTION6@rethinktrade.org](mailto:EXEMPTION6@rethinktrade.org)>  
**Subject:** RE: Memo on IPEF digital trade rebalance to preserve policy space

Lori, thank you so much for this. We are going over your comments carefully and will get back to you soonest about finding a time to connect.

Best,  
Beth

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**From:** Lori Wallach [EXEMPTION6@rethinktrade.org](mailto:EXEMPTION6@rethinktrade.org)>  
**Sent:** Thursday, January 19, 2023 4:05 PM  
**To:** Bianchi, Sarah A. EOP/USTR <[Sarah.A.Bianchi@ustr.eop.gov](mailto:Sarah.A.Bianchi@ustr.eop.gov)>  
**Cc:** Thanhauser, Bart J. EOP/USTR <[Bartholomew\\_J\\_Thanhauser@ustr.eop.gov](mailto:Bartholomew_J_Thanhauser@ustr.eop.gov)>; Spiegel, Perry F. EOP/USTR <[Peregrine.F.Spiegel@ustr.eop.gov](mailto:Peregrine.F.Spiegel@ustr.eop.gov)>; Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Hurlburt, Heather F. EOP/USTR <[Heather.F.Hurlburt@ustr.eop.gov](mailto:Heather.F.Hurlburt@ustr.eop.gov)>; Taylor Buck [EXEMPTION6@rethinktrade.org](mailto:EXEMPTION6@rethinktrade.org)>  
**Subject:** [EXTERNAL] Memo on IPEF digital trade rebalance to preserve policy space

Hello Sarah,

Happy new year and I hope you are well.

Please find attached a detailed memo regarding how to rebalance for IPEF some of what we consider the five most problematic provisions included in the past U.S. approach to digital trade rules. And also ideas on an issue often left out of the digital chapters that bears considering.

The goal of the proposals in this paper is to maximize policy space for the domestic digital governance initiatives that administration agencies and Congress are currently creating. It recognizes that negotiations on digital issues are different than on many topics because Congress and the regulatory agencies have not already developed what the U.S. policy is with respect to most facets of digital governance.

This memo spells out specific conflicts that the old approach poses to *actual* digital governance policies and plans of the administration and bills in Congress, and what changes to the USMCA-TPP digital trade text can address those conflicts. (It also cites a much more detailed analysis with side-by-side language excerpts that we recently published of how the USMCA text would undermine core aspects of the 117<sup>th</sup> Congress' main privacy, AI civil rights and anti-monopoly bills and administration proposals on these topics.)

This is not Rethink Trade's or my personal *tabula rasa* approach, but rather ways to modify the current construct to maximize policy space. I dug through a lot of other agreements to review alternative approaches – or if other pacts even include each of the five most threatening provisions included in the USMCA-TPP approach. (And after some extended back and forths and unhappiness from various civil society and academic experts, who seek a totally new approach to digital rules in trade pacts, I was able to get a number of peer reviews to critique and refine the work.)

I would appreciate an opportunity to discuss this with you and your team. I understand that the interagency process working to develop a U.S. IPEF digital trade chapter opening offer is well underway. So, if you can possibly wedge me in to your busy schedule soonish, I will make any available time work.

I hope you will find this analysis useful.

Yours, Lori

Lori Wallach

Director, Rethink Trade at American Economic Liberties Project

[EXEMPTION 6 RethinkTrade.org](https://www.rethinktrade.org) || [EXEMPTION 6](#)

Twitter @WallachLori || Skype lori\_wallach

## RE: Kenya STIP negotiation in DC next week?

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**From** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>

:

**To:** Melinda St. Louis <mstlouis@citizen.org>, "Harman, Bennett M. EOP/USTR" <bennett\_m\_harman@ustr.eop.gov>

**Date:** Tue, 14 Feb 2023 17:36:45 -0500

Melinda,

I think with this limited amount of time it makes sense for your groups to tell Connie their priorities and we can follow up in future conversations.

EH

---

**From:** Melinda St. Louis <mstlouis@citizen.org>

**Sent:** Tuesday, February 14, 2023 5:00 PM

**To:** Harman, Bennett M. EOP/USTR <Bennett\_M\_Harman@ustr.eop.gov>

**Cc:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>

**Subject:** [EXTERNAL] RE: Kenya STIP negotiation in DC next week?

Thanks, Bennett.

I will send along this information to the group. We'll have some questions prepared, so if we don't get to them all, we can follow up afterward.

Warm regards,  
Melinda

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**From:** Harman, Bennett M. EOP/USTR <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)>

**Sent:** Tuesday, February 14, 2023 4:48 PM

**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>

**Cc:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>

**Subject:** RE: Kenya STIP negotiation in DC next week?

Looks like a great group, Melinda, thanks for organizing it. I'm afraid we're still pretty slammed so it looks like it'll be a 30 minute call. I'll send you a Zoom link that you can forward to the others. No press, on background, not for attribution.

Best regards,  
Bennett

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Tuesday, February 14, 2023 2:51 PM  
**To:** Harman, Bennett M. EOP/USTR <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)>  
**Cc:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Kenya STIP negotiation in DC next week?

Hi Bennett,

Here is the list of confirmed attendees for tomorrow's call with AUSTR Hamilton. As there has been very little detail about the plans for the Kenya STIP, the group would be very interested in hearing any details she can share about the nature and content of the negotiations thus far and plans going forward. How long will she have for this meeting? And would you like for me to send a zoom link or will you send one?

- Melinda St. Louis, Public Citizen's Global Trade Watch
- Melanie Foley, Public Citizen's Global Trade Watch
- Karen Hansen-Kuhn, Institute for Agriculture and Trade Policy
- Calvin Manduna, Institute for Agriculture and Trade Policy
- Patricia Asero Ochieng, Dandora Community Aids Support Association (DACASA) Kenya
- Sanya Reid-Smith, Third World Network
- Africa Kiiza, SEATINI/personal capacity
- Steven Nabieu Rogers, African Faith and Justice Network
- Pauline Muchina, American Friends Service Committee
- Amb. Nelson Ndirangu, Competition Authority of Kenya
- Lydia Kimani, Agribusiness for Africa Markets
- Paul Ogendi, University of Nairobi
- Fredrick Ogala, Archdiocese of Nairobi
- Edgar Odari, Econews Africa
- Bernard Ochieng, Econews Africa
- David Calleb Otieno, Kenyan Social Movements for Abolition of Illegitimate Debts
- Daniel Mwangi, ULOTATEAM SL
- Khamati Mugalla, Africa Trade Union Confederation
- Laura Peralta-Schulte, NETWORK Lobby
- Robert Eckford, Campaign for Tobacco-Free Kids
- Brendah Akankunda, SEATINI Uganda
- Brook Baker, Health GAP

Many thanks,  
Melinda St. Louis

---

**From:** Harman, Bennett M. EOP/USTR <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)>  
**Sent:** Friday, February 10, 2023 2:24 PM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Cc:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** RE: Kenya STIP negotiation in DC next week?

Hi, Melinda, coming up for air. We can make your preferred time frame work and schedule it for 11:00 am next Wednesday. I can send a Zoom link. Sound like a plan?

Bennett

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Friday, February 10, 2023 2:14 PM  
**To:** Harman, Bennett M. EOP/USTR <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)>  
**Cc:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Kenya STIP negotiation in DC next week?

Hello Bennett,

Just wanted to check in about this, as it would be useful to be able to share the proposed time with partners this afternoon if possible.

Thank you,  
Melinda

---

**From:** Melinda St. Louis  
**Sent:** Thursday, February 9, 2023 5:16 PM  
**To:** Harman, Bennett M. EOP/USTR <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)>  
**Cc:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** RE: Kenya STIP negotiation in DC next week?

Update is that the Wednesday times would be better on our end, if there's a window between 10:30 and 12 on Wednesday Feb 15 that might work for AUSTR Hamilton.

Warm regards,  
Melinda

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**From:** Melinda St. Louis  
**Sent:** Thursday, February 9, 2023 2:01 PM  
**To:** Harman, Bennett M. EOP/USTR <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)>  
**Cc:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** RE: Kenya STIP negotiation in DC next week?

Thank you, Bennett. I am checking with some of our Kenyan allies, but does AUSTR Hamilton have any windows of availability 9-12 on Tues or 10:30-12 on Wed?

Regards,  
Melinda

On Feb 9, 2023 11:10 AM, "Harman, Bennett M. EOP/USTR" <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)> wrote:

Hello, Melinda, AUSTR Hamilton would be happy to connect with you concerning the Kenya talks. We're pretty swamped right now but could look at times next Tuesday or Wednesday if that works for you.

Best regards,  
  
Bennett



Bennett M. Harman  
Deputy Assistant U.S. Trade  
Representative for Africa  
Office of the U.S. Trade Representative  
1724 F Street NW  
Washington, DC 20508

t. (202) 395-0612

**EXEMPTION 6**

e. [bharman@ustr.eop.gov](mailto:bharman@ustr.eop.gov)

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**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Wednesday, February 8, 2023 3:57 PM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Harman, Bennett M. EOP/USTR <[Bennett\\_M\\_Harman@ustr.eop.gov](mailto:Bennett_M_Harman@ustr.eop.gov)>  
**Subject:** RE: Kenya STIP negotiation in DC next week?

SORRY, adding in Bennett who can help put this together!

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Wednesday, February 8, 2023 2:51 PM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Kenya STIP negotiation in DC next week?

Hi Ethan, just wondered if you had an update on this request.

On Feb 3, 2023 4:28 PM, "Melinda St. Louis" <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)> wrote:

Thanks, Ethan. I saw the press release about the Kenya negotiating round this afternoon. In addition to any info you can provide about opportunities for us to connect with the negotiators while they are in town, we would appreciate the opportunity to connect with AUSTR Hamilton with US and Kenyan civil society organizations with keen interest in the negotiations. Could we set up a virtual meeting with her?

Thanks, and have a good weekend.

Regards,

Melinda

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Friday, February 3, 2023 11:37 AM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: Kenya STIP negotiation in DC next week?

Hi Melinda,

Let me get back to you on this request.

EH

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Friday, February 3, 2023 10:36 AM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Kenya STIP negotiation in DC next week?

Hi Ethan,

I hope you're well. I heard that Kenya STIP negotiations might be happening in DC next week. Do you have any details about that or would be able to connect me to the negotiators? We'd be interested to hear what discussions are happening and potentially connect with the Kenyan officials who are coming as well.

Thanks,

Melinda

**Melinda St. Louis | Director**  
Public Citizen's Global Trade Watch  
1600 20<sup>th</sup> Street NW, Washington, DC 20009  
TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)  
*pronouns: she/her*



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## [EXTERNAL] follow up from Hamilton meeting with US and Kenyan civil society organizations

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Harman, Bennett M. EOP/USTR" <bennett\_m\_harman@ustr.eop.gov>  
**Cc:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Thu, 16 Feb 2023 15:49:24 -0500

Hello Bennett and Ethan,

Thank you again for arranging yesterday's meeting with AUSTR Hamilton on the U.S.-Kenya STIP. I wanted to follow up with the full list of meeting attendees (pasted below my signature).

We were glad to hear that your team is familiar with the public comments submitted from [Public Citizen](#) and some of the organizations present. Melissa Omino from Strathmore University's Centre for Intellectual Property and Information Technology Law (CIPIT) based in Nairobi also asked that we also share [this analysis](#). In it, she discusses the policies that industry has proposed for the STIP and their implications for data protection legislation in Kenya. She will be presenting these findings and more at a webinar on March 7 – I will share the invitation once it's available.

We look forward to staying in touch as these talks progress. Any details about the April round in Nairobi would be much appreciated with as much advanced notice as possible, especially any opportunities for civil society participation that I could share with colleagues in the region.

### **Melinda St. Louis | Director**

Public Citizen's Global Trade Watch

1600 20<sup>th</sup> Street NW, Washington, DC 20009

TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)

*pronouns: she/her*

- Khamati Mugalla, Africa Trade Union Confederation
- Melinda St. Louis, Public Citizen's Global Trade Watch
- Melanie Foley, Public Citizen's Global Trade Watch
- Karen Hansen-Kuhn, Institute for Agriculture and Trade Policy
- Calvin Manduna, Institute for Agriculture and Trade Policy
- Patricia Asero Ochieng, Dandora Community Aids Support Association (DACASA) Kenya
- Sanya Reid-Smith, Third World Network
- Africa Kiiza, SEATINI/personal capacity
- Steven Nabieu Rogers, African Faith and Justice Network

- Pauline Muchina, American Friends Service Committee
- Amb. Nelson Ndirangu, Competition Authority of Kenya
- Lydia Kimani, Centre for Policy and Strategic Interventions, International
- Paul Ogendi, University of Nairobi, Faculty of Law-Kisumu Campus
- Fredrick Ogala, Archdiocese of Nairobi
- Edgar Odari, Econews Africa
- Bernard Ochieng, Econews Africa
- David Calleb Otieno, Kenyan Debt Abolition Network (KDAN)
- Daniel Mwangi, ULOTATEAM SL
- Laura Peralta-Schulte, NETWORK Lobby
- Robert Eckford, Campaign for Tobacco-Free Kids
- Brendah Akankunda, SEATINI Uganda
- Brook Baker, Health GAP and Northeastern U. School of Law
- Melissa Omimo, Strathmore University's Centre for Intellectual Property and Information Technology Law (CIPIT)
- Arthur Stamoulis, Citizens Trade Campaign

# [EXTERNAL] TACD & BEUC comments on the TTC AI roadmap

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**From:** Sarah Grace Spurgin [REDACTED]@citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Thu, 16 Feb 2023 12:12:06 -0500

Dear Mrs. Baltzan,

I hope all is well since we last spoke.

Ahead of the TTC stakeholder event earlier today, BEUC, the European Consumer Organisation, and TACD, the Transatlantic Consumer Dialogue, have prepared detailed [comments on the AI roadmap](#). Our comments address the content of the roadmap and identify initiatives that could be beneficial for consumers but also initiatives that could be problematic. This is for instance the case of the foreseen work on shared terminologies and taxonomies. We make suggestions for improvements, where needed, and proposals to make the cooperation work for consumers.

We appreciate the opportunity to share our recommendations during the stakeholder event and remain at your disposal, should you have any question or comment.

Best regards,

**Sarah Grace Spurgin** (she/her)  
*U.S. Secretariat Liaison*

Cell: [REDACTED] |@TACD\_Consumers | [www.tacd.org](http://www.tacd.org)



## [EXTERNAL] Follow up on last week's IPEF digital trade meeting

---

**From:** Lori Wallach [REDACTED]@rethinktrade.org>  
:  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>, "Schagrín, Kenneth A. EOP/USTR" <kenneth\_schagrín@ustr.eop.gov>, "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>, "Tanner, Robb S. EOP/USTR" <robert\_tanner@ustr.eop.gov>, "Spiegel, Perry F. EOP/USTR" <peregrine.f.spiegel@ustr.eop.gov>, "Thanhauser, Bart J. EOP/USTR" <bartholomew\_j\_thanhauser@ustr.eop.gov>  
**Cc:** "Bianchi, Sarah A. EOP/USTR" <sarah.a.bianchi@ustr.eop.gov>, "Hurlburt, Heather F. EOP/USTR" <heather.f.hurlburt@ustr.eop.gov>, Daniel Rangel [REDACTED]@rethinktrade.org>  
**Date:** Wed, 22 Feb 2023 17:03:29 -0500

Hello all,

Thanks very much for spending time with us on Thursday to discuss the digital trade issues in IPEF.

We were mainly in listening mode, and greatly appreciate getting more of a sense of the problems in past texts that you are seeking to address and the approach you are taking.

After consulting with some other folks (at a high level of generality/not breaking confidentiality rules), we wanted to share some follow up ideas. Before getting into the details, we would like to add our voice to the House and Senate Members and outside groups urging USTR not to move forward with the draft IPEF digital text as-is. We understand that USTR might have aimed to table a digital chapter opening offer text for the March negotiating round. But once text is submitted, it becomes a formal U.S. position about which members of Congress and others will be asked to comment. Obviously, some bits are not controversial – like digital contracts, signatures, etc. But with respect to the provisions we discussed, we urge you to hold on submitting text. And ask that you please engage in further consultations with an eye to developing text that has broad support from the Members engaged in developing the U.S. digital governance policies the president called for in the SOTU and the outside groups that support the president's views on tech anti-monopoly, algorithmic transparency/accountability, consumer privacy and worker protections.

First, on the non-discriminatory treatment provision. How you described its scope is dramatically different than how most people understand those terms. We like your vision for

what such a provision should do versus the conflicts that we think the provision a la USMCA Art 19.4 and the USMCA definition of “digital product” could cause. This gap could be closed by clarifying both the definition and the language of the provision to make 100% clear that it only does what you described your intent to be:

The core non-discrimination provision using the KORUS language that differentiates between de facto and de jure discrimination as a base text

2. Neither Party may accord less favorable treatment to some digital products ~~than it accords to other like digital products~~

(a) ~~than it accords to other like digital products~~ on the basis that:

(i) the digital products receiving less favorable treatment are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in the territory of the other Party, or

(ii) the author, performer, producer, developer, distributor, or owner of such digital products is a person of the other Party; or

(b) with the objective or predominant intent to ~~otherwise~~ afford protection to other like digital products that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its territory.

(3) For greater certainty:

(a) a Party has not violated its obligations under this agreement merely because a Party's treatment that is the same for domestic digital products and other like digital products may result in differential effects on other Parties' digital products relative to the digital products “that are created, produced, published, stored, transmitted, contracted for, commissioned, or first made available on commercial terms in its territory or whose author, performer, producer, developer, distributor, or owner is a person of the another Party, and

(b) this provision does not apply to services, including services associated with digital products or online platforms .”

The definition of digital product using the USMCA language as the base text:

**Digital product** means a computer program, text, video, image, sound recording, or other product that is digitally encoded, produced for commercial sale, and is transmitted electronically. For greater certainty, digital product does not include services or functions provided by an online platform nor a digitized representation of a financial instrument, including money.

On the data flows and computing facility location provisions, and the exceptions thereto... we were happy to hear that you wanted to rebalance that away from absolute or near-absolute limits on government oversight. And we were interested in your ideas for who to do so. Recognizing that we have not seen the text, we are hearing from people who have reviewed it that in their views, the current language does not achieve what sounds like a goal on which we all agree – preserving policy space.

Finally, on the source code provision... Very glad that you are still thinking about how to make that compatible with the prescreening and other algorithmic transparency tenets at the heart of the administration's Blueprint for an AI Bill of Rights and the many civil rights, criminal justice reform and other bills relying on such methodologies. We would like to reiterate the point in the memo from January: IPEF simply should not include such a provision at all. Traditionally, U.S. pacts did not have secrecy guarantees for source code and algorithms. Most other countries' pacts still do not include such terms. A forthcoming academic paper on regulatory capture and digital trade provides a compelling explanation of how this and other extreme terms got inserted into TPP and USMCA. WTO TRIPS Art. 30 already requires all WTO countries to provide protections for firms' undisclosed information and for data submitted to government authorities for regulatory purposes. So there simply is no basis for special additional secrecy guarantees for Big Tech. Plus, if the concern is that specific foreign governments or firms might steal U.S. innovations, then the remedy is *action* against the suspect government/firms using the stolen technology. Establishing another set of secrecy obligations on paper is not likely to change the conduct of countries willing to break the existing rules. But IPEF terms would not only bind foreign governments, but also the U.S. government.

Thanks again for meeting and I look forward to continuing this important conversation. I truly appreciate that USTR is looking to improve these trade-pact terms!!

Yours, Lori (and thanks and all best from Daniel too)

Lori Wallach

Director, Rethink Trade at American Economic Liberties Project

**EXEMPTION 6** [RethinkTrade.org](https://RethinkTrade.org) || Twitter @WallachLori || Skype lori\_wallach

## RE: Lori Wallach/ Heather Call

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**To:** Taylor Buck [REDACTED]@rethinktrade.org>  
**Cc:** "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>  
**Date:** Thu, 23 Feb 2023 10:58:57 -0500

Looping in Keziah who now handles Heather's schedule.

---

**From:** Taylor Buck [REDACTED]@rethinktrade.org>  
**Sent:** Thursday, February 23, 2023 10:54 AM  
**To:** Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>  
**Subject:** [EXTERNAL] Re: Lori Wallach/ Heather Call

Hi Matthew, just wanted to bump this in your inbox and see if Heather might have any times next week to schedule this?

Thanks,  
Taylor

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---

**From:** Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>  
**Sent:** Monday, February 13, 2023 8:15:01 PM  
**To:** Taylor Buck [REDACTED]@rethinktrade.org>  
**Subject:** Automatic reply: Lori Wallach/ Heather Call

I'm currently away from the office. For all immediate scheduling matters please email [Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov) . Thank you!

## [EXTERNAL] RE: Stakeholder session

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Fri, 24 Feb 2023 10:28:28 -0500

Thanks, Ethan.

---

**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** Friday, February 24, 2023 10:06 AM  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Subject:** Stakeholder session

Hi Melina,

I wanted to make you aware of this listening session.

[USTR to Hold Stakeholder IPEF Listening Session for Second Negotiating Round | United States Trade Representative](#)

Beest,

Ethan Holmes  
Senior Agricultural Policy Advisor/ Director of Private Sector Engagement  
Office of the United States Trade Representative  
Executive Office of the President

**EXEMPTION 6**



## Re: [EXTERNAL] Letter from 40 EU and US groups re: IRA implementation/transatlantic sustainable trade

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**From:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**To:** Melinda St. Louis <mstlouis@citizen.org>, "Wedding, Timothy J. EOP/USTR" <timothy\_j\_wedding@ustr.eop.gov>  
**Date:** Mon, 27 Feb 2023 09:46:41 -0500  
**Attachments** US-EU-IRA-CPC-letter-Feb-2023.pdf (105.88 kB)

:

Hi Melinda ,

Adding in Tim who is acting AUSTR now that has retired.

EH

Sent from my iPhone

On Feb 27, 2023, at 9:41 AM, Melinda St. Louis <mstlouis@citizen.org> wrote:

Dear Ethan and Dan,

Please find attached a letter signed by 40 organizations from both sides of the Atlantic, including the Sierra Club, Natural Resources Defense Council, 350.org, and Earthjustice, that urges the EU to refrain from challenging the IRA with trade instruments and calls on the U.S. and EU to commit to a [Climate Peace Clause](#) to protect climate policies around the world from trade disputes, as well as to make good on climate financing and green technology transfer to countries in the Global South.

We would appreciate it if you could share with colleagues at USTR working on the TTC.

Warm regards,  
Melinda

**Melinda St. Louis | Director**  
Public Citizen's Global Trade Watch  
1600 20<sup>th</sup> Street NW, Washington, DC 20009  
TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)  
*pronouns: she/her*

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**PUBLIC CITIZEN** **50**  
YEARS

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February 27, 2023

To: U.S.-EU Trade and Technology Council<sup>1</sup>

At the most recent meeting of the U.S.-EU Trade and Technology Council, the Global Trade Working Group announced its intent to embark on a transatlantic sustainable trade initiative. The undersigned organizations, representing a broad range of civil society, labor, environment, development and community-based organizations throughout the European Union and United States, urge our governments to ensure that any such transatlantic sustainable trade initiative recognize that the climate imperative requires a rethink of trade rules that were written before governments committed to take action on climate change.

In August 2022, the United States passed the Inflation Reduction Act (IRA), a sweeping package that includes historic investments to boost manufacturing in the clean energy economy. While the final text of the bill was far from the comprehensive legislation needed to address the urgent climate crisis, it was the result of a difficult compromise negotiated in a narrow but historic window of political opportunity and is a critical step that the U.S. has taken to meet its climate commitments.

However, the European Union claims that the structure and the domestic content requirements of tax incentives for electric vehicle, electric battery, and renewable energy production offered through the IRA violate World Trade Organization (WTO) rules. And it has repeatedly threatened to refer the matter to the WTO Dispute Settlement Body, attempting to force the U.S. to change this law. The EU even publicly complained about the incentives before the bill had passed, potentially threatening passage of the important legislation, which passed by the narrowest of margins.

Time is running out to meet our climate commitments. Investments in green jobs and production of green products will be needed to usher in the clean energy transition the world needs. Rather than threatening the United States based on outdated trade rules or pushing for more trade agreements, the EU should increase its efforts to pursue a genuine ecological and fair industrial policy for workers and adapt the rules to accelerate a just transition. Recent announcements from the European Commission and national governments are a hopeful sign that this path is now being pursued more vigorously.

**As part of any EU-US transatlantic sustainable trade initiative, we urge the EU to refrain from challenging the IRA with trade instruments. And we call on the U.S. and EU to commit to a Climate Peace Clause to protect climate policies around the world from trade disputes, as well as to make good on climate financing and green technology transfer to countries in the Global South.**

As advanced economies and major current and historic emitters of greenhouse gasses, it would be a powerful step for the U.S. and EU to agree to a Climate Peace Clause – a binding commitment by these governments to refrain from using dispute settlement mechanisms in the WTO or other trade and investment agreements to challenge each other's climate policies. Not only should the EU refrain from using trade rules to challenge the IRA, but both should commit to refraining from challenging other countries' policies meant to hasten the green transition. This would set an example and create the much-

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<sup>1</sup> Cc: European Commission Executive Vice-President Margrethe Vestager  
European Commission Executive Vice-President Valdis Dombrovskis  
U.S. Secretary of State Antony Blinken  
U.S. Secretary of Commerce Gina Raimondo  
U.S. Trade Representative Katherine Tai

needed space for governments to adopt and maintain the climate policies needed to create green jobs and meet their commitments under the Paris Climate Agreement.

Such an agreement between these two powers must also include climate financing for countries in the Global South and the sharing of green technologies, as [outlined](#) in the United Nations Framework Convention on Climate Change and the Paris Agreement, to support/contribute to climate solutions that are truly sustainable and equitable for all. This will be necessary to support the clean energy transition in countries that cannot afford similar subsidy-based incentives.

A true transatlantic collaboration to address catastrophic climate change, and related global social, health, and biodiversity crises, will entail supporting – rather than undermining – green industrial policies on both sides of the Atlantic. Further, we must work together to meet commitments for financial support and technological transfer to developing countries and to transform inequitable global structures in order to facilitate a just transition for all.

Sincerely,

1. Anders Handeln	Austria	23. 350.org	USA
2. ACV-CSC	Belgium	24. ActionAid USA	USA
3. CNCD-11.11.11	Belgium	25. Earthjustice	USA
4. Carbon Market Watch	Belgium	26. Foreign Policy for America	USA
5. Corporate Europe Observatory	EU	27. Global Exchange	USA
6. European Trade Justice Coalition, formerly Seattle to Brussels Network	EU	28. Institute for Agriculture and Trade Policy	USA
7. Aitec	France	29. International Center for Technology Assessment	USA
8. Veblen Institute	France	30. Justice Is Global	USA
9. Berliner Wassertisch	Germany	31. Natural Resources Defense Council	USA
10. PowerShift	Germany	32. Network Lobby for Catholic Social Justice	USA
11. Naturefriends	Greece	33. Our Revolution	USA
12. Védegylet Egyesület	Hungary	34. Pax Christi USA	USA
13. Fairwatch	Italy	35. People's Action	USA
14. Mouvement Ecologique	Luxembourg	36. Presbyterian Church	USA
15. Centre for Research on Multi-national Corporations (SOMO)	Netherlands	37. Public Citizen	USA
16. Transnational Institute	Netherlands	38. Sierra Club	USA
17. Umanotera, Slovenian Foundation for Sustainable Development	Slovenia	39. Sisters of Mercy of the Americas Justice Team	USA
18. Confederación General del Trabajo	Spain	40. Trade Justice Education Fund	USA
19. STEILAS	Spain	41. United Church of Christ, Justice and Local Church Ministries	USA
20. Confederacion Intersindical	Spain		
21. Ecologistas en Acción	Spain		
22. Global Justice Now	UK		

# [EXTERNAL] Re: Scheduling meeting for Lori Wallach with Heather Hurlburt

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**From:** Taylor Buck [REDACTED]@rethinktrade.org  
**To:** "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>  
**Date:** Wed, 01 Mar 2023 10:23:50 -0500

11:30am Friday would be great, thank you! Here is a Zoom link for the meeting:

ReThink Trade is inviting you to a scheduled Zoom meeting.

Topic: Lori/Heather

Time: Mar 3, 2023 11:30 AM Eastern Time (US and Canada)

Join Zoom Meeting

**EXEMPTION 6** [REDACTED]

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

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

EXEMPTION 6

Thanks for your help coordinating!

Taylor

---

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

**Date:** Tuesday, February 28, 2023 at 5:37 PM

**To:** Taylor Buck [EXEMPTION 6]@rethinktrade.org>

**Subject:** RE: Scheduling meeting for Lori Wallach with Heather Hurlburt

I could make 11:30am on Friday work for Heather!

---

**From:** Taylor Buck [EXEMPTION 6]@rethinktrade.org>

**Sent:** Tuesday, February 28, 2023 2:19 PM

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

**Subject:** [EXTERNAL] Re: Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Keziah, are there possibly any slots available earlier this week? Lori is meeting with a funder during that slot, I can make it work if needed but if there are any other options that would be preferable.

Thanks,

Taylor

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Date:** Tuesday, February 28, 2023 at 11:44 AM  
**To:** Taylor Buck EXEMPTION 6 [rethinktrade.org](mailto:taylor@rethinktrade.org)>  
**Subject:** RE: Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Taylor,

Is Lori available this Friday between 1:30 – 3pm?

Best,  
Keziah

---

**From:** Taylor Buck EXEMPTION 6 [rethinktrade.org](mailto:taylor@rethinktrade.org)>  
**Sent:** Monday, February 27, 2023 3:26 PM  
**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Re: Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Keziah,

No worries, thanks for getting back to me. Lori said she and Heather chatted over Signal this weekend and Heather suggested mid-week this week, would there be any times that worked then? The meeting had originally been set for two weeks ago but had to be moved so Lori would like not to wait until the 13<sup>th</sup>. I can make any time that works for her work for Lori.

Thanks,  
Taylor

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Date:** Friday, February 24, 2023 at 3:31 PM

To: Taylor Buck [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
Cc: Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
Subject: RE: Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Taylor,

Thank you for circling back! Sorry it's taking me a minute to pin down some good times for them to connect! Heather will be traveling for the better part of the next couple of weeks.

Perhaps we can look to the week of March 13<sup>th</sup>? What windows would work best for Lori?

Best,  
Keziah

---

**From:** Taylor Buck [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Sent:** Thursday, February 23, 2023 12:08 PM  
**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Re: Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Keziah, just wanted to circle back and see if there are any times that could work for Heather?

Thanks,  
Taylor

---

**From:** Taylor Buck [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Date:** Tuesday, February 21, 2023 at 2:32 PM  
**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** Re: Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Keziah, no trouble and thanks for letting me know! Are there are slots that look like they could work this week?



