November 21, 2019

The Honorable Kathy Castor, Chair
House Select Committee on the Climate Crisis
United States House of Representatives
H2-359 Ford Building
Washington, D.C. 20515
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Via Electronic Mail
Re: Request for Information, Questions 4, 6, 7,9, 13

The Institute for Agriculture and Trade Policy (IATP) thanks the Committee for seeking input on the climate crisis, the most critical challenge of our time. IATP is a 33-year-old non-profit 501(c)3 organization based in Minneapolis, Minnesota. IATP works to ensure fair and sustainable food, farm and trade systems. For more than a decade we have advocated for policies at the intersection of climate, agriculture and trade policy that reduce greenhouse gas (GHG) emissions while supporting and empowering farmers and rural communities to both adapt to and mitigate climate change.

IATP has worked on-the-ground with Minnesota rural communities to develop local climate action plans. We have advocated at the national level to integrate climate goals within the Farm Bill and financial regulation. We have pushed for reforms in United States trade policy to enable climate action and reduce GHGs. IATP has been an advocate at United Nations agencies, including the Committee on World Food Security, to advance agroecology as a solution to food security and climate challenges. And IATP has actively attended most of the United Nations Framework Convention on Climate Change (UNFCCC) Conference of the Parties over the last decade.

IATP believes the climate crisis demands urgent and bold action, grounded in equity, to reshape our economy. For this reason, IATP supports the structural reforms and integration of social and racial justice goals outlined within the Green New Deal. Farmers and rural residents are on the front lines of the climate crisis with deep ties to natural resource-based economies. Farmers are dealing with six straight years of low prices, often below the cost of production, and rising debt and farm bankruptcies. Climate policies need to reflect these economic challenges and provide a path forward that reduces emissions and spurs a more equitable economy.

In this comment to the Committee, IATP identifies a series of concrete policy recommendations in the following broad areas:

- The Farm Bill and other agriculture-related programs
- Regulating GHG emissions

- Financial regulations
- Trade policy

As a whole, IATP believes these reforms would result in real GHG emission reductions and aid farmers and rural communities in making a transition toward more climate-resilient and economically just systems – both in the U.S. and around the world.

Agriculture (Qs 6,7):

- *What policies should Congress adopt to reduce carbon pollution and other greenhouse gas emissions and maximize carbon storage in agriculture?*
- *What policies should Congress adopt to help farmers, ranchers, and natural resource managers adapt to the impacts of climate change?*

IATP supports the full suite of findings and recommendations in the recently-released policy position paper from the National Sustainable Agriculture Coalition (IATP is an NSAC member and co-chair of the climate change sub-committee), "Agriculture and Climate Change: Policy Imperatives and Opportunities to Help Producers Meet the Challenge."[1] This paper provides a comprehensive literature review on the science of climate change and agriculture and includes a set of science-based federal policy recommendations. That paper informs some of the following recommendations, while IATP's perspective on agriculture policy informs others:

<u>Expand and Improve the Conservation Stewardship Program (CSP)</u>

CSP is the largest conservation program in the U.S. It is a voluntary program that encourages producers to address natural resource concerns through conservation activities. These activities greatly boost soil health, which improves a farm's ability to withstand droughts and floods, reduces the need for synthetic inputs and results in carbon sequestration. Practices supported by CSP include planting cover crops, diversifying crop rotations, decreasing tillage and implementing management-intensive rotational grazing. Whether through CSP or other vehicles, these practices must be incentivized to reduce agriculture's climate footprint and to make producers more resilient in the face of climate disruptions.

The 2014 and 2018 Farm Bills cut CSP funding nearly in half, greatly restricting both farmer access and environmental improvement. Currently, farmer demand for the program far exceeds the supply of funds, and interest in conservation programs has been steadily growing. At a minimum, Congress must restore full funding to CSP and in the long-term should greatly expand CSP funds to ensure it is accessible to more farmers.

<u>Support Whole Farm Conservation Planning</u>

Climate change research, conservation programs, and federal commodity and crop insurance should focus on whole-farm systems rather than exclusively on individual practices. While individual practices such as cover cropping or no-till can sequester carbon, integrated systems of practices based on sound agroecological principles have the greatest

potential to mitigate GHG emissions and attain the full measure of a productive and resilient agriculture system.[2]

To achieve this goal, we support comprehensive, whole-farm conservation planning in all working lands and easement conservation programs. We also urge substantial reform of U.S. Department of Agriculture (USDA) commodity and crop insurance programs to reorient our farm safety net system from overproduction, specialization and environmental harm to a new safety net that puts farmers and climate-resilient agriculture first. This includes, but is not limited to, support of the Whole Farm Revenue Protection crop insurance program.

Enact an Updated, Climate Resilient Supply Management Program

Farmers are facing an agriculture economy plagued by over-production that is lowering farm incomes and pushing many farmers out. The worsening climate crisis is escalating risk for farmers. Climate-related events will increase market volatility, making it more difficult for farmers to transition toward climate-resilient systems.

A reformed and updated supply management system could achieve multiple goals. A supply management system includes a set of complementary programs: setting marginal farmland aside; storing grain in reserves at times of overproduction; implementing price floors and ceilings to protect farmers and consumers from market volatility; and controlling the volume of imports. A strong supply management system would ensure a fair price (called "parity") for farmers that covers their costs, both to farm and to live. An updated supply management system grounded in parity prices that integrates climate adaptation and mitigation goals could bring multiple benefits. Here, in brief, are a few:

Keeping farmers on the land – Establishing predictable parity price levels is essential to keeping independent family farmers on the land and generating economic activity in their rural communities.

