

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

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PUBLIC HEARING ON PROMOTING
SUPPLY CHAIN RESILIENCE

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THURSDAY
MAY 23, 2024

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The public hearing was convened virtually via Webex at 10:00 a.m., Victor Ban, William Miller, and Ken Schagrín, Panel Chairs, presiding.

PRESENT

VICTOR BAN, Panel 1 and 3 Chair, Special Counsel, Office of the U.S. Trade Representative;
WILLIAM MILLER, Panel 2 Chair, Director of Industrial Policy, USTR
JAMES CRAMER, The Supply Chain Center, International Trade Administration, Department of Commerce
KEN SCHAGRIN, Panel 4 Chair, Assistant USTR for Services and Investment, USTR
LAUREN BAKER, Office of Digital and Emerging Technology Services, International Trade Administration, Department of Commerce
JONATHAN CULP, Branch Chief, Cargo and Conveyance Security, U.S. Customs and Border Protection
CORA DICKSON, Office of Energy and Environmental Industries, International Trade Administration, Department of Commerce

RACHEL HOWE, Director, Interagency Center on
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Enforcement (ICTIME), USTR

JENNIFER KNIGHT, Deputy Assistant Secretary for
Textiles, Consumer Goods, and Materials,
International Trade Administration,
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CHELSEA RUDMAN, International Labor Advisor for
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KATHERINE WHITE, Chief Textiles and Apparel
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PANEL ONE

RAYMOND KEATING, Small Business &
Entrepreneurship Council

SARAH STEWART, Silverado Policy Accelerator

JEFFREY TAFEL, National Association of Foreign
Trade Zones

CLAYTON TUCKER, Trade Justice Education Fund

PANEL TWO

KRISTI DISNEY BRUCKNER, Initiative for
Responsible Mining Assurance (IRMA)

MIKE CARR, Solar Energy Manufacturers for
America Coalition

CATRINA RORKE, Climate Leadership Council

KRISTA SHENNUM, Climate Rights International

PANEL THREE

KYM CONIS, American Mold Builders Association

ANGELA GIBIAN, Forging Industry Association

DEENA GHAZARIAN, Austere

BLAKE HARDEN, Retail Industry Leaders
Association (RILA)

KARLEE POPKEN, United States Footwear
Manufacturers Association (USFMA)

PANEL FOUR

TODD O'BOYLE, Chamber of Progress

EBBIE YAZDANI, TechNet

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1 P-R-O-C-E-E-D-I-N-G-S

2 10:04 a.m.

3 MR. BAN: Good morning and welcome to
4 this virtual Public Hearing on Promoting Supply
5 Chain Resilience convened by the Office of the
6 United States Trade Representative.

7 I'm Victor Ban, Special Counsel at
8 USTR, and on behalf of all my colleagues here at
9 USTR and our partners across the interagency, I
10 want, first and foremost, to express our sincere
11 gratitude to all of our witnesses today. Thank
12 you for taking the time to participate in this
13 public comment process and for sharing your views
14 at this important inflection point in the
15 development of U.S. trade policy.

16 Before we get started, I'll offer some
17 very brief opening remarks.

18 First, USTR's Federal Register Notice
19 of March 7th provides an overview of how USTR
20 understands supply chain resilience and its
21 significance within a broader shift in U.S. trade
22 and investment policy away from a focus on short-

1 term efficiency and tariff liberalization.

2 As the notice explains, the question
3 of how to enable supply chains to bounce back
4 quickly after crises or disruptions is important,
5 but it's actually only one element of resilience.
6 For USTR, supply chain resilience is multifaceted
7 -- encompassing transparency, diversity,
8 security, and sustainability.

9 So, what does this broad vision of
10 resilience mean in practical terms when it comes
11 to formulating trade and investment policy?
12 That's why we're here today. We want to
13 understand from all of you where the challenges
14 and pain points are and where potential solutions
15 may lie, whether through existing trade tools or
16 new ones.

17 Importantly, we don't want to limit
18 this hearing, or the public comment process more
19 generally, to USTR's existing trade policy
20 strategies and approaches. We certainly welcome
21 any discussion of existing tools, but USTR's
22 invitation was more open-ended, and we welcome

1 blue-sky thinking about possibilities for the
2 future. Thank you all for accepting that
3 invitation and for joining us here today.

4 And that brings me to my last point.
5 Amid all of the heightened policy interest in
6 supply chain resilience, it's important that we,
7 as the federal government, recognize the fact
8 that the actual building of supply chains isn't
9 the sole work of the government. Rather, supply
10 chains are born through the collective efforts of
11 workers, businesses, large and small,
12 communities, and civil society, enabled by sound
13 government policy. We need your partnership and
14 expertise to develop thoughtful and durable
15 policies and to help all Americans prosper and
16 thrive.

17 In this spirit, in addition to the
18 hearing held in D.C. two weeks ago, we held a
19 hearing in St. Paul, Minnesota, last week and are
20 meeting today virtually. And we'll have a final
21 hearing next week in New York City.

22 Thank you again for being here and for

1 working with us in this endeavor.

2 Just a few quick process points before
3 we get underway.

4 First, the agenda for today is posted
5 on the USTR website. Just go to ustr.gov, and
6 under "Trade Topics," you'll see a tab for supply
7 chain resilience, and the agenda is linked off
8 that page.

9 The run of show is that we'll, first,
10 receive all testimony from witnesses in
11 alphabetical order, as shown on the agenda. This
12 will ensure that each witness can speak for the
13 allotted five minutes each before we move on to
14 questions.

15 In responding to questions, please do
16 try to be concise, so that we can proceed through
17 our questions and hear from all witnesses.

18 A word about transcripts. We do have
19 a court reporter joining us virtually today, as
20 you can see. The court reporter will prepare a
21 transcript of today's hearing, and USTR intends
22 to post that transcript on our website as soon as

1 possible after the conclusion of this hearing.

2 Given that we're preparing a
3 transcript, I encourage everyone to speak clearly
4 and slowly, and before you begin your testimony,
5 please do state your name and introduce yourself.

6 Note that, earlier this week, we
7 posted the transcript for the D.C. hearing, and
8 we intend to post the St. Paul transcript in the
9 coming days.

10 After the hearing, our docket will
11 remain open through June 4th to receive post-
12 hearing comments. Note, that as provided in our
13 April 3rd Federal Register Notice, USTR will
14 permit any person to submit post-hearing
15 comments, so long as the comments respond to
16 testimony provided at any of the four public
17 hearings in this proceeding.

18 So, any person includes not only the
19 testifying witnesses today, but also anyone here
20 online who isn't testifying. You're all welcome
21 to submit comments if you want to respond to
22 anything stated during this hearing or any other

1 public hearing.

2 Additionally, if any witnesses are
3 asked questions that require further factual
4 research or information, it's also acceptable to
5 state that you'll respond and follow up in a
6 post-hearing comment.

7 Last, but not least, I want to
8 acknowledge the tremendous contributions of USTR
9 Special Assistant Claire Blanton and USTR's IT
10 team. Thanks for all your diligence and support
11 in making this public hearing come together.

12 With that, let's proceed with our
13 first panel. I'm joined by colleagues from the
14 Department of Commerce and U.S. Customs and
15 Border Protection, and I'll let them introduce
16 themselves in due course.

17 I would ask that our panelists, our
18 witnesses -- excuse me -- our witnesses on the
19 first panel please turn on your cameras, if
20 you're able, but remain in mute until you're
21 ready to proceed with your testimony.

22 And with that, Mr. Keating, you have

1 the floor.