Thanks,  
Taylor

Taylor Buck | Program Associate, Rethink Trade  
American Economic Liberties Project | EXEMPTION 6 @economicliberties.us

[Website](#) | [Facebook](#) | [Twitter](#)

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Date:** Wednesday, February 15, 2023 at 12:59 PM  
**To:** Taylor Buck EXEMPTION 6 [rethinktrade.org](http://rethinktrade.org)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** RE: Scheduling meeting for Lori Wallach with Heather Hurlburt

Thanks, Angelica!

Hello Taylor,

Lovely to meet you. With apologies, next week's schedule is still in flux given some unexpected travel updates for Heather. Can I circle back next week to lock in a good time for Lori and Heather to connect post-travel?

Best,  
Keziah

---

**From:** Taylor Buck EXEMPTION 6 [rethinktrade.org](http://rethinktrade.org)>  
**Sent:** Wednesday, February 15, 2023 12:13 PM  
**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Re: Scheduling meeting for Lori Wallach with Heather Hurlburt

Thank you Angelica! Keziah, our office is closed on Monday 2/20, but Lori's schedule is otherwise fairly open next week and she can be flexible to meet whenever works best.

Thanks,

Taylor

---

**From:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>

**Date:** Tuesday, February 14, 2023 at 8:17 PM

**To:** Taylor Buck EXEMPTION 6 [rethinktrade.org](mailto:rethinktrade.org)>

**Cc:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

**Subject:** RE: Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Taylor,

Heather's departing tomorrow to join Ambassador Tai in Germany so, unfortunately, she is not available to meet this week. We'd be happy to find a time for Lori and Heather to connect upon her return next week. Copied here please meet my colleague Keziah Clarke who will be happy to work with your team to get something on the schedule.

Thanks so much,

Angelica

---

**From:** Taylor Buck EXEMPTION 6 [rethinktrade.org](mailto:rethinktrade.org)>

**Sent:** Tuesday, February 14, 2023 7:26 PM

**To:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>

**Subject:** [EXTERNAL] Scheduling meeting for Lori Wallach with Heather Hurlburt

Hi Angelica, I've been talking with Matthew about setting up a meeting for Lori Wallach with Heather this week. He wasn't sure if she would be joining the Ambassador on her trip, and I just received a notice that he's out of the office. If Heather did not end up on the trip, could you please let me know if there are any times Thursday or Friday for a meeting that would work?

Thanks,  
Taylor

**Taylor Buck** | Program Associate, Rethink Trade  
American Economic Liberties Project | **EXEMPTION 6** | [economicliberties.us](http://economicliberties.us)

[Website](#) | [Facebook](#) | [Twitter](#)

## [EXTERNAL] RE: Run of Show for Listening Session

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**From:** Lori Wallach [EXEMPTION 6]@rethinktrade.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Thu, 02 Mar 2023 18:50:34 -0500

Hi Ethan – Daniel Rangel will be speaking for Rethink Trade rather than me. Thx, Lori

---

**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** Thursday, March 2, 2023 6:25 PM  
**To:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Subject:** Run of Show for Listening Session

Greetings,

You have indicated that you would like to speak during tomorrow IPEF listening session. Please find the Run of Show located below.

### Run of Show:

- Brief welcome to the group.
- Sarah Ellerman provides brief comments
- Sharon Yuan provides brief comments
- Participants present for 3-5 minutes
  - Kim Yaeger – CSI
  - Lisa Schroeter – DOW
  - Ken Monhan – NAM
  - Michael Mullen- Express Association
  - Mattea Mrkusic- Evergreen Action
  - Arthur Stramoulis – Citizens Trade
  - Robert Longer- CWA
  - Joseph Whitlock – BSA
  - Brian Scarpelli -APP ASSOCIATION
  - Kumar Deep -ITI COUNCIL
  - Sanya Smith- Third World Network
  - Lori Wallach- ReThink Trade
  - Debra Christine – TIFA Foundation
  - Christine Bliss -CSI
  - Sarah Grace Spurgin – Public Citizen
  - Ilan Solomon- Solomon Strategy
  - Calvin Manduna- Institute for Agriculture and Trade Policy
  - Spencer Nelson- GLJ ILRF

- Janet Cook- Austin Tan Cerca de la Frontera
- Charles Freeman – US Chamber of Commerce
- Helen Biechel- International Trade Education Squad - Park Slope Food Coop
- Jane Drake-Brockman- Australian Services Roundtable
- Elizabeth Kwan - Canadian Labour Congress

Best

Ethan Holmes

Senior Agricultural Policy Advisor/ Director of Private Sector Engagement

Office of the United States Trade Representative

Executive Office of the President

**EXEMPTION 6**

## [EXTERNAL] RE: Listening Session

---

**From:** Melanie Foley [EXEMPTION 6@citizen.org](mailto:EXEMPTION 6@citizen.org)  
**To:** "Holmes, Ethan M. EOP/USTR" <[ethan.m.holmes@ustr.eop.gov](mailto:ethan.m.holmes@ustr.eop.gov)>  
**Date:** Thu, 02 Mar 2023 16:37:41 -0500

Yes please, thanks!

Melanie

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Thursday, March 2, 2023 4:35 PM  
**To:** Melanie Foley [EXEMPTION 6@citizen.org](mailto:EXEMPTION 6@citizen.org)  
**Subject:** RE: Listening Session

Can I put you down for an intervention?

---

**From:** Melanie Foley [EXEMPTION 6@citizen.org](mailto:EXEMPTION 6@citizen.org)  
**Sent:** Thursday, March 2, 2023 3:59 PM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Listening Session

Hi Ethan,

Thanks for reaching out. I am planning to attend, thanks for the reminder on registration. I also know of several Indonesian civil society groups who will be going as well.

Thanks,  
Melanie

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Thursday, March 2, 2023 2:20 PM  
**To:** Melanie Foley [EXEMPTION 6@citizen.org](mailto:EXEMPTION 6@citizen.org)  
**Subject:** Listening Session

Hi Melanie-

Are you planning on traveling to Bali for the round? I wanted to make sure you saw the listening session during the round, we have not had a lot of civil service groups express interest to attend yet.

**Bali In-Person Stakeholder Listening Session:**

**Event details:**

*Date: Friday, March 17, 2023*

*Time: 0900-1300*

*Venue: Bali Nusa Dua Convention Center*

**Registration:**

Registration of *all participants* must be confirmed via the following email addresses: [kseap.d7@ekon.go.id](mailto:kseap.d7@ekon.go.id); [IPEF@ustr.eop.gov](mailto:IPEF@ustr.eop.gov); [uscommerceipef@trade.gov](mailto:uscommerceipef@trade.gov) In the email subject line, please note "Bali Stakeholder Event."

Registrations close **Friday, 10 March. Please indicate whether you are interested in delivering a short intervention/ presentation at the event (the time permitted will depend on the level of interest).**

###

Ethan Holmes  
Senior Agricultural Policy Advisor/ Director of Private Sector Engagement  
Office of the United States Trade Representative  
Executive Office of the President

**EXEMPTION 6**

## [EXTERNAL] FW:IPEF virtual Listening Session

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**From:** Daniel Rangel [REDACTED] rethinktrade.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Fri, 03 Mar 2023 08:42:05 -0500

Hi Ethan,

I hope you are well. I wanted to let you know that Lori asked me to represent Rethink Trade for today's session. I got an email with a zoom link because I was already planning to attend the session just to listen, but I hope that this one is habilitated to let me speak.

Please let me know if there's something else I should do.

Thanks,

**Daniel Rangel**

Research Director, Rethink Trade at American Economic Liberties Project  
[REDACTED] [RethinkTrade.org](https://rethinktrade.org) | Mobile: [REDACTED] | Twitter @DanielRangelJ

---

**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** 03 March 2023 00:25  
**To:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Subject:** Run of Show for Listening Session

Greetings,

You have indicated that you would like to speak during tomorrow IPEF listening session. Please fine the Run of Show located below.

Run of Show:

1. Brief welcome to the group.
2. Sarah Ellerman provides brief comments
3. Sharon Yuan provides brief comments
4. Participants present for 3-5 minutes



1. Kim Yaeger – CSI
2. Lisa Schroeter – DOW
3. Ken Monhan – NAM
4. Michael Mullen- Express Association
5. Mattea Mrkusic- Evergreen Action
6. Arthur Stramoulis – Citizens Trade
7. Robert Longer- CWA
8. Joseph Whitlock – BSA
9. Brian Scarpelli -APP ASSOCIATION
10. Kumar Deep -ITI COUNCIL
11. Sanya Smith- Third World Network
12. Lori Wallach- ReThink Trade
13. Debra Christine – TIFA Foundation
14. Christine Bliss -CSI
15. Sarah Grace Spurgin – Public Citizen
16. Ilan Solomon- Solomon Strategy
17. Calvin Manduna- Institute for Agriculture and Trade Policy
18. Spencer Nelson- GLJ ILRF
19. Janet Cook- Austin Tan Cerca de la Frontera
20. Charles Freeman – US Chamber of Commerce
21. Helen Biechel- International Trade Education Squad - Park Slope Food Coop
22. Jane Drake-Brockman- Australian Services Roundtable
23. Elizabeth Kwan - Canadian Labour Congress

Best

Ethan Holmes  
Senior Agricultural Policy Advisor/ Director of Private Sector Engagement  
Office of the United States Trade Representative  
Executive Office of the President

**EXEMPTION 6**

## [EXTERNAL] Letter to POTUS: IPEF digital trade threats to privacy and data security

---

**From:** Lori Wallach [REDACTED]@rethinktrade.org>  
:  
**To:** "Tai, Katherine C. EOP/USTR" [REDACTED]@ustr.eop.gov>, "Hurlburt, Heather F. EOP/USTR" <heather.f.hurlburt@ustr.eop.gov>, "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Fri, 10 Mar 2023 17:44:59 -0500

*[PDF with letterhead of groups available, but did not attach to get through filters]*

The Honorable Joseph R. Biden  
President of the United States  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

March 10, 2023

Dear President Biden:

As diverse organizations working to ensure digital privacy protection and data security, we write to express concern about “digital trade” negotiations related to the proposed Indo-Pacific Economic Framework (IPEF). It is essential that digital trade rules do not undermine Congress’s ability to protect online privacy or data security. That is why we urge you not to replicate the Big-Tech-favored terms that were slipped into the U.S.-Mexico-Canada Agreement (USMCA) and the Trans-Pacific Partnership (TPP) that cede control of our personal data to firms, including rights to move, process, and store personal data wherever they choose.

We appreciate your comments in your State of the Union address underscoring that “it’s time to pass bipartisan legislation to stop Big Tech from collecting personal data on kids and teenagers online, ban targeted advertising to children, and impose stricter limits on the personal data that companies collect on all of us.” Our organizations have consistently fought for these very goals, supporting the critical U.S. state and national initiatives needed to allow the United States to catch up to, and surpass, the online privacy protections people in other countries enjoy.

As your U.S. Trade Representative, Ambassador Katherine Tai, noted in her 2021 speech on digital trade, a new approach is necessary. However, we understand from policymakers and others who have reviewed the draft IPEF digital trade text circulated in February that it

includes problematic terms that provide Big Tech firms control of our personal data and strictly limit government action to protect our fundamental rights. We know that Big Tech companies are advocating for an approach to digital trade that would derail the online privacy initiatives coming from Congress and your administration.<sup>[1]</sup>

In effect, these interests are promoting a form of international preemption. Their goal is to use closed-door “trade” negotiations to secure binding international “digital trade” rules that limit, if not outright forbid, governments from enacting or enforcing domestic policies to counter Big Tech privacy abuses and online surveillance. In fact, many of these rules have nothing to do with trade.

Rather, they would establish new binding legal restrictions on the U.S. government’s ability to regulate what tech firms can do with Americans’ personal data. Such “digital trade” terms are a stealthy backdoor effort to derail necessary digital governance initiatives here and around the world. Until the TPP’s E-Commerce Chapter and then the USMCA, U.S. trade pacts with digital rules simply did not include any rules on data flows and the location of computing facilities, much less the extreme guarantees established in USMCA Article 19.11 (Cross-Border Transfer of Information by Electronic Means) and Article 19.12 (Location of Computing Facilities).

The goals and terms of policies like the American Data Privacy and Protection Act and My Body, My Data Act of 2022, or similar legislation, could be undermined by these rules. Firms can simply evade obligations to eliminate private data per users’ requests or minimize collection by transferring data to another firm in a jurisdiction where U.S. law enforcement cannot reach. Offshore processors, similarly, would be able to sell data onward to firms located in a country where no protections apply. Yet attempts by Congress or regulatory agencies to address these issues through legislation or rulemaking likely would conflict with the USMCA-style rules prohibiting government regulation of data that industry seeks for the IPEF and other pacts.

These terms would also directly forbid security initiatives such as the Protecting Americans’ Data From Foreign Surveillance Act. This bipartisan bill would enact export controls on transferring certain personal data offshore when it threatens U.S. national security. Only certain countries would be eligible to receive Americans’ personal data without being subject to controls and flows to some nations would be wholly banned, both of which violate the USMCA-style rules sought for IPEF. The industry-favored rules would also forbid proposals to require sensitive infrastructure data to be held on U.S. servers and various proposals to limit flows of Americans’ data to countries where it would likely be rendered insecure or misused, such as China.

We recognize that data flows are critical for the internet’s function. However, trade pacts must not include terms that limit government regulation of data flows related to privacy protections or data security. In addition, trade pacts must provide policy space and include specific exceptions for government action to protect privacy and include carveouts that

exclude from the rules especially sensitive types of data. We understand that the draft IPEF digital text does not include these essential safeguards. We understand that the exception language is not broad enough to safeguard the policy space needed for essential digital governance policies and that it replicates controversial terms from the General Agreement on Trade and Tariffs' (GATT) general exceptions. (These GATT exceptions have failed in all but two of 48 attempted uses, so this language cannot be relied upon to provide meaningful exceptions to digital trade rules otherwise forbidding government regulation.)

Given the draft U.S. IPEF digital trade text would create untenable conflicts with privacy and data security policies being promoted by your administration and Congress, we urge you not to submit this text and instead to work with privacy advocates in Congress and outside to create IPEF proposals that are consistent with the public interest.

Finally, that such terms would be established through closed-door international negotiations is extremely troubling. We join the hundreds of U.S. organizations that have urged the administration to open the process of these negotiations. Everyone who will live with the results should be able to see the U.S. digital proposals for IPEF and see the drafts of the IPEF digital chapter as talks proceed. That 500 official U.S. trade advisors who mainly represent corporate interests have access to the draft IPEF digital text, yet the leading U.S. organizations advocating for online privacy and data security must rely on the broad characterizations from policymakers and others under confidentiality constraints is unacceptable.

We want to work with you, Mr. President, to deliver the privacy protections you spotlighted in your State of the Union speech. We are relying on you to ensure that the IPEF and other trade pacts do not undermine our common online privacy goals.

Sincerely,

American Economic Liberties Project  
Center for Digital Democracy  
Center for Economic Justice  
Common Sense Media  
Consumer Action  
Consumer Federation of America  
Demand Progress Education Fund  
The Electronic Privacy Information Center (EPIC)  
Fairplay  
Fight for the Future  
The Greenlining Institute (GLI)  
National Consumers League  
NETWORK Lobby for Catholic Social Justice  
Open MIC (Open Media and Information Companies Initiative)  
Public Citizen

Public Knowledge  
Rethink Trade  
Trade Justice Education Fund

cc:  
Secretary of Commerce Gina Raimondo  
U.S. Trade Representative Katherine Tai  
National Economic Council Director Lael Brainard  
National Security Advisor Jake Sullivan

**Lori Wallach**

Director, Rethink Trade at American Economic Liberties Project

**EXEMPTION 6** [RethinkTrade.org](https://rethinktrade.org) || Twitter [@WallachLori](https://twitter.com/WallachLori) || Skype [lori\\_wallach](https://www.skype.com/people/lori_wallach)

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<sup>[1]</sup> 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>.

## [EXTERNAL] RE: Please give me a ring

---

**From:** Melanie Foley **EXEMPTION 6**@citizen.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Wed, 15 Mar 2023 22:56:57 -0400

Hi Ethan,

Maybe what you heard was actually about this protest earlier this week in Jakarta? I know of no future demonstrations planned.

<https://foto.tempo.co/read/104543/aksi-unjuk-rasa-tolak-perundingan-ipef-di-depan-kedubes-as>

<https://www.gatra.com/news-567537-nasional-koalisi-masyarakat-sipil-indonesia-tolak-us---ipef.html>

Best,

Melanie

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

**From:** Melanie Foley  
**Sent:** Wednesday, March 15, 2023 10:15 PM  
**To:** 'Holmes, Ethan M. EOP/USTR' <Ethan.M.Holmes@ustr.eop.gov>  
**Subject:** RE: Please give me a ring

Hi Ethan, I just tried you. You can reach me **EXEMPTION 6**

Thanks,

Melanie

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

**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** Wednesday, March 15, 2023 9:54 PM  
**To:** Melanie Foley **EXEMPTION 6**@citizen.org>  
**Subject:** Please give me a ring

Hi Melanie ,

Please give me a ring as soon as possible. **EXEMPTION 6**

EH

## [EXTERNAL] RE: IPEF Listening Session

---

**From:** Melanie Foley [EXEMPTION 6@citizen.org](mailto:EXEMPTION 6@citizen.org)  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Thu, 16 Mar 2023 04:34:54 -0400

Hi Ethan,

Thanks for sharing this information, and for noting that folks not on the list below will be able to speak at the end.

I wanted to flag that my colleague Benjamin would like to speak tomorrow:

Benjamin Alvero – SENTRO (Sentro ng mga Nagkakaisa at Progresibong Manggagawa / Center of United and Progressive Worker) and Trade Justice Pilipinas

Thanks,

Melanie Foley | Deputy Director

Public Citizen's Global Trade Watch

[EXEMPTION 6 | EXEMPTION 6@citizen.org](mailto:EXEMPTION 6@citizen.org)

[Website](#) | [Facebook](#) | [Twitter](#)

[Pronouns](#): she/her

---

**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** Monday, March 13, 2023 4:59 AM  
**To:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Subject:** IPEF Listening Session

Greetings,

You have been confirmed for the Stakeholder Listening Session of the IPEF Bali Round on March 17<sup>th</sup> from 9:00AM to 1:00PM. The session is located in the Bali Nusa Dua Convention Center (BNDCC) Building 2 in Legian Room 6 and 7. Please arrive by 8:45AM, as we will begin promptly by 9:00AM.

To enter, proceed through the security gate and through the double doors to the main patio, then proceed to the building on your right (building 2.) You will receive your credential in the entrance of the BNDCC 2. You must wear your credential at all times during your time on the BNDCC campus.

For those of you that indicated that you would like to speak during the IPEF listening session, please find the Run of Show and speaking order located below:

**Run of Show:**

Listeners: IPEF Delegation Chief Negotiators

- Brief welcome to the group from Indonesia
- Sarah Ellerman, USA CN Pillar I provides brief comments
- Sharon Yuan, USA CN Pillar II-IV provides brief comments
- Participants present for 3-5 minutes
  - **John Goyer**, U.S. Chamber of Commerce
  - **Hadri Sopri**, Amazon Web Services
  - **TBC**, Australian Services Roundtable
  - **Melanie Foley**, Public Citizen's Global Trade Watch
  - **Kim Yaeger**, Coalition of Services Industries
  - **Hien Nguyen**, Asia Pacific Forum on Women, Law, and Development (APWLD)
  - **Devi Ariyani**, Indonesia Services Dialogue Council
  - **Lin Neumann**, AmCham Indonesia
  - **Penny Burt**, Stripe
  - **Clark Jennings**, Crowell & Moring
  - **Richard Lomas**, Citi
  - **Sanya Reid Smith**, Third World Network
  - **Ambassador Soemadi Brotodiningrat**, Foreign Policy Community of Indonesia (FPCI)
  - **Rachimi Hertanti**, Transnational Institute
  - **Marthin Hadiwinata**, EKOMARIN - Ekologi Maritim Indonesia
  - **Lutfiyah Hanim**, FIAN Indonesia
  - **Olisias Gultom**, Sahita Institute (HINTS)
  - **Timer Manurung**, Auriga Nusantara
  - **Dr. Yose Rizal Damuri**, Centre for Strategic International Studies Indonesia (CSIS Indonesia)
  - **Budi Handoko**, Shipper
  - **Rahmat Maulana Sidik**, Indonesia for Global Justice (IGJ)
  - **Ufiya Amirah**, Udayana University
  - **Arieska Kurniawaty**, Bilaterals.org
  - **Salsabila Putri Noor Aziziah**, Solidaritas Perempuan (Women's Solidarity for Human Rights)



- Mrs Dewa Ayu Made Padmini, Aliansi Petani Indonesia (API)
- Eunice Huang, Google
- Saurabh Mishra, PT Indorama Polychem Indonesia
- KV Satyanarayana, PT. GMR Infrastructure Indonesia
- Pankaj Jain, Tata Motors, Indonesia
- Aayush Bagri, Oyo Rooms

Speaking order based on time of registration. If you do NOT see your name on this list, you will be able to speak at the end.

Sincerely,

Ethan Holmes

Senior Agricultural Policy Advisor/ Director of Private Sector Engagement

Office of the United States Trade Representative

Executive Office of the President

**EXEMPTION 6**

# [EXTERNAL] TACD Letter on Ending Trade Rules to Chill Regulatory Action

---

**From:** Sarah Grace Spurgin [EXEMPTION6@citizen.org](mailto:EXEMPTION6@citizen.org)  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <[elizabeth.v.baltzan@ustr.eop.gov](mailto:elizabeth.v.baltzan@ustr.eop.gov)>  
**Date:** Mon, 20 Mar 2023 06:18:39 -0400

*Dear Ms. Baltzan,*

*Please find this letter from the United States and European Union Co-Chairs of the Transatlantic Consumer Dialogue (TACD) urging trade negotiators not to use trade rules to chill regulatory action.*

*Regards,*

*TACD Secretariat*



The Honorable Katherine C. Tai  
Ambassador, United States Trade  
Representative  
600 17th Street NW  
Washington, D.C. 20006

Mr Valdis Dombrovskis  
Executive Vice-President, European  
Commissioner for Trade  
European Commission  
Rue de la Loi 200  
BE - 1049 Brussels

20 March 2023

**Re: It's time to stop using trade rules to chill regulatory action**

Dear Ambassador Tai and Executive Vice President Dombrovskis,

We write to you on behalf of leading consumer and digital rights organisations, members of the Transatlantic Consumer Dialogue (TACD), in the United States and Europe, to call on you not to use trade rules to chill regulatory action.

Indeed, this is a recurring pattern in our transatlantic relationship. After the U.S. passed the Inflation Reduction Act, the EU raised concerns by mentioning the possibility of launching a trade dispute. Now that the U.S. and EU have announced a possible solution to accommodate the EU's concerns, U.S. Big Tech companies and some senators have sent letters urging that the U.S. government should, in turn, take action against EU efforts to regulate the digital economy. They argue that EU laws such as the EU Digital Services Act (DSA) and the Digital Markets Act (DMA) are creating barriers to transatlantic trade.

Too often, trade rules are invoked to influence domestic policy making. In many cases, the objective is to weaken the regulatory ambition to better protect consumers. If we want to develop a strong transatlantic cooperation, this pattern must come to an end. TACD calls on you to stop threatening each other of trade retaliation or trade disputes whenever there are concerns over domestic regulations.

There are more transatlantic cooperation dialogues and task forces than we can count, so we urge you to instead use these channels to have in-depth discussions about these concerns and find solutions that do not come at the expense of consumer protection. This means that the U.S. government must not ask the EU to weaken the implementation of the DSA and the DMA, because this would mean that consumers would lose protection for the sake of business profits. We have seen this happen in the past when the U.S. pressured the EU into changing its food safety law as a tradeoff to launch the TTIP negotiations.

Voluntary cooperation between regulators can be positive for consumers. It should aim at enhancing the levels of consumer protection, not lowering them to the lowest common denominator. TACD is supportive of the work of the informal transatlantic consumer dialogue led by the FTC in the U.S. and the Directorate General for Justice and Consumers in the EU. Exchanging information about the problems faced by consumers and discussing together how they could be solved can make a difference in people's daily lives. We therefore call on you to focus your efforts on this type of cooperation.

Sincerely,

**EXEMPTION 6**  
[Redacted signature]

**Monique Goyens**  
Director General, BEUC  
European Co-Chair of TACD

**EXEMPTION 6**  
[Redacted signature]

**Edmund Mierzwinski**  
Senior Director, Consumer Programmes, U.S. PIRG  
U.S. Co-Chair of TACD

cc: Commerce Secretary Gina Raimondo,  
Federal Trade Commission Chair Lina Khan  
Executive Vice President Margrethe Vestager  
Commissioner Didier Reynders

# [EXTERNAL] TACD Letter on Ending Trade Rules to Chill Regulatory Action

---

**From:** Sarah Grace Spurgin EXEMPTION 6citizen.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Mon, 20 Mar 2023 06:18:45 -0400

*Dear Mr. Ethan,*

*Please find this letter from the United States and European Union Co-Chairs of the Transatlantic Consumer Dialogue (TACD) urging trade negotiators not to use trade rules to chill regulatory action.*

*Regards,*

*TACD Secretariat*



The Honorable Katherine C. Tai  
Ambassador, United States Trade  
Representative  
600 17th Street NW  
Washington, D.C. 20006

Mr Valdis Dombrovskis  
Executive Vice-President, European  
Commissioner for Trade  
European Commission  
Rue de la Loi 200  
BE - 1049 Brussels

20 March 2023

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Sincerely,

**EXEMPTION 6**

**Monique Goyens**  
Director General, BEUC  
European Co-Chair of TACD

**EXEMPTION 6**

**Edmund Mierzwinski**  
Senior Director, Consumer Programmes, U.S. PIRG  
U.S. Co-Chair of TACD

cc: Commerce Secretary Gina Raimondo,  
Federal Trade Commission Chair Lina Khan  
Executive Vice President Margrethe Vestager  
Commissioner Didier Reynders

## [EXTERNAL] Stakeholder listening in Nairobi?

---

**From:** Melanie Foley [EXEMPTION 6](#)@citizen.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Wed, 29 Mar 2023 13:56:09 -0400

Hi Ethan,

Hope you are well. I'm reaching out because some of our partners in Kenyan civil society are interested in meeting with negotiators and sharing their views during the upcoming US-Kenya STIP round in Nairobi.

Do you know if there will be a stakeholder listening session during the round?

Thanks,

**Melanie Foley | Deputy Director**

Public Citizen's Global Trade Watch

[EXEMPTION 6](#) | [EXEMPTION 6](#)@citizen.org

[Website](#) | [Facebook](#) | [Twitter](#)

Pronouns: she/her

## RE: Letter from nearly 200 state lawmakers from all 50 states on aligning trade policy and climate goals

---

**From:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Cc:** EXEMPTION 6 @ncelenviro.org, "Wolfe, Tommy C. EOP/USTR" <tommy.c.wolfe@ustr.eop.gov>  
**Bcc:** "Milton, Kelly K. EOP/USTR" <kelly\_k\_milton@ustr.eop.gov>  
**Date:** Thu, 30 Mar 2023 09:32:01 -0400

Thanks Melinda, received.

---

**From:** Melinda St. Louis <mstlouis@citizen.org>  
**Sent:** Thursday, March 30, 2023 6:46 AM  
**To:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Cc:** EXEMPTION 6 @ncelenviro.org  
**Subject:** [EXTERNAL] Letter from nearly 200 state lawmakers from all 50 states on aligning trade policy and climate goals

Hi Ethan,

Please find attached a letter signed by nearly 200 state legislators from all 50 states and two territories who are "heartened to see that the IRA includes historic incentives to boost domestic renewable manufacturing jobs" in their states" and are now urging the Biden administration to "align our trade policy and climate goals so that current and future efforts at the state or federal level are not vulnerable to attack through trade agreements" by proposing and championing "a climate peace clause, which would be a binding commitment among governments to refrain from using outdated trade rules to challenge other countries' climate policies."

The full text of the letter is below and I've attached a pdf that includes the signatures of all the state lawmakers.

I would appreciate it if you could share it with USTR Tai and others covering climate issues at USTR.

Warm regards,  
Melinda St. Louis, Public Citizen  
Ava Gallo, National Caucus of Environmental Legislators

*President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500*

cc: Katherine Tai, United States Trade Representative

Dear President Biden,

*As state legislators, we urge you to ensure renewable energy jobs in our states are no longer threatened by outdated rules at the World Trade Organization (WTO) and other trade and investment agreements. Our own state legislation, as well as the Inflation Reduction Act (IRA), are making great impacts in bringing clean energy jobs to our communities while addressing climate change. Recent threats against the IRA and ongoing litigation against states' climate policies are cause for great concern, and we ask you to respond by proposing and championing a moratorium on international dispute settlement trade challenges to climate policies, known as a climate peace clause.*

*For years, states have been modeling how to address climate change in a way that creates good, local, clean energy jobs. But such legislation from eight of our states was found to be in violation of WTO rules in 2019. It's critical that our states have the policy space needed to nurture and grow domestic industries - including renewable energy industries - in order to cultivate a manufacturing base.*

*Similarly, we are heartened to see that the IRA includes historic incentives to boost domestic renewable manufacturing jobs in many of our states. However, threats by the European Union and others to pursue litigation through the WTO and Free Trade Agreement rules are counterproductive and worrisome.*

*We ask your administration to align our trade policy and climate goals so that current and future efforts at the state or federal level are not vulnerable to attack through trade agreements. The urgency of the climate crisis demands that the U.S. propose and champion a climate peace clause, which would be a binding commitment among governments to refrain from using outdated trade rules to challenge other countries' climate policies. Commitment to a climate peace clause would help cement the U.S. as a global leader on climate and signal that trade rules should no longer be a barrier to a just, green transition.*

*Our communities need the investments in local clean energy jobs made possible by our state green energy policies and federal legislation like the IRA. Such laws must be implemented as intended, without delays or changes that erode promises to American workers.*

Sincerely,

*[full list of signatories in pdf attached]*





# NCEL

National Caucus of  
Environmental Legislators

March 20, 2023

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500

cc: Katherine Tai, United States Trade Representative

Dear President Biden,

As state legislators, we urge you to ensure renewable energy jobs in our states are no longer threatened by outdated rules at the World Trade Organization (WTO) and other trade and investment agreements. Our own state legislation, as well as the Inflation Reduction Act (IRA), are making great impacts in bringing clean energy jobs to our communities while addressing climate change. Recent threats against the IRA and ongoing litigation against states' climate policies are cause for great concern, and we ask you to respond by proposing and championing a moratorium on international dispute settlement trade challenges to climate policies, known as a climate peace clause.

For years, states have been modeling how to address climate change in a way that creates good, local, clean energy jobs. But such legislation from eight of our states was found to be in violation of WTO rules in 2019. It's critical that our states have the policy space needed to nurture and grow domestic industries - including renewable energy industries - in order to cultivate a manufacturing base.

Similarly, we are heartened to see that the IRA includes historic incentives to boost domestic renewable manufacturing jobs in many of our states. However, threats by the European Union and others to pursue litigation through the WTO and Free Trade Agreement rules are counterproductive and worrisome.