Significant taxpayer savings that can be reinvested – Supply management programs produce considerable taxpayer savings, since market prices are ensuring farmers a fair income. A recent analysis by University of Tennessee agriculture economists found that a supply management system would save $234 billion over the next 10 years – money that could be reinvested to support carbon farming and rural development.[3]

Accelerating the transition toward climate resilience – Stable and fair prices take farmers off the treadmill of trying to survive and allow them the space to transition toward climate-resilient practices grounded in improving soil health.

Sequestering carbon – A supply management system that includes acreage set asides would take marginal farmland out of production, which could be utilized as a carbon sink if coupled with expanded conservation programs that support perennial grasses or agroforestry.

Reduced GHG emissions – In the race to expand production, farmers routinely over-apply high GHG-emitting nitrogen fertilizer. A stabile, fair price for crops used as animal feed would remove a key economic driver of mid and large-scale Concentrated Animal Feeding

Operations (CAFOs) – the primary source of increased agriculture-related emissions, and water pollution in rural communities.

Boost new, more sustainable agriculture markets – By removing below-cost feed for CAFOs, climate-friendly managed grass-fed meat and dairy production will be more price competitive. Market trends clearly show growing consumer demand for grass-fed, organic and locally-produced foods – each of which pay a price premium to farmers. Deeper public investments in infrastructure to help these domestic markets grow would further help farmers transition to meet this demand.

A core part of the original New Deal farm programs, supply management is not new to U.S. farmers. While these supply management programs were weakened and undermined over time,[4] and finally eliminated in the 1996 Farm Bill, this approach continues to work for American sugar producers by providing them a fair income, while protecting them from tariff-related disruptions that are hurting other commodity producers.[5]

Reform EQIP to Stop Subsidizing CAFOs

We must transition away from spending public resources propping up the damaging CAFO system of animal program, and instead invest in more climate-friendly livestock production systems. CAFOs rely on feed from large-scale row crop grain production using high GHG-emitting synthetic fertilizers and pesticides and often store animal waste in lagoons that generate large amounts of methane.[6] They also produce more waste than the surrounding cropland can support as fertilizer. The excess manure is often overapplied to surrounding cropland, which can result in substantial nitrous oxide emissions.[7] CAFOs are driving the overproduction of meat and dairy, which in turn is contributing to low prices and the loss of small and medium size independent producers. In this way, public resources are currently contributing to increasing agriculture emissions through the support of CAFOs. Conversely, advanced grazing systems, particularly management intensive rotational grazing, have been shown to reduce water pollution[8], reduce the amount of methane produced by each animal[9] and sequester significant amounts of carbon[10] [11].

The Environmental Quality Incentives Program (EQIP) needs to be reformed to redirect subsidies that currently go to CAFOs towards rotational grazing management practices. EQIP was designed to provide cost-share and incentive payments to agricultural producers to address natural resource concerns on their farms, and it has been used by hundreds of thousands of farmers nationwide to make environmental improvements that benefit the land, family farm operations and their communities. Unfortunately, the 2002 Farm Bill revised EQIP to allow access to CAFOs. If EQIP funding was not going to CAFOs for manure management, the program could have supported more meaningful conservation practices on many more farms. For example, two out of three EQIP applications submitted in 2015 went unfunded. We should restore EQIP funding to the original intention of the program: supporting small and mid-sized independent family farm livestock operations as they make improvements to their conservation practices. EQIP should not subsidize the construction or expansion of CAFOs.

In addition, we urge the following reforms: EQIP should remove the 50 percent set-aside for livestock that has allowed large livestock operations to capture EQIP funding at the expense

of other types of farms. (See The Strengthening Our Investment in Land Stewardship Act,[12] introduced by Rep. Walz and the "Environmental Quality Incentive Program Improvement Act,"[13] introduced by Sens. Lee and Booker.) Additionally, the amount of EQIP funding available to an individual operation should be capped at $150,000 in order to ensure that EQIP funds reach a greater number of applicants. (See The Environmental Quality Incentive Program Improvement Act of 2018.)

Reform FSA Loans to Stop Backing New and Expanding CAFOs

Another Farm Bill program that supports new and expanding CAFOs is the USDA Farm Service Agency (FSA) guaranteed loan program. Many CAFOs around the country would not exist without FSA loan support. Loans supporting CAFOs have come at the expense of support for independent farmers and ranchers who are protecting rural waterways, air and the climate. Credit needs are high in farm country right now and resources should be aimed at helping existing farmers weather these tough times.

Congress should prohibit issuance of any direct or guaranteed farm ownership or operating loans for the construction or expansion of a specialized hog or poultry production facility, as well as the issuance of direct or guaranteed loans to foreign-owned operations.

In addition, providing a full accounting of possible environmental risks, including potential climate impacts, should be a minimum standard before any public resources are invested. In August 2016, FSA quietly announced it would no longer require an environmental review under the National Environmental Protection Act (NEPA) prior to the approval of loans for mid-sized CAFOs. Nor would neighboring farmers, rural residents or local government officials have notice that such an operation was being built until construction began. The agency gave no reasoned justification for the decision despite the high stakes for community members, clean air and water, and the climate. IATP has joined seven other family farm, sustainable agriculture and citizen organizations in filing suit against the USDA, charging that the decision violated requirements under NEPA and the Administrative Procedures Act by depriving the public of the opportunity to comment on the proposed change.[14] USDA should require a full NEPA review, including implications for the climate, for any FSA loans for new or expanding mid-sized CAFOs.

Reject Methane Digestors as a Climate Solution

IATP opposes public investment in methane digesters and the biogas industry as a solution to the climate crisis. Emissions related to manure management have risen 66 percent since 1990 and the majority of this increase is due to the shift toward larger dairy cattle and swine CAFOs.[15] Methane digesters are increasingly touted as a way to reduce emissions on CAFOs; the USDA, U.S. Environmental Protection Agency (EPA) and U.S. Department of Energy have all endorsed biogas to reduce total methane emissions.[16] However, methane digesters do not take into account the full lifecycle analysis of CAFOs or their other negative impacts including water pollution, air pollution and environmental justice implications for surrounding communities.