2 MR. KEATING: Thank you so much. Good
3 morning.

4 I'm Ray Keating and I serve as Chief
5 Economist of the Small Business &
6 Entrepreneurship Council, which is a nonprofit
7 advocacy, research, and education organization
8 dedicated to promoting entrepreneurship and
9 protecting small business.

10 So, as we know, not long after the
11 COVID-19 pandemic struck, supply chains became
12 hot topics. While the definition of a supply
13 chain is straightforward, how supply chains work
14 and are managed is expansive and complex. In
15 reality, of course, there isn't one supply chain,
16 but, instead, many supply chains for particular
17 industries and businesses.

18 A supply chain is a network of
19 industries, individuals, and businesses using
20 assorted resources and technologies and engaging
21 in various activities in order to create, sell,
22 and deliver goods and services. In most general

1 terms, a supply chain can begin with extracting
2 raw materials, which go to wholesalers, and then,
3 to manufacturers, who, in turn, create finished
4 products. Distributors or wholesalers, then, get
5 products to retailers, who sell them to final
6 consumers. Of course, other industries are
7 involved at various stages, such as payment
8 processing, information, telecommunications,
9 transportation and delivery services.

10 Supply chains ran into problems during
11 the pandemic, as assorted businesses and
12 industries were shut down, but consumer demand,
13 after a brief decline, quickly moved back to
14 growth. The systems face severe constraints in
15 terms of labor, capacity, equipment, and so on.
16 Some people were surprised by how long these
17 problems lingered, but, again, supply chains turn
18 out to be broad, complex systems.

19 Supply chains also tend to be largely
20 about small businesses, which isn't surprising,
21 given that industries across the U.S. economy
22 overwhelmingly are populated by small and mid-

1 sized businesses.

2 It was noted in a Harvard Business
3 Review article by Karen Mills, Elisabeth
4 Reynolds, and Morgane Herculano, that, quote,
5 "The importance of small and midsize businesses
6 in supply chains goes far beyond a few key
7 products or industries. Supply chain companies
8 -- defined as those that sell their output
9 primarily business-to-business (B2B)...are
10 largely small and mid-sized companies, not
11 goliaths. Companies with fewer than 500
12 employees make up 98 percent of supply chain
13 firms and over 20% of U.S. private employment."

14 As to supply chain resiliency or
15 health, private sector entrepreneurs, businesses,
16 and investors, of course, possess every incentive
17 to solve supply chain challenges and do so by
18 responding to price and profit signals in the
19 marketplace with increased investment.

20 For example, in the face of supply
21 chain woes, venture capital investment jumped
22 dramatically. For example, PitchBook reported,

1 quote, "Supply chain startups reached a high
2 watermark for VC fundraising in 2021, bringing in
3 \$62.2 billion." Close quote.

4 As for policymakers, the key is not to
5 undertake the impossible task of trying to, for
6 example, micromanage, subsidize, or guide current
7 emerging and future businesses making up
8 sprawling and dynamic supply chains across
9 industries, but, instead, the policy effort
10 should be about creating a sound policy
11 foundation upon which supply chains can be built,
12 innovate, and expand.

13 That most certainly includes tax and
14 regulatory relief to reduce cost and enhance
15 incentives for starting up and expanding B2B or
16 supply chain enterprises. It also means reducing
17 trade barriers, such as tariffs and quotas, in
18 order to expand supply chain opportunities.

19 It's odd that supply chain issues
20 somehow have been twisted against free trade
21 agreements. That doesn't make much sense if
22 we're looking to diversify and strengthen supply

1 chains.

2 On the trade front, first, consider
3 that real U.S. exports as a share of real GDP
4 went from 3.1 percent in 1960, for example, to
5 11.1 percent in 2023. Meanwhile, real imports as
6 a share of real GDP went from 3.5 percent in 1960
7 to 15.3 percent in 2023. Now, keep in mind that,
8 since nearly every import into the U.S. is an
9 input to a domestic business, then imports are
10 central to supply chains.

11 Second, it was noted in a report from
12 the Brookings Institution that international
13 trade improves economic resiliency in difficult
14 times. According to the study, quote, "We
15 demonstrate that global trade was remarkably
16 resilient during the pandemic and the supply
17 shortages would likely have been more severe in
18 the absence of international trade." Close
19 quote.

20 That shouldn't surprise anyone, as
21 more diverse supply chains provide more options
22 during times of crises and non-crisis, and

1 therefore, prove more flexible and durable.
2 Indeed, as we look at the supply chain, the
3 enormous importance of trade to the U.S. economy
4 should become even clearer and reinforce that the
5 best policy agenda for supply chain resiliency
6 includes advancing free trade accords.

7 Thank you for your time, your
8 attention, and for hosting this hearing.

9 MR. BAN: Thank you very much, Mr.
10 Keating.

11 And I note for the record that we did
12 start five minutes early, as I believe our
13 witnesses were here, but let me just make sure.

14 Ms. Stewart, I don't see your camera
15 on. Do we have Ms. Stewart here from Silverado?

16 MS. STEWART: I am on and I see
17 myself.

18 MR. BAN: Great.

19 MS. STEWART: So, I don't know why you
20 don't see me.

21 MR. BAN: Now, we see you. I think in
22 the room our camera tracks the audio. So now, we

1 see you and you may proceed when you're ready.

2 MS. STEWART: Got it. Fantastic.

3 Thank you so much.

4 And thank you for having me here
5 today. I'm really honored to be here, as a USTR
6 alumni, but speaking today in my new capacity on
7 behalf of Silverado Policy Accelerator.

8 We are a geopolitical think tank.
9 We're focused on accelerating novel issues and
10 solutions to a range of policy challenges. And
11 one of the areas where we have been diving pretty
12 deep is on trade and supply chains.

13 So, we look at this from three main
14 vantage points.

15 No. 1, ensuring resiliency of supply
16 of critical products in key sectors, like
17 critical minerals and chips, as a national and
18 economic security imperative.

19 No. 2, understanding geopolitical
20 risks to supply chains, given our outsized
21 reliance on China for many inputs and China's
22 willingness to use a range of tactics to build

1 both dominance over key global supply chains, and
2 then, leverage that dominance in its favor -- be
3 it to influence prices or restrict exports.

4 And No. 3, to address weaknesses in
5 our ability to meet our clean energy ambitions
6 and maintain our technological leadership that
7 stem from regulatory, trade, financing, and
8 investment barriers at home and abroad.

9 USTR has a very important role to play
10 in supply chain resiliency using a range of trade
11 policy tools and agreements, and I want to
12 highlight a few recommendations from our
13 comments.

14 No. 1, establishing supply chain
15 resiliency committees under all existing and
16 pending FTAs and other trade arrangements. So, I
17 understand nobody wants more bureaucracy, but
18 these are meetings that are happening, anyway,
19 and there's already a platform here. Wherever
20 there's trade, there's some aspect of a supply
21 chain that can be improved or illuminated or made
22 more efficient. So, why not use these meetings

1 to drive additional improvements and cooperation?

2 This could take the form of data
3 sharing among customs and trade officials. We
4 could also leverage the strong labor and
5 environment chapters in U.S. FTAs to include work
6 on how to make a business case for sustainable
7 supply chains, and that could be part of the
8 trade capacity-building and technical assistance
9 programs that are already underway.

10 No. 2, USTR should prioritize certain
11 supply chains, such as critical minerals and
12 semiconductors, and look to the ITC to undertake
13 a Section 332 fact-finding investigation, and
14 look at whether there are tariff or non-tariff
15 barriers that are impeding onshoring or
16 friendshoring of these supply chains, and if the
17 removal of these barriers would actually
18 meaningfully change trade and investment flows or
19 result in economic harm to U.S. industries. And
20 such a fact-finding investigation could also look
21 at prospects for U.S. exports.