We ask your administration to align our trade policy and climate goals so that current and future efforts at the state or federal level are not vulnerable to attack through trade agreements. The urgency of the climate crisis demands that the U.S. propose and champion a climate peace clause, which would be a binding commitment among governments to refrain from using outdated trade rules to challenge other countries' climate policies. Commitment to a climate peace clause would help cement the U.S. as a global leader on climate and signal that trade rules should no longer be a barrier to a just, green transition.

Our communities need the investments in local clean energy jobs made possible by our state green energy policies and federal legislation like the IRA. Such laws must be implemented as intended, without delays or changes that erode promises to American workers.

Sincerely,

Montana Senator Andrea Olsen  
(MT-50)

Alabama Representative John Rogers  
(AL-52)

Alaska Senator Elvi Gray-Jackson  
(AK-G)

Arizona Representative Oscar De Los Santos (AZ-11)	Delaware Senator Stephanie Hansen (DE-10)
Arizona Representative Athena Salman (AZ-8)	Florida Representative Marie Woodson (FL-105)
Arizona Representative Judy Schwiebert (AZ-2)	Georgia Representative Karla Drenner (GA-85)
Arizona Representative Stephanie Stahl Hamilton (AZ-21)	Georgia Representative Becky Evans (GA-89)
Arizona Senator Juan Mendez (AZ-8)	Georgia Representative Kim Schofield (GA-63)
Arkansas Representative David Whitaker (AR-22)	Georgia Senator Nan Orrock (GA-36)
California Assembly Member Eduardo Garcia (CA-36)	Hawaii Representative Jeanne Kapela (HI-5)
California Assembly Member Buffy Wicks (CA-14)	Hawaii Representative Amy Perruso (HI-46)
California Senator Nancy Skinner (CA-9)	Hawaii Senator Mike Gabbard (HI-21)
Colorado Representative Cathy Kipp (CO-52)	Idaho Representative Ilana Rubel (ID-18)
Colorado Representative Karen McCormick (CO-11)	Idaho Senator Melissa Wintrow (ID-19)
Colorado Representative Brianna Titone (CO-27)	Illinois Representative Kelly Cassidy (IL-14)
Colorado Senator Lisa Cutter (CO-20)	Illinois Representative Ann Williams (IL-11)
Colorado Senator Sonya Jaquez Lewis (CO-17)	Illinois Senator Laura Fine (IL-9)
Connecticut Representative Lucy Dathan (CT-142)	Illinois Senator Rachel Ventura (IL-43)
Connecticut Representative Eleni Kavros DeGraw (CT-17)	Indiana Representative Matt Pierce (IN-61)
Connecticut Senator Bob Duff (CT-25)	Iowa Representative Charles Isenhardt (IA-72)
Connecticut Senator Julie Kushner (CT-24)	Iowa Representative Monica Kurth (IA-98)
Delaware Representative Cyndie Romer (DE-25)	Iowa Representative Art Staed (IA-80)

Iowa Senator Eric Giddens (IA-38)	Maryland Senator Joanne Benson (MD-24)
Iowa Senator Pam Jochum (IA-36)	Maryland Senator Brian Feldman (MD-15)
Kansas Representative Dan Osman (KS-48)	Maryland Senator Shelly Hettleman (MD-11)
Kentucky Representative Nima Kulkarni (KY-40)	Massachusetts Representative James Arena-DeRosa (MA-8th Middlesex)
Louisiana Representative Mandie Landry (LA-91)	Massachusetts Representative Brian Ashe (MA-2nd Hampden)
Maine Representative Poppy Arford (ME-101)	Massachusetts Representative Carmine Gentile (MA-13th Middlesex)
Maine Representative Lynn Copeland (ME-130)	Massachusetts Representative David LeBoeuf (MA-17th Worcester)
Maine Representative Janice Dodge (ME-39)	Massachusetts Representative Jack Lewis (MA-7th Middlesex)
Maine Representative Margaret O'Neil (ME-129)	Massachusetts Representative Joan Meschino (MA-3rd Plymouth)
Maine Representative Laurie Osher (ME-25)	Massachusetts Representative Steven Owens (MA-29th Middlesex)
Maine Representative Sophia Warren (ME-124)	Massachusetts Representative Angelo Puppolo (MA-12th Hampden)
Maine Senator Joe Baldacci (ME-9)	Massachusetts Representative Lindsay Sabadosa (MA-1st Hampshire)
Maine Senator Stacy Brenner (ME-30)	Massachusetts Representative Aaron Saunders (MA-7th Hampden)
Maine Senator Eloise Vitelli (ME-24)	Massachusetts Senator Cynthia Creem (MA-Norfolk and Middlesex)
Maryland Delegate Lorig Charkoudian (MD-20)	Massachusetts Senator Paul Mark (MA-Berkshire, Hampden, Franklin and Hampshire)
Maryland Delegate Bonnie Cullison (MD-19)	Michigan Representative Noah Arbit (MI-20)
Maryland Delegate Linda Foley (MD-15)	Michigan Representative Brenda Carter (MI-53)
Maryland Delegate Julie Palakovich Carr (MD-17)	Michigan Representative Betsy Coffia (MI-103)
Maryland Delegate Karen Simpson (MD-3)	Michigan Representative Kara Hope (MI-74)

Michigan Representative Jason Morgan (MI-23)	New Hampshire Representative David Preece (NH-17)
Michigan Representative Amos O'Neal (MI-94)	New Hampshire Representative Ellen Read (NH-10)
Michigan Representative Laurie Pohutsky (MI-17)	New Hampshire Representative Brian Sullivan (NH-1)
Michigan Representative Lori Stone (MI-13)	New Hampshire Senator Rebecca Perkins Kwoka (NH-21)
Minnesota Representative Rick Hansen (MN-53B)	New Hampshire Senator David Watters (NH-4)
Minnesota Representative Jerry Newton (MN- 35B)	New Jersey Senator Bob Smith (NJ-17)
Minnesota Senator Ann Rest (MN-43)	New Jersey Senator Andrew Zwicker (NJ-16)
Mississippi Senator Hillman Frazier (MS-27)	New Mexico Representative Angelica Rubio (NM-35)
Missouri Representative LaDonna Appelbaum (MO-71)	New Mexico Senator Bill Tallman (NM-18)
Montana Senator Willis Curdy (MT-49)	New York Assembly Member MaryJane Shimsky (NY-92)
Montana Senator Mary Ann Dunwell (MT-42)	New York Assembly Member Tony Simone (NY-75)
Nebraska Senator Megan Hunt (NE-8)	New York Senator Liz Krueger (NY-28)
Nevada Assembly Member Howard Watts (NV-15)	North Carolina Representative Eric Ager (NC-114)
New Hampshire Representative Donald Bouchard (NH-24)	North Carolina Representative John Autry (NC-100)
New Hampshire Representative Fred Davis (NH-3)	North Carolina Representative Mary Belk (NC-88)
New Hampshire Representative Sherry Dutzy (NH-6)	North Carolina Representative Kanika Brown (NC-71)
New Hampshire Representative Philip Jones (NH-3)	North Carolina Representative Pricey Harrison (NC-61)
New Hampshire Representative Jessica LaMontagne (NH-17)	North Carolina Representative Frances Jackson (NC-45)
New Hampshire Representative Maria Perez (NH-43)	North Carolina Representative Marcia Morey (NC-30)

North Carolina Representative Renee Price (NC-50)	Pennsylvania Representative Chris Pielli (PA-156)
North Carolina Representative Caleb Rudow (NC-116)	Pennsylvania Representative Christina Sappey (PA-158)
North Carolina Senator Julie Mayfield (NC-49)	Pennsylvania Representative Ben Waxman (PA-182)
North Carolina Senator Mujtaba Mohammed (NC-38)	Pennsylvania Senator Amanda Cappelletti (PA-17)
North Carolina Senator Natalie Murdock (NC-20)	Puerto Rico Senator William Villafane Ramos (PR-At-Large)
North Dakota Senator Tim Mathern (ND-11)	Rhode Island Representative Edith Ajello (RI-1)
Ohio Representative Daniel Troy (OH-23)	Rhode Island Representative Jose Batista (RI-12)
Oklahoma Representative Arturo Alonso Sandoval (OK-89)	Rhode Island Representative David Bennett (RI-20)
Oregon Representative Annessa Hartman (OR-40)	Rhode Island Representative Lauren Carson (RI-75)
Oregon Representative Zach Hudson (OR-49)	Rhode Island Representative Terri Cortvriend (RI-72)
Oregon Representative Khanh Pham (OR-46)	Rhode Island Representative Susan Donovan (RI-69)
Oregon Senator Michael Dembrow (OR-23)	Rhode Island Representative Arthur Handy (RI-18)
Oregon Senator Lew Frederick (OR-22)	Rhode Island Representative Joseph McNamara (RI-19)
Oregon Senator Jeff Golden (OR-3)	Rhode Island Representative Tina Spears (RI-36)
Pennsylvania Representative Tim Briggs (PA-149)	Rhode Island Representative Teresa Tanzi (RI-34)
Pennsylvania Representative Kyle Donahue (PA-113)	Rhode Island Senator Samuel Bell (RI-5)
Pennsylvania Representative Tarik Khan (PA-194)	Rhode Island Senator Alana DiMario (RI-36)
Pennsylvania Representative Jennifer O'Mara (PA-165)	Rhode Island Senator Victoria Gu (RI-38)
Pennsylvania Representative Danielle Otten (PA-155)	Rhode Island Senator Meghan Kallman (RI-15)

Rhode Island Senator Pamela Lauria (RI-32)	Vermont Senator Virginia Lyons (VT-15)
Rhode Island Senator Mark McKenney (RI-30)	Virgin Islands Senator Diane Capehart (VI-St. Croix)
Rhode Island Senator Ana Quezada (RI-2)	Virginia Delegate Elizabeth Bennett-Parker (VA-45)
South Carolina Representative Annie McDaniel (SC-41)	Virginia Delegate Elizabeth Guzman (VA-31)
South Dakota Representative Kameron Nelson (SD-10)	Virginia Delegate Kaye Kory (VA-38)
Tennessee Representative Vincent Dixie (TN-54)	Virginia Delegate Sam Rasoul (VA-11)
Texas Representative John Bryant (TX-114)	Virginia Senator Ghazala Hashmi (VA-10)
Texas Representative Lulu Flores (TX-51)	Washington Representative Beth Doglio (WA-22)
Texas Representative Vikki Goodwin (TX-47)	Washington Representative Jake Fey (WA-27)
Utah Representative Joel Briscoe (UT-24)	Washington Representative Joe Fitzgibbon (WA-34)
Utah Senator Nate Blouin (UT-13)	Washington Senator Jamie Pedersen (WA-43)
Vermont Representative Mollie Burke (VT-97)	Washington Senator Christine Rolfes (WA-23)
Vermont Representative Sara Coffey (VT-90)	Washington Senator Derek Stanford (WA-1)
Vermont Representative Edye Graning (VT-20)	Washington Senator Yasmin Trudeau (WA-27)
Vermont Representative Carol Ode (VT-35)	West Virginia Delegate Evan Hansen (WV-79)
Vermont Representative Avram Patt (VT-58)	West Virginia Delegate Kayla Young (WV-56)
Vermont Representative Monique Priestley (VT-60)	Wisconsin Representative Alex Joers (WI-79)
Vermont Representative Barbara Rachelson (VT-31)	Wisconsin Representative Melissa Ratcliff (WI-46)
Vermont Representative Larry Satcowitz (VT-63)	Wisconsin Representative Lisa Subeck (WI-78)

Wisconsin Senator Melissa Agard  
(WI-16)

Wisconsin Senator Chris Larson  
(WI-7)

Wyoming Representative Kenneth Chestek  
(WY-13)

## Re: [EXTERNAL] Re: Introductions and scheduling

---

**From:** Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**To:** "Clarke, Keziah E. EOP/USTR" <[keziah.e.clarke@ustr.eop.gov](mailto:keziah.e.clarke@ustr.eop.gov)>, "Hoeck, Matthew J. EOP/USTR" <[matthew.j.hoeck@ustr.eop.gov](mailto:matthew.j.hoeck@ustr.eop.gov)>  
**Cc:** Barry Lynn [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org), "Baltzan, Elizabeth V. EOP/USTR" <[elizabeth.v.baltzan@ustr.eop.gov](mailto:elizabeth.v.baltzan@ustr.eop.gov)>, "Annino, Angelica Z. EOP/USTR" <[angelica.z.annino@ustr.eop.gov](mailto:angelica.z.annino@ustr.eop.gov)>  
**Date:** Thu, 30 Mar 2023 10:15:04 -0400  
**Attachments** Speaking Event with Open Markets - June 15 proposed.pdf (166.77 kB)

:

Matthew and Keziah,

Thanks so much for speaking with us yesterday. As requested, we've attached a description of the event as well as a proposed run of show. Also pasted below.

Ashley

**EXEMPTION 6**

Event: *A Resilient World System: How US Trade Policy Can Make Us More Secure, Prosperous, and Equal*

Proposed Date: **Thursday, June 15, 2023**

Proposed Location: **National Press Club, 529 14th St NW, Washington, DC 20045**

**Overall Event Format:** Remarks and moderated Q&A with Ambassador Tai, followed by one or two panels with experts. (Likely moderator: *Financial Times* columnist and OMI board member Rana Foroohar)

**Topics:** The event will focus a series of discussions on how U.S. trade policy can:

- Promote economic and supply chain resilience in the U.S. and among our partners
- Democratize and diversify online communications platforms
- Reinforce antimonopoly principles and improve competition broadly

**Run of Show:**

- **Amb. Tai would give remarks and then sit down for a Q&A moderated by FT columnist Rana Foroohar (total estimated time: 45 minutes)**
- After that, Open Markets would convene one or two panels with experts to discuss and double down on some of the key points Amb Tai raises. (Amb Tai would be free to depart following her remarks and Q&A, but we wanted to share the additional content for USTR's awareness)



**Audience:** 80-100 attendees from civil society, law and foreign policy, staffers from Capitol Hill and the Biden administration, press.

**Press:** The event would be open to press. We would work with USTR on a desired press outreach plan.

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

**Sent:** Wednesday, March 29, 2023 10:19 AM

**To:** Ashley Woolheater **EXEMPTION 6**openmarketsinstitute.org>

**Cc:** Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>; Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>

**Subject:** Re: [EXTERNAL] Re: Introductions and scheduling

Just running 5min behind on another call but will join closer to 10:35am. Apologies!

Sent from my iPhone

On Mar 28, 2023, at 1:17 PM, Ashley Woolheater **EXEMPTION 6**openmarketsinstitute.org> wrote:

Hi all - I went ahead and shared a calendar invitation and zoom link with everyone. Looking forward to connecting tomorrow.

Ashley

**From:** Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>

**Sent:** Tuesday, March 28, 2023 12:33 PM

**To:** Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>; Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Ashley Woolheater

**EXEMPTION 6**openmarketsinstitute.org>

**Subject:** Re: Introductions and scheduling

Great. Will do. And thanks

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

**Sent:** Tuesday, March 28, 2023 12:23:05 PM

**To:** Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>; Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Ashley Woolheater

**EXEMPTION 6**openmarketsinstitute.org>

**Subject:** RE: Introductions and scheduling

Tomorrow at 10:30am works for me! Feel free to send a Zoom!

---

**From:** Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>

**Sent:** Tuesday, March 28, 2023 12:16 PM

**To:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@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>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Ashley Woolheater **EXEMPTION 6**openmarketsinstitute.org>

**Subject:** [EXTERNAL] Re: Introductions and scheduling

Hi All

Any chance you'd have time to talk this afternoon between 4 and 5?

Or tomorrow between 10 and 11 am?

Or Thursday after 3 pm?

Thanks much, and looking forward to it.

Barry

**EXEMPTION 6**

---

**From:** Barry Lynn [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Sent:** Friday, March 24, 2023 4:46 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Subject:** Re: Introductions and scheduling

Hi All

Ashley and I would be free to connect this coming Monday March 27 any time between 3 and 5 pm. Is there in a time in that window that works for you?

Or perhaps some time between 4 and 5 pm on Tuesday 3/28?

Thank you all, and until soon,

Barry

**EXEMPTION 6**

---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Sent:** Friday, March 24, 2023 2:06 PM  
**To:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Barry Lynn [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org); Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Subject:** Introductions and scheduling

Hi all. As promised, putting you on the same email chain to see what's possible in terms of scheduling an event for Ambassador Tai with the Open Markets Institute. On the chain we have Angelica, Matthew, and Keziah from our scheduling team, and Barry and Ashley from OMI.

Thank you!

Best,

Beth

## RE: Meeting to discuss trade and industrial policy at OMI

---

**From:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**To:** Audrey Stienon EXEMPTION 6openmarketsinstitute.org>  
**Date:** Wed, 19 Apr 2023 12:02:09 -0400

Oh wow! This is fascinating because the argument I made to the Senate Finance trade subcommittee in 2020 was that the ITO architects felt there was a core common point between fascism and communism (i.e., Socialism in the parlance of the time), and that is, the relationship between industry and the state. So this should have been totally relevant *especially* after 1945! Will Clayton argued that the ITO Charter was essential to preventing democracies from succumbing to non-market autocracies. It's why the competition rules in the Charter are written the way they are – state-owned, not state-owned – anticompetitive behavior is anticompetitive behavior.

Thank you for this – I am definitely going to grab a copy.

---

**From:** Audrey Stienon EXEMPTION 6openmarketsinstitute.org>  
**Sent:** Wednesday, April 19, 2023 11:32 AM  
**To:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>  
**Subject:** [EXTERNAL] Re: Meeting to discuss trade and industrial policy at OMI

Hi Beth,

It was really great talking this morning. As a quick follow-up, the book I mentioned was *National Power and the Structure of Foreign Trade* by Albert O. Hirschman. Before the war, Hirschman had done a lot of economic analysis of the trade policy of the fascist Italian government (and he himself was German), and so this book was his attempt to think deeper about how fascist governments used trade to expand their power, and the importance of considering the relative power dynamics between countries in analyzing trade. Except that the book came out in 1945, after the threat of fascism was over, and the world was ready to move on to other topics. I *think* Hirschman developed his index in this book to measure the relative market power of countries, which Herfindahl later repurposed to measure the market

share of companies within an industry (hence it being used regularly in antitrust conversation today). Again, I haven't read this book yet, but I've just ordered myself a copy since it seems like some of his points may be relevant today.

<https://www.ucpress.edu/book/9780520301337/national-power-and-the-structure-of-foreign-trade>

Best,  
Audrey

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Audrey Stienon (she/her) | Program Manager, Industrial Policy

**EXEMPTION 6** | 655 15th St. NW Suite 310, Washington, DC 20005

>[www.openmarketsinstitute.org](http://www.openmarketsinstitute.org)<

---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Date:** Tuesday, April 18, 2023 at 2:26 PM

**To:** Audrey Stienon **EXEMPTION 6**[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** RE: Meeting to discuss trade and industrial policy at OMI

Perfect. Thank you!

---

**From:** Audrey Stienon **EXEMPTION 6**[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Tuesday, April 18, 2023 2:00 PM

**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Subject:** [EXTERNAL] Re: Meeting to discuss trade and industrial policy at OMI

No trouble. My schedule is open tomorrow, so 10am works. Same place?

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Audrey Stienon (she/her) | Program Manager, Industrial Policy

**EXEMPTION 6** | 655 15th St. NW Suite 310, Washington, DC 20005

[>>www.openmarketsinstitute.org<<](http://www.openmarketsinstitute.org);

---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Date:** Tuesday, April 18, 2023 at 1:58 PM

**To:** Audrey Stienon **EXEMPTION 6**[openmarketsinstitute.org](http://openmarketsinstitute.org)>

**Subject:** RE: Meeting to discuss trade and industrial policy at OMI

Hi Audrey! I'm now getting pulled into a meeting at 11.... Would you be able to meet at 10?

So sorry!

---

**From:** Audrey Stienon **EXEMPTION 6**[openmarketsinstitute.org](http://openmarketsinstitute.org)>

**Sent:** Friday, April 14, 2023 3:22 PM

**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Subject:** [EXTERNAL] Re: Meeting to discuss trade and industrial policy at OMI

In that case, there's always the Swings downstairs from the OMI offices. And we could even go sit inside the building's foyer.

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---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Sent:** Friday, April 14, 2023 3:18:33 PM

**To:** Audrey Stienon **EXEMPTION 6**[openmarketsinstitute.org](http://openmarketsinstitute.org)>

**Subject:** RE: Meeting to discuss trade and industrial policy at OMI

Perhaps over where you guys are? Fewer press folk lurking about.

---

**From:** Audrey Stienon [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Sent:** Friday, April 14, 2023 3:17 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Re: Meeting to discuss trade and industrial policy at OMI

Coffee at 11am on Wednesday 4/19 sounds great. Do you have a preferred coffee shop?

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---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Sent:** Friday, April 14, 2023 1:54:06 PM  
**To:** Audrey Stienon [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Subject:** RE: Meeting to discuss trade and industrial policy at OMI

Hi Audrey! Great to hear from you!

How does coffee at 11am on Wednesday work for you?

---

**From:** beth baltzan.com <[beth@baltzan.com](mailto:beth@baltzan.com)>  
**Sent:** Friday, April 14, 2023 12:55 PM  
**To:** Audrey Stienon [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org); Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Re: Meeting to discuss trade and industrial policy at OMI

Yes! Copying my official email and will respond. Thanks!

Sent from my iPhone

On Apr 14, 2023, at 12:05 PM, Audrey Stienon [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org) wrote:

Hi Beth,



I hope the two weeks since the New York conference have treated you well. As promised, I'm following up to see if you have the time for us to meet and talk more in the coming weeks. My schedule is fairly flexible, so let me know what works best for you.

Best

Audrey

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**Audrey Stienon (she/her) | Program Manager, Industrial Policy**

**EXEMPTION 6** | 655 15th St. NW Suite 310, Washington, DC 20005

[www.openmarketsinstitute.org](http://www.openmarketsinstitute.org)

## RE: question re: CSO stakeholder engagement in Nairobi

---

**From** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>

:

**To:** Melinda St. Louis <mstlouis@citizen.org>, "Hamilton, Constance A. EOP/USTR" <constance\_hamilton@ustr.eop.gov>, "Soberanis, Roberto C. EOP/USTR" <roberto.c.soberanis@ustr.eop.gov>

**Date:** Fri, 21 Apr 2023 09:17:20 -0400

Hi Melinda,

Looping in Roberto who is in Kenya and is best equipped to help you with this.

EH

---

**From:** Melinda St. Louis <mstlouis@citizen.org>

**Sent:** Wednesday, April 19, 2023 5:22 PM

**To:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>; Hamilton, Constance A. EOP/USTR <Constance\_Hamilton@ustr.eop.gov>

**Subject:** [EXTERNAL] question re: CSO stakeholder engagement in Nairobi

Dear AUSTR Hamilton and Ethan,

Thank you for meeting with a group of Kenyan and US NGOs earlier this year. You may remember that we requested that official stakeholder engagement be part of each round. We have recently heard that: there will be a stakeholder roundtable in Nairobi during the round that was not publicized, but that CSOs were handpicked, as opposed to the more open process that USTR has utilized for IPEF rounds of negotiations; and that Kenyan CSO EcoNews was not permitted to join despite being a respected voice on the topic in Kenya. Is there a reason why this was not announced in advance or included an open registration process for virtual and/or in-person stakeholder consultations? We would hope that at least the same level of consultation would be afforded to CSOs from Kenya as from other IPEF countries.

Thanks for any information you can provide.

Warm regards,

Melinda

**Melinda St. Louis | Director**

Public Citizen's Global Trade Watch

1600 20<sup>th</sup> Street NW, Washington, DC 20009

TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)

*pronouns: she/her*



---

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## Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

---

**From:** Ashley Woolheater [REDACTED] openmarketsinstitute.org>

:

**To:** "Michel, Sam B. EOP/USTR" <samuel.b.michel@ustr.eop.gov>, "Hoeck, Matthew J. EOP/USTR" <matthew.j.hoeck@ustr.eop.gov>

**Cc:** Barry Lynn [REDACTED] openmarketsinstitute.org>, "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>, "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>, Katherine Dill [REDACTED] openmarketsinstitute.org>

**Date:** Tue, 30 May 2023 15:11:54 -0400

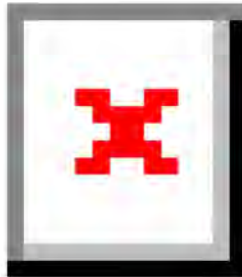
Hi, All - Our event invitations for June 15 just went out. You should have received an email. I'm also adding what we shared below.

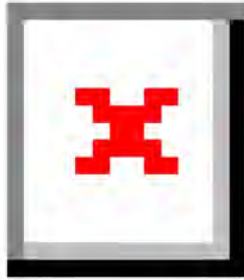
**From:** Barry Lynn [REDACTED] openmarketsinstitute.org>

**Sent:** Tuesday, May 30, 2023 2:27 PM

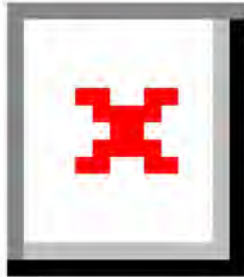
**To:** Ashley Woolheater [REDACTED] openmarketsinstitute.org>

**Subject:** Join us for our event 'The Next World System' on June 15





JUNE 15, 2023 | 1:30pm - 5pm ET  
The National Press Club | WASHINGTON, DC



[RSVP](#)

Please join us June 15, in Washington, DC, to hear U.S. Trade Representative Katherine Tai discuss the future of U.S. trade and industrial policy and America's efforts to build a more secure and fair international system.

Ambassador Tai will build on National Security Adviser Jake Sullivan's recent seminal speech on "[Renewing American Economic Leadership](#)." In that talk, Sullivan charted a dramatic shift in U.S. thinking about how to use trade policy to promote a "new Washington consensus" that aims to "build capacity, to build resilience, to build inclusiveness, at home and with partners abroad."

This new vision of trade builds on President Biden's efforts to restore fair competition, reinvigorate U.S. manufacturing and technological innovation, defend American workers and small businesses, ensure the security and resiliency of supply chains, and promote sustainable, resilient, and inclusive trade policies worldwide.

We'll also hear from Tim Wu, recent White House Special Assistant to the President for Technology and Competition Policy, who led the Administration's charge to make promoting fair competition in our economy a whole-of-government priority through the 2021 executive order.

Financial Times Global Business Columnist Rana Foroohar, an Open Markets board member who has written extensively on the future of trade and global economics, will also participate.

RSVP

 Tweet

 Forward

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**From:** Ashley Woolheater [REDACTED]openmarketsinstitute.org>

**Sent:** Thursday, May 25, 2023 1:16 PM

**To:** Michel, Sam B. EOP/USTR <Samuel.B.Michel@ustr.eop.gov>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>

**Cc:** Barry Lynn [REDACTED]openmarketsinstitute.org>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR

<Angelica.Z.Annino@ustr.eop.gov>; Katherine Dill [REDACTED]openmarketsinstitute.org>

**Subject:** Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Sam - Those edits look great to us. We'll incorporate.

**From:** Michel, Sam B. EOP/USTR <Samuel.B.Michel@ustr.eop.gov>

**Sent:** Thursday, May 25, 2023 1:11 PM

**To:** Ashley Woolheater [REDACTED]openmarketsinstitute.org>; Hoeck, Matthew J. EOP/USTR <Matthew.J.Hoeck@ustr.eop.gov>

**Cc:** Barry Lynn [REDACTED]openmarketsinstitute.org>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR

<Angelica.Z.Annino@ustr.eop.gov>; Katherine Dill [REDACTED]openmarketsinstitute.org>

**Subject:** RE: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Hi Ashley – this looked good for the most part. I made some edits to one paragraph in red. Let me know if you have any questions.

Thanks,  
Sam

This new vision of trade builds on President Biden's efforts to restore fair competition, reinvigorate U.S.

manufacturing and technological innovation, defend American workers and small businesses, ensure the security and resiliency of supply chains, and promote sustainable, resilient, and inclusive trade policies worldwide.

---

**From:** Ashley Woolheater [REDACTED]openmarketsinstitute.org>

**Sent:** Thursday, May 25, 2023 12:14 PM

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

**Cc:** Barry Lynn [REDACTED]openmarketsinstitute.org>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Wolfe, Tommy C. EOP/USTR <Tommy.C.Wolfe@ustr.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Katherine Dill

**EXEMPTION 6**openmarketsinstitute.org>; Michel, Sam B. EOP/USTR <Samuel.B.Michel@ustr.eop.gov>  
**Subject:** Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Hi all- Just wanted to check in. Please let us know if you have questions or want to discuss the language on a call.

---

**From:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Sent:** Tuesday, May 23, 2023 2:32 PM  
**To:** Ashley Woolheater **EXEMPTION 6**openmarketsinstitute.org>  
**Cc:** Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6**openmarketsinstitute.org>; Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>  
**Subject:** Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

+Sam Michel

Sent from my iPhone

On May 23, 2023, at 8:26 PM, Ashley Woolheater **EXEMPTION 6**openmarketsinstitute.org> wrote:

All - Sharing an event description for your review. This is the language we propose using publicly in invitations and press materials. We'll await your feedback before publishing anything.

Ashley

**EXEMPTION 6**

---

**From:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Sent:** Tuesday, May 9, 2023 6:27 PM  
**To:** Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>; Ashley Woolheater **EXEMPTION 6**openmarketsinstitute.org>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6**openmarketsinstitute.org>  
**Subject:** RE: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling



Lynn,

Confirming that we are good to go! My colleague Keziah will be in touch as we get closer to schedule a walkthrough and one more team call. 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](mailto:Matthew.J.Hoeck@ustr.eop.gov)

---

**From:** Barry Lynn **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Tuesday, May 9, 2023 5:08 PM

**To:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Clarke, Keziah E. EOP/USTR

<[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

**Cc:** Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z.

EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Hi Matthew

Thank you for your patience.

We'd like to lock in the 2 pm to 3 pm window on Thursday June 15.

And, again, we really appreciate all your work on this.

Barry

**EXEMPTION 6**

---

**From:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>

**Sent:** Tuesday, May 9, 2023 1:14 PM

**To:** Ashley Woolheater **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Clarke, Keziah E. EOP/USTR

<[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

Cc: Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.annino@ustr.eop.gov](mailto:Angelica.Z.annino@ustr.eop.gov)>; Barry Lynn [EXEMPTION 6](#) [openmarketsinstitute.org](https://openmarketsinstitute.org)>; Katherine Dill [EXEMPTION 6](#) [openmarketsinstitute.org](https://openmarketsinstitute.org)>  
**Subject:** RE: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Hey Team,

Just trying to lock in timing. 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](mailto:Matthew.J.Hoeck@ustr.eop.gov)

---

**From:** Hoeck, Matthew J. EOP/USTR  
**Sent:** Friday, May 5, 2023 5:30 PM  
**To:** 'Ashley Woolheater' [EXEMPTION 6](#) [openmarketsinstitute.org](https://openmarketsinstitute.org)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.annino@ustr.eop.gov](mailto:Angelica.Z.annino@ustr.eop.gov)>; 'Barry Lynn' [EXEMPTION 6](#) [openmarketsinstitute.org](https://openmarketsinstitute.org)>; 'Katherine Dill' [EXEMPTION 6](#) [openmarketsinstitute.org](https://openmarketsinstitute.org)>  
**Subject:** RE: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Ashley,

Following up on confirming timing on June 15 (USTR will hold 45 minutes for remarks and Q&A). 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](mailto:Matthew.J.Hoeck@ustr.eop.gov)

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**From:** Hoeck, Matthew J. EOP/USTR  
**Sent:** Tuesday, April 18, 2023 3:05 PM  
**To:** 'Ashley Woolheater' [EXEMPTION 6](#) [openmarketsinstitute.org](https://openmarketsinstitute.org)>; Clarke, Keziah E. EOP/USTR

<[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

Cc: Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Barry Lynn **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Katherine Dill **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
Subject: RE: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Sent invite!