The biogas produced from methane digesters should not count as clean energy. Burning biogas releases carbon dioxide and other pollutants including smog-forming nitrogen oxides, ammonia and hydrogen sulfide.[17] Large-scale biogas projects also require a buildout of natural gas infrastructure including pipelines. This infrastructure should be phased out as we transition to a truly renewable energy system.

Public resources through the EQIP program and EPA's AgStar program are currently supporting investments in methane digesters. Those resources should be fully redirected to support advanced grazing practices that emit fewer GHG emissions, build soil health, improve water quality, reduce erosion and support vibrant rural communities by keeping more farmers on the land. And any clean energy policy should define "renewable energy" to exclude biogas, and electricity derived from biogas, produced at CAFOs.

Strengthen Farmworker Health Protections

It is not only farmers that need assistance in adapting to climate change, it is also farmworkers. Heat-related illness is the leading cause of weather-related deaths in the U.S., and heat-illness has a disproportionate impact on communities of color, low-income earners and those who work outdoors. Agricultural workers fall at the nexus of these vulnerabilities. The Occupational Safety and Health Administration (OSHA) currently has no federal regulations protecting workers in extreme heat. While the National Institute of Occupational Safety and Health (NIOSH), a division of the Center for Disease Control, has recommended such regulations since 1972, OSHA has rejected petitions from NIOSH and other groups. While OSHA and its state counterparts provide advice on keeping workers safe in extreme heat, only four jurisdictions (California, Minnesota, Washington and the U.S. military) have statutory heat protections for workers. California's protections are the most rigorous. Title 8, Section 3395 in California's Code of Regulations covers heat illness prevention for outdoor workers. Rest breaks, training on heat-stress, and reasonable access to water and shade are among its provisions. It also requires monitoring of new hires during their acclimatization period and the establishment of emergency response protocols. Several organizations, including Public Citizen, the United Farm Workers Foundation and Farmworker Justice, have petitioned OSHA, calling on the agency to consider strong new regulations.[18] Congress should require OSHA to promulgate new, stronger farmworker protections modeled on the California regulations.

Regulate Air Pollution for Confined Animal Feeding Operations

GHGs linked to CAFOs are tracked within the EPA's Inventory of U.S. Greenhouse Gas Emissions and Sinks agriculture sector data.[19] While emissions in many sectors are declining, those from the agriculture sector have increased more than 10 percent since 1990. Within the agriculture sector, carbon dioxide emissions increased by 16.2 percent, methane emissions by 14.4 percent and nitrous oxide emissions by 7.3 percent since 1990, the EPA reported. Methane is 28 times as potent as carbon dioxide and nitrous oxide is nearly 300 times as potent.

The increase in methane emissions mirrors the rapid expansion of CAFOs over the last two decades, where thousands of animals are raised in confined spaces with massive manure

lagoons. Emissions related to manure management rose 66 percent since 1990. The EPA reported, "The majority of this increase is due to swine and dairy cow manure, where emissions increased 29 and 134 percent, respectively." The EPA pointed out that "the shift toward larger dairy cattle and swine facilities since 1990 has translated into an increasing use of liquid manure management systems, which have higher potential CH4 (methane) emissions than dry systems."

Manure management is also a source of nitrous oxide (N2O) emissions, both directly and through the application of manure on fields as fertilizer. N2O emissions related to manure increased 34 percent from 1990 to 2017 — once again mostly associated with the rise of large-scale animal feeding operations.

While the EPA does not currently regulate GHG emissions from CAFOs, states are starting to recognize the need to regulate emissions from these operations. As the largest dairy producing state in the country, California has 1.8 million dairy cows. Of the state's total methane emissions, 60 percent come from agriculture. A study published in the journal *Nature* this month found that giant dairy CAFOs were the source of 26 percent of the state's methane emissions.[20] In 2016, California passed a rule (SB 1383) to reduce Short Lived Climate Pollutants, including methane.[21] The methane target is to achieve a 40 percent reduction below 2013 levels by 2030, a move that necessitates regulatory oversight for the mega-dairies. The EPA should follow California's lead and set similar targets for methane reduction from large-scale CAFOs at the national level.

Strengthen Antitrust and Competition Policy

There is evidence that excess corporate control over the U.S. food and agriculture system hurts our ability to adapt to climate change. University of Missouri Rural Sociologist Mary Hendrickson finds,[22] "Our highly concentrated global food system has resulted from horizontal and vertical integration in food system sectors and globalization of agricultural and food markets. This system constrains farmers (and others) in making choices that can fend off likely ecological and social disruptions while limiting their ability to accommodate change. It has eliminated smaller farms and businesses that provided a redundancy of role and function, resulting in few fail-safe mechanisms for the food system. A focus on efficiency, standardization, and specialization has decreased the diversity of scale, form, and organization across the food system."

The agriculture sector is among the most concentrated, with a handful of often global corporations controlling most aspects of the industry. Only a few firms control almost all the supplies farmers buy such as seeds, fertilizer and farm equipment, raising prices and reducing their choices. Recent seed and fertilizer company mergers threaten to further raise operating costs for farmers. At the same time, farmers sell into very concentrated markets where four firms often control the market, pushing down prices farmers receive for crops and livestock. For example, the top four firms control 86 percent of corn processing, 85 percent of cattle slaughter, 71 percent of pork packing and 79 percent of soybean crushing.[23]

The limits of concentrated markets played out this summer when farmers experienced shortages in seeds for cover crops, following the extreme Midwest flooding that limited the planting of conventional crops in some cases.[24] A recent analysis of 89 studies found that

perennials and cover crops improve the ability of soils to soak up extreme rainfalls, which is critical to mitigating floods and withstanding droughts.[25] Small grain breeders and independent seed companies are trying to fill this gap left by the three global seed companies that dominate the U.S. agriculture markets – Bayer/Monsanto, Dow/DuPont and Syngenta/ChemChina. In addition to limiting seed variety options, the lack of competition in the U.S. seed market has led to higher prices for farmers.[26]

The Food and Agribusiness Merger Moratorium and Antitrust Review Act of 2019, introduced by Sen. Booker and Rep. Pocan, would initiate a much-needed strategic pause in food and agribusiness mergers in order to assess the impact corporate consolidation has on farmers, workers, consumers, and communities and recommend improvements to antitrust enforcement.[27] IATP believes the climate implications should also be part of the assessment required under the bill.