22 No. 3, USTR could work with USITC and

1 Commerce to implement early warning systems for
2 possible systemic excess capacity in certain
3 sectors and threats of foreign import surges.
4 These types of surges could potentially undermine
5 the investments that the U.S. and key partners
6 are making by depressing prices and causing
7 unfair or unreasonable competition, leading to
8 loss of market share.

9 Where threats are identified,
10 different approaches could be considered, and
11 we're already seeing this with solar panels and
12 EVs and chips, and very encouraged to see USTR
13 seeking comments on the new proposed tariffs.

14 Finally, USTR could work with ITC to
15 add new HTS breakouts for specific product
16 categories. So, if we look at a sector like
17 chips, again, we could better track the volume of
18 our imports looking at different types of chips,
19 whether logic or memory, or different node sizes.
20 And that would help us to understand supply chain
21 trends.

22 We've also included a couple of

1 sectoral comments and recommendations in our
2 comments that we submitted earlier to address a
3 holistic critical mineral strategy that would
4 include input from USTR. And for USTR, as a key
5 member of the Forced Labor Enforcement Task
6 Force, to look at how we can expand some of that
7 to some of these critical supply chain areas,
8 such as lithium and others.

9 So, thank you so much for this
10 opportunity, and I look forward to any questions
11 that you might have.

12 MR. BAN: Thank you, Ms. Stewart, for
13 your testimony.

14 Mr. Tafel, are you prepared to
15 proceed?

16 MR. TAFEL: Very good. Good morning,
17 and thank you for the opportunity to testify
18 today.

19 My name is Jeff Tafel and I'm the
20 Staff President of the National Association of
21 Foreign-Trade Zones. NAFTAZ represents all
22 constituents of the U.S. Foreign-Trade Zone

1 Program, which is a vital component of the U.S.
2 economy. FTZs already support supply chain
3 resilience, and I will discuss how the U.S. FTZ
4 program can be further used to support supply
5 chain resiliency.

6 The FTZ program was created by
7 Congress in 1934 to benefit American jobs by
8 creating physical areas within the United States
9 that are considered outside of the U.S. commerce
10 for customs entry purposes. After thorough
11 vetting, companies utilizing FTZ benefits can
12 help level the playing field for their U.S.
13 operations where tariff inequities create an
14 unintended advantage for foreign competitors.

15 As Victor mentioned earlier, USTR has
16 identified four supply chain resiliency pillars,
17 and my comments will align with those pillars.

18 First, supply chain transparency.
19 U.S. Foreign-Trade Zone balances protecting
20 companies' sensitive data and providing necessary
21 import data. Transparency is maintained through
22 application, activation, and ongoing compliance.

1 The FTZ Board staff, including members
2 from Commerce and Treasury, review each
3 application to ensure approval doesn't circumvent
4 trade policy. Applications are open to public
5 comment, allowing industries, agencies, and the
6 public to address any potential negative impacts.

7 Additionally, CBP validates
8 operational security and inventory tracking to
9 ensure FTZ regulations are met, duties are paid,
10 and unauthorized goods don't enter U.S. commerce.
11 FTZ filings with CBP require complete information
12 on imported materials, offering inventory
13 visibility not available in other importing
14 regimes.

15 Secondly, promoting supply chain
16 diversity. FTZ participants span a variety of
17 industries and stakeholders, fostering resilience
18 across supply chains. The FTZ program supports
19 supply chain fortification with a robust
20 framework for domestic and supply chain
21 investments. The FTZ Board's latest report
22 identifies 29 industry sectors for warehouse

1 distribution operations and 26 for production
2 operations.

3 There is diversity in the
4 organizational side -- with small to medium
5 organizations joining larger ones to maintain
6 competitiveness and reduce costs.
7 Geographically, FTZs span every state and Puerto
8 Rico.

9 Third, supply chain security. FTZs
10 adhere to stringent security measures, making
11 participant supply chains among the most secure.
12 Recognized as a CTPAT best practice, U.S. FTZs
13 undergo regular compliance reviews by CBP,
14 including site visits and document reviews, to
15 ensure compliance. These reviews, which may be
16 unannounced, are more frequent than other
17 importing scenarios, ensuring ongoing compliance
18 and security.

19 Fourth, promoting supply chain
20 sustainability. FTZs enhance the competitiveness
21 of U.S. manufacturers and distributors against
22 offshore entities. Locating within the U.S. FTZs

1 offer a sustainable and proximate supply chain,
2 minimizing susceptibility to global disruptions
3 like geopolitical instabilities, natural
4 disasters, port congestion, and pandemics. The
5 benefits of FTZs are similar to reshoring
6 initiatives -- promoting environmentally friendly
7 standards, higher labor standards, and other
8 sustainable practices.

9 In our written comments provided
10 earlier, NAFTAZ identifies additional ways to
11 leverage the U.S. FTZ program for supply chain
12 resiliency, including restoring competitiveness
13 for U.S. FTZs in trade agreements and trade
14 frameworks.

15 A recent USITC investigation concluded
16 that FTZs are disadvantaged relative to similar
17 programs in other countries, particularly Mexico.
18 We also recommend establishing an FTZ Promotion
19 Task Force among multiple government agencies.
20 Unlike other countries, the FTZ program is not
21 actively promoted by any U.S. governmental
22 agency.

1 We have six other recommendations in
2 our written comments, including providing CBP
3 with dedicated directed funding and resources to
4 adequately support the FTZ program. The FTZ
5 program is vital for enhancing supply chain
6 resilience, diversity, security, and
7 sustainability. And we encourage USTR and the
8 entire federal government to unlock the full
9 potential of FTZs through our recommendations to
10 fortify supply chains and ensure economic growth
11 and competitiveness.

12 Thank you so much for the time and
13 opportunity to testify today.

14 MR. BAN: Thank you very much, Mr.
15 Tafel.

16 And next we will proceed to Mr.
17 Tucker.

18 MR. TUCKER: Good morning, and thank
19 you all for the opportunity to speak with you all
20 today.

21 My name is Clayton Tucker. I am a
22 climate organizer with the Trade Justice

1 Education Fund.

2 My comments are focused on critical
3 minerals and are based on a jointly written
4 submission we have on behalf of 39 environmental
5 and other civil society organizations who are
6 working in this space and are interested in
7 ensuring that U.S. Critical Mineral Agreements
8 avoid replicating exploitive models of resource
9 extraction that have been so devastating to
10 affected communities, the global environment, and
11 international relations.

12 Broadly, we are advocating for five
13 major concepts.

14 No. 1, that the U.S. International
15 Trade Commission and other agencies formally
16 study options for improved critical mineral
17 circularity before proceeding with new CMAs and
18 other related agreements.

19 President Biden's 2021 Executive Order
20 on catalyzing clean energy industries and jobs
21 already requires agencies to support resilient
22 supply chains through the prioritization of

1 reused, refurbished, and recycled products, as
2 well as the maximization of environmental
3 benefits through the use of full life-cycle cost
4 methodologies. In keeping with that order, we
5 believe CMAs and related initiatives cannot just
6 focus on new mining, but also must involve
7 policies for promoting needed reduction, reuse,
8 and recycling.

9 Second, we believe that any CMA or
10 related agreement must prioritize the sustainable
11 development of value chain industries in the
12 United States and in areas from which critical
13 minerals are being extracted and/or recovered.
14 Strong local content rules, rules of origin,
15 royalty standards, and other measures should be
16 crafted to aid in that goal.