---

From: Ashley Woolheater **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
Sent: Tuesday, April 18, 2023 2:44 PM  
To: Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
Cc: Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Barry Lynn **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Katherine Dill **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
Subject: Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Yes, thank you. Would it be possible to connect Monday or Tuesday afternoon next week? Your pick of a specific time.

I'd like Barry to join and he's traveling this week. I'm also adding here our operations director Kat Dill.

Ashley

**EXEMPTION 6**

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From: Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
Sent: Tuesday, April 18, 2023 1:00 PM  
To: Ashley Woolheater **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
Cc: Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Barry Lynn **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
Subject: RE: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Ashley,

Following up on scheduling this call.

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**From:** Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Sent:** Friday, April 14, 2023 11:16 AM  
**To:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Cc:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Barry Lynn [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Subject:** Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Absolutely. Adding Barry as well. Let me get his availability and send some potential times.

On Apr 14, 2023, at 9:55 AM, Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)> wrote:

Ashley,

Wanted to see if we could schedule a call for early next week to discuss logistics and such. Let me know what your team's availability is. Thanks!

Sincerely,

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

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**From:** Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Sent:** Friday, April 7, 2023 9:45 AM  
**To:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Cc:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

That's fantastic news! Thank you all. We'll look forward to speaking again soon.

Ashley

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**From:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Sent:** Friday, April 7, 2023 9:39 AM  
**To:** Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>  
**Cc:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** Re: Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Ashley,

We can confirm June 15! I apologize for delay but expect outreach early next week from me and our Comms Team to further discuss this event and Ambassador's participation.

Sent from my iPhone

On Apr 6, 2023, at 5:44 PM, Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)> wrote:

Adding Tommy here as well in response to the out of office notes.

Thanks, all!

Ashley

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**From:** Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>  
**Sent:** Thursday, April 6, 2023 5:39 PM  
**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** Checking in re: June 15th [EXTERNAL] Re: Introductions and scheduling

Hi there - Wanted to check in to see if you've got a better sense of whether remarks on June 15 would be possible. We have a few participants ready to confirm their participation on that date, including AAJ Kanter. It should be an excellent event.

Ashley

**EXEMPTION 6**

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**From:** Ashley Woolheater **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Thursday, March 30, 2023 10:15 AM

**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>

**Cc:** Barry Lynn **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>

**Subject:** Re: [EXTERNAL] Re: Introductions and scheduling

Matthew and Keziah,

Thanks so much for speaking with us yesterday. As requested, we've attached a description of the event as well as a proposed run of show. Also pasted below.

Ashley

**EXEMPTION 6**

*Event: A Resilient World System: How US Trade Policy Can Make Us More Secure, Prosperous, and Equal*

Proposed Date: Thursday, June 15, 2023

Proposed Location: National Press Club, 529 14th St NW, Washington, DC 20045

**Overall Event Format:** Remarks and moderated Q&A with Ambassador Tai, followed by one or two panels with experts. (Likely moderator: *Financial Times* columnist and OMI board member Rana Foroohar)

**Topics:** The event will focus a series of discussions on how U.S. trade policy can:

1. Promote economic and supply chain resilience in the U.S. and among our partners
2. Democratize and diversify online communications platforms
3. Reinforce antimonopoly principles and improve competition broadly

**Run of Show:**

1. **Amb. Tai would give remarks and then sit down for a Q&A moderated by FT columnist Rana Foroohar (total estimated time: 45 minutes)**
1. After that, Open Markets would convene one or two panels with experts to discuss and double down on some of the key points Amb Tai raises. (Amb Tai would be free to depart following her remarks and Q&A, but we wanted to share the additional content for USTR's awareness)

**Audience:** 80-100 attendees from civil society, law and foreign policy, staffers from Capitol Hill and the Biden administration, press.

**Press:** The event would be open to press. We would work with USTR on a desired press outreach plan.

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**From:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>

**Sent:** Wednesday, March 29, 2023 10:19 AM

**To:** Ashley Woolheater EXEMPTION 6 [openmarketsinstitute.org](mailto:openmarketsinstitute.org)

**Cc:** Barry Lynn EXEMPTION 6 [openmarketsinstitute.org](mailto:openmarketsinstitute.org); Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

**Subject:** Re: [EXTERNAL] Re: Introductions and scheduling

Just running 5min behind on another call but will join closer to 10:35am. Apologies!

Sent from my iPhone

On Mar 28, 2023, at 1:17 PM, Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)> wrote:

Hi all - I went ahead and shared a calendar invitation and zoom link with everyone. Looking forward to connecting tomorrow.

Ashley

---

**From:** Barry Lynn **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Tuesday, March 28, 2023 12:33 PM

**To:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** Re: Introductions and scheduling

Great. Will do. And thanks

---

**From:** Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>

**Sent:** Tuesday, March 28, 2023 12:23:05 PM

**To:** Barry Lynn **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** RE: Introductions and scheduling

Tomorrow at 10:30am works for me! Feel free to send a Zoom!

---

**From:** Barry Lynn **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Tuesday, March 28, 2023 12:16 PM

**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Hoeck, Matthew J.



EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR  
<[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater  
**EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Subject:** [EXTERNAL] Re: Introductions and scheduling

Hi All

Any chance you'd have time to talk this afternoon between 4 and 5?

Or tomorrow between 10 and 11 am?

Or Thursday after 3 pm?

Thanks much, and looking forward to it.

Barry

**EXEMPTION 6**

---

**From:** Barry Lynn **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Sent:** Friday, March 24, 2023 4:46 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>;  
Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Hoeck,  
Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Clarke, Keziah E.  
EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater  
**EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Subject:** Re: Introductions and scheduling

Hi All

Ashley and I would be free to connect this coming Monday March 27  
any time between 3 and 5 pm. Is there in a time in that window that  
works for you?

Or perhaps some time between 4 and 5 pm on Tuesday 3/28?

Thank you all, and until soon,

Barry

**EXEMPTION 6**

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**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Sent:** Friday, March 24, 2023 2:06 PM

**To:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Barry Lynn

**EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Ashley Woolheater

**EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** Introductions and scheduling

Hi all. As promised, putting you on the same email chain to see what's possible in terms of scheduling an event for Ambassador Tai with the Open Markets Institute. On the chain we have Angelica, Matthew, and Keziah from our scheduling team, and Barry and Ashley from OMI.

Thank you!

Best,  
Beth

<Speaking Event with Open Markets - June 15 proposed.pdf>

## RE: MEET with Amb TAI week of May 29 in Washington??

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From "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>

:

To: Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>, Ashley Woolheater  
**EXEMPTION 6**openmarketsinstitute.org>

Cc: "Candaele, Camille R. EOP/USTR" <camille.r.candaele@ustr.eop.gov>, "Annino, Angelica Z.  
EOP/USTR" <angelica.z.annino@ustr.eop.gov>, Katherine Dill  
**EXEMPTION 6**openmarketsinstitute.org>

Date: Thu, 01 Jun 2023 17:37:53 -0400

Wonderful! Confirming 4:30pm ET tomorrow, June 2<sup>nd</sup>. Here is the Zoom link:

**EXEMPTION 6**

[REDACTED]  
[REDACTED]

Have a great evening.

Best,  
Keziah

---

From: Barry Lynn **EXEMPTION 6**openmarketsinstitute.org>

Sent: Thursday, June 1, 2023 5:28 PM

To: Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Ashley Woolheater  
**EXEMPTION 6**openmarketsinstitute.org>

Cc: Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>; Annino, Angelica Z.  
EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>; Katherine Dill **EXEMPTION 6**openmarketsinstitute.org>

Subject: [EXTERNAL] Re: MEET with Amb TAI week of May 29 in Washington??

Dear Keziah

4:30 pm tomorrow by zoom would be great.

And I fully understand.

Thanks for the quick confirmation.

Barry

**EXEMPTION 6**

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

**Sent:** Thursday, June 1, 2023 5:26 PM

**To:** Barry Lynn **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org); Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)

**Cc:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z.

EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)

**Subject:** RE: MEET with Amb TAI week of May 29 in Washington??

Hi Barry,

Not to worry –would 4:30pm tomorrow work better? Unfortunately, Ambassador Tai is a bit under the weather at the moment, so we're doing our best to keep her engagements virtual over the next few days.

Best,  
Keziah

---

**From:** Barry Lynn **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)

**Sent:** Thursday, June 1, 2023 5:21 PM

**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Hoeck, Matthew J. EOP/USTR

<[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Ashley Woolheater **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)

**Cc:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z.

EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)

**Subject:** [EXTERNAL] Re: MEET with Amb TAI week of May 29 in Washington??

Hi Keziah

Thank you so much for reaching out. Unfortunately I have a pretty hard conflict right at that moment.

Would it be possible to meet with Amb. Tai later in the afternoon tomorrow? I could also make a coffee on Saturday work.

And I also have a lot of flexibility on Monday, before I head to CA.

If there is any way to make this an in-person meeting, I'd be immensely grateful.

Also, feel free to reach out by phone or text if that would be easier at any point.

Thanks again, and until soon,

Barry

**EXEMPTION 6**

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Sent:** Thursday, June 1, 2023 4:41 PM  
**To:** Barry Lynn **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Ashley Woolheater **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Cc:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Subject:** RE: MEET with Amb TAI week of May 29 in Washington??

Good afternoon Barry,

I hope this finds you well! Ambassador Tai is available **tomorrow at 1:30pm ET** for a virtual meeting in advance of the Open Markets event. Would this time work for you?

Best,  
Keziah

Keziah Clarke  
Special Assistant to the U.S. Trade Representative  
Executive Office of the President  
[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov) **EXEMPTION 6**

---

**From:** Barry Lynn **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Sent:** Friday, May 19, 2023 3:17 PM

To: Hoeck, Matthew J. EOP/USTR <[Matthew.J.Hoeck@ustr.eop.gov](mailto:Matthew.J.Hoeck@ustr.eop.gov)>; Ashley Woolheater  
**EXEMPTION 6** [openmarketsinstitute.org](http://openmarketsinstitute.org)>; Clarke, Keziah E. EOP/USTR  
<[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
Cc: Wolfe, Tommy C. EOP/USTR <[Tommy.C.Wolfe@ustr.eop.gov](mailto:Tommy.C.Wolfe@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR  
<[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](http://openmarketsinstitute.org)>  
Subject: [EXTERNAL] MEET with Amb TAI week of May 29 in Washington??

Dear Matthew, Keziah, Tommy, and Angelica:

I am writing to request a meeting with Ambassador Tai sometime the week of May 29, for a half hour or so.

Our whole team at Open Markets is very excited by the opportunity to host the Ambassador's speech on June 15. This includes our board chair Rana Foroohar of the *Financial Times*, who will be a major participant in the day's events.

As you know, Open Markets has hosted speeches by many leading policymakers from Washington and from around the world. This includes senators, members of Congress, cabinet members, law enforcers, Nobel economists, leading CEOs, and others.

What I have found over the years is that it is often of great use to both the speaker and to our team to connect for an hour or at least 30 minutes a couple of weeks beforehand. This gives us a chance to run through any questions about themes, tone, audience, ultimate goals, etc.

I fully understand that this is an extremely busy time for the Ambassador. For me, June 1 or 2 would be ideal. But I will make anytime that week work.

Again, I greatly appreciate all your efforts on this.

Thank you, and until soon,

Barry

**EXEMPTION 6**

## [EXTERNAL] Re: Walkthrough - USTR <> Open Markets - National Press Club

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**From:** Ashley Woolheater [EXEMPTION 6]openmarketsinstitute.org>  
:  
**To:** "Candaele, Camille R. EOP/USTR" <camille.r.candaele@ustr.eop.gov>, Katherine Dill [EXEMPTION 6]openmarketsinstitute.org>, Canzada Colden [EXEMPTION 6]openmarketsinstitute.org>  
**Date:** Thu, 15 Jun 2023 12:09:51 -0400

Thanks!

**From:** Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>  
**Sent:** Thursday, June 15, 2023 12:08 PM  
**To:** Ashley Woolheater [EXEMPTION 6]openmarketsinstitute.org>; Katherine Dill [EXEMPTION 6]openmarketsinstitute.org>; Canzada Colden [EXEMPTION 6]openmarketsinstitute.org>  
**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Around 5ft4in-5ft5in, thanks!

---

**From:** Ashley Woolheater [EXEMPTION 6]openmarketsinstitute.org>  
**Sent:** Thursday, June 15, 2023 12:03 PM  
**To:** Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>; Katherine Dill [EXEMPTION 6]openmarketsinstitute.org>; Canzada Colden [EXEMPTION 6]openmarketsinstitute.org>  
**Subject:** [EXTERNAL] Re: Walkthrough - USTR <> Open Markets - National Press Club

Can we get a height estimate for the ambassador- for the podium?

---

**From:** Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>  
**Sent:** Thursday, June 15, 2023 11:12 AM  
**To:** Katherine Dill [EXEMPTION 6]openmarketsinstitute.org>; Canzada Colden [EXEMPTION 6]openmarketsinstitute.org>; Ashley Woolheater [EXEMPTION 6]openmarketsinstitute.org>  
**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Oops, yes! I'll be there around 1:20-1:30PM.

That's fantastic, thank you for keeping an eye out 😊



---

**From:** Katherine Dill [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>

**Sent:** Thursday, June 15, 2023 11:08 AM

**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Canzada Colden [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>; Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>

**Subject:** [EXTERNAL] Re: Walkthrough - USTR <> Open Markets - National Press Club

Hi Camille,

Looking forward to it! Just to confirm, you will be arriving at 1:30, not 2:30, correct? Just wanted to make sure.

Happy to go over logistics with you – my cell [EXEMPTION 6](tel:EXEMPTION 6). I can shoot you a text so you have my number.

We will have someone on our team watching the Politico event too just so we're prepared in case of delays. No worries on that front.

See you shortly!

Kat

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Date:** Thursday, June 15, 2023 at 11:03 AM

**To:** Katherine Dill [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>, Canzada Colden

[EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>, Ashley Woolheater

[EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>

**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Good morning! We're really looking forward to this afternoon's event.

I will be arriving with Matt Hindman in advance around 2:30pm. Is there someone from your team that I could connect with when I arrive to go through final logistics questions? I can be reached over text [EXEMPTION 6](tel:EXEMPTION 6).

A flag that Ambassador Tai has a virtual event directly prior to heading over to NPC. I still expect her arrival time around 1:45pm but wanted to give you a heads up in case we are running a few minutes behind.

---

**From:** Katherine Dill [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Sent:** Thursday, June 15, 2023 9:04 AM  
**To:** Chang, Sung E. EOP/USTR <[Sung.E.Chang@ustr.eop.gov](mailto:Sung.E.Chang@ustr.eop.gov)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Canzada Colden [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>; Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>  
**Subject:** [EXTERNAL] Re: Walkthrough - USTR <> Open Markets - National Press Club

Absolutely - sending now

**Katherine Dill** (she/her) | **Director of Operations and Special Projects**  
[EXEMPTION 6](mailto:EXEMPTION 6@openmarketsinstitute.org) | 655 15th St. NW Suite 310, Washington, DC 20005  
>>>>[www.openmarketsinstitute.org](http://www.openmarketsinstitute.org)<<<<;<;<  
\*please note our address has changed

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**From:** Chang, Sung E. EOP/USTR <[Sung.E.Chang@ustr.eop.gov](mailto:Sung.E.Chang@ustr.eop.gov)>  
**Sent:** Thursday, June 15, 2023 9:01:51 AM  
**To:** Katherine Dill [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Canzada Colden [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>; Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)>  
**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Hi Kat,

Caught a typo at the end (changed "remise" to remiss"), so please relay the attached version to the teleprompter team. Thank you.

---

**From:** Chang, Sung E. EOP/USTR  
**Sent:** Wednesday, June 14, 2023 5:20 PM  
**To:** 'Katherine Dill' [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org); Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; 'Canzada Colden' [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org); Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; 'Ashley Woolheater' [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Please see attached an embargoed copy of the Ambassador's speech for the teleprompter. Would be great if the subheadings in italics could stay in italics on the screen so that it is clear that they are subheadings. Same for the bolded / underlined words. Thanks!

---

**From:** Chang, Sung E. EOP/USTR  
**Sent:** Tuesday, June 13, 2023 3:02 PM  
**To:** 'Katherine Dill' [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org); Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Canzada Colden [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org); Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Got it, thanks.

---

**From:** Katherine Dill [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**Sent:** Tuesday, June 13, 2023 2:58 PM  
**To:** Chang, Sung E. EOP/USTR <[Sung.E.Chang@ustr.eop.gov](mailto:Sung.E.Chang@ustr.eop.gov)>; Candaele, Camille R.

EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Canzada Colden

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org); Michel, Sam B. EOP/USTR

<[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>

Cc: Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E.

EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

Subject: [EXTERNAL] Re: Walkthrough - USTR <> Open Markets - National Press Club

EOD Wednesday would be preferable, but we can probably handle morning of. Just let me know how much time you need, and we can accommodate.

---

**From:** Chang, Sung E. EOP/USTR <[Sung.E.Chang@ustr.eop.gov](mailto:Sung.E.Chang@ustr.eop.gov)>

**Date:** Tuesday, June 13, 2023 at 2:42 PM

**To:** Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>, Candaele, Camille R. EOP/USTR

<[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>, Canzada Colden **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>,

Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>

Cc: Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>, Clarke, Keziah E.

EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>, Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

Subject: RE: Walkthrough - USTR <> Open Markets - National Press Club

Great, thank you. Could you please let us know of the deadline to send the remarks to load?

---

**From:** Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Tuesday, June 13, 2023 10:55 AM

**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Canzada Colden

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Chang, Sung E. EOP/USTR

<[Sung.E.Chang@ustr.eop.gov](mailto:Sung.E.Chang@ustr.eop.gov)>; Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>

Cc: Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E.

EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

Subject: [EXTERNAL] Re: Walkthrough - USTR <> Open Markets - National Press Club

Excellent, thank you all. We are confirmed with Telescript DC for the day of (>>>>>><https://telescriptdc.com><<;<;<;<;<). We will have a presidential prompting system with glass panels for the Ambassador. Happy to put you in touch with our contact there to get the remarks ready day of.

Best,  
Kat

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>  
**Date:** Monday, June 12, 2023 at 1:52 PM  
**To:** Canzada Colden **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>, Katherine Dill **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>, Chang, Sung E. EOP/USTR <[Sung.E.Chang@ustr.eop.gov](mailto:Sung.E.Chang@ustr.eop.gov)>, Michel, Sam B. EOP/USTR <[Samuel.B.Michel@ustr.eop.gov](mailto:Samuel.B.Michel@ustr.eop.gov)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>, Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>, Ashley Woolheater **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Thank you! I am looping in folks from our comms team for review and any feedback on the ROS as I know there were ongoing discussion about the length of her remarks before the moderated discussion.

Best,  
Camille

---

**From:** Canzada Colden **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Sent:** Monday, June 12, 2023 1:09 PM  
**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>  
**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](https://openmarketsinstitute.org)>

**Subject:** [EXTERNAL] RE: Walkthrough - USTR <> Open Markets - National Press Club

I've listed below the run of show. Katherine will be in touch shortly with the detail regarding the teleprompter.

Thanks,

Canzãda

## **RUN OF SHOW**

**1:30 pm:** Doors Open

**1:45 pm:** Welcoming Remarks

- **Barry Lynn**, Executive Director the Open Markets Institute
- **Audrey Stienon**, director of the Industrial Strategy Program at Open Markets.

**1:58 pm:** Barry Lynn introduces **Ambassador Katherine Tai, USTR**

**2:00 – 2:30 pm:** Remarks from **Ambassador Tai**

**2:30 pm - 2:55 pm:** Discussion with **Ambassador Tai** moderated by *FT* columnist **Rana Foroohar**

**2:55 pm – 3:05 pm:** Coffee break

**3:05 pm – 3:30 pm:** One-on-one conversation with **Tim Wu**, professor of law at Columbia University, former White House Special Assistant to the President for Technology and Competition Policy

**3:35 pm - 4:30 pm:** Panel Discussion: How Real is President Biden's Pivot on Trade? And What Might It Mean for America and the World?

- **Sabeel Rahman**, Associate professor of law Brooklyn Law School, former acting director of the Office of Information and Regulatory Affairs, author of *Democracy Against Domination*.
- **Josh Tzaker**, Chief of Staff to the Assistant Attorney General for the Antitrust Division  
Jonathan Kanter
- **Catherine Feingold**, Director of AFL-CIO's International Department and leading advocate on global workers' rights issues

- **Renaud Lassus**, Executive Director of the Institute Jacques Delors and recent Minister Counselor for Economic Affairs at the French Embassy in the United States

**4:30 pm – 5:10 pm**- Panel discussion: Next Steps and Further Challenges on Supply Chain Security and Resilience

- **Christopher Gopal**, Global supply chain & operations engineer, professor of Data Sciences USC Marshall School, Member Defense Business Board, author of *Breakthrough Supply Chains: How Companies and Nations Can Thrive in an Uncertain World*
- **Roy O. Houseman Jr.**, Legislative Director, United Steelworkers (USW)
- **Rana Foroohar**, author *Homecoming*, Global Business columnist at the *Financial Times*.

**5:15 pm - 6:30 pm**: Reception (on-site)

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Sent:** Monday, June 12, 2023 12:40 PM

**To:** Canzada Colden **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Katherine Dill **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Sorry to ping again – do you all have a written run of show we can use for Ambassador Tai's briefing materials? Thank you!

---

**From:** Candaele, Camille R. EOP/USTR

**Sent:** Monday, June 12, 2023 10:55 AM

**To:** 'Canzada Colden' **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Katherine Dill **EXEMPTION 6** <[openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Thank you, that's great!

On the teleprompter note, did you hear back from the NPC team whether they could have one available?

Best,  
Camille

---

**From:** Canzada Colden **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Monday, June 12, 2023 10:45 AM

**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** [EXTERNAL] RE: Walkthrough - USTR <> Open Markets - National Press Club

Hi Camille,

NPC confirmed that the Zenger room would be available for Ambassador Tai. Also, per Becca (at NPC), someone from their security team will contact Matthew to set up the security detail for the event day.

Thanks,

Canzāda

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Sent:** Friday, June 9, 2023 3:40 PM

**To:** Canzada Colden **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>



Cc: Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater  
**EXEMPTION 6** <[openmarketsinstitute.org](http://openmarketsinstitute.org)>

Subject: RE: Walkthrough - USTR <> Open Markets - National Press Club

Hi all,

I checked in with our comms team and we would like to request a teleprompter for Ambassador Tai's remarks. Please let me know if you are able to coordinate!

Have we received confirmation from NPC logistics team that we can use the Zenger Room and have an elevator held?

Have a great weekend,  
Camille

---

**From:** Candaele, Camille R. EOP/USTR

**Sent:** Wednesday, June 7, 2023 2:22 PM

**To:** 'Canzada Colden' **EXEMPTION 6** <[openmarketsinstitute.org](http://openmarketsinstitute.org)>; Katherine Dill  
**EXEMPTION 6** <[openmarketsinstitute.org](http://openmarketsinstitute.org)>

**Cc:** Hindman, Matthew S. EOP/USTR <[Matthew.S.Hindman@ustr.eop.gov](mailto:Matthew.S.Hindman@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Ashley Woolheater  
**EXEMPTION 6** <[openmarketsinstitute.org](http://openmarketsinstitute.org)>

**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

It was nice to meet you this morning! Sharing a couple of follow-up notes to track for next week:

- USTR will confirm whether Ambassador Tai will use teleprompter or printed remarks
- NPC/Open Markets will confirm use of Zenger Room as Ambassador's hold
- NPC will confirm that there will be an elevator held for Ambassador Tai arrival
- Open Markets will confirm whether there will be a greet (and with who) upon Ambassador Tai arrival

Matt and I will arrive 30-40 minutes in advance on Thursday, see you then!

Many thanks,  
Camille

---

**From:** Canzada Colden [EXEMPTION 6 openmarketsinstitute.org](#)  
**Sent:** Tuesday, June 6, 2023 3:46 PM  
**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Katherine Dill [EXEMPTION 6 openmarketsinstitute.org](#); Ashley Woolheater [EXEMPTION 6 openmarketsinstitute.org](#)  
**Cc:** Hindman, Matthew S. EOP/USTR <[Matthew.S.Hindman@ustr.eop.gov](mailto:Matthew.S.Hindman@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Walkthrough - USTR <> Open Markets - National Press Club

Awesome! See you tomorrow.

Canzāda

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**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>  
**Sent:** Tuesday, June 6, 2023 3:06 PM  
**To:** Canzada Colden [EXEMPTION 6 openmarketsinstitute.org](#); Katherine Dill [EXEMPTION 6 openmarketsinstitute.org](#); Ashley Woolheater [EXEMPTION 6 openmarketsinstitute.org](#)  
**Cc:** Hindman, Matthew S. EOP/USTR <[Matthew.S.Hindman@ustr.eop.gov](mailto:Matthew.S.Hindman@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

11am is great, thank you!

Matt and I will be across the street for a walkthrough at 10:30am. I don't expect any delays, but I will keep you updated if we are running late.

My cell is - **EXEMPTION 6**

Best,  
Camille

---

**From:** Canzada Colden **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Tuesday, June 6, 2023 3:00 PM

**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Ashley Woolheater **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Cc:** Hindman, Matthew S. EOP/USTR <[Matthew.S.Hindman@ustr.eop.gov](mailto:Matthew.S.Hindman@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

**Subject:** [EXTERNAL] RE: Walkthrough - USTR <> Open Markets - National Press Club

Hi Camille,

It's nice to e-meet you also. Per our rep at the NPC, tomorrow at 11 am will work tomorrow for the walkthrough.

At 11 am, we can meet in the lobby of the NPC. Please feel free to contact me tomorrow at **EXEMPTION 6** if you have any trouble.

See you tomorrow,

Canzada

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**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Sent:** Tuesday, June 6, 2023 2:34 PM

**To:** Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>; Ashley Woolheater

**EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Cc:** Hindman, Matthew S. EOP/USTR <[Matthew.S.Hindman@ustr.eop.gov](mailto:Matthew.S.Hindman@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Canzada Colden **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** RE: Walkthrough - USTR <> Open Markets - National Press Club

Great, thank you for connecting us!

Canzada – Nice to e-meet! Please let me know when NPC is available to conduct a walkthrough this week after your walkthrough tomorrow. If it's useful to come directly after the 11am with their team, let us know and we can coordinate timing.

Best,  
Camille

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**From:** Katherine Dill **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Sent:** Tuesday, June 6, 2023 2:29 PM

**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Ashley Woolheater **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Cc:** Hindman, Matthew S. EOP/USTR <[Matthew.S.Hindman@ustr.eop.gov](mailto:Matthew.S.Hindman@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Canzada Colden **EXEMPTION 6** [openmarketsinstitute.org](mailto:openmarketsinstitute.org)>

**Subject:** [EXTERNAL] Re: Walkthrough - USTR <> Open Markets - National Press Club

Hi Camille,

Absolutely! I'm looping in Canzada Colden from our team who is in contact with NPC ahead of the event. We have a previously scheduled walkthrough tomorrow at 11am with their event staff, so we can possibly schedule some time on either side of our meeting if that works for your team. We can confirm with NPC when they are available this week and get back to you.

Looking forward to it!



**EXEMPTION 6**

[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)

**Remarks by Ambassador Katherine Tai at the Open Markets  
Institute**

**National Press Club  
June 15, 2023**

Thank you, Barry. It is a pleasure to be here with you today, and thank you to the Open Markets Institute and the National Press Club for hosting me.

I do not know if you remember, but you and I first met almost ten years ago. I was working on the Hill, and you had come in for a meeting to talk about supply chains.

Supply chains were not yet the topic of kitchen table conversations back then, but they were an area of intense focus for trade policy, especially after the 2011 earthquake in Fukushima, Japan. That earthquake and its aftermath disrupted the famous “just-in-time” supply chains that Japan’s automakers had pioneered, with significant negative impacts for Detroit.

Barry, you were the first to see the connection between supply chains and competition policy. In fact, your work on supply chains is what led you to competition policy.

When we first met, you brought one of your articles about the dangers that offshoring and the concentration of production outside our borders—and in the People’s Republic of China in particular—present to U.S. national security.

[APG]

You had an excellent point at the time, and in fact, we were witnessing the first instances of what we now identify as a pattern of economic coercion by the PRC.

I have to admit though, that back then, I thought your article would be persuasive mainly as a **theoretical** matter. We had just won a WTO dispute against the PRC on its rare earth export restraints, and we continued to hope that the multilateral system would help solve the challenges we were seeing.

Fast forward to these last few years, you can imagine how I have had **many** occasions to think back on that first meeting with Barry.

Our world is different now.

A war in Europe, with drastic economic consequences. A worsening climate crisis. A digital transformation that continues to accelerate and transform our world, creating economic opportunities, powerful industry giants, as well as threats and harms to democracy and humanity all at the same time.

And of course, fragile supply chains and an unsustainable version of globalization demanding reform and improvements. It is abundantly clear that these challenges have implications for competition policy, as well as trade policy. So, all of us working in these spaces must row in the same direction. In fact, we already are doing so—and I am delighted to be here with all of you today to begin connecting these conversations.

[APG]



*Resilience, Not Just Efficiency; Workers, Not Just Consumers*

After the pain and fear of the supply chain disruptions we all experienced during the pandemic—including the panicked race to secure masks, hand sanitizer, ventilators, and semiconductors—Barry’s insight is no longer theoretical.

Today, labor leaders, CEOs, foreign leaders, and the President’s National Security Advisor all agree: our global supply chains, which have been created to maximize short-term efficiency and minimize costs, need to be redesigned for resilience.

Because resilient supply chains are vital for greater national **and** economic security.

By this, we mean production that can more easily and quickly adapt to and recover from crises and disruptions. It means having more options that run through different regions.

But getting there requires a fundamental shift. A shift in the way we incentivize decisions about what, where, and how we produce goods and supply services.

That shift, in trade as in antitrust, moves away from a narrow focus on benefits for consumers. Our trade policy places **workers** at its center to reflect the reality that the consumer who enjoys the low prices of imported goods is **also** a worker who must withstand the downward pressures that come from competing with workers in other parts of the world toiling under exploitative conditions.

[APG]

Similarly, prioritizing and pursuing the consumer welfare standard in competition policy has led to consolidation and unchecked dominance in our domestic market, which has stifled competition and diminished economic liberty for our citizens and workers.