Cross-Cutting Policies (Qs 4, 5)

- *What role should carbon pricing play in any national climate action plan to meet or exceed net zero by mid-century, while also minimizing impacts to low- and middle-income families, creating family-sustaining jobs, and advancing environmental justice? Where possible, please provide analytical support to show that the recommended policies achieve these goals.*

IATP opposes the use of carbon markets to reach GHG reduction goals. Our 2017 report, "Don't Believe the Carbon Market Hype: Why states should not pursue carbon markets and what they can do instead," outlines our full position.[28] Carbon markets worldwide and in the U.S. have failed to directly reduce GHG emissions[29] [30] and in some cases have also failed to bring in revenue.[31] Using the California carbon market as an example, emissions credits have continued to sell at or near the market's price floor of around $12. This falls short of the estimated price of $60 per ton of carbon that would be necessary to meet the Paris climate goals.[32] A recent investigation by Pro Publica found that under California's carbon market, emissions from the oil and gas industry actually increased by 3.5 percent.[33]

Carbon markets also contribute to environmental injustices, particularly for communities of color.[34] Carbon markets can result in geographically-concentrated pollution. Power plants do not only emit greenhouse gases; they also release co-pollutants such as sulfur dioxide, nitrogen oxides, mercury and fine particulate matter. These co-pollutants have enormous public health impacts ranging from cardiovascular and respiratory problems to premature death.[35] Because most power plants and polluting entities are situated in or near low-income communities and communities of color, the increased pollution in certain locations will harm those communities disproportionately.[36]

As climate policy increasingly includes the agricultural sector, we oppose the use of soil carbon offsets. Soil carbon offsets allow carbon sequestered in the soil to count as mitigation for emissions elsewhere. Soil carbon storage is extremely impermanent; any carbon sequestered in the soil can be released with a change in land management practices. In addition, the science and measurement tools are not advanced enough to precisely quantify the amount of greenhouse gas emissions sequestered over time.[37] Most importantly, offsets allow the polluters buying the offsets to continue polluting.

Farmers are responsible for implementing the land management practices to sequester carbon, which adds a social dimension to the problem. Farming is already a risky profession, reliant on good weather conditions and stable market prices. Tying agricultural land to a carbon market could leave farmers even more vulnerable to volatile prices than they are already. Furthermore, the price for the offset must be high enough to incentivize farmers to change their land management practices, which can require expensive new equipment, inputs and knowledge. Yet, carbon credit prices have historically been far too low to fairly incentivize such large-scale land management changes.[38]

We need predictable public programs to incentivize climate-friendly agricultural and land management practices, including payments to farmers who implement conservation practices that can sequester carbon, but are insulated from a volatile carbon market framework.

IATP also has similar concerns related to carbon tax proposals, particularly those that do not contain a GHG emissions regulatory component. The price of most carbon tax proposals is well below what is needed to drive emissions reductions necessary to address the climate crisis, allowing pollution to continue particularly in low income and communities of color.[39]

Effective climate solutions must keep fossil fuels in the ground and eradicate environmental injustices. They cannot include carbon market schemes that allow polluters to continue polluting. We need a suite of policies and regulations not tied to these types of markets to meet the urgency of the climate crisis.

<u>Strengthen Climate-Related Financial Risk Reporting and Climate Financial Resilience Planning</u>

There is rising concern about the degree of financial risk associated with climate change. In November, the Federal Reserve Bank of San Francisco organized a special Economics of Climate Change meeting exploring this risk within the financial industry.[40] Earlier this summer, the Commodity Futures Trading Commission voted to approve a Climate-related Market Risk Subcommittee to examine the risks climate change poses to our financial system.[41] The first step in understanding these financial risks should be improved climate-related financial risk reporting requirements.

The House of Representatives has made some progress on climate-related financial risk reporting by publicly traded companies in the equities markets. However, the Securities and Exchange Commission (SEC) has neither developed a uniform standard for reporting climate risk nor enforced SEC rules when those companies fail to disclose accurately and comprehensively the material risk that climate change impacts pose to their facilities, supply chains and balance sheets.[42]

IATP supports the Climate Risk Disclosure Act of 2019,[43] reported out of the House Financial Services Committee in July,[44] with the following amendments for improvement:

- In the "Definitions" section, amend "appropriate climate policy principals" by specifying that the "climate policy officer" is a senior officer reporting to the Chief Compliance Officer (CCO), who can be removed only by a vote of the Board of Directors. This change in definition will strengthen the authority of the climate policy officer within the corporate structure. Furthermore, include a definition of "climate-related material risk" to ensure that in the event of perceived conflict of interest in fiduciary duty to shareholders and the public interest, climate-related risks cannot be externalized from financial risk reporting to the SEC, investors and the public.
- In the "Findings," include a subsection on "Adaptation to Climate Change" and subsequently a separate section on "Reporting Actions and Investments to Adapt to Climate Change." The current "Findings" section is only about GHG emissions reporting and mitigation measures. Voluntary climate disclosure reporting[45] largely consists of emissions mitigation-oriented reporting, save for reporting on corporate "water risk." A more robust, comprehensive and effective disclosure reporting system would include a requirement to report corporate policy, implementation actions and investments to adapt to climate change impacts in company facilities, supply chains and balance sheets.
- To ensure that climate-related financial risk reporting is uniform, the SEC must adopt or develop a uniform reporting standard. The bill advocates "standardized, material risk climate risk and opportunity disclosure," but does not require that the SEC develop or adopt a uniform reporting standard. Congress should require the SEC to propose or adopt a uniform reporting standard for material risk related to GHG emissions and another standard for adaptation to climate change. The bill could instruct the SEC to consult with the Sustainable Accounting Standards Board to develop a uniform reporting standard.
- To verify compliance with the requirements of the Climate Risk Disclosure Act, both (Section 9) reports to Congress and by the Government Accountability Office are stipulated. While such reports are desirable, determining compliance within the SEC to trigger investigations or enforcement actions should reside within the SEC office least subject to political pressure, that of the SEC Office of the Inspector General.
- Given the SEC's historically weak enforcement of its rules, the bill should include "carrot and stick" enforcement measures. The Climate Risk Disclosure Act of 2019 does not specify enforcement measures but apparently relies on existing SEC enforcement measures and practices. Because SEC fines are far too low, there is bi-partisan support to increase the scale of the fines.[46] Although an increased scale of fines may dissuade smaller and medium sized companies from recidivism, they are unlikely to dissuade the largest and likely most climate vulnerable companies. Because climate change has been characterized as a "civilizational threat,"[47] the penalties for failure to comply should escalate according to the degree and frequency of non-compliance. If three escalating fines fail to secure compliance, non-compliant firms should be designated as "bad actors," resulting in greater SEC reporting and record keeping requirements, and loss of access to federal loans, tax breaks and contracts. If

firms choose to suffer bad actor penalties rather than comply accurately and completely, more severe penalties should be added, such as a ban on share buybacks until compliance is secured.

- The legislative "carrots" for compliance could include SEC "good actor" designation, giving compliant firms preferential access and treatment for federal contracts, loans and task credits. "Good actor" designations, subject to annual compliance renewal, could also be used by credit rating agencies in their calculation of corporate bond ratings.

Just as the Dodd-Frank Act required the CFTC and the SEC to issue joint rulemakings for instruments traded on exchanges, the House Select Committee should consider joint committee jurisdiction over entities, instruments, markets and underlying assets impacted by climate change. The most immediate legislative vehicle for climate financial risk measures in the derivatives (futures, options and swaps contracts) market is the CFTC's reauthorization,[48] which was introduced in the House agriculture committee on October 29 and reported out on October 30.[49] The bill currently has no climate-related content whatsoever, despite the initiative of the CFTC to create a subcommittee on climate-related financial risk that will report to the Market Risk Advisory Committee (MRAC) in mid-2020 with recommendations and actionable materials for the CFTC to consider.

The House should consult with the MRAC sponsor, Commissioner Rostin Behnam, about the CFTC outcomes of the MRAC recommendations before it amends the CFTC reauthorization bill to include a climate financial risk reporting section. In June, IATP wrote to the agency that because climate change will impact all asset classes under the CFTC's jurisdiction, the subcommittee should consider climate change as a systemic financial risk factor.[50] Accordingly, some Commission rules and definitions may be modified to take into account these impacts, e.g., the exchange estimates of what is "deliverable supply" of a commodity, or how the Commission delegates its authorities to exchanges and self-regulatory organizations. Swaps dealers (e.g., Goldman Sachs) and major swaps participants (e.g., Cargill) could be required to report the climate-related financial risk of their swaps trading activities.

Another major issue in climate financial risk reporting is how to ensure reporting from private equity firms that use highly leveraged instruments to take over publicly held companies, draining them of their equity and taking huge management fees in the process. Bloomberg reports that there are twice as many private equity-controlled companies as publicly listed companies.[51] PE companies have no reporting obligations to the SEC. Part of the key to PE returns on investment is to externalize the climate change related costs that must be internalized if the U.S. economy is to be made sustainable.

IATP is a member of Americans for Financial Reform and as such, supports its position on the Stop Wall Street Looting Act of 2019.[52] An amendment to this act would require PE companies to report their climate-related financial risk under the uniform standard and subject to the enforcement regime that we have proposed for publicly listed companies. Because PE companies prosper by regulatory arbitrage and squeezing out costs, their return on investment reports should be subject to special scrutiny, particularly regarding climate change impacts on their facilities, supply chains, balance sheets and the securitized

instruments they use, such as credit default swaps, to leverage their buyouts of publicly listed firms.

International (Q. 13)

> *The climate crisis requires a global response. U.S. leadership is critical for successful global solutions. What policies should Congress adopt to support international action on the climate crisis?*

Trade agreements constrain congressional power to regulate and raise labor, environmental and other standards that are important to achieving a just transition in responding to the climate crisis for agriculture, rural communities and the economy as a whole.

For example, the proposed new NAFTA, known as the USMCA, remarkably does not even mention climate change or commitments made under the Paris Climate Agreement. This despite setting hard law rules that will apply to high GHG emitting sectors in all three countries, including energy, mining, transportation and agriculture. In fact, the locking in of trade rules under the USMCA will likely hinder policy efforts in all three countries to meet climate goals under the Paris Climate Agreement.[53]

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (PL 114-26) establishes negotiating objectives and an approval process that results in trade agreements that prioritize access to export markets and harmonization of public regulations to the lowest common level in order to facilitate trade and investment. That approach undermines the achievement of climate goals and must be revamped. Trade Promotion Authority under that act expires on July 1, 2021.