17 Insofar as we are entering into
18 binding pacts with developing countries, there
19 will likely need to be financial, technical, or
20 other assistance provided to help those countries
21 better meet their own development goals.

22 Third, any CMA or related pact will

1 need strong binding standards in the area of
2 free, prior, and informed consent for indigenous
3 communities and other affected communities, as
4 well as in the area of worker rights and on the
5 job safety, in the area of environmental
6 protections, in the area of beneficial ownership,
7 and supply chain transparency. Our written
8 submission suggests particular standards in each
9 of these areas that should be considered as
10 starting points.

11 On the issue of the environment,
12 beyond just meeting standards in the
13 internationally-agreed-upon multilateral
14 environmental agreements, there should be
15 specific time-bound commitments to transition
16 energy-intensive critical mineral processing and
17 refining operations to cleaner renewable energy
18 sources.

19 Fourth, for standards on labor, the
20 environment, indigenous rights, and other areas
21 to be effective, the U.S. should only enter into
22 agreements with countries actually committed to

1 meeting our standards. The U.S. should provide
2 financial and technical assistance, where needed,
3 to help less affluent nations meet those
4 standards for the long haul.

5 Standards must absolutely be coupled
6 with swift and certain enforcement mechanisms
7 that include meaningful facility-specific
8 penalties for violations.

9 Fifth and finally, any CMA-related
10 pacts should be negotiated in a transparent and
11 participatory manner. The U.S.-Japan Critical
12 Mineral Agreement set a horrible precedent on
13 both policy and on process.

14 I believe USTR knows civil society's
15 and Congress' demands for transparency very well,
16 and, of course, we urge you all to meet them.

17 While this is, by no means, a
18 comprehensive list of recommendations, we believe
19 prioritizing these five items can help the U.S.
20 improve critical mineral supply chain resilience
21 and diversity in a manner that advances shared
22 climate, job creation, and sustainable

1 development goals.

2 Thank you all for your consideration.

3 MR. BAN: Thank you very much to all
4 of our witnesses from the first panel.

5 And without further ado, we're going
6 to jump into the question-and-answer portion, and
7 I'll kick off as Chair.

8 First, a few questions to Mr. Tucker.

9 Just picking up on your first point
10 about circularity, it is an important issue.
11 It's acknowledged in the IRA as well as the Japan
12 Critical Minerals Agreement that you referenced.
13 What do you see as the primary challenges in
14 promoting greater critical minerals circularity,
15 either in the U.S. or in our like-minded trading
16 partners and allies? And you can speak to
17 domestic measures or trade-related measures.

18 MR. TUCKER: Well, thank you so much
19 for your question. I really do appreciate it.

20 So, I will give a more thorough
21 response in a follow-up written submission. But,
22 with everything we talk about, we just want to

1 make sure it's applied to both within the
2 relevant territories, but also throughout the
3 supply chain; that reuse, refurbish, recycle
4 doesn't just apply to, you know, the case you
5 mentioned with the U.S. and Japan. It doesn't
6 just apply to the United States and Japan, but
7 also wherever we source these materials. So, it
8 applies up and down through the supply chain.

9 But, otherwise, I will get back to you
10 with the exact specifics in a follow-up written
11 submission.

12 MR. BAN: Thank you very much.

13 Your submission underscores the
14 importance of promoting development and job
15 creation in the critical mineral supply chain
16 here and in our like-minded trading partners. We
17 note that many minerals-rich countries are
18 showing interest in these same objectives, but
19 they're doing so, in part, by restricting
20 exportation of unprocessed mineral ores -- the
21 goal being to localize more processing
22 operations. Does your group have a perspective

1 on the supply chain impacts of these types of
2 measures?

3 MR. TUCKER: Again, another great
4 question. So, we definitely support the
5 development of value chain industries and, also,
6 we really want to make sure that we create
7 resilient and diversified supply chains. I mean,
8 what it, ultimately, comes down to is that, with
9 the case in CMAs, particularly from our
10 perspective, if we are providing assistance to
11 any sort of countries, whether that's through
12 subsidies, tax credits, through the IRA, or any
13 other support, that they live up to our
14 standards, whether that is labor standards,
15 environmental standards, standards for indigenous
16 rights and other affected communities, and so on.

17 So, our perspective is, so long as
18 those countries that we support with U.S.
19 taxpayer-backed support, that they live up to the
20 standards that we set. But another really great
21 question.

22 MR. BAN: Thank you, Mr. Tucker, for

1 your responses. And I will yield the floor for
2 now. I'll turn, next, to Mr. Culp.

3 MR. CULP: Thank you, sir.

4 Okay. I will ask the question to Mr.
5 Tafel regarding the NAFTAZ and Foreign-Trade Zone
6 questions.

7 MR. TAFEL: Yes, sir.

8 MR. CULP: First off, my name is
9 Jonathan Culp. I'm the Branch Chief of Cargo and
10 Conveyance Security. I have oversight of the
11 Foreign-Trade Zone Program for U.S. Customs and
12 Border Protection.

13 Mr. Tafel, I appreciate your attention
14 in the submission to the various dimensions of
15 resiliency, as set forth in the USTR's March FRN.
16 You mentioned that Foreign-Trade Zones are well-
17 situated to enhance supply chain transparency,
18 given the compliance and data requirements
19 imposed on Foreign-Trade Zone operations. I see
20 how greater transparency exists for the goods as
21 they enter the Foreign-Trade Zone. But could you
22 speak to whether Foreign-Trade Zones encourage

1 greater visibility into what goes into those
2 goods/supply chains prior to the Foreign-Trade
3 Zone admission?

4 MR. TAFEL: That's a good question,
5 and we can provide some additional information
6 afterwards.

7 But, at this point, that is not a
8 primary, I guess one would say, a primary output
9 of the program, but we would support that. And
10 like I said, we'll give you more additional
11 information in written comments.

12 MR. CULP: Thank you, sir.

13 Following up with another question,
14 also to you, Mr. Tafel, you note that the
15 Foreign-Trade Zone Program is not actively
16 promoted by any U.S. Government agency. Relative
17 to the approaches of other governments -- I'm
18 sorry, let me readdress that.

19 You note that the Foreign-Trade Zone
20 Program is not actively promoted by any U.S.
21 Government agency relative to the approaches of
22 other governments. Can you unpack that a bit and

1 explain how U.S. practice compares to what
2 happened elsewhere? How do you think USTR, in
3 particular, could promote the U.S. Foreign-Trade
4 Zone Program and to whom? Do you think the need
5 for greater promotion differs between
6 distribution and manufacturing in the FTZs?

7 MR. TAFEL: Great. It's a great
8 question, and again, we can provide some
9 additional information in written comments.

10 But, in short, I can tell you that
11 NAFTAZ is an active participant in two other
12 global organizations, bringing together
13 associations representing Special Economic Zones
14 around the world.

15 What we see in our involvement through
16 those associations is that other countries are
17 spending millions of dollars to actively promote
18 foreign-domestic investment in their countries
19 through their Special Economic Zones, through a
20 variety of vehicles, whether that's at
21 conferences, in events around the world that
22 focus on foreign-domestic investment, and

1 otherwise.

2 We see them being, actually, quite
3 aggressive in reaching out and trying to capture
4 as much of that foreign-domestic investment as
5 they can by promoting their local Free Trade
6 Zones, very commonly, or other Special Economic
7 Zones around the world.