President Biden recognized this when he issued an executive order on promoting competition policy in the American economy, just six months into the Administration, in which he said:

“[T]he United States faces new challenges to its economic standing in the world, including unfair competitive pressures from foreign monopolies and firms that are state-owned or state-sponsored, or whose market power is directly supported by foreign governments. We must act now to reverse these dangerous trends, which constrain the growth and dynamism of our economy, impair the creation of high-quality jobs, and threaten America’s economic standing in the world.”

In trade, as Jake said so aptly in his speech last month, the pursuit of efficiency and low costs above all else has led to vulnerable and high-risk supply chains.

Let me take a moment to explain **how** designing a system around efficiency and low costs got us here.

Trusting markets to allocate capital efficiently, we designed trade rules to liberalize as much as possible, under the theory that we were facilitating the creation of a free global marketplace. We thought a rising tide would lift all boats, believing that this approach could lead to a gradual improvement in labor standards and environmental protection as countries grew wealthier from increased trade flows.

[APG]

We did not include guardrails to **ensure** that it would be the case. The system itself, then, created an incentive for countries to compete by **maintaining** lower standards, or by **lowering** their standards even further, as companies sought to minimize costs in pursuit of maximizing efficiency. This is the race to the bottom, where exploitation is rewarded and high standards are abandoned in order to compete and survive.

When efficiency and low cost are the only motivators, production moves outside our borders. It becomes increasingly consolidated in one economy—such as the PRC—which manipulates cost structures, controls key industries, and became a dominant supplier for many important goods and technologies.

I recently had an important conversation with UAW President Shawn Fain and AFL-CIO Secretary-Treasurer Frederick Redmond in Detroit, during the APEC Ministers Responsible for Trade Labor Dialogue. Shawn shared how the closure of the General Motors plant in his hometown in Indiana was a vivid illustration of why we must do things differently.

When the plant shut down, people lost their jobs. They lost their healthcare. The small businesses that sustain the community closed down, and people started moving away in search of other opportunities.

Those who lost their jobs, if they were fortunate to find new ones, often had to settle for lower wages and worse benefits.

Their children faced an uncertain future.

[APG]

This is what a race to the bottom looks like.

You can see how the decision to allow artificially low costs and low prices to lead U.S. economic policymaking has made us less secure, less free, and less prosperous.

*Bottom up, Middle out and the Race to the Top*

That is why President Biden's vision for our future is to build the economy from the bottom up and the middle out, not from the top down.

So, the President's plan started with jump-starting a historic, equitable recovery from the pandemic through the American Rescue Plan.

The next step was rebuilding our country by investing in our infrastructure, manufacturing capacity, and technological strength.

Today, we are upgrading our roads, bridges, and airports. Expanding manufacturing here in the United States. Creating good-paying jobs, including 800,000 manufacturing jobs, many that do not require a college degree.

These are groundbreaking down payments on our nation's future and our people, and our new story on trade also plays an important part in this effort. That is why we are focusing on workers, the communities they live in, and the small businesses that sustain them and are sustained by them.

[APG]

Our new approach to trade recognizes people as more than just consumers, but also producers—the workers, wage-earners, providers, and community members that comprise a vibrant middle class.

Our focus has shifted from liberalization and the pursuit of efficiency and low costs—at any cost—to raising standards, building resiliency, driving sustainability, and fostering more inclusive prosperity at home and abroad. Like other aspects of the Administration’s economic policies, we are using trade to create a race to the top.

I hear all the time that because we are not doing traditional trade agreements, we are not doing trade at all. But if we look at what those agreements did, we see the ways in which they contributed to the very problems we are now trying to address.

The industrial supply chain rules in our traditional free trade agreements were based on that same premise of efficiency and low cost.

Because of it, they allow significant content to come from countries that are not even parties to the agreement—free riders, who have not signed up to any of the other obligations in the agreement, such as labor and environmental standards. That means these rules benefit the very countries that have used unfair competition to become production hubs.

That is how the supply chain rules in these FTAs tend to reinforce **existing** supply chains that are fragile and make us vulnerable. This does not make sense at a moment in history when we are trying to **diversify** and make them more resilient.

[APG]

What we need is a trade policy that fosters and creates opportunities for good and diversified jobs here in our communities, revitalizes U.S.-based production at high, middle, and low ends, and puts workers back at the center because they are the foundation for resilience.

That is exactly what we have been doing through the U.S. – Mexico – Canada Agreement.

The USMCA has a mechanism that allows us to bring cases against specific facilities that do not respect the rights of workers to freedom of association and collective bargaining.

Over the last two years, we have been securing wins for workers at several facilities. We are seeing real change and success for workers and independent unions in Mexico. New collective bargaining agreements. Major salary increases. Safer working conditions. Backpay.

In short, we are using a **trade agreement** to bring real and tangible improvements to people's lives.

And this is not just about Mexican workers. It helps American workers too, because raising labor standards reduces the incentive to ship jobs overseas by removing the artificial advantages created through exploitation and abuse.

[APG]

Placing the success of workers, communities, and small businesses at the center of our focus is important to democratizing opportunity for Americans across our economy.

The traditional trade policy approach historically focused on providing benefits for our biggest companies, on the theory that those benefits would necessarily trickle down to our workers, small businesses, and communities. But over time, what we have seen is that these benefits do not trickle very far down.

*Putting the U.S. back into USTR; Democratizing Economic Opportunity*

That is why a key part of my approach is to put the U.S. back into USTR—traveling throughout the country, meeting with smaller companies and entrepreneurs, and diversifying our advisory system.

We have put out an open call for participants to join our industry trade advisory committees. The Labor Advisory Committee has never before played such an important role in shaping our trade policies, so that they can be more responsive to the interests of working people.

The people I meet on my domestic travels—civil society, Labor, and businesses, too—their aspirations and challenges provide the basis of all of our new trade engagements. That is what you see in the Indo-Pacific Economic Framework discussions, where a lot of what we are trying to do is orient the rules toward working people, the environment, and small businesses.

[APG]

Having placed a traditional priority on promoting the interest of the “big” and seeing the limitations created by the outcomes of that policy approach, we are now focusing on folding in the interests of small businesses.

We want to make it easier for our smaller companies to thrive, to grow into medium businesses, and to get started in the first place. Our administration has placed an enormous emphasis on creating opportunities in our domestic market through a clear and focused competition policy agenda.

Healthy competition is key not only to maintaining vibrancy and innovation in our economy but also to promoting democracy. Trade policy has an important role to play in this regard.

For example, this is helpful for small farmers and ranchers in America. They have told us that their biggest challenge is not necessarily tariffs—but whether they can access a foreign market at all, often because of a lack of transparency in how rules are administered. So, we are focused on making it easier for small businesses to participate in trade.

Resilient supply chains must include a diverse and healthy ecosystem of suppliers, and I am working closely with my good friend, SBA Administrator Isabel Guzman. We have been able to do joint events around the country where we share this vision with local communities.

[APG]



Empowering SMEs is also an important part of the new trade agreement we just concluded with Taiwan. It encourages training programs and trade missions and creates SME Dialogues for businesses owned by underserved and underrepresented groups.

It also includes provisions on “Good Regulatory Practices” that recognize and respect the important role of regulators and transparency in promoting sustainable and inclusive economic outcomes.

*A Cooperative, Unapologetically Positive Vision*

You also see that a common theme for our Administration is that we are leaning in on our strong relationships with allies and partners who share our values.

We have seen many instances of economic coercion where, for example, the PRC uses trade and economic measures in an abusive or arbitrary way to achieve a strategic political objective or interfere with foreign governments’ exercise of their legitimate sovereign rights.

That is why, just last week, we issued a joint declaration with Australia, Canada, Japan, New Zealand, and the United Kingdom to send a clear message that we stand together against the use of non-market economic policies to build global market dominance that can be abused.

We are working with our closest neighbors, too.

[APG]

Many of the countries that are a part of the Americas Partnership for Economic Prosperity already have FTAs with us. But many partners, especially governments like Chile and Colombia, want something that reflects not just the supply chain concerns but the values our governments share.

Our focus through initiatives like the IPEF and the APEP is on developing additional supply chains to de-risk us from overreliance.

Let me unpack this a bit more.

I want to start with critical minerals. The underlying problem is clear—we are dependent on a range of critical minerals and materials for products we use every day, everything from engines to airplanes to defense equipment.

Demand for many of these metals is projected to surge over the next two decades, especially as we work to achieve net-zero greenhouse gas emissions by 2050; but the PRC already controls more than half of global mining capacity and 85 percent of refining.

Those are vulnerabilities—or in the terminology of competition policy, “chokepoints”—that we need to address and break. And we are working with Congress, stakeholders, and partners to develop responses that help foster the kinds of supply chains we want to see for clean energy products—like commitments on export duties, non-market policies, best practices on investment screening, and labor rights.

[APG]

Another example of a chokepoint is how Russia's invasion of Ukraine triggered global disruptions in markets for key food crops and fertilizers, threatening food security worldwide.

This has interrupted shipments around the globe, and growers are scrambling to adjust.

Whether it is through working with us on the Critical Minerals Agreement, the IPEF, or the APEP, more and more countries are realizing that we need a new model for doing trade to adapt to the challenges presented by the world we are living in. And we are doing this in cooperation with our allies and partners, not at their expense.

We are turning the colonial mindset on its head. Instead of supply chains designed to extract from developing economies, our approach is to partner together, where we are all **co-owners** of different parts of supply chains.

This makes perfect sense in terms of de-risking and building resilience. The key is to offer economies a spot in vertical integration so that developing countries are not perpetually trapped in an exploitative cycle.

In my discussions with foreign counterparts, I have found that, as it turns out, we **all** aspire to build our economies from the bottom up and the middle out—to provide those at the bottom with a path to the middle, and to build a broad middle class. We do this by collaborating in ways that allow us to create opportunities and build our middle classes **together**, rather than pitting them **against** each other.

[APG]

Pursuing this kind of de-risking and resilience in supply chains is about improving our national security and economic security for working people. These are critical to taking down tensions in the world as well as anxieties at home, and also reducing opportunities for economic coercion.

In this vein, I want to close by highlighting the Global Steel and Aluminum Arrangement negotiations with the European Union as an example.

We are pursuing an ambitious, high-standard agreement that will address our shared commitment to a just green transition. It will also tackle the particular challenge to our workers posed by countries that have deliberately produced more steel than they can consume, depressing world prices and devastating our steel workers and communities.

The vision is to combine the U.S. and EU markets to create the leverage for trading partners to meet high standards for fair, market-based, and clean production at the same time.

By flipping race-to-the-bottom dynamics on their head to create a race to the top, we are working toward a world with a more diverse set of economies producing steel and aluminum, a world where democracies and open markets can flourish and drive standards that **improve over time**.

[APG]

As President Biden says, we truly are at an inflection point. We are facing multiple challenges at the same time, so our trade policy cannot remain in a silo.

We must be agile in making connections between our work in trade policy and what is happening in domestic policy. That includes digital and technology policy, which I would be remiss in failing to mention.

At a time of rapid change and constant developments, trade policy must respect the space for our domestic policymakers, regulators, enforcement officials, and legislators to debate and determine appropriate frameworks governing the relationship between government, technology, business, and the public interest.

What is at stake is the ability of Americans—as workers, consumers, innovators, inventors, content creators, entrepreneurs, and community members—to enjoy their rights to privacy and liberty, and their access to democracy and opportunity.

Through all of the uncertainty that we face today, our mandate is clear. Complacency is not an option. We must adapt and pursue an unapologetically positive vision for building a tomorrow where **all** of us—including the most underserved and vulnerable—are more secure, more prosperous, and more equal.

Thank you.

[APG]

## [EXTERNAL] Follow-up OMI event + sharing contact info

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**From:** Audrey Stienon [EXEMPTION 6@openmarketsinstitute.org](mailto:EXEMPTION 6@openmarketsinstitute.org)  
**To:** "Thompson, Jamila EOP/USTR" <[jamila.thompson@ustr.eop.gov](mailto:jamila.thompson@ustr.eop.gov)>  
**Date:** Fri, 23 Jun 2023 12:27:14 -0400

Hello Jamila,

We met very briefly last week at the OMI event at the National Press Club following Ambassador Tai's speech, and you shared your business card. This message is mainly to reciprocate and get you my contact information in turn. I'd love to get the chance to talk more, and hope our paths cross again in future.

Best,  
Audrey

**OPEN MARKETS**  
LIBERTY • DEMOCRACY • PROSPERITY

Audrey Stienon (she/her) | Program Manager, Industrial Policy

[EXEMPTION 6](mailto:EXEMPTION 6@openmarketsinstitute.org) | 655 15th St. NW Suite 310, Washington, DC 20005

>[www.openmarketsinstitute.org](http://www.openmarketsinstitute.org)<

## [EXTERNAL] RE: Tomorrow's IPEF listening session

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Cc:** Sarah Stevens **EXEMPTION 6**citizen.org>  
**Date:** Wed, 23 Aug 2023 17:01:54 -0400

Hello Ethan,

My colleague Sarah Stevens will be presenting for Public Citizen, so you can replace my name with hers. She'll log on with the link I have so no need to send another link.

Thanks,  
Melinda

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**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** Wednesday, August 23, 2023 4:46 PM  
**To:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Subject:** Tomorrow's IPEF listening session

Greetings-

You have indicated that you would like to speak during tomorrow IPEF listening session at 9:00am ET. Please find the Run of Show located below.

- Sarah Ellerman provides brief comments
- Sharon Yuan provides brief comments
- Participants present for 3-5 minutes
  1. Kirk Haywood – Kenvue
  2. Josua Matta – Sentro
  3. Christine Bliss – CSI
  4. Rosemary Comer- New York Trade Justice Coalition
  5. Calvin Manduna – Institute for Agriculture and Trade Policy
  6. Clayton Tucker – Trade Justice Education Fund
  7. Isabelle Isco- U.S. Chamber of Commerce
  8. Daniel Rangel- Rethink Trade
  9. Sanya Smith – Third World Network
  10. Borasmy Ung- Me Boun Foundation
  11. George Kimball- Metro Justice
  12. Hua Wang- Global Innovation Forum
  13. Jessica Gordon- US and Foreign Commercial Service

14. Arthur Stamoulis – Citizens Trade Campaign
15. Melinda St Louis – Public Citizen
16. Christy Serrato- Pair Anything, Inc.

Best,

Ethan Holmes  
Senior Agricultural Policy Advisor/ Deputy Assistant U.S. Trade Representative for IAPE  
Office of the United States Trade Representative  
Executive Office of the President

**EXEMPTION 6**



## RE: [EXTERNAL] RE: urgent - request from Thai CSO partners to speak at listening session tomorrow

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Date:** Wed, 13 Sep 2023 02:56:37 -0400

Thanks so much! Given that this is the one opportunity with Thai/English interpretation for Thai CSOs to be able to provide their views to IPEF negotiators, it would be great if they can be accommodated.

Appreciate your efforts.

Warm regards,  
Melinda

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**From:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Sent:** Wednesday, September 13, 2023 2:41 AM  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Subject:** Re: [EXTERNAL] RE: urgent - request from Thai CSO partners to speak at listening session tomorrow

Hi Melinda -

We have relayed this to our Thai counterparts.

EH

Sent from my iPhone

On Sep 13, 2023, at 12:55 PM, Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)> wrote:

Hi Ethan,

An additional Thai CSO representative who was hoping to speak at least briefly tomorrow is Chayuda Boonrod from Assembly of the Poor (AoP).

Thanks for any help you can provide.

Warm regards,  
Melinda

---

**From:** Melinda St. Louis

**Sent:** Wednesday, September 13, 2023 12:58 AM

**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>

**EXEMPTION 6**

**Subject:** urgent - request from Thai CSO partners to speak at listening session tomorrow

Hi Ethan,

I hope you're well. I'm here in Bangkok and have been talking with some Thai CSO colleagues. It turns out that when they registered for the stakeholder listening session, they weren't aware that they had to specify that they had to register to speak (since the directions were only in English). Because they speak Thai and will be using the translation at the event tomorrow, I wanted to request on their behalf to make sure that they will have speaking slots. Can you help to ensure that they can speak?

I have copied them here:

Apantreee Charoensak, Vice President of the Thai Labour Solidarity Confederation, which has 300,000 members

Tanaporn Vijan, Labor Network for People's Rights (LNPR) and Building and Wood Industrial Council of Thailand (BWICT)

Prapasiri Suttisome, EngageMedia, which is a digital rights NGO based in Chiang Mai

Thanks so much! And see you tomorrow?

Warm regards,  
Melinda

**Melinda St. Louis | Director**  
Public Citizen's Global Trade Watch

1600 20<sup>th</sup> Street NW, Washington, DC 20009

TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)

*pronouns: she/her*

<[image001.png](#)>

<[image002.png](#)>

## Re: [EXTERNAL] USTR staff at WTO Public Forum

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**From:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**To:** Melanie Foley EXEMPTION 6citizen.org>  
**Date:** Wed, 13 Sep 2023 22:18:19 -0400

Melanie-

I triple check and we only have our US mission Geneva based staff participating this week.

EH

Sent from my iPhone

On Sep 13, 2023, at 3:23 PM, Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov> wrote:

Let me reach out to Geneva and see.

EH

Sent from my iPhone

On Sep 13, 2023, at 2:59 PM, Melanie Foley EXEMPTION 6citizen.org> wrote:

Hi Ethan,

Hope you're well. I imagine you're in Bangkok – say hi to Melinda for me. I wanted to ask if there are any DC-based USTR folks who are here at the WTO Public Forum in Geneva this week, and if you could possibly put me in touch with them.

Thanks,

**Melanie Foley | Deputy Director**

Public Citizen's Global Trade Watch

**EXEMPTION 6** [REDACTED] [citizen.org](https://www.citizen.org)

[Website](#) | [Facebook](#) | [Twitter](#)

[Pronouns: she/her](#)

## [EXTERNAL] RE: Connect to talk JSI, please?

---

From: Katelyn Hettinga [REDACTED]@rethinktrade.org>

:

To: "Schagrin, Kenneth A. EOP/USTR" <kenneth\_schagrin@ustr.eop.gov>, Lori Wallach [REDACTED]@rethinktrade.org>

Cc: "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>, Daniel Rangel [REDACTED]@rethinktrade.org>, "DeLuna, Jillian A. EOP/USTR" <jillian.a.deluna@ustr.eop.gov>

Date: Mon, 25 Sep 2023 17:03:56 -0400

Great, thank you! Lori and Daniel are looking forward to it.

Katie

---

From: Schagrin, Kenneth A. EOP/USTR <Kenneth\_Schagrin@ustr.eop.gov>

Sent: Monday, September 25, 2023 4:33 PM

To: Katelyn Hettinga [REDACTED]@rethinktrade.org>; Lori Wallach [REDACTED]@rethinktrade.org>

Cc: Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>; Daniel Rangel [REDACTED]@rethinktrade.org>; DeLuna, Jillian A. EOP/USTR <Jillian.A.DeLuna@ustr.eop.gov>

Subject: RE: Connect to talk JSI, please?

Hi Katie,

The other participants will be Robb Tanner, and probably Jillian DeLuna via the phone. I'm still awaiting a response from Ethan Holmes, who may join in person as well.

Ken

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From: Katelyn Hettinga [REDACTED]@rethinktrade.org>

Sent: Monday, September 25, 2023 12:39 PM

To: Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Lori Wallach [REDACTED]@rethinktrade.org>

Cc: Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel [REDACTED]@rethinktrade.org>; DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>

Subject: [EXTERNAL] Re: Connect to talk JSI, please?

Hi Ken,

Thanks for this update! I hope you had a good weekend. I wanted to check in here and confirm who will be in tomorrow's meeting. Do you have any more details?

Katie

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**From:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>  
**Sent:** Friday, September 22, 2023 9:53:41 AM  
**To:** Katelyn Hettinga [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** RE: Connect to talk JSI, please?

Hi Katie, still trying to pin that down. Let me try and get back to you today. Jillian will be out, but will try to call in to it. I'm checking with Robb Tanner as well. Thanks for your patience!

Ken

---

**From:** Katelyn Hettinga [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Sent:** Friday, September 22, 2023 9:49 AM  
**To:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Connect to talk JSI, please?

Great, I will pass that on. Can you let me know who from USTR will be at the meeting?

Katie

---

**From:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>  
**Sent:** Thursday, September 21, 2023 5:10 PM  
**To:** Katelyn Hettinga [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** RE: Connect to talk JSI, please?

It's room 305, but someone will have to escort them from the visitor room.

Ken

---

**From:** Katelyn Hettinga [EXEMPTION 6 rethinktrade.org](mailto:Katelyn.Hettinga@rethinktrade.org)  
**Sent:** Thursday, September 21, 2023 5:09 PM  
**To:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Lori Wallach [EXEMPTION 6 rethinktrade.org](mailto:Lori.Wallach@rethinktrade.org)  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel [EXEMPTION 6 rethinktrade.org](mailto:Daniel.Rangel@rethinktrade.org); DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** [EXTERNAL] Re: Connect to talk JSI, please?

Yes - just Lori Wallach and Daniel Rangel. Will you send me the room number once you have it? Thank you very much!

Katie

---

**From:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>  
**Sent:** Thursday, September 21, 2023 5:03:18 PM  
**To:** Katelyn Hettinga [EXEMPTION 6 rethinktrade.org](mailto:Katelyn.Hettinga@rethinktrade.org); Lori Wallach [EXEMPTION 6 rethinktrade.org](mailto:Lori.Wallach@rethinktrade.org)  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel [EXEMPTION 6 rethinktrade.org](mailto:Daniel.Rangel@rethinktrade.org); DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** RE: Connect to talk JSI, please?

Yes, that works for me. I've reserved a room at the Winder building. Will it be just Lori and Daniel? I can send those names to security.

Ken

---

**From:** Katelyn Hettinga [EXEMPTION 6 rethinktrade.org](mailto:Katelyn.Hettinga@rethinktrade.org)  
**Sent:** Thursday, September 21, 2023 4:29 PM  
**To:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Lori Wallach [EXEMPTION 6 rethinktrade.org](mailto:Lori.Wallach@rethinktrade.org)  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel [EXEMPTION 6 rethinktrade.org](mailto:Daniel.Rangel@rethinktrade.org); DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Connect to talk JSI, please?

Does 2 pm work for Lori and Daniel to come into the office?

Katie

---

**From:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>  
**Sent:** Thursday, September 21, 2023 4:23 PM  
**To:** Katelyn Hettinga [EXEMPTION 6 rethinktrade.org](mailto:Katelyn.Hettinga@rethinktrade.org); Lori Wallach [EXEMPTION 6 rethinktrade.org](mailto:Lori.Wallach@rethinktrade.org)

**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel  
**EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>; DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** RE: Connect to talk JSI, please?

Yes, of course! Anytime after 2 pm would work for me.

Ken

---

**From:** Katelyn Hettinga **EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>  
**Sent:** Thursday, September 21, 2023 4:02 PM  
**To:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Lori Wallach  
**EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel  
**EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>; DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Connect to talk JSI, please?

Could we try for Tuesday instead? Monday is Yom Kippur and Lori will be out.

Thanks!  
Katie

---

**From:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>  
**Sent:** Thursday, September 21, 2023 3:44 PM  
**To:** Katelyn Hettinga **EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>; Lori Wallach **EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel  
**EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>; DeLuna, Jillian A. EOP/USTR <[Jillian.A.DeLuna@ustr.eop.gov](mailto:Jillian.A.DeLuna@ustr.eop.gov)>  
**Subject:** RE: Connect to talk JSI, please?

Let me throw out Monday between 11 and 2 and see if that works for people's schedule. I'm adding Jillian DeLuna from USTR who has been leading the JSI negotiations. Thanks for your patience in trying to schedule something!

Ken

---

**From:** Katelyn Hettinga **EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>  
**Sent:** Thursday, September 21, 2023 1:27 PM  
**To:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Lori Wallach  
**EXEMPTION 6** [rethinktrade.org](mailto:rethinktrade.org)>  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Daniel Rangel



**EXEMPTION 6** rethinktrade.org>

**Subject:** [EXTERNAL] RE: Connect to talk JSI, please?

Hello Ken,

I take care of Lori's scheduling. Do you have any updates on availability for tomorrow or early next week? I can help coordinate schedules on our end to make something work!

Thank you,  
Katie

---

**From:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>

**Sent:** Wednesday, September 20, 2023 10:06 AM

**To:** Lori Wallach <**EXEMPTION 6** rethinktrade.org>

**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Katelyn Hettinga

**EXEMPTION 6** rethinktrade.org>; Daniel Rangel **EXEMPTION 6** rethinktrade.org>

**Subject:** RE: Connect to talk JSI, please?

Sorry, we've had some folks out so still trying to pin down schedules.

Ken

---

**From:** Lori Wallach **EXEMPTION 6** rethinktrade.org>

**Sent:** Wednesday, September 20, 2023 7:42 AM

**To:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>

**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Katelyn Hettinga

**EXEMPTION 6** rethinktrade.org>; Daniel Rangel **EXEMPTION 6** rethinktrade.org>

**Subject:** [EXTERNAL] Re: Connect to talk JSI, please?

Hello Ken and Beth, any times to propose? Would appreciate connecting still this week if possible.  
Thanks, Lori

On Sep 13, 2023, at 10:09 AM, Schagrin, Kenneth A. EOP/USTR  
<[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)> wrote:

Hi Lori, let me check on schedules and see what we might be able to organize on our end.  
Likewise, I hope you are doing well!

Ken

Kenneth Schagrin

Assistant USTR for Services and Investment

---

**From:** Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)  
**Sent:** Wednesday, September 13, 2023 9:47 AM  
**To:** Schagrin, Kenneth A. EOP/USTR <[Kenneth\\_Schagrin@ustr.eop.gov](mailto:Kenneth_Schagrin@ustr.eop.gov)>; Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Cc:** Katelyn Hettinga [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); Daniel Rangel [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)  
**Subject:** [EXTERNAL] Connect to talk JSI, please?

Hello to you both. Hope this note finds you well.

Would it be possible for my colleague Daniel and I to connect with you on JSI Ecommerce issues? Happy to come in or to zoom. And of course to include anyone in Geneva you suggest.

Many thanks, Lori

**Lori Wallach**

Director, Rethink Trade at American Economic Liberties Project

[EXEMPTION 6@RethinkTrade.org](mailto:EXEMPTION 6@RethinkTrade.org) || Twitter @WallachLori || Skype lori\_wallach

## RE: Hello! Time for a chat?

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**From:** "Baltzan, Elizabeth V. EOP/USTR" <[elizabeth.v.baltzan@ustr.eop.gov](mailto:elizabeth.v.baltzan@ustr.eop.gov)>  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Date:** Thu, 28 Sep 2023 11:00:22 -0400

**EXEMPTION 6**

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**From:** Baltzan, Elizabeth V. EOP/USTR  
**Sent:** Thursday, September 28, 2023 10:59 AM  
**To:** 'Peter Maybarduk' <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Subject:** RE: Hello! Time for a chat?

Yes! Now? Things get a bit crazy later – **EXEMPTION 6**

---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Sent:** Thursday, September 28, 2023 10:57 AM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: Hello! Time for a chat?

Hi Beth,

Time to follow up today? Is there a good number where I can reach you?

Peter

---

**From:** Peter Maybarduk  
**Sent:** Monday, September 25, 2023 1:58 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** RE: Hello! Time for a chat?

How serendipitous – I was just about to reach out to you for the same. When? I'm available today til 4 if you feel it. I'm **EXEMPTION 6**

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**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Sent:** Monday, September 25, 2023 1:51 PM

**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>

**Subject:** Hello! Time for a chat?

Hi Peter! I am wondering if you have some time to chat this week.

Best,  
Beth

## [EXTERNAL] ICYMI: TACD Recommendations for the TIST

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**From:** Sarah Grace Spurgin [REDACTED]citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Tue, 10 Oct 2023 18:23:34 -0400

Dear Mrs. Baltzan,

I hope this finds you well. Please find [here](#) and copied below thorough, actionable recommendations for the Transatlantic Initiative on Sustainable Trade from the [Transatlantic Consumer Dialogue](#), as requested by the European Commission.

Thanks kindly,  
TACD Secretariat

**Sarah Grace Spurgin** (she/her)  
*U.S. Secretariat Liaison*

Cell: [REDACTED] | [@TACD\\_Consumers](#) | [www.tacd.org](#)



### WHAT TACD EXPECTS FROM THE TRANSATLANTIC INITIATIVE ON SUSTAINABLE TRADE (TIST)

The Transatlantic Consumer Dialogue (TACD) is a coalition of more than 75 leading European and U.S.-based organisations representing the consumer interest. On a daily basis TACD members defend the right of consumers to make more sustainable choices, when it comes to food, textiles, electronic devices or financial services.

TACD welcomes the first step of the TIST, especially the idea to cooperate on regulatory approaches for greener goods and technologies. TACD insists that any discussions of regulatory approaches and development of new standards center the consumer perspective and must aim to enhance the levels of consumer protection, not reduce them to the lowest common denominator. Our recommendations respond to the questions asked by the European Commission in its stakeholder consultation of September 2023, while

providing a broader overview of what the transatlantic consumer movement expects from the TIST.

1.

## MAKE THE SUSTAINABLE CHOICE THE EASY CHOICE FOR CONSUMERS

The TIST's goal of promoting a more resilient and environmentally sustainable transatlantic marketplace that will help accelerate the green transition is laudable, particularly for the benefit of consumers on both sides of the Atlantic. The transatlantic marketplace is a key forum for accelerating the transition, and the TIST can promote this by facilitating trade in products that provide consumers with more sustainable choices, such as electric vehicles, heat pumps, and smart thermostats and other smart appliances (alongside strict cybersecurity and data protection/privacy standards for connected products).

The TIST workplan outlines an encouraging path to facilitating the green transition, and TACD members offer extensive input on two of the specific regulatory issues facing consumers that the TIST has highlighted: product repair and green claims/greenwashing.

**RIGHT TO REPAIR** To benefit consumers and reduce wasteful practices, TACD has long called for transatlantic cooperation on the right to repair, based on improving product design, consumer information, repair services, and guarantee rights. The recognition of this issue in the TIST workplan is therefore warmly welcomed. TACD calls on the TIST to explore new legal requirements that will empower consumers to repair their products or have their products repaired more easily.

To that end, TACD recommends the TIST incorporate input from the U.S.-EU informal consumer dialogue. Indeed, in this dialogue led by the FTC, and DG JUST, experts and stakeholders already exchanged best practices related to the right to repair. To facilitate trade in repaired products across the Atlantic,

TACD recommends to:

Introduce mandatory lifespan information on products;

Introduce mandatory repairability scores on products;

Establish legal guarantees in relation to product lifespan in the US and extend the EU legal guarantees to reflect product lifespan;

Ensure producers will contribute to the costs of repair either directly or through a repair fund;

Establish horizontal obligations on repairability across product groups (anchored in European eco-design);

Establish horizontal obligations across product groups to provide spare parts for a longer period (anchored in European eco-design);

Exclude secrecy guarantees for source code and algorithms from trade and commercial agreements so that governments can require producers to provide consumers with operating system updates, repair instructions, firmware updates, and access to updated diagnostic tools to repair their products;

Cooperate to facilitate trade of spare parts; and

Introduce prohibitions on restricting competition for repair services.