Rather than modifying specific negotiating objectives or procedures in TPA, Congress should debate a new approach to negotiating trade agreements, one that allows for input from Congress and the public over the course of negotiations and requires that environmental (including climate), human rights and public interest goals are prioritized over market opening.

The Trade Reform, Accountability, Development, and Employment Act of 2009 or the TRADE Act of 2009 provides a useful starting point for that debate.[54] The Citizens Trade Campaign, a broad coalition of labor, environment, family farm, faith and other community groups submitted testimony based on the principles in the TRADE act urging USTR to publish all draft proposals, negotiating texts, reports and supporting documents about trade agreements under negotiation "in as close to real-time as possible on an ongoing basis, so that our members and the general public all have the opportunity to scrutinize them and participate meaningfully in influencing the formative stages of this agreement."

No agreement should be brought for a vote in Congress unless analysis by the International Trade Commission (ITC) and EPA demonstrate that it makes a positive contribution to reducing GHGs resulting from trade and cross-border investment on a per sector basis at every point of the supply chain, from raw materials to manufacture, transport and retail.

The ITC/EPA assessment of "likely impacts" of trade agreements should also include how the agreement will facilitate adaptation to climate change in all covered economic sectors and cross-border investments.

In addition, Congress should demand the elimination of the following provisions in existing and future trade agreements that undermine our efforts to respond to the climate crisis:

1) Investor-State Dispute Settlement (ISDS). This provision, which the U.S. first included in the North American Free Trade Agreement (NAFTA), allows investors to sue governments over public interest laws or regulations that undermine their expected profits. Hundreds of cases have been brought around the world, most often challenging environmental, mining and related issues. For example, the TransCanada Corporation sued the U.S. government for $15 billion over President Obama's decision to block the Keystone XL pipeline based on climate considerations. Even when President Trump indicated his support for going forward with the pipeline, TransCanada subsequently used the threat of the ISDS case to eliminate requirements for the use of U.S.-made steel, further undermining national sovereignty.

   The proposed USMCA, despite its many flaws, would make important progress by eliminating ISDS between the U.S. and Canada and limiting its use in cases between Mexico and the U.S. Unfortunately, it still allows for cases to be brought involving contracts in the oil and gas, power generation, telecommunication, transportation and infrastructure sectors, all of which are closely related to a transition to renewable energy and reduction in emissions from fossil fuels. This unhelpful and unnecessary mechanism should be eliminated from all trade and investment agreements to which the U.S. is a party.

2) Rules that restrict the policy tools needed to shift to fair and sustainable agricultural production and markets. For example, the U.S. Trade Representative (USTR) lists as a key achievement of the new NAFTA that it prohibits the use of WTO agricultural safeguards. This would limit the use of tariffs by all three countries to defend against unfair and unstable markets. Article 3.6.1. of that agreement would create new pressure to ensure that domestic support to agriculture not distort trade, when the focus should be on agricultural programs that encourage a transition to fair and sustainable production. Restrictions on agricultural support programs to make them trade compliant would expose programs designed to strengthen local, sustainable production to potential trade challenges.

3) Provisions that undercut local innovation for renewable energy. The U.S. and India have both filed successful cases at the WTO challenging each other's subsidies and other local incentives for renewable energy production.[55] In early July, a WTO dispute panel ruled that renewable energy policies that supported local green jobs in eight U.S. states violate international trade rules. These programs – in addition to building the renewable energy system we need to confront climate change – can help to create jobs and raise incomes in rural communities. There have already been proposals at the WTO for a "Peace Clause" to take a break from such challenges.

Congress should support that immediate action and then insist on the removal of trade commitments that make these disputes possible.

It is imperative to ensure that trade rules do not undercut a just transition to address the climate crisis, including supporting agricultural production and markets and that serve the needs of farmers, farmworkers and consumers. It will also be important to consider how to avoid simply "offshoring" our emissions by multinational companies hoping to sidestep domestic climate policy.[56] Recent research shows that tariff cuts associated with free trade deals involving the G-20 countries make it difficult to meet global climate targets when considering emissions embedded in imports. But developing countries are skeptical of how carbon tariffs might be used to restrict their exports, particularly when those same trade agreements impede clean energy technology transfer and other investments that could help them transition to lower emissions. This is a longer-term discussion that must be part of a process of building bridges with our trading partners, rather than the erratic trade wars that have characterized the current administration. Congress should support a process to find creative solutions that benefits producers in all countries, while reducing GHGs and building climate resilience.

IATP thanks the committee for the opportunity to submit these comments and looks forward to continued engagement on identifying policy responses to the climate crisis. Please contact Ben Lilliston (ben@iatp.org, 612-870-3416) with any questions or additional information needed by the Committee.

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[1] National Sustainable Agriculture Coalition. 2019. Agriculture and Climate Change: Policy Imperatives and Opportunities to Help Producers Meet the Challenge. Washington D.C.

[2] Lal, R., Kimble, J.M., Follett, R.F., & Cole, C.V. 1998. The Potential of U.S. Cropland to Sequester Carbon and Mitigate the Greenhouse Effect. Ann Arbor Press, Chelsea MI.