8 And that's really where we're trying
9 to focus our comments and recommendations. It is
10 that the FTZ program is a bit of a best-kept
11 secret, not only here in the U.S., but to the
12 rest of the world as well. And I think that we
13 think, as an association, that it would be
14 beneficial to the program and supply chains
15 overall if the U.S. was more actively promoting
16 the program's existence across the board.

17 We'll give you some additional
18 comments in written form.

19 MR. BAN: We'll look forward to those
20 additional comments.

21 MR. CULP: Thank you, sir. Looking
22 forward to those additional comments.

1 MR. TAFEL: Thank you so much.

2 MR. BAN: All right. Thanks.

3 We'll turn, next, to Mr. Cramer.

4 MR. CRAMER: All right. Thank you
5 very much. Hi. I'm Jim Cramer. I'm Managing
6 Director for International Outreach at the
7 Department of Commerce's Supply Chain Center.
8 We're under the International Trade
9 Administration.

10 Thank you, everybody, for testifying
11 today and for the time you took to submit written
12 comments. It's very much appreciated.

13 If I might, I'd like to follow up a
14 brief question on the FTZs. I'm just curious,
15 since you mentioned you participate in a couple
16 of international associations, are there
17 countries that the U.S. Government should be
18 looking at who manage their FTZs or promote them
19 in such a way that would comply with U.S.
20 Government laws, et cetera, but might sort of
21 promote NAFTA a little bit more or the
22 opportunities therein?

1 MR. TAFEL: Certainly. We could
2 provide some additional comments on that as well.

3 But, in short, we would want to go
4 back and take a closer look at, specifically,
5 what other countries are doing. I don't have
6 that on the top of my mind as to which ones we
7 would recommend that the U.S. take a look at, but
8 we would certainly do that.

9 MR. CRAMER: Okay. Great. Thank you.
10 Thanks so much.

11 If it's okay, I'll turn to Mr.
12 Keating. Thank you for your testimony.

13 I'm just curious, from the perspective
14 of small and medium-sized enterprises who are
15 interested in participating in multitier supply
16 chains, particularly globally. What we have at
17 the Commerce Department, and I think across the
18 government, is finding relevant data on supply
19 chains is hard and expensive, even for U.S.
20 Government agencies.

21 So, could you talk a little bit about
22 maybe what the U.S. Government could do to

1 provide the data that SMEs may need to better
2 understand supply chain challenges? And I guess
3 I'll leave it at that.

4 MR. KEATING: Sure. Well, you're
5 hitting home with an economist, right, in terms
6 of what I might recommend on the data front.

7 But, yes, it is -- listen, you've got
8 a few things. I mean, a chief economist for a
9 small business group, right? So, I'm doing the
10 data stuff. I'm trying to find the data stuff.
11 And then, you've got people that are running
12 businesses that are trying to run their
13 businesses, right?

14 So, I think the key, there's a wealth
15 of data -- for example, the Census Bureau -- on a
16 lot of this information. And I understand the
17 limitations. The lag is difficult, right?
18 There's a tremendous lag time in terms of when
19 this data reaches the public. So, that's a big
20 challenge.

21 And then, kind of being able to maybe
22 break it down in a way where a small business

1 owner can digest it in a helpful manner, which is
2 what I try to do to a certain extent, but,
3 certainly, the folks that are collecting and
4 producing the raw data, if they can do that, that
5 would be fantastic.

6 So, the matter of time lag is
7 difficult, right? Because if you're making a
8 decision on whether to, you know, whatever you're
9 doing for your business, right, you need the most
10 recent data possible. On the international
11 front, there's a tremendous amount of lag. So,
12 that's a big factor, and then, obviously, making
13 it digestible and usable.

14 These are all things that are ongoing
15 challenges. And I think, when it's domestically,
16 it's an ongoing challenge, but when you take it
17 to the international market, it ramps it up.

18 So, that would be my quick advice on
19 that front.

20 MR. CRAMER: Great. Thank you.

21 And does your organization or do you
22 know of others that may have sort of examples of

1 that kind of sort of digestible data that we
2 could take a look at just as an example?

3 MR. KEATING: We have some. So, I'll
4 forward that, and then, I'll see what else I can
5 track down for you and forward that as well. So,
6 I'd be happy to do that.

7 MR. CRAMER: Great. Great. Thank you
8 so much.

9 If it's okay, I'll turn now to Ms.
10 Stewart.

11 And I'm sure this is less nice weather
12 than you were at Napa, I think a week or two ago,
13 for your big conference. So, sorry that you're
14 not able to do this from Napa.

15 I'm just curious about your work on
16 early warning systems. And can you talk a little
17 bit about how early warning systems should
18 operate? And in particular, Commerce is looking
19 at trying to get ahead 10 to 20 to 30 years of
20 emerging technologies. So, we've started to
21 think through early warning systems for quantum
22 computing, for example.

1 So, when you think about early warning
2 systems, I'm very curious about how you're
3 thinking about the technology of tomorrow, so
4 that we hit issues like you mentioned, like in
5 terms of solar panels or even critical minerals
6 today.

7 MS. STEWART: Yes, I think it's a
8 great question. And I don't have all the answers
9 on how we kind of use that crystal ball going
10 into the future for some of the more advanced
11 technologies like quantum.

12 But I think that a logical starting
13 point would be -- and I'm sure that some of this
14 is probably already happening. But, you know,
15 when I worked at a law firm, you know,
16 representing U.S. manufacturing companies, we
17 were running the trade data at the most granular
18 level that we could every month, looking at
19 trends in specific product areas and looking at
20 where industries might be seeing some negative
21 impacts as a result of surges. And then, looking
22 at what were some of the qualitative factors

1 around that. What were the externalities that
2 were influencing maybe some of those surges? Was
3 it the excess capacity or was it some currency
4 change, or other thing?

5 And I think that that helped us to
6 really get a threat picture. And so, we added
7 this to our comments because I think that the
8 Supply Chain Resiliency Center at Commerce, in
9 combination with USTR, and maybe even ITC, has
10 the resources to be really looking at setting up
11 these trade data-based early warning systems, and
12 you could peg them to different types of
13 benchmarks.

14 One might be import surges, but you
15 could also be tracking capacity expansion in
16 particular areas. So, for semiconductors, you
17 could kind of layer-in what's happening in trade
18 flows; what's happening in capacity in certain
19 markets. All of which is to say, once you start
20 to put all of those pieces together, you can
21 start to set up a system that would alert the
22 interagency, hey, we've got to kind of all work

1 together to identify whether or not this is going
2 to become an issue. Is it going to be a supply
3 chain disruption? Is it going to be an import
4 surge?

5 So, that's kind of where we were
6 getting at, is, you know, using all the
7 collective resources in these different areas, so
8 that we can get ahead of things.

9 Six months ago, there was an event
10 over the fall where I was saying, look, the red
11 flags are waving on legacy chips, or what we call
12 foundational chips. We were tracking what China
13 was doing, both in terms of its announced
14 capacity expansions in those areas, but, then,
15 also, how much equipment it was importing to
16 actually install that capacity.

17 So, these are publicly available data
18 points that, once you put them all together, you
19 start to see a picture and you can start to wave
20 a flag and say maybe we don't act today, but
21 we've got to act soon. Because doing something
22 after the injury occurs is the least desirable

1 path.

2 MR. CRAMER: Great. Thank you so
3 much.

4 I have a question for Trade Justice.
5 Great. So, Mr. Tucker, thanks so much for your
6 time.

7 I think in terms of some of your
8 recommendations, I think No. 4 said to the effect
9 that we want to sign deals with countries who are
10 committed to our standards. I wonder if you
11 could sort of unpack that a little bit more.