### GREEN CLAIMS

A consumer landscape in which almost all products are advertised as having green features makes it impossible for consumers to differentiate between less sustainable and more sustainable products.

For example, the definition of "recyclable" should be

simple, but [one study](#)

found that “recycling” is defined in 18 different ways across the U.S. Another example is the widespread “carbon-neutral” claims that cannot be substantiated scientifically and which are often used by the most environmentally harmful industries,

[e.g. air transport](#)

or [meat](#)

[and dairy products](#), while the carbon offsetting schemes being used to justify said claims are unreliable and

often disingenuous. This harms not only consumers, but also the environment. According to a

[2021](#)

[EU Commission study](#), 56% of EU consumers considered at least once the environmental impact of their purchase, and 67%

of consumers said they bought products that are better for the environment even if they cost more.

Unfortunately, the proliferation of such claims on the market and a high percentage of them being unsubstantiated and misleading leads to the situation

where the majority (61%) of consumers find it difficult to understand which products are truly more environmentally friendly. To prevent the spread of greenwashing practices and misleading information, TACD offers the following foundational recommendations:

Complete ban of “climate neutral” and similar claims;

Minimum criteria for substantiation of “green” claims;

Obligation for green claims to be based on a solid scientific methodology;

Mandatory, independent third-party certification of claims; and

Obligation for companies to make the information on which they base their claims publicly available.



## BORDER INSPECTION AND CUSTOMS PROCEDURES

Further, governments must have the appropriate tools to enforce domestic policies at their borders. Enforcement at customs, including through cooperation on lowering de minimis levels<sup>1</sup> (particularly for the U.S.), can ensure that goods purchased online across borders meet environmental and consumer safety standards. As the EU is reforming its customs union, TACD recommends regulators to exchange information on best practices in customs related to sustainability. A concrete deliverable of the TIST could be to systematically exchange customs information related to products made from forced labor and textiles not complying with domestic requirements such as due diligence and chemicals.

## SUSTAINABILITY REPORTING

Creating a "sustainable business environment for an integrated transatlantic marketplace" is one of four areas of cooperation in the TIST. Mandatory and standardized sustainability reporting rules for listed and/or large companies are indispensable to creating such an environment, although the Joint Statement omits them. Fortunately, however, a great deal of work has been done in this area in the last couple of years by the EU, the U.S. Securities and Exchange Commission (SEC), and the International Sustainability Standards Board (ISSB), the sustainability reporting arm of the International Financial Reporting Standards Foundation. From a consumer perspective, the European Sustainability Reporting Standards (ESRS), which will become applicable as of 1st January 2024, are the most advanced because they cover the entire range of sustainability topics (including circular economy), unlike the ISSB standards, and the disclosure rules suggested by the SEC, which, for now, focus on climate change. Moreover, ESRS are based on the "double materiality" principle. Unlike the ISSB, they require sustainability-related disclosures not only when a sustainability matter has the potential to affect a company's financial performance, but also when there are negative impacts on people or the environment, regardless of whether financial effects can also be expected.

It is commonly understood that the ISSB standards will become a 'global baseline' for sustainability reporting, but sustainability-conscious consumers want truly comprehensive sustainability reports, and they care about people and planet. Therefore, we call upon the participants of the TIST to explore ways of ensuring that companies that trade on the transatlantic marketplace are fully transparent about their sustainability performance. This should be added to Step 1 of the TIST work program.

Too often, trade rules are invoked to influence domestic policy making. Lately, trade policy has become a front line for great power competition and geo-political tensions in reaction to countries like

China. In many cases, threats of trade disputes target initiatives designed to improve consumer protection and fight climate change. If we want to develop a strong transatlantic cooperation, this pattern must come to an end. TACD calls on the U.S. and EU to stop threatening each other and third countries with trade retaliation or trade disputes whenever there are concerns over domestic regulations. TACD expects in the TTC5 ministerial statement a clear political commitment from the EU and the U.S. to support one another's bold climate policies and to refrain from launching trade challenges against climate policies.

Important public interest policies should not be weakened, undermined or chilled on the grounds that they might violate overreaching trade and investment rules. Tools currently used to defend public interest policies against trade agreement constraints, such as the general exceptions of GATT and the GATS, have [proven](#) directly ineffective. In fact, only two out of 48 attempts to defend domestic policies from WTO challenges have been successful. And despite the limitations of these exceptions, they have been copied and pasted into numerous trade deals. TACD recommends using the opportunity of the TIST to explore other means to avoid conflicts between WTO rules and climate policies, including the U.S. and EU agreeing to adopt a climate peace clause between them. This would create a ceasefire in U.S.-EU trade challenges to climate policies while needed changes to the core WTO rules can be discussed and agreed. Trade and sustainability can go hand in hand, but only if the WTO rulebook is updated and trade attacks are suspended.

The TIST workplan acknowledges the need to "deepen ongoing efforts to diversify the EU and U.S. supply of rare earth magnets as a way to avoid reliance on geographically concentrated primary production and processing." Any processes to negotiate trade in critical minerals must be transparent and not bypass opportunities for public comment on proposals and legislative checks and balances, i.e., must not follow the model of the U.S.-Japan Critical Minerals Agreement.

TACD members urge caution on the approach to trade in critical minerals, both with regard to EU-U.S. negotiations and all bilateral deals the EU and U.S. may sign with third countries. We affirm the need for a sustainable strategy to manage the scarce resources we have in critical minerals, without contributing to exploitation of vulnerable workers, communities, and economies, adding to environmental degradation, undermining development opportunities of countries in the Global South or ignoring the imperative to have resilient supply chains, meaning both domestic production and diverse import sources. The TIST should ensure that any Critical Minerals Agreement signed between the U.S. and EU contain binding, enforceable commitments on environmental and labor standards with clear rules of origin to ensure that supply chain diversification

goals are met.

### 3. TRANSLATE THE PRINCIPLES OF THE TIST INTO EU AND US TRADE AND INVESTMENT POLICIES

The TIST provides an opportunity for the EU and the U.S. to reflect on the coherence between their climate and trade policies. For instance,

TACD EU members have flagged that the recent trade agreement between the EU and New Zealand promotes exports of meat and dairy products, while at the same time the EU Green Deal foresees a reduction of consumption of these products for environmental reasons.

Trade policies should not contradict the efforts planned in climate policies. The EU and the U.S. should also discuss this beyond the TIST, notably in the Coalition of Trade Ministers on Climate.

The TIST should also examine how we respectively design our trade agreements with third countries. Historically, environmental protections have

been siloed into side agreements to trade pacts, and more recently into their own chapters within pacts. Negotiators must think of sustainability beyond Labour & Environment chapters or Trade and Sustainable Development chapters. That means sustainability

must underpin every chapter's terms and be the basis for trade in every sector. To be effective, entire agreements must reflect climate and sustainability goals without conflicting agendas, such as those now included in terms focused on market access,

"technical barriers to trade" and sanitary and phytosanitary matters.

To ensure a clean energy transition that is both just and

equitable, the TIST should include mutual commitments to incorporate these principles into all U.S. and EU trade frameworks. All trade frameworks must include strong, binding, environmental rules backed by meaningful enforcement mechanisms and penalties

that require compliance with the United Nations Sustainable Development Goals (SDGs) in addition to the Paris Agreement and other Multilateral Environmental Agreements and International Labour Organization conventions. As partners and leaders, the EU and U.S.

can commit to holding each other accountable as we drive forward the green transition.

Moreover, TACD calls on the TIST to advance efforts to remove investor-state dispute settlement (ISDS) mechanisms from existing agreements that

the U.S. and EU have with third countries. Indeed, ISDS has been increasingly used by corporations to thwart climate action. The United States has taken some positive steps away from the ISDS regime in existing pacts, and the Biden administration had pledged

not to include ISDS in any future agreements. Several EU countries are withdrawing from the Energy Charter Treaty, and the EU is now envisaging an EU-wide exit. Additionally, in 2020 most EU Members chose to

terminate their intra-EU agreements with ISDS. These encouraging developments should continue and be promoted through the TIST.

#### 4

### TRANSPARENCY AND ENGAGEMENT

During the TTC stakeholder engagement session in Paris in May of 2022, TACD U.S. Co-chair Ed Mierzwinski highlighted a set of recommendations for the EU-U.S. cooperation agenda that TACD submitted the previous year. The need for a transparent process, with meaningful engagement opportunities for public interest groups, was the very first recommendation on this agenda.

Again at the College Park meeting of the TTC on 5 December 2022, TACD EU Co-chair Monique Goyens spoke on behalf of TACD and highlighted

the need for “democratic scrutiny,” encouraging negotiators to make the process more transparent. Goyens offered the specific recommendation of a joint EU-U.S. website to upload negotiating documents for public analysis and commentary. Secretary of Commerce

Gina Raimondo affirmed that the TTC ought to take up TACD’s suggestion to publish agendas online. However, since this exchange last year, there has not been any improvement regarding the transparency of documents related to the TTC. Further, TACD wrote to

U.S. and EU TTC negotiators ahead of the May summit in Sweden recalling this exchange. TACD has not received any acknowledgement of receipt of this letter from the U.S. Department of Commerce, let alone witnessed good-faith efforts to negotiate in a transparent manner.

The European Ombudsman has identified potential deficiencies with information made available by the Commission about the TTC, and as of 13 July 2023, launched an investigation into how the European Commission ensures the transparency of the TTC. We applaud the initiative of the Ombudsman and urge the U.S. to follow suit.

The Ombudsman’s investigation includes questions for the Commission concerning the transparency and possibility for public scrutiny of the TTC, stakeholder engagement in the context of the TTC, and the transparency of interactions with interest representatives.

Such consultation is crucial to the democratic process. As such, TACD urges an on-the-record public process that includes:

- Publication of Working Group meeting agendas and minutes;

- Publication of the names and contact information for U.S. and EU representatives and other participants;

- Publication of regular progress reports of the Working Groups, followed by debriefs for civil society. (The EU conducted such a session on 12 May for EU stakeholders; the U.S. ought to follow suit.);

- Inclusion of consumer representatives on advisory committees, which to date have (with limited exceptions) represented businesses and industry associations to the exclusion of civil society; and

- Regular consultation with civil society regarding:

- o The drafting of important documents, instead of being made aware during the launch, as was the case with the AI Roadmap and voluntary code of conduct on AI;

- o What type of cooperation dialogues would benefit consumers and society; and

- o Possible creation of a joint platform addressing transparency and meaningful engagement. This platform

should cover all the cooperation dialogues and channels established, including health, sustainability, competition, agriculture, digital, and potentially consumer issues.

We support the goal of realizing a new model for U.S.-EU cooperation that prioritizes the interests of consumers. A transparent and participatory process is critical to ensuring that the U.S. and EU are leaders in the green transition.

The United States and the European Union have taken the important first step in acknowledging the role of trade policy in driving the transition toward a green economy and building on the cooperation already ongoing under the TTC.

For the sake of consumers and our planet, the more sustainable choice must always be made the easy choice, and the TIST has the opportunity to facilitate this transition.

A true transatlantic collaboration to address catastrophic climate change, and related global social, health, and biodiversity crises must protect consumers, not consumerism.

## **RE: Darcey, Megan, Liza re: Short report for release Tuesday**

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**From:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Cc:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Date:** Mon, 16 Oct 2023 15:07:54 -0400

Many thanks Melinda.

Best,  
Beth

---

**From:** Melinda St. Louis <mstlouis@citizen.org>  
**Sent:** Monday, October 16, 2023 2:59 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>  
**Cc:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Subject:** [EXTERNAL] FW: Darcey, Megan, Liza re: Short report for release Tuesday

Hi Beth,

Just wanted to make sure you saw this letter that was sent today.

Best,  
Melinda

**Please Extend the June 2022 WTO TRIPS Decision to Improve Global  
Access to COVID-19 Diagnostics & Therapeutics by Easing Developing  
Countries' Use of Existing WTO Compulsory Licensing Flexibilities**

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

October 16, 2018

Dear Ambassador Tai,

Three-and-a-half years after COVID-19 was first declared a pandemic, the SARS-COV-2 virus remains a leading cause of infection and death around the world. Shamefully, the gross inequalities that characterized the global rollout of first-generation COVID vaccines are still being replicated when it comes to access to COVID therapeutics and diagnostic tools. As a result, “test and treat” strategies designed to prevent the worst outcomes due to COVID-19 are only widely available in affluent nations. In developing countries, lack of access to therapeutics and diagnostics remains a key factor driving the transmission of COVID-19 and many needless deaths.

We urge you to please rectify part of this ongoing and avoidable tragedy by announcing the United States’ unconditional support for developing countries’ World Trade Organization (WTO) proposal “*Decision text on extension of the 17 June 2022 Ministerial Decision to COVID-19 Therapeutics and Diagnostics*”(WT/GC/W/860; IP/C/W/694).

The world cheered in 2021 when you announced the Biden administration’s support for waiving WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) monopolies limiting access to affordable COVID-19 vaccines. It was crushing that an emergency COVID TRIPS waiver supported by 100-plus countries was never agreed by WTO members. IP barriers continue to remain a challenge for the production and supply of affordable vaccines by developing countries.

However, the June 2022 Ministerial Decision that was agreed to instead of a waiver, if expanded, could make a major difference in global access to affordable COVID treatments and tests. In effect, expanding the 2022 decision would only temporarily suspend one condition for using the WTO’s existing compulsory licensing flexibility: a limit on the quantities of a compulsorily-licensed product made in a developing country can be exported to other developing countries. This small, but meaningful, step could help developing countries to establish additional sources of supply for COVID tests and medications, and thus help prevent needless disease progression, economic displacement, long COVID and death.

Given the narrow scope of this proposal, which pertains only to markets that already cannot afford brand-name treatments and tests, it would not affect existing sales and profits of pharmaceutical companies nor pharmaceutical manufacturing jobs in the United States.

Publication of the forthcoming U.S. International Trade Commission report “*COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities*” should eliminate all reason for continued U.S. inaction on this issue. Regardless of the nuances of any report’s findings, we again ask that you support extending the June 2022 WTO Decision on the TRIPS Agreement to COVID diagnostics and therapeutics mutatis mutandis.

Sincerely,  
Association of Flight Attendants-CWA  
Health Gap  
Knowledge Ecology International  
NETWORK Lobby for Catholic Social Justice  
Oxfam America  
PCUSA Washington Office of Public Witness



Public Citizen

Rethink Trade

The United Methodist Church - General Board of Church and Society

Trade Justice Education Fund

Transport Workers Union of America

## RE: Introductions

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**From** "Esparza, Martha EOP/USTR" <martha.esparza@ustr.eop.gov>

:

**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>, Peter Maybarduk <pmaybarduk@citizen.org>

**Date:** Wed, 18 Oct 2023 15:08:49 -0400

Thank you Beth. Looking forward to hearing more, Peter.

Best,

Martha

---

**From:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>

**Sent:** Wednesday, October 18, 2023 3:06 PM

**To:** Peter Maybarduk <pmaybarduk@citizen.org>; Esparza, Martha EOP/USTR <Martha.Esparza@ustr.eop.gov>

**Subject:** Introductions

Peter and Martha, so happy to introduce you. Peter, Martha is our White House Fellow, and a physician. She is working on TRIPS and COVID. Martha, Peter is Public Citizen's health expert and a really important voice in the public health community.

Peter has a number of ideas of ways to advance the Ambassador's goal of ensuring that the appropriate use of TRIPS flexibilities is respected. It would be great to hear those ideas and see what we might be able to do.

Best,

Beth

## [EXTERNAL] Letter to POTUS fr US grps re. US supporting EU digital policy

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**From:** Lori Wallach [REDACTED] rethinktrade.org>  
**To:** "Tai, Katherine C. EOP/USTR" [REDACTED] ustr.eop.gov>, "Hurlburt, Heather F. EOP/USTR" <heather.f.hurlburt@ustr.eop.gov>, "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Thu, 19 Oct 2023 13:22:13 -0400  
**Attachments** DMA Letter to White House sent.pdf (210.09 kB)

:

Greeting to you all,

I wanted to share this letter to Pres. Biden from U.S. consumer, digital governance and business groups urging U.S. support for robust competition policy and tech oversight worldwide.

The groups urge the president to support robust implementation of the EU digital policies, including the DMA. They also contest the corporate claims that these policies are discriminatory, noting that the DMA uses the same sort of size and impact criteria as the U.S. tech anti-monopoly policies that the White House supported in the last Congress. The groups note that the largest U.S. firms have been designated “gatekeepers” under the DMA is because they are enormous firms with enormous impact, not because they are American.

I thought this letter may be of interest to you.

Yours, Lori

**Lori Wallach**

Director, Rethink Trade at American Economic Liberties Project

[REDACTED] [RethinkTrade.org](https://rethinktrade.org) || Twitter @WallachLori || Skype lori\_wallach



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The Tech Oversight Project.



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CENTER for  
ECONOMIC JUSTICE | FAIR ACCESS  
FAIR TREATMENT

October 19, 2023

Dear President Biden,

We are strong supporters of your all-of-government competition policy and thank you for the many ways it is being implemented to help consumers, workers, and smaller businesses. We appreciate your 2023 State of the Union focus on the threats posed by “Big Tech” and your commitment to address these problems, including through landmark litigation against Amazon and Google.

We are writing today to urge you and your administration to coordinate with similar efforts underway worldwide. Specifically, we urge you to be supportive of the robust implementation of the European Union’s Digital Markets Act of 2022 (DMA). With a relatively few Big Tech giants dominating the digital sphere globally, it will help achieve our shared competition goals for countries worldwide to act to address this imbalance.

Certainly, the Big Tech monopolists have a global strategy to *evade* oversight and protect their monopoly power. They and their proxies like the Chamber of Commerce are lobbying against U.S. competition initiatives and simultaneously attacking similar policies around the world. We urge you and your administration to coordinate with other governments that share your goal of ending monopoly abuses against competing businesses, workers, and consumers. Coordinating efforts will maximize the likelihood of success.

The Big Tech firms are aware of this. That is why they are trying to generate disputes between countries as a tactic to defeat oversight. One ploy is to claim that other countries’ anti-monopoly policy is “discriminatory” and violates trade principles. This misleading tactic is based on the reality that when anti-monopoly laws target the largest firms with the biggest effects on markets and competition, as they must to be effective, this can impact firms from other countries.

Big Tech lobbyists are now trying to use the EU’s recent designation of six companies as “gatekeeper” companies that must meet certain rules under the DMA to argue that the U.S. government should oppose the DMA. But this European policy, which the tech corporations oppose just as they oppose U.S. competition policy initiatives, is consistent with the Biden administration’s laudable fight for fair markets. The six firms named gatekeepers meet objective criteria related to their size and power, and thus threats they pose. These quantitative criteria determine if some core platform services provided by giant firms today or in the future are an important gateway between businesses and consumers. For a service to be designated as such: A firm must (i) have at least €7.5

billion in annual turnover or a market capitalization of at least €75 billion in the EU, (ii) provide a core platform service in at least three EU member countries, and (iii) have more than 45 million monthly users and 10,000 yearly business users in the EU and have met the user criterion during the last three years.

These size and impact criteria apply irrespective of the national origin of firms or their investors or boards. The DMA does not intentionally target only U.S. firms: Chinese firm ByteDance/TikTok was designated a gatekeeper. That designation also punctures the Big Tech lobby's claim that laws like the DMA will somehow 'help China'. These facts make the Big Tech lobby claims of "discrimination" especially cynical. The targeting in the DMA is against monopoly power, which is the EU law's purpose and that of similar U.S. anti-monopoly efforts. Indeed, the congressional antitrust package that the administration supported in the 117th Congress also used similar criteria based on the number of users, market capitalization or net sales, and how unavoidable an online platform is for small businesses to reach consumers.

We urge you to announce public support for robust DMA implementation. Doing so will benefit the competing firms, workers, and consumers in the United States whose interests you seek to further by promoting competition. It would also demonstrate to countries with which the United States seeks to partner on many important goals that the Biden administration is a reliable ally that stands by its principles.

Sincerely,

Accountable Tech  
AI Now Institute  
American Economic Liberties Project  
Center for Economic Justice  
Consumer Reports  
Electronic Privacy Information Center  
Public Citizen  
Public Knowledge  
Responsible Online Commerce Coalition  
Rethink Trade  
Tech Oversight Project

## [EXTERNAL] RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Wed, 25 Oct 2023 16:31:09 -0400

Sure, would be great to connect about it. Do you have any windows of availability for a brief chat this week?

---

**From:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>  
**Sent:** Wednesday, October 25, 2023 11:41 AM  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Subject:** RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Many thanks, Melinda! Really appreciate it. I am not the lead on digital though of course where there is overlap with competition, I am able to explain why this approach aligns with Bidenomics. I'd be happy to talk about that more with you, if it would be helpful. Rana Foroohar just had a great piece in Washington Monthly that draws on the Ambassador's speech at the National Press Club in June.

Best,  
Beth

---

**From:** Melinda St. Louis <mstlouis@citizen.org>  
**Sent:** Wednesday, October 25, 2023 11:38 AM  
**To:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>  
**Subject:** [EXTERNAL] FW: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Hi Beth,

Just wanted to share the statement we put out on the very welcome news of the US decision on the WTO JSI. We are grateful to all at USTR who worked to make this happen! Maybe when you have a chance, would love to chat more about how we can support this move, also within context of IPEF and elsewhere.

Best,  
Melinda

Statement below is available online [here](#).



**U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals**

**For Immediate Release:** October 25, 2023

**Contact:** Emily Leach, [eleach@citizen.org](mailto:eleach@citizen.org)

**Washington, D.C.** — Today, the U.S. government announced its decision to withdraw support for proposals on data flows and source code currently being discussed in World Trade Organization negotiations on e-commerce.

**Global Trade Watch director Melinda St. Louis issued the following statement in response:**

“In a stinging rebuke to Big Tech’s efforts to protect its monopoly power and sabotage regulation, today’s decision is a welcome change for all of us who want to hold Big Tech accountable. It brings U.S. trade policy in line with President Biden’s AI Bill of Rights and other efforts by the administration and Congress to rein in Big Tech. It is also a major step toward creating the ‘worker-centered trade’ the Biden administration envisions.

“Katherine Tai foreshadowed this decision last month when she cautioned that, ‘until the United States is able to articulate our own policies in this [digital] area, I got nothing to bring to the table in the international conversation, because I’m just a trade negotiator.’ We congratulate Tai for breaking from the pattern of past U.S. Trade Representatives of both parties by refusing to solidify in a trade pact policy issues that legislators and regulators are currently debating. This encouraging news is consistent with reports that the U.S. has held back from tabling similar controversial digital provisions in IPEF talks.

“If tech industry lobbyists are hysterical over this decision, it would only further prove that this is the right move for everyone else, who’s tired of Big Tech’s invasive and anti-competitive business practices.”

For background, see the fact sheet from the Digital Trade Alliance on “[Understanding the WTO JSI on E-Commerce](#).”

###

View our [press releases](#), [press contacts](#), and [experts](#).

**PUBLIC CITIZEN**  
1600 20th Street NW  
Washington, DC 20009  
(202) 588-1000



# [EXTERNAL] INFO: Consumer Rights Organizations on E-Commerce JSI

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**From:** Sarah Grace Spurgin [REDACTED] citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Wed, 01 Nov 2023 18:46:33 -0400

Dear Ms. Baltzan,

Members of the Transatlantic Consumer Dialogue (TACD), leading consumer and digital rights organisations in the United States and Europe, welcome the U.S. [announcement](#) to step back from including data flows and source code rules in the WTO Joint Statement Initiative on e-commerce. We call on the EU to take this opportunity to reassess its own digital trade policy and better protect its citizens.

Full statement can be found [here](#) and copied below my signature.

Sincerely,

Sarah Grace Spurgin

**Sarah Grace Spurgin** (she/her)  
*U.S. Secretariat Liaison*

Cell: [REDACTED] |@TACD\_Consumers | [www.tacd.org](http://www.tacd.org)

Email: [scg@tacd.org](mailto:scg@tacd.org) | [sspurgin@citizen.org](mailto:sspurgin@citizen.org)



TACD COMMENDS U.S. DECISION ON WORLD TRADE ORGANIZATION

E-COMMERCE TALKS

## **It is high time to rethink digital trade policies to fully preserve people's fundamental rights**

Leading consumer and digital rights organisations, members of the Transatlantic Consumer Dialogue (TACD), in the United States and Europe welcome the U.S.

[announcement](#)

to step back from including data flows and source code rules in the Joint Statement Initiative on e-commerce. We call on the EU to take this opportunity to reassess its own digital trade policy and better protect its citizens.

Since 2019, the EU and the U.S. have been negotiating a new rule book for digital trade at the World Trade Organization (WTO) with more than 80 other countries.

The stated goal of this joint statement initiative (JSI) is to define global rules to make it easier for consumers and companies to trade online.

A consolidated version of the JSI negotiating text has recently been leaked.<sup>1</sup>

After careful analysis, TACD has identified risks for digital rights in the leaked version. Without changes, the final text could undermine the ability of governments to protect

**personal data and privacy** of their citizens. It could also make it very difficult for authorities to protect consumers from bias and discrimination of

**artificial intelligence** systems.

### **What is the problem for data protection and privacy?**

Cross-border data flows are one of the key provisions in these negotiations. The purported objective is to facilitate international data transfers across national borders.

It is crucial to consider the broad implications of any cross-border data flows provisions, which could undermine people's human right to privacy and personal data protections.<sup>2</sup>

Failing to do so would defeat another ostensible purpose of these negotiations: to enhance consumer trust online.

Many digital services rely on collecting and processing personal data. At the same time, consumers wish to have control over their personal data.

Scandals like Cambridge Analytica and the invasive and constant tracking and exploitation of people's data have eroded people's trust in cross-border data transfers.<sup>3</sup>

A survey revealed that 72% of consumers across the globe are concerned about the collection of their personal data by companies online.<sup>4</sup>

After analysing the leaked text of the JSI, we understand that certain countries party to the JSI negotiations are seeking to secure rules to guarantee companies a right

to free flow of data across borders. Some of their proposals replicate clauses from trade agreements, such as the U.S.-Mexico-Canada Agreement and the Comprehensive and Progressive Trans-Pacific Partnership. These proposals seek to prioritize unhindered data

flows above data protection and privacy. From a consumer and digital rights perspective, the logic should be exactly the opposite: protecting people's rights comes first.

The risks of including rules on cross border data flows, data protection, and privacy in the JSI would be far greater for citizens' rights than the economic benefits

that can potentially be achieved in a few countries. Instead, countries could adhere to the only binding international treaty on data flows and personal data protection to date: the Convention 108+.<sup>5</sup>

### **What is the risk regarding artificial intelligence?**

The negotiations include proposed rules conditioning who can and cannot have access to source code of software. The source code provision would restrict governments from requiring source code disclosure. This restriction is unnecessary as companies already can rely on protection of their trade secrets and intellectual property rights.

The different proposals in the consolidated text would make it difficult for authorities to require pre-market audits of AI systems to review for discriminatory or anti-competitive practices. They would also prevent civil society organizations and academics from alerting authorities of domestic regulation infringements.<sup>6</sup>

For example, this provision would prevent consumer organizations and academics from investigating suspected biases in an artificial intelligence system of a bank, used to assess credit worthiness, and to alert authorities in case of confirmed bias.

Countries participating in the JSI are still in the process of defining their artificial intelligence regulatory framework domestically. Including source code provisions in the JSI is therefore premature. If not defined carefully, it could limit the level of protection governments intend to provide to their citizens.

### **Time for introspection: towards fairer digital trade policies**

We welcome the U.S. administration's announcement that it will no longer support proposals for rules on data flows and source code in the JSI and encourage the U.S.

to continue this position in other international negotiations beyond the JSI. We call on the EU to use the opportunity to follow the U.S.'s lead in withdrawing support to these problematic trade rules on data flows and source code and evaluate its own digital trade policy. This is especially important now as the EU is about to enter into digital trade negotiations with Singapore and Korea, in addition to the JSI talks.

### **More**

[TACD Work at the Nexus of Digital-Trade](#)

[TACD Policy](#)

[Priorities for Artificial Intelligence \(May 2023\)](#)

[TACD](#)

[urges WTO negotiators not to interfere with digital rights \(January 2019\)](#)

[TACD](#)

[welcomes European Commission decision to defend peoples' privacy in trade discussions \(February 2018\)](#)

[TACD,](#)

[BEUC, EDRi: The European Commission rightly decides to defend citizens' privacy in trade discussions \(February 2018\)](#)

[TACD](#)

[and its members urge EU leaders to protect citizens' data in trade agreements \(October 2016\)](#)

[EU data protection rights](#)

[at risk through trade agreements, new study shows \(July 2016\)](#)

[Trade](#)

[agreements and data flows: TACD at public hearing of European Parliament \(June 2015\)](#)

# [EXTERNAL] Letter to POTUS cc USTR Tai: Thank you for digital trade policy that preserve policy space

---

**From:** Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)  
**To:** "Tai, Katherine C. EOP/USTR" [EXEMPTION 6@ustr.eop.gov](mailto:EXEMPTION 6@ustr.eop.gov)  
**Cc:** "Hurlburt, Heather F. EOP/USTR" <[heather.f.hurlburt@ustr.eop.gov](mailto:heather.f.hurlburt@ustr.eop.gov)>, "Baltzan, Elizabeth V. EOP/USTR" <[elizabeth.v.baltzan@ustr.eop.gov](mailto:elizabeth.v.baltzan@ustr.eop.gov)>  
**Date:** Wed, 01 Nov 2023 18:05:07 -0400  
**Attachments** Digital Trade Letter to White House from civil society and labor.pdf (310.72 kB)

:



The Honorable Joseph R. Biden  
President of the United States of America  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Biden,

We appreciate your efforts to counter Big Tech abuses and protect all Americans' privacy and the safety of our children online, ensure gig workers' labor rights, and fight for fair and competitive marketplaces free of monopoly predation. We are a diverse set of organizations that reflect the myriad ways in which all Americans are affected by the digital economy.

We are writing today to express our appreciation for your administration's efforts to ensure that any "digital trade" provisions of the Indo-Pacific Economic Framework (IPEF), World Trade Organization (WTO) and other international commercial agreements are consistent with these goals.

The appointment of U.S. Trade Representative Katherine Tai to your Competition Council is welcome news. Ambassador Tai has achieved important progress in ensuring that your new worker-centered trade policy supports and promotes the goals and priorities of your all-of-government competition policy, 2023 State of the Union speech's focus on privacy and data security, and the White House Blueprint for an AI Bill of Rights.

Specifically, we thank you for suspending negotiations on the IPEF "digital trade" terms that thwart privacy, civil rights and liberties, anti-monopoly, and gig worker safeguards. And for withdrawing U.S. support for such terms in the context of the WTO's Joint Statement Initiative on E-Commerce. Your exclusion of the most threatening digital provisions that Big Tech interests convinced the Trump administration to include in the U.S.-Mexico-Canada Agreement helps to promote your competition, privacy, and other digital goals for consumers, workers and entrepreneurs that we support.