[3] Schaffer, Harwood. Ray, Daryll. A Farm Program that Reduces Farmers Dependency on Government Subsidies. Agriculture Policy Analysis Center, University of Tennessee. V. 37. N. 136. September 22, 2017. https://www.agpolicy.org/weekcol/2017/890.html

[4] Ritchie, Mark. Ristau, Kevin. Crisis by Design: A Brief Review of U.S. Farm Policy. League of Rural Voters. 1987. https://www.iatp.org/documents/crisis-design-brief-review-us-farm-policy

[5] American Sugar Alliance. U.S. Sugar Policy. Accessed: November 20, 2019. https://sugaralliance.org/us-sugar-policy

[6] Hribar, C. National Association of Local Boards of Health. 2010. Understanding Concentrated Animal Feeding Operations and Their Impact on Communities. https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf?fbclid=IwAR3DK7qlkmPsTg6D8CGoDnrLQfjOvvkekIP34AHQvD47ugqTR9RvwDOmqpU

[7] U.S. EPA. 2019. Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2017. Chapter 5 Agriculture, and Chapter 6 Land Use, Land Use Change, and Forestry. Full Report available at: https://www.epa.gov/ghgemissions/draft-inventory-usgreenhouse-gas-emissions-and-sinks-1990-2017

[8] Beetz, A., and L. Rinehart. 2010. Rotational Grazing. National Center for Appropriate Technology, ATTRA bulletin, 12 pp. https://attra.ncat.org

[9] Ominski, K. H., D.A. Boadi, K. M. Wittenberg, D.L. Fulawka & J.A. Basarab. 2001. Estimates of Enteric Methane Emissions from Cattle in Canada Using the IPCC Tier-2 Methodology. Canadian Journal of Animal Science 87, 459–467.

[10] Machmuller, M. B., M. G. Kramer, T. K. Cyle, N. Hill, D. Hancock, and A. Thompson. 2015. Emerging land use practices rapidly increase soil organic matter. Nature Communications, 6, 6995. doi:10.1038/ncomms7995

[11] Teague, W. R., S. Apfelbaum, R. Lal, U. P. Kreuter, J. Rowntree, C.A. Davies, R. Conser, M. Rasmussen, J. Hatfield, T. Wang, R Wang, and P. Byck. 2016. The role of ruminants in reducing agriculture's carbon footprint in North America. Journal of Soil and Water Conservation, 71(2), 156-164.

[12] National Sustainable Agriculture Coalition. Soil Stewardship Act. Accessed: November 21, 2019. https://sustainableagriculture.net/our-work/campaigns/fbcampaign/conservation/soil-stewardship-act/

[13] EQIP Improvement Act of 2018. Senator Cory Booker. March 22, 2018. https://www.congress.gov/bill/115th-congress/senate-bill/2624?s=1&r=13

[14] Dakota Rural Action et. al. vs. U.S. Department of Agriculture. U.S. District Court for the District of Columbia. December 5, 2018. Civ. Action No. 18-2852. https://www.publicjustice.net/wp-content/uploads/2018/12/FSA-NEPA-Complaint.pdf

[15] U.S. EPA. 2019. Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2017. Chapter 5 Agriculture, and Chapter 6 Land Use, Land Use Change, and Forestry. Full Report available at: https://www.epa.gov/ghgemissions/draft-inventory-usgreenhouse-gas-emissions-and-sinks-1990-2017

[16] U.S. Department of Agriculture, U.S. Department of Energy (DOE) and U.S. Environmental Protection Agency (EPA). 2015. Biogas Opportunities Roadmap Progress Report.

[17] Kuo, Jeff. California State University, Fullerton. 2015. Air Quality Issues Related to Using Biogas from Anaerobic Digestion of Food Waste. Prepared for California Energy Commission. CEC-500-2015-037.

[18] Public Citizen. Petition to the Occupational Safety and Health Administration on Heat Stress. July 17, 2018. https://www.citizen.org/wp-content/uploads/migration/180717_petition_to_osha_on_heat_stress-signed_final_0.pdf

[19] U.S. EPA. Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2017. 2019. https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks

[20] Duren, R.M., Thorpe, A.K., Foster, K.T. *et al.* California's methane super-emitters. *Nature* **575,** 180–184 (2019) doi:10.1038/s41586-019-1720-3. https://www.nature.com/articles/s41586-019-1720-3

[21] SB 1383. Short-Lived Climate Pollutants: Methane emissions: Dairy and Livestock: Organic Waste: Landfills. 2015-2016. California Legislative Information. Accessed: November 21, 2009. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1383

[22] Hendrickson, Mary. Resilience in a Concentrated and Consolidated Food System." Journal of Environmental Studies and Sciences, Springer; Association of Environmental Studies and Sciences, vol. 5(3), pages 418-431, September 2015. https://ideas.repec.org/a/spr/jenvss/v5y2015i3p418-431.html

[23] Hendrickson, Mary. Howard, Phillip. Constance, Douglas. Power, Food and Agriculture: Implications for Farmers, Consumers and Communities. Division of Applied Social Sciences Working Paper, University of Missouri College of Agriculture, Food & Natural Resource, The Bichler and Nitzan Archives, Toronto, Ontario. 2017. https://www.econstor.eu/bitstream/10419/171171/1/20171101_hendrickson_howard_constance_power_food_and_agriculture.pdf

[24] Queck-Matzie, Terri. Short Supply of Seed for Cover Crops. Successful Farming. October 28, 2019. https://www.agriculture.com/crops/cover-crops/short-supply-of-seed-for-cover-crops

[25] Basche AD, DeLonge MS (2019) Comparing infiltration rates in soils managed with conventional and alternative farming methods: A meta-analysis. PLoS ONE 14(9): e0215702. https://doi.org/10.1371/journal.pone.0215702

[26] Torshizi, Mohammad and Clapp, Jennifer, Price Effects of Common Ownership in the Seed Sector (April 22, 2019). Available at SSRN: https://ssrn.com/abstract=3338485 or http://dx.doi.org/10.2139/ssrn.3338485

[27] H.R. 2933. Food and Agribusiness Merger Moratorium and Antitrust Review Act of 2019. https://www.congress.gov/bill/116th-congress/house-bill/2933/text

[28] Ritter, T. Institute for Agriculture and Trade Policy. 2017. Don't Believe the Carbon Market Hype: Why states should not pursue carbon markets and what they can do instead. Minneapolis, MN. https://www.iatp.org/sites/default/files/2017-06/2017_06_28_CarbonMarkets_TR.pdf

[29] Legrand, Marc. "The Regional Greenhouse Gas Initiative: Winners and Losers." Columbia Journal of Environmental Law, April 24, 2013. Accessed May 26, 2017. http://www.columbiaenvironmentallaw.org/the-regional-greenhouse-gas-initiative-winners-and-losers-2/

[30] Andrew, Brian. "Market failure, government failure and externalities in climate change mitigation: The case for a carbon tax." Public Administration and Development 28, no. 5 (December 2008): 393-401. doi:10.1002/pad.517.