12 One of the things that we've heard in
13 some other testimony is that, particularly when
14 it comes to critical minerals, that some other
15 countries don't really have the political will to
16 really implement regulations that they may have
17 on the books.

18 And so, how do you view the U.S.
19 Government's ability to impose political will,
20 for lack of a better term, on another country to
21 really enforce their regulations, whether they be
22 environmental, labor, or other?

1 MR. TUCKER: Uh-hum. Again, another
2 really great question. So, thank you for asking.

3 So again, to reiterate, while we do
4 believe -- you know, to us, what I see it is
5 ultimately about, that we would like for it to
6 ultimately be about -- I should correct myself in
7 saying -- is that, if a country is to receive our
8 support, whether that's in tariff reduction,
9 quota reduction, or tax credits, or even just
10 preferential treatment for their products, that
11 they should live up to our standards, or at least
12 be willing to try to.

13 So, we should, we believe -- again,
14 this all is tantamount that they are willing to
15 try live up to our standards -- that we should
16 provide any sort of technical and financial
17 assistance, so we can build their own capacity to
18 make sure that these standards, whether they're
19 environmental, worker, or otherwise, that they
20 are able to enforce their standards within their
21 territory. And as we build this up, as we build
22 up our supply chains, then we believe over time

1 that CMAs can become a pretty good tool to make
2 sure that this is enforced, that these standards
3 are enforced within our home territories and
4 within international territories.

5 So, it's more of a system of carrots
6 and sticks, is probably the easiest way I could
7 have put it.

8 MR. CRAMER: Okay. Great. Thank you
9 so much. And I'll finish up with one last
10 question from me, again for Ms. Stewart.

11 Your written comments focus on
12 semiconductors and critical minerals
13 particularly. How does Silverado think about
14 relative priority between sectors from the
15 standpoint of developing the U.S. industrial
16 base?

17 MS. STEWART: I think it's a great
18 question. A lot of the work that we do may seem
19 like they're in different sectors, but we see
20 them as being really related. A third component
21 of our work that we didn't put as much into our
22 comments is really on the clean technologies.

1 And when we started -- we're a pretty
2 young think tank; we've only been around for
3 three years -- but when we started doing this
4 work, both the work that we were doing on chip
5 supply chains and on clean technology supply
6 chains, both led to the critical mineral sector.

7 So, all of these pieces are really
8 interrelated. And so, I think that solving some
9 of the issues in one can help in the others,
10 which is why we focused on those two particular
11 areas in our comments.

12 And if I may -- not to speak out of
13 turn -- but I also wanted to just touch very
14 briefly on the question that I believe Mr. Ban
15 asked on circularity earlier. And I wanted to
16 suggest one of the processes that we've used at
17 Silverado, and that I'm aware of from my
18 government service, is the 484(f) process through
19 USITC, where you can ask for, in particular, HTS
20 breakouts.

21 So, last year, we worked with the ITC
22 and were successful in getting some further

1 breakouts in the aluminum waste and scrap
2 categories. So that it specifically breaks
3 particular types of recyclable beverage
4 containers, for example.

5 And I think that, when we're talking
6 about building out more circularity in our supply
7 chains, whether it's on the battery side, or
8 otherwise, having those breakouts in our HTS
9 schedules, so that we can track trade that might
10 be an actual recyclable commodity product versus
11 just waste would be very, very helpful.

12 (Audio interference.)

13 MR. CRAMER: Sorry, Ms. Stewart, you
14 may continue.

15 MS. STEWART: No, sorry. I was just
16 wrapping up. I just wanted to throw that out
17 there because I think that having additional
18 data, detailed granular trade data that we can
19 use to really understand what we're importing and
20 exporting, and what we're using when it comes to
21 waste and scrap across a range of commodities,
22 could actually really facilitate better

1 resilience in the supply chains from that
2 circular economy perspective.

3 MR. BAN: Thank you very much. And
4 I'll have a follow-up, actually, related to this
5 discussion of HTS codes.

6 So, Ms. Stewart, in your submission,
7 you note that you do propose this breakout, a
8 more detailed breakout for chips. I think you
9 mentioned this in your testimony as well.

10 But, as you may be aware,
11 semiconductors, like many inputs, are embedded
12 within finished products, and are often embedded
13 before importation to the U.S. So, I'm curious
14 how your proposal to update the HTS U.S. with
15 respect to chips would account for this.

16 MS. STEWART: Well, unfortunately, it
17 won't. It will help with the wafers that we're
18 importing. And I think it would give us some
19 better understanding. And I recognize that that
20 is a much smaller share of what we are importing.
21 Most is coming in phones and other downstream
22 products, and that is a separate issue.

1 But I do think that even just
2 understanding what we are bringing in in terms of
3 the wafers could be helpful. And a lot of the
4 categories there were developed some time ago.
5 And so, updates are needed there.

6 Now, the embedded piece is a separate
7 question. And I think that that is a much harder
8 piece of the puzzle. Because really to
9 understand what chips are coming in in a
10 downstream product, you have to know the entire
11 supply chain for that downstream product. And
12 you have to understand where those chips are
13 originating.

14 And if you think about an iPhone that
15 might have three advanced chips in it that come
16 from Taiwan, and then, 20 more, or even more than
17 that, chips -- foundational or legacy chips --
18 that could be coming from China, the U.S., EU,
19 it's very, very difficult to track that. And
20 there is no system that I am aware of at this
21 point that would require a U.S. importer of a
22 phone or an EV vehicle, or anything that contains

1 a chip, to have to know that supply chain in
2 order to be able to say, "This is the chip that's
3 coming in."

4 So, I think that that's a gap, to be
5 honest, but I think that it's a harder nut to
6 crack, because it would require some type of
7 traceability system or some further KYC by
8 importers on that.

9 MR. BAN: Thank you, Ms. Stewart.

10 I have just two final follow-up
11 questions for Mr. Keating. And I note that we
12 did start five minutes early. So, we may try to
13 wrap up at 11:00 and give you all back five
14 minutes of your day.

15 But, Mr. Keating, a two-part question.
16 So, I appreciated your discussion of both import
17 and export dimensions of GDP. Do you have a
18 sense of the extent to which exported goods are,
19 then, re-imported, right? So that there may be
20 potentially some double-counting.

21 And I ask because this particular
22 inquiry, as you may have gathered from reviewing

1 the notice, tends to be more import-focused,
2 right? We're looking at supply chains that serve
3 the U.S. market. But I'm curious about how you
4 see exports potentially being relevant.

5 The other question is, relatedly, do
6 you have a sense of MSME participation in export
7 supply chains versus import supply chains? And
8 if we're thinking about taking a more inclusive
9 approach in bringing MSMEs further into our
10 supply chain, thinking where our focus should be.

11 MR. KEATING: Yes. So, yes, there's
12 always that question of, are exports, then,
13 getting degraded into different products, and
14 then, coming back in as imports, and so on? So,
15 that's all part of the trade circle, if you will.

16 I might be able to track down some
17 data at least to give you an idea in terms of how
18 much. Personally, I have not come across that,
19 but it's got to be out there somewhere in terms
20 of at least an estimate of how much of our
21 exports wind up coming back in as imports. So, I
22 will look into that and follow up.

1 I think in this whole discussion, when
2 you talk about exporters, it's important to keep
3 in mind, yes, that aspect that you talked about,
4 but also what's going to happen on the other end,
5 right? So, exports are opportunities for small
6 businesses, for entrepreneurs, for workers,
7 right? Workers that are engaged in trade, on
8 average, earn a heck of a lot more than the
9 average wage in the United States.