Unsurprisingly, some Big Tech lobbyists and their allies at the Chamber of Commerce are not happy. They hoped to commandeer IPEF negotiations, which will set rules binding countries representing 40% of the world economy, and WTO negotiations, to impose "digital trade" terms to constrain privacy, gig worker, anti-monopoly and AI accountability policy. This form of international preemption, which Big Tech interests are also pushing at other negotiating venues, would undermine your agencies' and Congress' efforts to remedy threats that an unregulated digital sphere poses to workers, consumers, competing businesses, and democracy itself.

The seriousness of these problems is reflected in the polling data that show Americans across the political spectrum agree with you and with us: The few dominant Big Tech firms that control broad swaths of our economy and daily lives require urgent oversight.

We appreciate USTR Tai's comments on the need to develop a new U.S. approach to "digital trade" that respects those in Congress and administration agencies now working to develop U.S. privacy, tech anti-monopoly, AI, gig worker, and other digital policies. We support continued involvement by the administration agencies responsible for enforcement of privacy and competition policies in the process of designing this new U.S. policy. We support a new approach that safeguards the policy space needed to effectively regulate Big Tech that is consistently promoted and achieved by the United States in all trade negotiations.

Thank you for your leadership in improving our trade rules so that they promote rather than undermine the pro-worker, anti-monopoly, pro-consumer-privacy and anti-online-discrimination goals for the digital sphere that we share with you. We hope we can work with your administration to help secure these important gains for the American public.

Sincerely,

Accountable Tech  
AI Now Institute  
American Economic Liberties Project  
Citizens Trade Campaign  
Communications Workers of America  
Demand Progress  
Electronic Privacy Information Center  
International Brotherhood of Teamsters  
Maryknoll Office for Global Concerns  
NETWORK Lobby for Catholic Social Justice  
Public Citizen  
Rethink Trade  
Tech Oversight Project  
Trade Justice Education Fund  
United Brotherhood of Carpenters and Joiners of America  
United Church of Christ  
United Steelworkers

CC: Ambassador Katherine Tai, United States Trade Representative

Lori Wallach

Director, Rethink Trade at American Economic Liberties Project

**EXEMPTION 6** [RethinkTrade.org](http://RethinkTrade.org) || Twitter @WallachLori || Skype lori\_wallach



## RE: Brief follow up from call

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**From:** "Reyes, Anthony T. EOP/USTR" <anthony.t.reyes@ustr.eop.gov>  
**To:** Peter Maybarduk <pmaybarduk@citizen.org>, Melinda St. Louis <mstlouis@citizen.org>  
**Cc:** "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>  
**Date:** Wed, 01 Nov 2023 14:22:21 -0400

Thank you very much!

---

**From:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Sent:** Wednesday, November 1, 2023 2:19 PM  
**To:** Reyes, Anthony T. EOP/USTR <Anthony.T.Reyes@ustr.eop.gov>; Melinda St. Louis <mstlouis@citizen.org>  
**Cc:** Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>  
**Subject:** [EXTERNAL] RE: Brief follow up from call

Certainly – I've made the additions & modifications in-line below.

---

**From:** Reyes, Anthony T. EOP/USTR <[Anthony.T.Reyes@ustr.eop.gov](mailto:Anthony.T.Reyes@ustr.eop.gov)>  
**Sent:** Wednesday, November 1, 2023 2:07 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>; Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Cc:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Subject:** Brief follow up from call

Hi Peter and Melinda,

Here is the list I jotted down for expected participants, but my internet connectivity was spotty toward the end I may have missed a few (namely from PIH and MSF). Can you please let me know who I am missing here?

Many thanks,  
Anthony

Robert Weissman, Public Citizen  
Peter Maybarduk, Public Citizen  
Melinda St. Louis, Public Citizen  
Megan Whiteman, Public Citizen  
(To confirm from Public Citizen: Melanie Foley, Jishian Ravinthiran, Steven Knievel)

Laura Peralta-Schulte, NETWORK  
Matthew Kavanagh & Luis Gil Abinader, Georgetown University

Remotely:

James Love, Knowledge Ecology Intl  
Brook Baker , Professor of Law, Northeastern University School of Law  
Mihir Mankad, MSF / Doctors Without Borders  
Rachel Thrasher, Boston U  
Anne Moller (or another representative of Partners In Health)

## [EXTERNAL] AFL-CIO, Sierra Club, Public Citizen and 220 US organizations call for removal of ISDS from existing trade and investment agreements

---

**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Thu, 02 Nov 2023 10:09:51 -0400  
**Attachments:** AFLCIO Sierra Club Public Citizen 220 Orgs Call for Exit ISDS.pdf (91.47 kB)

Hi Beth,

I wanted to make sure that you've seen letter that is being sent to a number of agencies in the administration, if you can flag for Ambassador Tai.

Warm regards,  
Melinda

Dear Ambassador Tai:

Please find attached a letter to President Biden, led by the AFL-CIO, Sierra Club, and Public Citizen and signed by more than 220 U.S. organizations, which expresses gratitude that the Biden administration has followed through on the promise to not pursue new trade and investment agreements with the Investor-State Dispute Settlement (ISDS) system and further urges the administration to pursue an effective path to exit the ISDS by the U.S. and our partners in existing bilateral investment treaties and free trade agreements, as part of a broader effort to protect policies necessary for the green transition.

Letter signers include United Steelworkers, Services Employees International Union, American Federation of Teachers, Amnesty International, Consumers Federation of America, Economic Policy Institute, National Resource Defense Council, League of Conservation Voters, BlueGreen Alliance, U.S. Public Interest Research Group, National Organization for Women, Center for Popular Democracy, and Oxfam America. You can see the full list

We encourage the administration to pursue all appropriate avenues to work to remove ISDS from existing treaties, including through dialogues stemming from the upcoming Americas Partnership for Economic Prosperity summit and other discussions with trading partners.

Warm regards,  
Melinda St. Louis,

**Melinda St. Louis | Director**

Public Citizen's Global Trade Watch

1600 20<sup>th</sup> Street NW, Washington, DC 20009

TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)

*pronouns: she/her*

**Public Citizen, AFL-CIO, Sierra Club, and 200+ Organizations Urge Biden to Terminate ISDS Provisions in Existing U.S. Trade and Investment Agreements**

November 1, 2023

President Joseph R. Biden  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, DC 20500

cc: Katherine Tai, United States Trade Representative

Dear President Biden:

The achievements of your administration toward a clean energy transition are under threat by corporations looking to take advantage of unpopular, antidemocratic – and outdated – trade rules.

Corporations have an unfair advantage over sovereign nations under many trade and investment agreements. Investor-State Dispute Settlement (ISDS), embedded in numerous trade and investment agreements, has created a global governance regime that prioritizes corporate rights over those of governments, people, and the planet. These rules give special rights to multinational corporations that are not available to domestic businesses. If a corporation alleges that a government action, such as the banning of a toxic chemical or rejection of a mining permit, violates their special corporate rights, ISDS provides the corporation the ability to sue a government for compensation outside of the countries' domestic legal and court systems. ISDS claims are often in the millions or billions of dollars. An unaccountable three-person tribunal decides the fate of each case. The tribunal can even decide a company should be paid for the “expected future profits” it may have earned in the absence of the government policy in question. The ISDS regime has been especially detrimental to public health, climate and environmental protections, Indigenous land rights, financial regulations, and democratic sovereignty.

Your administration has overseen the largest investment in clean jobs and climate action ever. The Inflation Reduction Act, and other components of the Bidenomics agenda, are just the sort of transformative policies the world will need to face the challenges ahead. They are also just the sort of public interest policies that corporations love to attack via ISDS.

The labor, environmental, faith, consumer, and other civil society organizations signed below **appreciate that you have followed through on your promise and have not pursued new trade and investment agreements with the Investor-State Dispute Settlement (ISDS) system.**

**The logical next step will be to address the ongoing liability of ISDS in existing agreements.** The United States is party to dozens of trade and investment agreements that continue to be exploited by corporations to seek billions in taxpayer compensation over environmental, public health, land use, transportation and other public interest policies.

Congress and the White House already worked together on a bipartisan basis to significantly reduce ISDS liability in the renegotiated U.S.-Mexico-Canada Agreement (USMCA), the successor to the North American Free Trade Agreement (NAFTA). Though it left an unacceptable loophole for U.S. fossil fuel companies in Mexico, it is a promising step toward ending ISDS.

The tide is turning against ISDS outside the U.S. as well. Civil society efforts in Colombia and across the hemisphere have been demanding their governments work to end ISDS. Ten European countries have abandoned the Energy Charter Treaty over its ISDS rights for fossil fuel companies, and the European Union as a whole is considering withdrawing. Australia, New Zealand, and other countries have signed side letters to exclude themselves from ISDS in various pacts, and a number of countries including South Africa, India, and Indonesia have worked to exit investment treaties with ISDS. Continued movement away from ISDS by the United States would be a powerful signal to other governments considering taking similar action.

We are eager to work with you to finish the job and free public interest policies from the shadow of ISDS. **We urge you explore all avenues at your disposal and pursue an effective path to exiting ISDS by the U.S. and our partners in existing bilateral investment treaties and free trade agreements.** Bringing our existing agreements in line with current administration policy would foreclose the possibility of future attacks against the U.S. and signal to trading partners that they will not be penalized for prioritizing the public interest.

Sincerely,

### National Organizations

350.org	Citizens Trade Campaign
A Legacy of Equality Leadership and Organizing (LELO)	Climate Crisis Policy
Acterra: Action for a Healthy Planet	Committee in Solidarity with the People of El Salvador (CISPES)
Action on Smoking and Health (ASH)	Communications Workers of America
ActionAid USA	Conservation Congress
AFL-CIO	Consumer Federation of America
Agricultural Justice Project	Corporate Accountability Lab
Amazon Watch	Corporate Campaign, Inc.
American Federation of Teachers	CPATH
American Indian Mothers Inc.	Demand Progress Education Fund
Americans for Democratic Action	DownRiver Alliance
Americans for Financial Reform	E3G - Third Generation Environmentalism
Amnesty International USA	Earth Action, Inc.
Association of Flight Attendants-CWA	Earth Ethics, Inc.
Basel Action Network	Earth Ethics, Inc.
BlueGreen Alliance	Earthjustice
Campaign for America's Future	Earthworks
Campaign for Family Farms and the Environment	EcoEquity
Center for Biological Diversity	Economic Policy Institute
Center for Economic and Policy Research	Endangered Habitats League
Center for Economic Justice	Evolved Wireless Inc
Center for Food Safety	Family Farm Defenders
Center for Popular Democracy	Family Farm Defenders
Center for the Advancement of the Steady State Economy	Food & Water Watch
	Foundation for Integrative AIDS Research (FIAR)

Franciscan Action Network  
 Friends of the Earth US  
 Friendship Office of the Americas  
 Global Exchange  
 GMO/Toxin Free USA  
 Greenpeace USA  
 Guatemala Solidarity Project  
 Health GAP (Global Access Project)  
 Heroes Remembered, LLC  
 Holy Cross International Justice Office  
 Honduras Solidarity Network  
 Hope Border Institute  
 Housing Works  
 Human Rights Observation/ Honduras  
 Impact Fund  
 Institute for Agriculture and Trade Policy  
 Institute for Policy Studies - Global Economy  
 Project  
 Interfaith Center on Corporate Responsibility  
 (ICCR)  
 International Association of Machinists and  
 Aerospace Workers  
 International Brotherhood of Teamsters  
 International Corporate Accountability  
 Roundtable (ICAR)  
 International Federation of Professional and  
 Technical Engineers (IFPTE)  
 InterReligious Task Force on Central  
 America  
 Jobs to Move America  
 Justice Is Global  
 Knowledge Ecology International (KEI)  
 Latin America Working Group  
 League of Conservation Voters  
 League of Women Voters of the United  
 States  
 Maryknoll Office for Global Concerns  
 Mighty Earth  
 Move To Amend  
 National Advocacy Center of the Sisters of  
 the Good Shepherd  
 National Association of Consumer Advocates  
 National Family Farm Coalition  
 National Farmers Union  
 National Jobs for All Network  
 National Organization for Women  
 Natural Resource Defense Council  
 NETWORK Lobby for Catholic Social  
 Justice  
 Nicaragua Center for Community Action  
 Oil Change International  
 Other98  
 Our Revolution  
 Oxfam America  
 Partners In Health  
 Pass the Federal Green New Deal Coalition  
 Pax Christi USA  
 Peace Action  
 Peace, Justice, Sustainability NOW!  
 Pesticide Action Network North America  
 PIRG  
 PrEP4All  
 Prevention Access Campaign  
 Pride at Work  
 Progressive Democrats of America  
 Public Citizen  
 R-CALF USA  
 Rethink Trade  
 Revolt Against Plutocracy  
 Revolving Door Project  
 RootsAction.org  
 Rural Coalition  
 Salud y Farmacos  
 Service Employees International Union  
 Sierra Club  
 Sisters of Mercy of the Americas - Institute  
 Justice Team  
 Social Security Works  
 St. Columban Mission for Justice, Peace and  
 Ecology  
 Sunflower Alliance  
 Sunrise Movement  
 Take On Wall Street  
 The Altai Project  
 The Cross Border Network for Justice and  
 Solidarity  
 The Jus Semper Global Alliance  
 The People's Justice Council  
 Toxics Information Project (TIP)  
 Transport Workers Union of America  
 Treatment Action Group

UE - United Electrical, Radio & Machine  
Workers of America  
Unitarian Universalists for a Just Economic  
Community  
UNITE HERE  
United Church of Christ, Justice and Local  
Church Ministries  
United For Clean Energy

United Steelworkers (USW)  
Universities Allied for Essential Medicines  
Uplift International  
Washington Office on Latin America  
(WOLA)  
Witness for Peace Solidarity Collective  
Women's International League for Peace and  
Freedom, US

### Regional Organizations

U.A.W. Region 9  
350 Eastside (Seattle)  
350 Seattle  
350 Tacoma  
AFGE Local 3937  
AFT 1356  
Alabama Interfaith Power & Light  
Alliance for the Wild Rockies  
Austin Tan Cerca de la Frontera  
Beacon Presbyterian Fellowships  
CAJA3  
California Trade Justice Coalition  
Carrizo/Comecrudo Tribal Nation of Texas  
Inc.  
Chicago ALBA Solidarity  
Coalition Against the Rockaway Pipeline  
Code Pink Houston  
Community to Community  
Compassionate St. LOUIS  
Congregation of Our Lady of Charity of the  
Good Shepherd, U.S. Provinces  
CWA/WashTech Local 37083  
Dallas AFL-CIO CLC  
Dallas Peace & Justice Center  
Debs-Jones-Douglass Institute  
Democratic Action Committee  
Democratic Action Committee, East Texas  
Denver Justice and Peace Committee  
Economic Justice Mission Group, NH  
Conference United Church of Christ  
Elders Climate Action  
Farm Worker Ministry Northwest  
Food for Maine  
Friends of Merrymeeting Bay

Friends of the Bitterroot  
Green Party of Florida  
Hernando County Green Party  
IAMAW District W24  
Indian Point Safe Energy Coalition  
Indivisible Austin  
Indivisible Bainbridge Island  
Iowa Federation of Labor, AFL-CIO  
Jefferson County Move to Amend  
Jobs with Justice of East Tennessee  
Kickapoo Peace Circle  
KORCLC  
Maine AFL-CIO  
Maine Fair Trade Campaign  
Minnesota Alliance for Retired Americans  
Mira: Feminisms and Democracies  
NC APPPL (Alliance to Protect Our People  
and the Places We Live)  
New York Climate Action Group  
New York Trade Justice Coalition  
NJ State Industrial Union Council  
North Kitsap Indivisible  
Northeast Organic Farming Association of  
New Hampshire (NOFA-NH)  
Northeast Organic Farming association of  
Rhode Island  
Northeast Organic Farming Association-  
Interstate Council  
Olympia Indivisible  
Park Slope Food Coop - International Trade  
Education Squad  
Peace Action Maine  
Peacemakers of Schoharie County



Portland Central America Solidarity  
Organization (PCASC)  
Portland Interfaith Clergy Resistance  
Rise Up WV  
Santa Cruz Climate Action Network  
Snohomish County Indivisible  
SoCal 350 Climate Action  
Solidarity Committee of the Capital District  
South Seattle Climate Action Network  
South Texas Human Rights Center  
Teamsters 777  
Terraza 7  
Texas AFL-CIO  
Texas Campaign for the Environment  
Texas Fair Trade Coalition  
The Vessel Project of Louisiana  
Third Act North Carolina Working Group  
Unitarian Universalist Fellowship of Hidalgo  
County Texas  
USW Local 675  
USW Local 675  
WA People's Privacy  
WA State Alliance for Retired Americans  
Washington Fair Trade Coalition  
WESPAC Foundation, Inc.  
Wisconsin Fair Trade Coalition  
WV Citizen Action

## RE: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

---

**From:** "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Date:** Fri, 03 Nov 2023 15:32:30 -0400

Hey Melinda,

I will give you a call in a few.

EH

---

**From:** Melinda St. Louis <mstlouis@citizen.org>  
**Sent:** Friday, November 3, 2023 1:48 PM  
**To:** Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Subject:** RE: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hi Ethan,

Sent you a text, assuming you have the same number as before, but I am really hoping that we can connect ASAP today. Can you let me know when would be a good time?

Best,  
Melinda

---

**From:** Melinda St. Louis  
**Sent:** Thursday, November 2, 2023 1:17 PM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** FW: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hi Ethan,

Can you jump on the phone to chat about this? I've checked in with other organizations and wanted to see what we might be able to work out. Also wanted to make sure you saw the letter on ISDS that the AFL-CIO, Sierra Club, and Public Citizen and 220+ orgs sent up today.

Thanks,  
Melinda

---

**From:** Melinda St. Louis  
**Sent:** Wednesday, November 1, 2023 3:39 PM  
**To:** 'Holmes, Ethan M. EOP/USTR' <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

I'm so sorry to be a pest, but I'm just hoping that we can get the green light on USTR willingness to send the invitation at least even if the logistical details aren't yet clear.

---

**From:** Melinda St. Louis  
**Sent:** Wednesday, November 1, 2023 1:52 PM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Yes if we can chat once more, I think it would be helpful. **EXEMPTION 6**. Not sure I have your direct line.

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Wednesday, November 1, 2023 1:36 PM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hello from the same meeting, I am happy to jump on the phone but we are just in logistical sludge at the moment on all of this.

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Wednesday, November 1, 2023 1:24 PM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hey, since I sent late in the evening, just wanted to bump it, given all the time sensitivity.

---

**From:** Melinda St. Louis  
**Sent:** Tuesday, October 31, 2023 9:41 PM

**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>

**Subject:** Re: [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

I get what you're saying, and we're looking forward to hosting Amb Tai on the TRIPS issue. But as I mentioned, in this case on digital in IPEF what we'd like to do is bring the message to as many of the governments as possible, and if it happens outside the round, sounds like the audience would just be USG? We are supportive of USTR's position as expressed recently in the JSI negotiation and would like to share the CSO experts' perspective on these issues with other countries' negotiators as well and there aren't really other opportunities to do that. I can consult with the other groups about the preference, given what you've noted, but if we decided to go forward, would USTR promote it?

Thanks  
Melinda

On Oct 31, 2023 7:56 PM, "Holmes, Ethan M. EOP/USTR" <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)> wrote:

Honestly I worry about the uptake on the invites even if we did promote it given the crazy nature of the week with APEC also happening. I think we can give you all a more holistic event that could fall just outside of the negotiating period. Kind of like we are trying to do with Ambassador Tai coming to public citizen for TRIPS.

EH  
Sent from my iPhone

On Oct 31, 2023, at 5:30 PM, Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)> wrote:

Yes, I definitely understand. We could go ahead and move forward with the booking, knowing that we could negotiate to change the time of the booking once the schedule firms up, if necessary, as long as we know that USTR will share the invitation to the other delegations. Can you confirm that?

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>

**Sent:** Tuesday, October 31, 2023 4:57 PM

**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>

**Subject:** RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

I am not to be able to give a 100% answer on this, I deeply apologize.

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Tuesday, October 31, 2023 4:53 PM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Thank you, Ethan, I appreciate your efforts and know there are moving pieces. We're coming down to the wire on this booking issue, so anything more we can do to nail this down?

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Tuesday, October 31, 2023 11:58 AM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

I am really , really, trying my best to get you a response asap. I just don't have all the points I need at the moment.

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Tuesday, October 31, 2023 11:57 AM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hi Ethan,

Any update since we spoke yesterday? As I mentioned yesterday, we are needing to pay to reserve the room this afternoon.

Thanks,

Melinda

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Monday, October 30, 2023 10:25 AM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Happy to chat today, space and time are extremely limited. So we wont be able to utilize a spare room ( we do not have enough as it is).

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Monday, October 30, 2023 10:20 AM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hi Ethan,

I hope you are well. I appreciate your including this request as a priority in your planning, and I know there are many moving pieces. We have been trying to hold space at the Marriot to keep open the possibility of hosting this briefing, assuming it will be possible to determine the right time and for USTR to help circulate the invitation for us, etc. We've been told we'll need to submit payment by tomorrow afternoon to hold the room (and it is quite expensive even just for one hour). Currently, we are holding 8-9am on Nov 8, but it would be really helpful to know if the digital and chief negotiators will definitely be in town that day, or if another day/time would be better. If the schedule is still in flux, one option/question we have is whether USTR can

make one of the negotiating rooms that you are already using available for our one-hour CSO briefing – could be 8-9am before the official negotiations start?

If it would be helpful to have a quick chat about this today, happy to do so.

Thanks again,

Melinda

---

**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Wednesday, October 25, 2023 11:31 AM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hi Melinda,

Our schedule for all of IPEF/APEC is not set in stone, this is on the top of our list and I hope to be able to give you clarity on this being able to work shortly.

EH

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Monday, October 23, 2023 9:18 AM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: request for USTR assistance in hosting a CSO briefing at San Francisco round

Hi Ethan,

I'm sure it's been a crazy week, so wanted to bump this in case there is now some more clarity of the schedule for San Francisco with the round winding up. Even if you don't have full information, it would be helpful if you could confirm that USTR can help determine the best time for this briefing as well as help circulate the invitation.

Warm regards,

Melinda

---

**From:** Melinda St. Louis

**Sent:** Wednesday, October 18, 2023 2:20 PM

**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>

**Subject:** request for USTR assistance in hosting a CSO briefing at San Francisco round

Hello Ethan,

I hope that things are going well for you in KL. Public Citizen and some civil society experts on digital policy are interested in organizing a more-focused discussion on digital trade issues with IPEF negotiators, so that these civil society stakeholders can go into more detail than what is possible during the short presentations in the listening sessions. We are hoping that USTR could assist us as the host of the upcoming round in California in two ways: (1) based on the schedule of negotiations, identify the best date and time for us to host an hour-long meeting that digital chapter negotiators as well as chief negotiators could attend (perhaps a breakfast time slot before negotiations begin in the morning when digital negotiators are scheduled to be in town, or another time you might suggest) and (2) to circulate an invitation from us to the other countries' digital and chief negotiators. I'll note that during previous negotiations, such as the TPP and TTIP, it was quite common practice for civil society groups to host breakfast or lunch briefings for negotiators for substantive discussions on various topics, so we'd like to do something similar.



I imagine that scheduling upcoming negotiations continue to be a moving target, but, given that we'd like to book a room and the APEC meetings are fast approaching, we'd appreciate as much advanced notice as possible. So, it would be terrific if you could let me know at your earliest convenience if, in principle, USTR can help facilitate this, we can begin to work on pulling together the speakers and drafting a simple invitation.

Thanks for your consideration.

Warm regards,

Melinda

**Melinda St. Louis | Director**  
Public Citizen's Global Trade Watch

1600 20<sup>th</sup> Street NW, Washington, DC 20009

TEL: (202) 454-5107, EMAIL: [mstlouis@citizen.org](mailto:mstlouis@citizen.org)

*pronouns: she/her*

<image001.png>

<image002.png>

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## RE: time for an urgent consultation about IPEF round? RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

---

**From:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**To:** Melinda St. Louis <mstlouis@citizen.org>  
**Date:** Fri, 03 Nov 2023 18:30:55 -0400

Hi Melinda. That sounds right to me. It's a lot of money for people when the swirl around the issue might mean limited attendance. But it would be great to work on something in the future.

Best,  
Beth

---

**From:** Melinda St. Louis <mstlouis@citizen.org>  
**Sent:** Friday, November 3, 2023 5:28 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <Elizabeth.V.Baltzan@ustr.eop.gov>  
**Subject:** [EXTERNAL] RE: time for an urgent consultation about IPEF round? RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Hi Beth,

Perhaps you already know, but just to close the loop, Ethan did call me this afternoon and communicated that at a high level it was decided that it wasn't advisable for USG to circulate an invitation to the other parties on this topic right now because a number of them are upset with the US for taking the decision. They are concerned that it would not be well-received by the parties and that they wouldn't be inclined to join at this point, especially given the intense negotiation schedule for the round. He said that he really tried but that was the ultimate decision at this point. Given the high cost of reserving a room at the hotel and the very short timeframe and intense negotiating schedule, that it probably isn't worth us trying to pull together the briefing without the commitment to circulate the invitation. He said he was willing to think about organizing something at a later date after some "cooling off", so I will definitely be following up on that. Does this sound like it tracks with your impressions of the situation?

Happy to talk about it if that's easier, but I also didn't want to bother you on a Fri evening since we've decided that without a definitive answer, time was too short to move forward.

Best,  
Melinda

---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Sent:** Friday, November 3, 2023 2:32 PM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: time for an urgent consultation about IPEF round? RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Hi! Meeting ended early. Wanna talk now?

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Friday, November 3, 2023 12:16 PM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] RE: time for an urgent consultation about IPEF round? RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Ok thanks. I could call after 3:30. **EXEMPTION 6** still a good number?

---

**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Sent:** Friday, November 3, 2023 12:04 PM  
**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: time for an urgent consultation about IPEF round? RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Hi! I am drowning a bit myself but I could talk after 3?

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Sent:** Friday, November 3, 2023 11:35 AM  
**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>  
**Subject:** [EXTERNAL] time for an urgent consultation about IPEF round? RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Hi Beth,

I've been in conversations with Ethan for some time about hosting a closed briefing for IPEF negotiations on the digital trade terms at the round (largely to support USTR's decision to withdraw support for the controversial terms!) – we just need USTR to agree to send around an invitation to the other country chiefs and digital negotiators -- and he said he had been trying but I think it's been hard for him to get an answer. We are extremely down to the wire with this potentially happening on Wed and having to shell out thousands for the room at the Marriot and fly people there. Would you have time for a quick call about this today to see what can be done today to nail this down?

Thanks,  
Melinda

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**From:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Sent:** Wednesday, October 25, 2023 11:41 AM

**To:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>

**Subject:** RE: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Many thanks, Melinda! Really appreciate it. I am not the lead on digital though of course where there is overlap with competition, I am able to explain why this approach aligns with Bidenomics. I'd be happy to talk about that more with you, if it would be helpful. Rana Foroohar just had a great piece in Washington Monthly that draws on the Ambassador's speech at the National Press Club in June.

Best,  
Beth

---

**From:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>

**Sent:** Wednesday, October 25, 2023 11:38 AM

**To:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>

**Subject:** [EXTERNAL] FW: U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals

Hi Beth,

Just wanted to share the statement we put out on the very welcome news of the US decision on the WTO JSI. We are grateful to all at USTR who worked to make this happen! Maybe when you have a chance, would love to chat more about how we can support this move, also within context of IPEF and elsewhere.

Best,

Melinda

Statement below is available online [here](#).



**U.S. Decision on WTO E-Commerce Talks Today Is a Welcome Step Toward Aligning U.S. Trade Policy With Big Tech Accountability Goals**

**For Immediate Release:** October 25, 2023

**Contact:** Emily Leach, [eleach@citizen.org](mailto:eleach@citizen.org)

**Washington, D.C.** — Today, the U.S. government announced its decision to withdraw support for proposals on data flows and source code currently being discussed in World Trade Organization negotiations on e-commerce.

**Global Trade Watch director Melinda St. Louis issued the following statement in response:**

“In a stinging rebuke to Big Tech’s efforts to protect its monopoly power and sabotage regulation, today’s decision is a welcome change for all of us who want to hold Big Tech accountable. It brings U.S. trade policy in line with President Biden’s AI Bill of Rights and other efforts by the administration and Congress to rein in Big Tech. It is also a major step toward creating the ‘worker-centered trade’ the Biden administration envisions.

“Katherine Tai foreshadowed this decision last month when she cautioned that, ‘until the United States is able to articulate our own policies in this [digital] area, I got nothing to bring to the table in the international conversation, because I’m just a trade negotiator.’ We congratulate Tai for breaking from the pattern of past U.S. Trade Representatives of both parties by refusing to solidify in a trade pact policy issues that legislators and regulators are currently debating. This encouraging news is consistent with reports that the U.S. has held back from tabling similar controversial digital provisions in IPEF talks.

“If tech industry lobbyists are hysterical over this decision, it would only further prove that this is the right move for everyone else, who’s tired of Big Tech’s invasive and anti-competitive business practices.”

For background, see the fact sheet from the Digital Trade Alliance on [“Understanding the WTO JSI on E-Commerce.”](#)

###

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**PUBLIC CITIZEN**

1600 20th Street NW  
Washington, DC 20009  
(202) 588-1000

## RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

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**From:** "Candaele, Camille R. EOP/USTR" <camille.r.candaele@ustr.eop.gov>  
:  
**To:** Megan Whiteman <[REDACTED]@citizen.org>, Peter Maybarduk <pmaybarduk@citizen.org>  
**Cc:** Melinda St. Louis <mstlouis@citizen.org>, "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>, Scheduling <scheduling@ustr.eop.gov>, "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>  
**Date:** Mon, 06 Nov 2023 15:20:37 -0500

Thank you!

**From:** Megan Whiteman <[REDACTED]@citizen.org>  
**Sent:** Monday, November 6, 2023 3:20 PM  
**To:** Peter Maybarduk <pmaybarduk@citizen.org>; Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>  
**Cc:** Melinda St. Louis <mstlouis@citizen.org>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Scheduling <Scheduling@USTR.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>  
**Subject:** Re: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Hi Camille,

Virtual participants may register for the meeting via the link below.

[\[REDACTED\]](#)

After registering, participants will receive a confirmation email containing information about joining the meeting.

Best,  
Megan

---

**From:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Sent:** Monday, November 6, 2023 3:13 PM

**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Megan Whiteman **EXEMPTION 6** <[EXEMPTION 6@citizen.org](mailto:EXEMPTION 6@citizen.org)>  
**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Yes of course. I'm looping in my colleague, Megan, who will share the registration link and help ensure everyone is connected.

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>  
**Sent:** Monday, November 6, 2023 3:00 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Hi Peter,

Looking forward to meeting tomorrow! Please let us know when the link is available for those participating virtually. Beth Baltzan, Senior Advisor, will join over video.