[31] Brown, Ross. "May 2016 Cap-and-Trade Auction Update." California Economy & Taxes. May 26, 2016. Accessed May 26, 2017. http://www.lao.ca.gov/LAOEconTax/Article/Detail/193

[32] Carbon Pricing Leadership Coalition. 2017. Report of the High-Level Commission on Carbon Prices.

[33] https://www.propublica.org/article/cap-and-trade-is-supposed-to-solve-climate-change-but-oil-and-gas-company-emissions-are-up?utm_content=buffer457b7&utm_medium=social&utm_source=twitter&utm_campaign=ProPublica+Main+

[34] Gilbertson, T. Climate Justice Alliance. 2017. Carbon Pricing: A Critical Perspective for Community Resistance.

[35] Driscoll, Charles T., Jonathan J. Buonocore, Jonathan I. Levy, Kathleen F. Lambert, Dallas Burtraw, Stephen B. Reid, Habibollah Fakhraei, and Joel Schwartz. "US power plant carbon standards and clean air and health co-benefits." Nature Climate Change 5, no. 6 (2015): 535-40. doi:10.1038/nclimate2598

[36] Cushing, Lara, Madeline Wander, Rachel Morello-Frosch, Manuel Pastor, Allen Zhu, and James Sadd. 2016. A Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program. Report. Program for Environmental and Regional Equity, University of Southern California Dornsife.

[37] Olson, Kenneth R., Mahdi M. Al-Kaisi, Rattan Lal, and Birl Lowery. "Experimental Consideration, Treatments, and Methods in Determining Soil Organic Carbon Sequestration Rates." Soil Science Society of America Journal 78, no. 2 (September 24, 2013): 348-60. doi:10.2136/sssaj2013.09.0412

[38] Sharma, Shefali, and Steve Suppan. Elusive Promises of the Kenya Agricultural Carbon Project. Report. Institute for Agriculture and Trade Policy, 2011.

[39] Ritter, Tara. Carbon Tax Gaps. Institute for Agriculture and Trade Policy. January 9, 2019. https://www.iatp.org/blog/201901/carbon-tax-gaps

[40] Federal Reserve Bank of San Francisco. Economics of Climate Change. November 8, 2019. https://www.frbsf.org/economic-research/events/2019/november/economics-of-climate-change/

[41] Commodity Futures Trading Commission. CFTC Commissioner Benham Announces the Establishment of the Market Risk Advisory Committee's Climate-Related Market Risk Subcommittee and Seeks Nominations for Membership. July 10, 2019. https://www.cftc.gov/PressRoom/PressReleases/7963-19

[42] Robyn Bishop, "Investing in the Future: Why the SEC Should Require a Uniform Climate Change Disclosure Framework to Protect Investors and Mitigate U.S. Financial Instability," *Environmental Law Review* Volume 48:3 (2018).

[43] https://www.warren.senate.gov/imo/media/doc/Climate%20Risk%20Disclosure.pdf

[44] "Casten, Warren Climate Risk Disclosure Act' Passes House Financial Services Committee," Press Release, July 17, 2019.

[45] CDP Project, Data, 2018. https://www.cdp.net/en/data

[46] Todd Ehret, "U.S. Senate tries again for tougher enforcement penalties," Reuters, April 13, 2017. https://www.reuters.com/article/bc-finreg-sec-penalties-idUSKBN17F2AC

[47] Brian Pascus, "Human civilization faces an "existential risk" in 2050 according to new Australian climate change report," CBS News June 13, 2019. https://www.cbsnews.com/news/new-climate-change-report-human-civilization-at-risk-extinction-by-2050-new-australian-climate/

[48] https://www.congress.gov/bill/116th-congress/house-bill/4895/text

[49] "House Agriculture Committee Passes CFTC Reauthorization Bill," Press release, October 30, 2019. https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=1355

[50] https://www.iatp.org/sites/default/files/2019-06/Letter%20to%20the%20CFTC%20on%20Climate%20Financial%20Risk.pdf

[51] "Everything is private equity now," Bloomberg Business Week, October 8, 2019. https://www.bloomberg.com/news/features/2019-10-03/how-private-equity-works-and-took-over-everything

[52] "Stop Wall Street Looting Act Would Curb Worst Private Equity Abuses," Americans for Financial Reform, July 18, 2019. http://ourfinancialsecurity.org/2019/07/new-release-stop-wall-street-looting-act-curb-worst-private-equity-abuses/

[53] Lilliston, Ben. New NAFTA Continues Damaging Climate Legacy. Institute for Agriculture and Trade Policy. October 17, 2018. https://www.iatp.org/documents/new-nafta-continues-damaging-climate-legacy

[54] HR 3012. Trade Act of 2009. Introduced June 24, 2009. https://www.congress.gov/bill/111th-congress/house-bill/3012

[55] Lilliston, Ben. Did Obama's Trade Legacy Just Hammer the Green New Deal? Institute for Agriculture and Trade Policy. July 16, 2019. https://www.iatp.org/blog/201907/did-obamas-trade-legacy-just-hammer-green-new-deal

[56] Lilliston, Ben. When Climate Goals and Trade Rules Collide. Institute for Agriculture and Trade Policy. April 8, 2019. https://www.iatp.org/blog/201904/when-climate-goals-and-trade-rules-collide