10 So, these are all critical factors
11 that we have to keep in mind. When we're
12 formulating policy here, we have to think about
13 what's going to be the response, right?

14 You know, there are plenty of classic
15 stories on the trade front where we do something
16 that perhaps raises barriers, and there are
17 responses, and we wind up getting hit, both as
18 consumers paying and businesses that pay for
19 inputs and see higher costs, and then, also, less
20 opportunities on the export front.

21 So, I think that I appreciate the
22 question in the sense of climbing inside more in

1 terms of the small business role. Because when
2 you do look at the broad data, it's hard to miss
3 the fact that, in terms of identified exporters
4 and importers, over 97 percent have fewer than
5 500 employees in this country. So, when we talk
6 about the U.S. economy in general, we really are
7 talking about a small business economy. So, I
8 want to get back to you with some more numbers in
9 terms of exports coming back, and so on.

10 Was there another? I'm just trying to
11 remember the second question. Is there another
12 piece of data that you were looking for that I
13 might be able to track down?

14 MR. BAN: No, not particularly. The
15 second was just a sense of MSME participation in
16 export versus import supply chains or value
17 creation, however you may want to put it.

18 MR. KEATING: Right. I happen to have
19 it handy here. When you think about our exports,
20 right, as part of supply chains globally, in
21 terms of our merchandise exports, what are among
22 the top machinery, including computers? Mineral

1 fuels, including oil; electrical machinery. All
2 of these things are part of supply chains, if you
3 will, in other countries as well and globally.
4 So, we do need to keep all this in mind in terms
5 of the economy in general, but also small
6 businesses.

7 MR. BAN: Thank you.

8 I note that we have two minutes before
9 our early stop time. Are there any further
10 elaborations or responses, rebuttals, from our
11 witnesses?

12 MS. STEWART: Not from me. Thank you
13 so much.

14 MR. BAN: Okay. Thank you all.

15 Hearing none, I think we will conclude
16 Panel 1, and we'll go off the record until 11:10,
17 or thereabouts, which is our scheduled start time
18 for Panel 2.

19 Thank you all again for your
20 participation.

21 (Whereupon, the above-entitled matter
22 went off the record at 10:59 a.m. and resumed at

1 11:10 a.m.)

2 MR. MILLER: All right. Good morning.
3 My name is William Miller and I'm Director for
4 Industrial Trade Policy here at USTR. I will be
5 chairing this next panel, Panel 2, along with my
6 colleagues Rachel Howe, Director of the
7 Interagency Center on Trade Implementation and
8 Monitoring Enforcement here at USTR; Chelsea
9 Rudman, to my left, the International Labor
10 Advisor for Trade Policy with the Bureau of
11 International Labor Affairs at the Department of
12 Labor, and Cora Dickson, to my immediate left,
13 from the Office of Energy and Environmental
14 Industries at the Department of Commerce.

15 Just a reminder that each witness
16 should introduce themselves before they begin.
17 And my interagency colleagues will introduce
18 themselves when they ask their first questions.

19 Let's get started with Mr. Carr from
20 the Solar Energy Manufacturers for America
21 Coalition, and then, we will proceed in
22 alphabetical order.

1 Each witness will have five minutes
2 for their testimony.

3 So, Mr. Carr, the floor is yours.

4 MR. CARR: Thank you. Good morning.
5 I'm Mike Carr, the Executive Director of the
6 Solar Energy Manufacturers for America Coalition,
7 or the SEMA Coalition. Thank you for the
8 opportunity to testify today.

9 So, the SEMA Coalition is a group of
10 major non-Chinese-headquartered solar
11 manufacturers who are jointly committed to
12 restoring a competitive, environmentally
13 friendly, and socially responsible U.S. solar
14 supply chain.

15 We see a geopolitical imperative in
16 ensuring that a cartel of state-backed, Chinese-
17 headquartered firms do not dominate this sector,
18 as they do today. We cannot allow China to
19 continue to use supply chain control of this
20 critical energy technology as leverage.

21 Effective trade policy, including
22 robust trade enforcement, is a key tool to ensure

1 a level playing field for U.S. solar
2 manufacturers. We're encouraged by the
3 Administration's recent actions on trade and
4 overcapacity. As President Biden said last week,
5 "The Chinese government is subsidizing excess
6 capacity. They're flooding the market."

7 And Secretary Raimondo underscored,
8 "We know the PRC's playbook. We've seen their
9 non-market actions on solar and steel and cannot
10 allow China to undermine U.S. supply chains by
11 flooding the market with artificially cheap
12 products that hurt American businesses and
13 workers."

14 And, finally, notably, Ambassador Tai
15 reiterated the Administration's intention to
16 reestablish American leadership in solar in a
17 recent Senate hearing last month.

18 We're grateful for USTR's recent
19 actions to close the 201 bifacial loophole and
20 301 actions, where USTR deems solar manufacturing
21 strategically important.

22 Solar deployment is accelerating

1 across America and provided nearly half of all
2 new domestic generating capacity in 2023 -- more
3 than any other energy source. Solar has the
4 potential to provide 40 percent of the Nation's
5 electricity by 2035.

6 Following the IRA, 34,000 jobs were
7 announced in solar manufacturing, with large
8 facilities in places such as Arizona, Georgia,
9 Michigan, and Ohio. These facilities are the
10 economic engines of their communities, and those
11 jobs and investments should be supported.

12 There is no fundamental comparative
13 advantage others hold over the U.S. in solar
14 manufacturing. We have the materials and
15 ingenuity needed to be cost-competitive and
16 manufacture at scale. Our manufacturers just
17 need the level playing field to get there.

18 I want to underscore the importance of
19 reshoring the capital-intensive wafer and
20 polysilicon segments of the industry, which
21 shifted predominantly overseas to China over the
22 last decade. State-backed, Chinese-headquartered

1 wafer companies are, effectively, a cartel -- in
2 control of both supply and price for this
3 fundamental component. China today produces more
4 than 90 percent solar-grade polysilicon, controls
5 more than 99 percent of the global wafering
6 capacity, and controls upwards of 95 percent of
7 global shipments across the solar supply chain.
8 This product flows through Chinese-headquartered
9 companies in Southeast Asia, where it is exported
10 to the United States.

11 The U.S. cannot rely on a handful of
12 foreign companies to meet a significant portion
13 of our electricity needs, nor should we continue
14 to face the scenario where China uses solar
15 exports as a leverage point, as we look to meet
16 the Administration's greenhouse gas targets and
17 energy security goals through solar deployment.

18 China has repeatedly shown its
19 willingness to cut U.S. manufacturers off from
20 parts of supply chains it dominates or to
21 increase prices in retaliation for trade
22 conflicts. For example, in August 2023, China

1 restricted the export of two chip-making metals,
2 gallium and germanium, significantly decreasing
3 exports. And in October of 2023, China
4 restricted the export of graphite for use in
5 electric vehicle batteries. This is only a
6 sampling of past actions.

7 We have no reason to think a change in
8 strategy is forthcoming. Chinese manufacturers
9 benefit from lax environmental and labor
10 standards and direct and indirect subsidies in
11 everything from below-market debt to electricity
12 to land.

13 This is not accidentally or market-
14 driven excess capacity. China is an export-led
15 economy, full stop. Their policy framework is to
16 export, regardless of market conditions, leaving
17 other countries' manufacturers who obey the laws
18 of their countries and the marketplace at a
19 serious disadvantage. They are engaged in a race
20 to the bottom, and a race to the bottom has no
21 winners.