Let me know if we owe you any information. Otherwise I'll plan to be there around 9:30am ahead of Amb. Tai's arrival.

Best,  
Camille

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Sent:** Wednesday, November 1, 2023 1:58 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

See you then!



---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Sent:** Wednesday, November 1, 2023 1:52 PM  
**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Apologies as I believe my connection cut out right at the end. Keziah, I look forward to meeting you at 1600 20<sup>th</sup> St NW tomorrow Thursday at 3pm. My cell number **EXEMPTION 6** Thanks!

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Sent:** Wednesday, November 1, 2023 12:23 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Here is the link to the Webex:

**EXEMPTION 6**

Best,  
Keziah

---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Sent:** Wednesday, November 1, 2023 10:55 AM  
**To:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Yes, 1:30 works well for Melinda and me. Please feel free to send a link or number to which we both can call in. Thanks!

---

**From:** Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

**Sent:** Wednesday, November 1, 2023 10:29 AM

**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>

**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>

**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Good morning –

Ambassador Tai is looking forward to the upcoming meeting. Would you be available for a quick call today with our team to discuss the event and any logistics? We can be flexible with timing, but looks like 1:30 and 3pm work best for our team.

Best,  
Keziah

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Sent:** Sunday, October 29, 2023 5:35 PM

**To:** 'Peter Maybarduk' <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>

**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>

**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Thanks, Peter! My colleague Keziah, cc'd, will reach out this week to discuss logistics. Ambassador Tai is looking forward to it.

Best,  
Camille

---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>

**Sent:** Friday, October 27, 2023 1:59 PM

**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>

**Subject:** RE: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

We are on for Nov 7 at 10am. Thank you!

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Sent:** Wednesday, October 25, 2023 10:42 AM

**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>

**Cc:** Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>

**Subject:** Re: [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Thanks, Peter! We'll hold that time on her calendar for now. Please let us know if anything changes.

Best,  
Camille  
Sent from my iPhone

On Oct 25, 2023, at 10:37 AM, Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)> wrote:

Tentatively, it's looking like 10am on Tuesday the 7<sup>th</sup>, but still we are working it out. Several leading experts will be remote that week, unfortunately.

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>

**Sent:** Tuesday, October 24, 2023 8:24 PM

**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>

**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>

**Subject:** RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Wonderful! If it's helpful, here are the windows where Ambassador Tai has flexibility. We only have a couple meetings that we cannot shift those days.

Tuesday, November 7  
9:00-12:30pm  
2:45-5:00pm

Wednesday, November 8  
9:00-10:30am  
1:45-5:00PM

Best,  
Camille

---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Sent:** Tuesday, October 24, 2023 8:20 PM  
**To:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>  
**Subject:** [EXTERNAL] RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Thank you very much Camille. The 7<sup>th</sup> or 8<sup>th</sup> will work well for us, and we are very happy to host. I'll do a quick availability check now with key experts.

Best,  
  
Peter

---

**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>  
**Sent:** Tuesday, October 24, 2023 6:36 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>  
**Subject:** RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Hi Peter – As a quick follow-up, Ambassador Tai mentioned she would like to visit your offices if the offer still stands! Happy to connect in the coming days to chat more, though I will be in Johannesburg so my response time may be delayed.

Best,  
Camille

---

**From:** Candaele, Camille R. EOP/USTR  
**Sent:** Monday, October 23, 2023 5:41 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>  
**Subject:** RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Hi Peter –

Ambassador Tai would be happy to host you all at our offices at 600 17<sup>th</sup> Street NW. Could we possibly explore times the week of November 6<sup>th</sup>? Amb. Tai will likely be traveling the 6<sup>th</sup> and the 10<sup>th</sup>, so the 7-8<sup>th</sup> would be best.

Many thanks,  
Camille

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**From:** Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>  
**Sent:** Tuesday, October 17, 2023 4:23 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>  
**Cc:** Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>; Scheduling <[Scheduling@USTR.eop.gov](mailto:Scheduling@USTR.eop.gov)>  
**Subject:** RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Thank you, Ambassador! Moving you and Beth to bcc.

Peter – Great to be connected. Our team will be in touch as soon as possible to discuss further.

Best,

Camille Candaele  
Special Assistant to the U.S. Trade Representative  
Office of the U.S. Trade Representative  
**EXEMPTION 6**  
[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)

---

**From:** Tai, Katherine C. EOP/USTR [EXEMPTION 6@ustr.eop.gov](mailto:EXEMPTION 6@ustr.eop.gov)  
**Sent:** Tuesday, October 17, 2023 2:46 PM  
**To:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>; Annino, Angelica Z. EOP/USTR <[Angelica.Z.Annino@ustr.eop.gov](mailto:Angelica.Z.Annino@ustr.eop.gov)>; Clarke, Keziah E. EOP/USTR <[Keziah.E.Clarke@ustr.eop.gov](mailto:Keziah.E.Clarke@ustr.eop.gov)>; Candaele, Camille R. EOP/USTR <[Camille.R.Candaele@ustr.eop.gov](mailto:Camille.R.Candaele@ustr.eop.gov)>  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** RE: Invitation to discuss meds access with health experts, off the record at Public Citizen

Thank you very much Peter. I'm looping my scheduling team who can work with you on scheduling.

Best regards,  
Katherine

---

**From:** Peter Maybarduk <[pmaybarduk@citizen.org](mailto:pmaybarduk@citizen.org)>  
**Sent:** Tuesday, October 17, 2023 2:31 PM  
**To:** Tai, Katherine C. EOP/USTR [EXEMPTION 6@ustr.eop.gov](mailto:EXEMPTION 6@ustr.eop.gov)  
**Cc:** Baltzan, Elizabeth V. EOP/USTR <[Elizabeth.V.Baltzan@ustr.eop.gov](mailto:Elizabeth.V.Baltzan@ustr.eop.gov)>; Melinda St. Louis <[mstlouis@citizen.org](mailto:mstlouis@citizen.org)>  
**Subject:** [EXTERNAL] Invitation to discuss meds access with health experts, off the record at Public Citizen

Dear Ambassador Tai,

Thank you for your work helping move forward the position of the U.S. government on global access to medicines and trade.

I direct the access to medicines program at Public Citizen. We frequently have worked with USTR staff over the years. I testified at the USITC hearing on the proposed TRIPS decision extension this spring. I am copying our trade director Melinda St. Louis, whom I believe you know.

With the release of the USITC report on access to COVID-19 diagnostics and therapeutics under WTO intellectual property rules, Public Citizen would like to invite you to an off-the-record conversation at your earliest convenience. We will gather public health experts who participated in the USITC's investigation to discuss the report's findings, share direct experience and analysis from the field related to access to COVID-19 treatments in low and middle income countries, and provide insights about the proposal to extend the WTO June 2022 decision on COVID-19 vaccines to therapeutics and diagnostics.

We also are interested to discuss access to medicine issues & trade policy beyond the WTO decision.

We would be happy to host this conversation at Public Citizen's office in Dupont Circle or come to USTR office, depending on your preference.

Thank you for your consideration,

Peter

[www.citizen.org/access](http://www.citizen.org/access)

**EXEMPTION 6**

## Re: [EXTERNAL] Three Reasons to Support the TRIPS Decision Extension

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**From:** "Candaele, Camille R. EOP/USTR" <camille.r.candaele@ustr.eop.gov>  
:  
**To:** Peter Maybarduk <pmaybarduk@citizen.org>  
**Cc:** Melinda St. Louis <mstlouis@citizen.org>, "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>, Scheduling <scheduling@ustr.eop.gov>, "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>, "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>, Megan Whiteman **EXEMPTION 6**@citizen.org>  
**Date:** Tue, 07 Nov 2023 08:54:38 -0500

Thanks, Peter! See you soon.  
Sent from my iPhone

On Nov 7, 2023, at 7:48 AM, Peter Maybarduk <pmaybarduk@citizen.org> wrote:

I am also attaching a draft short note, "Three Reasons to Support the TRIPS Decision Extension," which will inform parts of our discussion today and which, on finalizing, we plan to distribute.

Thank you – we are looking forward to the conversation this morning.

Peter, **EXEMPTION 6**

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**From:** Peter Maybarduk  
**Sent:** Tuesday, November 7, 2023 4:54 AM  
**To:** Candaele, Camille R. EOP/USTR <Camille.R.Candaele@ustr.eop.gov>; Megan Whiteman **EXEMPTION 6**@citizen.org>  
**Cc:** Melinda St. Louis <mstlouis@citizen.org>; Clarke, Keziah E. EOP/USTR <Keziah.E.Clarke@ustr.eop.gov>; Scheduling <Scheduling@USTR.eop.gov>; Annino, Angelica Z. EOP/USTR <Angelica.Z.Annino@ustr.eop.gov>  
**Subject:** Unmet Need for Paxlovid in LMICs During COVID-19 Emergency

Hi USTR team,



We wanted to share this report, in case you had not previously received it, as we may refer to it today.

Best,

Peter

[<image001.jpg>](#)

## **New Analysis Reveals Shocking Extent of Unmet Need for Paxlovid in LMICs During COVID-19 Emergency**

For Immediate Release: Oct. 17, 2023

Contact: Darcey Rakestraw, [darcey@2050strategies.com](mailto:darcey@2050strategies.com)

Emily Leach, [eleach@citizen.org](mailto:eleach@citizen.org)

WASHINGTON, D.C. – In an [analysis](#) released today, Public Citizen and the Health Global Access Project (Health GAP) found that the number of people with high risk COVID-19 infections in low and middle income countries (LMICs) exceeded procured supply of the World Health Organization's antiviral of choice – nirmatrelvir/ritonavir, marketed by Pfizer as Paxlovid – by at least eight million courses in 2022. This shortfall late in the COVID-19 emergency left unmet at least 90% of health need for the WHO-preferred treatment in developing countries.

The news comes as Pfizer [announced](#) planned U.S. price hikes for Paxlovid, which could further inhibit treatment access, and as the U.S. International Trade Commission (USITC) releases its report on access to COVID-19 diagnostics and therapeutics under World Trade Organization (WTO) intellectual property rules. The USITC report is expected to help guide long-delayed U.S. government deliberations regarding exempting COVID-19 therapeutics and diagnostics from certain WTO procedural requirements, in order to further facilitate LMIC access to medicine.

“At a minimum, ten times more people needed Paxlovid than had any chance to receive it in developing countries, and that almost certainly significantly understates the problem,” said

**Peter Maybarduk, the director of the Access to Medicines program at Public Citizen.** "Health need vastly exceeded the procured supply, by an order of magnitude at least. We have, in part, intellectual property barriers to thank for this, amidst anemic health funding and multiple failures to adequately support the global Covid response. Drug corporations' high prices, contract secrecy and monopoly supply all suppress demand, and make it harder for resource-starved health agencies to purchase the treatment they need to care for people."

The analysis suggests that supporting affordable, predictable and diverse sources of supply of future treatments can help spark country demand and meet treatment needs.

Using publicly available supply agreements and data from the World Health Organization, Public Citizen determined that by the end of 2022, only an estimated 916,120 courses of Paxlovid had been procured by LMICs, compared to a minimum population-based need of 9,135,953 courses. It also determined that 780,000 courses were procured through bilateral supply agreements with Pfizer and 135,120 courses were received from the Access to COVID-19 Tools Accelerator (ACT-A). Meanwhile, 1,000 courses were donated through the nascent COVID Treatment Quick Start Consortium. Additional data from Pfizer could help complete an exhaustive account of Paxlovid supply in LMICs during 2022.

At least 9.1 million people aged 65 and over were infected with COVID-19 in LMICs in 2022 according to Airfinity. This very conservative estimate of high risk infections excludes other at-risk populations, such as people living with chronic diseases or experiencing long COVID, meaning that the real number of people who may have benefited from treatment and did not receive it most likely is far higher.

"This analysis emphasizes the urgency of the U.S. immediately voicing its support for and working to achieve an extension of the WTO decision for vaccines for diagnostics and therapeutics, getting counterproductive WTO rules out of the way and contributing to an environment that makes it straightforward for countries to address the health needs of their population," said **Melinda St. Louis, Global Trade Watch director at Public Citizen.**

In a [letter this week](#), health groups called on the Biden administration to stand up to the pharmaceutical industry and support an extension of the June 2022 WTO decision to therapeutics and diagnostics.

"By extending the June 2022 WTO Decision to cover therapeutics and diagnostics, companies in LMICs will find it easier to issue compulsory licenses that remove patent

barriers and allow expanded export/import to markets ill-served by Big Pharma monopolies," said Professor Brook K. Baker, Senior Policy Analyst for Health Global Access Project. "Much more needs to be done at the WTO and in WHO Pandemic Accord negotiation to override multiple IP barriers to life-saving tests and treatment, but a decision by the U.S. to ease equitable access via compulsory licenses after a long and unfortunate delay, is a small step in the right direction."

###

View our [press releases](#), [press contacts](#), and [experts](#).

**PUBLIC CITIZEN**

1600 20th Street NW

Washington, DC 20009

(202) 588-1000

<image001.jpg>

<DRAFT ITC \_ Waiver extension (1).pdf>

## [EXTERNAL] Thank you for speaking with us at Public Citizen

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**From:** Peter Maybarduk <pmaybarduk@citizen.org>  
**To:** "Tai, Katherine C. EOP/USTR" EXEMPTION 6 @ustr.eop.gov>  
**Cc:** Melinda St. Louis <mstlouis@citizen.org>, "Candaele, Camille R. EOP/USTR" <camille.r.candaele@ustr.eop.gov>, "Annino, Angelica Z. EOP/USTR" <angelica.z.annino@ustr.eop.gov>, "Clarke, Keziah E. EOP/USTR" <keziah.e.clarke@ustr.eop.gov>, "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Fri, 17 Nov 2023 12:13:50 -0500  
**Attachments** Three Reasons to Support the TRIPS Decision Extension.pdf (172.6 kB)

:

Dear Ambassador Tai,

Thank you for coming to Public Citizen to talk with us about trade and access to medicines, including the issue of extending the June 2022 WTO decision to therapeutics and diagnostics.

We and our allies present are grateful for the values you expressed, and keen to continue working with you in the spirit of openness and constructive dialogue with which you so admirably met us.

Attached please find a revision of the brief analysis we shared in print that day, "Three Reasons to Support the TRIPS Decision Extension," which we will begin circulating with other agencies.

We will be in touch with your office per points discussed in our meeting, including ideas for the future.

Thank you, and forward,

Peter Maybarduk  
Access to Medicines Director  
Public Citizen  
EXEMPTION 6



# Three Reasons to Support the TRIPS Decision Extension

## Contributing to COVID-19 Test and Treatment Access through Overdue Action at WTO

November 2023

More than a year ago, the World Trade Organization (WTO) belatedly relaxed a narrow band of requirements for “compulsory licensing” of vaccine patents, by which countries may authorize competition to support affordable and diverse supply. It was an extremely modest and overdue decision considering the urgent needs of global vaccine access and deadly inequity. WTO members committed to keep negotiating whether to include COVID-19 therapeutics and diagnostics in the decision.

This October, the U.S. International Trade Commission (USITC) published a long-awaited [report](#) on this question. Access to medicines experts from around the world testified to challenges to treatment access posed by the WTO’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). USITC’s 497-page report includes pharmaceutical industry talking points as well. To help sort through the noise, this memo provides three reasons the U.S. government should now support the TRIPS decision extension:

- 1. People worldwide still need COVID tests and treatments. Price is a problem.**
- 2. The extension decision will have essentially no adverse impact on jobs or the economy.**
- 3. Voluntary measures should be complemented with tools that return power to health agencies.**

### 1. People worldwide still need COVID tests and treatments. Price is a problem.

The majority of people in most developing countries still lack access to COVID-19 therapeutics and diagnostics. **Sustaining the global fight against COVID-19 today, and expanding test-to-treat, requires funding, affordability, and timely supply.**

- The USITC report notes that “the disparity among countries of different income groups is wide in terms of access and availability to COVID-19 diagnostics and therapeutics.” The report states that “high prices and the lack of price transparency appear detrimental to many countries seeking access.”<sup>1</sup>
- The COVID death toll has been estimated to be [four times higher](#) in poorer countries than in rich countries. Given low vaccine coverage in poor nations, access to diagnostics and therapeutics is especially vital to preventing hospitalizations and death.

Manufacturers prioritized high-priced sales to developed countries. Developing countries went without.

- High-income countries, representing 16% of global population, purchased [over 70%](#) of therapeutics.

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<sup>1</sup> USITC, COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities, p.16–7.

- The number of people with high-risk COVID-19 infections in low- and middle-income countries (LMICs) exceeded procured supply of Paxlovid by at least eight million courses in 2022. This shortfall late in the COVID-19 emergency left unmet [at least 90% of health need](#) for the WHO-preferred treatment.
- [Recent evidence](#) from Zambia shows that when treatment supply is available combined with support for implementation, more cases are reported, and COVID test-to-treat strategies succeed.

COVID still is a threat.

- New variants, spikes in infections, and waning immunity particularly endanger at-risk populations.<sup>2</sup>
- Given COVID's unpredictability, it is shortsighted to dismiss access needs for potentially new and better treatments [in the pipeline](#). WHO and FDA continue to issue guidance on management of COVID-19.<sup>3</sup>

## 2. The extension decision will have essentially no adverse impact on jobs or the economy.

The extension decision is very narrow and will not negatively impact innovation or R&D spending.

- Makers of widely used COVID products recouped R&D investments many times over through [massive pandemic profits](#). Over 80% of COVID-19 therapeutics are repurposed, indicating that R&D spending was likely low for initial COVID therapeutics.
- Public investment derisks key investments in candidate coronavirus treatments, for example, hundreds of [millions of dollars](#) already awarded through Project NextGen.
- Products imported under the extension decision cannot be re-exported.<sup>4</sup> This prevents the sale of goods to developed country markets, further protecting the pharmaceutical industry's most profitable markets.

The decision may expand markets, but it will not negatively impact U.S. manufacturing jobs.

- U.S. manufacturers are not supplying large quantities of COVID tests or treatments to LMICs. Even the products they do sell sometimes are manufactured by contract manufacturers in other countries.<sup>5</sup> U.S. jobs fundamentally will not be affected by the decision, because any new licenses will supply medicines in LMICs, particularly those excluded from voluntary licenses.
- Prohibitively expensive pricing early in the pandemic suppressed demand, constraining in turn the market for treatments and potentially negatively impacting production jobs.

Pharma deploys exaggerated innovation talking points against every effort to rein in exorbitant drug prices.

- Many drugmakers spend more enriching shareholders through stock buybacks [than supporting R&D](#).
- Drug corporations use the same arguments to challenge President Biden's hugely popular effort to address high drug prices via the Inflation Reduction Act. As the U.S. makes commendable efforts to address pricing and access issues at home, so too should developing countries.

## 3. Voluntary measures should be complemented with tools that return power to health agencies.

<sup>2</sup> In their September 2023 [COVID-19 Epidemiological Update](#), WHO stated that "COVID-19 remains a major threat, and WHO urges Member States to maintain, not dismantle, their established COVID-19 infrastructure. It is crucial to sustain, inter alia, early warning, surveillance and reporting, variant tracking, early clinical care provision, administration of vaccine boosters to high-risk groups, improvements in ventilation, and regular communication."

<sup>3</sup> The FDA states that "many more therapies are being tested in clinical trials to evaluate whether they are safe and effective in combating COVID-19." It also references that "the FDA continues to work with developers, researchers, manufacturers, the National Institutes of Health and other partners to help expedite the development and availability of therapeutic drugs and biological products to prevent or treat COVID-19."

<sup>4</sup> Paragraph 3(c), [MINISTERIAL DECISION ON THE TRIPS AGREEMENT](#), 17 JUNE 2022.

<sup>5</sup> According to the USITC report, the number of manufacturers producing virus-directed COVID therapeutics is substantially higher in UMICs and LMICs compared to HICs, p.148.

Licensing, especially through health organizations like the Medicines Patent Pool, is an essential tool for accelerating affordable and reliable supply of generic products. However, as documented by USITC, drug corporations exclude many countries from their licenses, and importantly, fail to license many medicines at all.

- Pfizer [excluded more than 50 countries](#) from its Medicines Patent Pool license for nirmatrelvir-ritonavir (Paxlovid), accounting for over half of the world's population.
- [Unreasonable terms and conditions](#) in voluntary licensing agreements may inhibit generic production. For example, some MPP licensees for COVID antivirals have taken on technology transfer conditions that [exclude supply to certain territories](#), leaving many without an avenue for affordable access.
- Notably, drug corporations' licenses undertaken outside health-oriented licensing bodies tend to be far less transparent and include more onerous terms.

In absence of a robust generics market for diagnostics and therapeutics, supply that did become available to upper-middle-income countries excluded from voluntary schemes often remained unaffordable.<sup>6</sup> Secrecy in drugmakers' supply agreements further suppressed demand and kept prices high.

Compulsory licensing helps ensure affordability and timely supply where voluntary licensing proves insufficient.

- USITC found compulsory licenses are "associated with increased generics and lower prices, and increased access to pharmaceuticals." The report cites evidence that patent protection "has little to no positive effect for innovation in developing countries and negative effects for access and affordability."<sup>7</sup>
- Helpfully, the Biden-Harris administration [acknowledged](#) countries' health interest in compulsory licensing to support production and access, and stepped down [trade pressures](#) against their use.
- Compulsory licenses return power to health agencies to meet access needs and make policy decisions based on health requirements rather than on the goodwill of for-profit corporations.
- At least six countries have issued compulsory licenses for COVID-19 drugs or vaccines, with four more countries that have begun the process but no license has been executed.<sup>8</sup>
- The U.S. also authorized use of inventions without permission of patent holders for COVID-19 vaccines, drugs, tests and other technologies [in dozens of cases](#). The Department of Justice acknowledged this in its [intervention](#) in the Arbutus Biopharma, Genevant Sciences, and Moderna patent infringement case.

Extending the WTO decision would simplify exporting COVID-19 medicines to developing countries in need that are excluded from voluntary licenses. This same provision would allow importing and patent-blocked developing countries to aggregate markets and help attract generic entrants.

Much time was lost debating the initial TRIPS waiver. Health needs, particularly with regard to therapeutics, still are unmet in developing countries. Early hoarding of medical tools by wealthy countries and abusive practices of drug corporations contributed to this failure. WTO members quickly should extend the decision to include therapeutics and diagnostics, taking into account health experts' evidence resounded in the USITC report. There still is opportunity to build a healthier and more resilient future, including by making it easier for countries to access affordable, timely and diverse supply of therapeutics and diagnostics.

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<sup>6</sup> Pfizer's paxlovid was priced at over \$500/course in some developed countries and \$250 in some developing countries, these prices are substantially greater than the price negotiated by the Clinton Foundation for generic paxlovid (\$25/course), [https://healthgap.org/wp-content/uploads/2023/03/Health-GAP-US-ITC-Submission\\_baker.pdf](https://healthgap.org/wp-content/uploads/2023/03/Health-GAP-US-ITC-Submission_baker.pdf)

<sup>7</sup> *ibid.* p.16, 64–5.

<sup>8</sup> South Centre, <https://www.southcentre.int/covid-19-compulsory-licenses-table-march-2021/>; Medicines Law & Policy, <http://tripsflexibilities.medicineslawandpolicy.org/>

## [EXTERNAL] Re: Ambassador Tai quote on digital trade

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**From:** Melinda St. Louis <mstlouis@citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Fri, 17 Nov 2023 20:34:01 -0500

Thanks, Beth! Great quote!

Just as an FYI, I had the fun experience of going head to head with Sean from the Chamber to share why we support the administration's policy change in front of the WITA crowd today...

<https://www.youtube.com/watch?v=MXNYzT2-QhM>

On Nov 17, 2023 7:02 PM, "Baltzan, Elizabeth V. EOP/USTR" <Elizabeth.V.Baltzan@ustr.eop.gov> wrote:

Hi all. I wanted to draw your attention to a quote from Ambassador Tai at the end of this Politico piece ([E&E News | Article | USTR Tai on the defensive after digital trade move \(politicopro.com\)](#)):

"That's not to say that we won't help our big companies. But it's to say that we have to stop and ask the question, is what they want in the interest of the United States?" Tai said. "Because at the end of the day, I work for Joe Biden, and he works for the people of the United States. I don't work for those companies."



## [EXTERNAL] FW: Activists File Patent Opposition to Challenge COVID-19 Drug Monopoly on Baricitinib

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**From:** Peter Maybarduk <pmaybarduk@citizen.org>  
**To:** "Baltzan, Elizabeth V. EOP/USTR" <elizabeth.v.baltzan@ustr.eop.gov>  
**Date:** Wed, 06 Dec 2023 07:17:20 -0500

---

**From:** Sergey Kondratyuk [EXEMPTION 6]@itpcglobal.org>  
**Sent:** Wednesday, December 6, 2023 4:21 AM  
**Subject:** Activists File Patent Opposition to Challenge COVID-19 Drug Monopoly on Baricitinib

Activists from Morocco, Thailand, and Vietnam have filed patent oppositions to challenge drug manufacturers Incyte and Eli Lilly over the monopoly of WHO-approved COVID19 drug baricitinib.

Read more: <https://makemedicinesaffordable.org/activists-file-patent-opposition-to-challenge-covid-19-drug-monopoly-on-baricitinib/>

Sergiy Kondratyuk (he/him)  
**Project Manager**  
International Treatment Preparedness Coalition  
Global TB CAB and LAT CAB member

[EXEMPTION 6]

Based: Kyiv, Ukraine  
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[makemedicinesaffordable.org](http://makemedicinesaffordable.org)



## RE: [EXTERNAL] RE: Meeting Request: Looming Oct COVID meds access USITC report and WTO action

---

**From:** Katelyn Hettinga [REDACTED]@rethinktrade.org>  
:  
**To:** "Lee, Daniel E. EOP/USTR" <daniel\_lee@ustr.eop.gov>, "Holmes, Ethan M. EOP/USTR" <ethan.m.holmes@ustr.eop.gov>  
**Cc:** Lori Wallach [REDACTED]@rethinktrade.org>, "Hurlburt, Heather F. EOP/USTR" <heather.f.hurlburt@ustr.eop.gov>  
**Date:** Mon, 11 Dec 2023 15:54:41 -0500

Hello all,

Following up here again. Please let me know if I can provide additional information or if you have an update that I can give to the organizations listed below which have received no update for several weeks.

Best,  
Katie

---

**From:** Katelyn Hettinga  
**Sent:** Friday, November 17, 2023 11:29 AM  
**To:** Lee, Daniel E. EOP/USTR <Daniel\_Lee@ustr.eop.gov>; Holmes, Ethan M. EOP/USTR <Ethan.M.Holmes@ustr.eop.gov>  
**Cc:** Lori Wallach [REDACTED]@rethinktrade.org>; Heather.F.Hurlburt@ustr.eop.gov  
**Subject:** RE: [EXTERNAL] RE: Meeting Request: Looming Oct COVID meds access USITC report and WTO action

Daniel,

Thank you for your response. I would like to clarify that we are requesting a meeting with USTR Tai. These major national organizations have waited for two months to meet with USTR Tai, though we do hope that you are able to join that meeting with the ambassador.

Ethan,

Will you please share time(s) that may be available for a meeting with USTR Tai regarding the U.S. position at the WTO on the extension to treatments of tests of the June 2022 decision on TRIPS and

COVID medicine access as requested (initially on September 25<sup>th</sup>) by Oxfam America, Amnesty International USA, Public Citizen, Jamie Love from Knowledge Ecology International, and HealthGAP?

Thanks to both of you,  
Katie

---

**From:** Lee, Daniel E. EOP/USTR <[Daniel\\_Lee@ustr.eop.gov](mailto:Daniel_Lee@ustr.eop.gov)>  
**Sent:** Friday, November 17, 2023 10:27 AM  
**To:** Katelyn Hettinga [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org); Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Cc:** Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Subject:** RE: [EXTERNAL] RE: Meeting Request: Looming Oct COVID meds access USITC report and WTO action

Hi Katie,

I am able to meet with your group next Monday at 1:30 or 4:30 or next Tuesday sometime between 1:30 and 4:00pm. Please let me know what would work best.

Best,

Daniel

--

Daniel Lee  
Assistant U.S. Trade Representative  
for Innovation and Intellectual Property  
Office of the U.S. Trade Representative (USTR)  
[daniel\\_lee@ustr.eop.gov](mailto:daniel_lee@ustr.eop.gov)  
(202) 395-9549 tel

---

**From:** Katelyn Hettinga [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Sent:** Thursday, November 16, 2023 9:41 AM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Cc:** Lee, Daniel E. EOP/USTR <[Daniel\\_Lee@ustr.eop.gov](mailto:Daniel_Lee@ustr.eop.gov)>; Lori Wallach [EXEMPTION 6@rethinktrade.org](mailto:EXEMPTION 6@rethinktrade.org)>  
**Subject:** RE: [EXTERNAL] RE: Meeting Request: Looming Oct COVID meds access USITC report and WTO action

Great, thank you Ethan.

Daniel, I am in contact with several groups who are seeking a meeting with Ambassador Tai to discuss the USITC COVID access report, including Oxfam America, Knowledge Ecology International, Amnesty International USA, HealthGAP, and Public Citizen.

Will you please share potential times for a virtual meeting? I will coordinate with representatives from these organizations on my end to maximize participation.

Thank you,  
Katie Hettinga

**KATIE HETTINGA** (*she/her/hers*)  
Rethink Trade Program Associate  
**EXEMPTION 6** | **EXEMPTION 6** [rethinktrade.org](https://rethinktrade.org)

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**From:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Sent:** Wednesday, November 15, 2023 8:24 PM  
**To:** Katelyn Hettinga **EXEMPTION 6** [rethinktrade.org](https://rethinktrade.org)>  
**Cc:** Lee, Daniel E. EOP/USTR <[Daniel\\_Lee@ustr.eop.gov](mailto:Daniel_Lee@ustr.eop.gov)>  
**Subject:** RE: [EXTERNAL] RE: Meeting Request: Looming Oct COVID meds access USITC report and WTO action

Adding in Daniel Lee who will be leading the meeting and can let you know times that work for him.

EH

---

**From:** Katelyn Hettinga **EXEMPTION 6** [rethinktrade.org](https://rethinktrade.org)>  
**Sent:** Wednesday, November 15, 2023 12:53 PM  
**To:** Holmes, Ethan M. EOP/USTR <[Ethan.M.Holmes@ustr.eop.gov](mailto:Ethan.M.Holmes@ustr.eop.gov)>  
**Cc:** Lori Wallach **EXEMPTION 6** [rethinktrade.org](https://rethinktrade.org)>  
**Subject:** RE: [EXTERNAL] RE: Meeting Request: Looming Oct COVID meds access USITC report and WTO action

Hello Ethan,

Can we please set a day and time to meet with USTR Tai today? Many of the groups involved (and asking me regularly how possibly we are being blown off for seven weeks) are aware that USTR Tai has been having lots of meetings with others, and with some of them on other topics, during this heavy travel time.

Thank you,

Katie