22 A whole-of-government approach will

1 continually be needed to address the totality of
2 these anticompetitive tactics. Trade and
3 investment policy tools at USTR's disposal to
4 secure a resilient solar manufacturing supply
5 chain in the U.S. include:

6 One, swiftly processing exclusions in
7 the latest Section 301 actions for production
8 equipment necessary to manufacture solar core
9 components.

10 No. 2, designing solar trade
11 monitoring systems akin to the robust regime
12 currently used for steel monitoring.

13 And No. 3, finally, we want to work
14 with Customs to ensure that solar stockpiling is
15 addressed. So, panels that almost certainly will
16 not be installed by the deadline this year are
17 definitively removed from the market, so that it
18 will not further undermine pricing. We are glad
19 the Administration pledged to address this
20 problem last week.

21 The effective use of trade enforcement
22 tools does not reduce solar deployment or result

1 in an increase in the cost of modules in the near
2 term. In fact, annual solar deployment has
3 increased sixfold during the past decade, a
4 period with numerous solar trade enforcement
5 actions.

6 The cost of solar modules is no longer
7 a significant component of solar project pricing.
8 The major cost drivers of solar projects are the
9 cost of capital, customer acquisition costs,
10 overhead, permitting, inspection and
11 interconnection costs. A robust domestic solar
12 industry has and will continue to drive down
13 costs through process innovation and technology
14 improvements.

15 We appreciate this Administration's
16 worker-focused agenda and encourage USTR to
17 continue to seek diverse stakeholder input to set
18 regulations and enforcement methods that will
19 have the greatest impact on ensuring a complete
20 and resilient solar supply chain. We look
21 forward to working with you on this.

22 Thank you again for your time.

1 MR. MILLER: All right. Thank you,
2 Mr. Carr.

3 I will turn it over now to Ms.
4 Bruckner from Initiative for Responsible Mining
5 Assurance.

6 MS. BRUCKNER: Thank you.

7 I'm Kristi Disney Bruckner, Law and
8 Policy Director at the Initiative for Responsible
9 Mining Assurance, IRMA.

10 IRMA requests that USTR incorporate
11 the best practice environmental and social
12 requirements that are reflected in the IRMA
13 Standard for Responsible Mining. And these can
14 be adopted within USTR strategies to promote
15 supply chain resilience and related trade
16 agreements.

17 IRMA was founded in 2006 to answer the
18 question: what is responsible mining? Over more
19 than a decade of robust, multistakeholder, cross-
20 sector, global dialogs, diverse leaders worked
21 across sectors to craft the world's first shared
22 definition of what it means to mine responsibly,

1 and that is the IRMA Standard for Responsible
2 Mining.

3 IRMA is now a global organization that
4 is equally governed by six houses, including
5 affected communities, organized labor, nonprofit
6 organizations, mining companies, purchasing
7 companies, and the investor and finance sector.
8 And together, the IRMA Governing Board and
9 membership oversee the IRMA standard and system
10 for site-level, independent, third-party audits.

11 Our vision is a world where the mining
12 industry respects the human rights and
13 aspirations of affected communities; provides
14 safe, healthy, and supportive workplaces;
15 minimizes harm to the environment, and leaves
16 positive legacies. I think these are values that
17 the USTR shares and can promote in the world and
18 in supply chains as part of its strategies to
19 promote supply chain resilience.

20 The IRMA standard is a widely
21 recognized set of best practice environmental and
22 social requirements for the mining sector and it

1 is very comprehensive in coverage: 26 chapters,
2 400 requirements that provide coverage of a range
3 of issues relevant for industrial-scale mining,
4 including business integrity, social
5 responsibility, environmental responsibility, and
6 planning for positive legacies.

7 IRMA audits are independent, third-
8 party audits conducted at the site level that
9 result in detailed public audit reports providing
10 scoring and rationale across all of the IRMA
11 standard requirements.

12 IRMA audits enhance transparency,
13 promote continuous improvement, and help address
14 a range of issues of concern in this sector now,
15 including protecting the rights of indigenous
16 people to free, prior, and informed consent;
17 protecting human rights and labor rights;
18 addressing a wide range of critical environmental
19 issues, including tailings management, protecting
20 water, protecting areas recognized for
21 biodiversity and cultural heritage; ensuring
22 ongoing community engagement and access to

1 information; implementation of anti-corruption
2 measures and financial transparency, and other
3 requirements for responsible mineral supply
4 chains.

5 Importantly, every IRMA audit
6 conducted to date has resulted in sites making
7 improvements to their operations. These audits
8 demonstrate that IRMA's high-bar standard is
9 achievable.

10 We currently have 104 mine sites at 82
11 mining companies engaged in IRMA, with 20 in the
12 independent assessment and more than 100 in self-
13 assessment, which is the first stage in the IRMA
14 audit process. These sites are based in 30
15 countries, including the United States, across
16 six continents, and covering 52 types of
17 minerals.

18 Maintaining high-level environmental
19 and social standards in mineral supply chains,
20 especially for energy transition minerals, is
21 essential for the just and equitable transition
22 promoted by the Biden administration and USTR,

1 and is key to secure and resilient supply chains.

2 This is important domestically and in
3 commodity trading relationships with countries
4 like Indonesia to protect the rights of directly
5 affected communities, indigenous rights holders,
6 organized labor, and the environments on which
7 they depend, and on which the international
8 community depends, as we seek to meet the
9 objectives of the Paris Agreements and achieve
10 the U.N. sustainable development goals.

11 IRMA is a useful and widely respected
12 tool for the U.S. and its trade partners,
13 providing a set of best practices and a roadmap
14 for responsible mining, as well as a system for
15 independently verifying and reporting on site-
16 level performance.

17 We encourage USTR to ensure that best
18 practice environmental and social requirements
19 are implemented at mine sites and throughout
20 supply chains through U.S. partnerships and
21 enforceable provisions of Commodity Trading
22 Agreements, including those that govern energy

1 transition minerals.

2 MR. MILLER: Thank you, Ms. Bruckner.

3 Now, we'll turn it over to Ms. Rorke
4 from the Climate Leadership Council.

5 MS. RORKE: Good morning.

6 Thank you so much for having me.

7 My name is Catrina Rorke. I'm the
8 Senior Vice President for Policy and Research at
9 the Climate Leadership Council, as well as the
10 Executive Director of the Council's Center for
11 Climate and Trade.

12 We're a nonpartisan organization
13 devoted to identifying and advancing policies
14 that leverage trade relationships in the global
15 market economy toward greater international
16 cooperation and climate ambition.

17 We applaud USTR for taking this
18 initiative to address supply chain resiliency,
19 and I thank you for including us in this hearing.

20 It's fair to wonder why a climate
21 organization is participating. It's because we
22 see trade, investment, and supply chain security

1 as deeply intertwined with climate outcomes.

2 The energy transition will require
3 unprecedented amounts of critical minerals, a
4 steady and affordable supply of basic
5 commodities, like steel and aluminum, and
6 flexible supply chains that quickly respond to a
7 changing landscape.

8 The U.S. manufacturing renaissance
9 faces a key supply chain vulnerability. Mr. Carr
10 said it earlier: adversarial countries using
11 aggressive, non-market practices to dominate
12 supply chains and distort the global market for
13 commodities and manufactured goods.

14 And so, we encourage USTR and the
15 Biden-Harris Administration to pursue a two-
16 pronged strategy.

17 The first is to support U.S.
18 manufacturers by securing supply chain agreements
19 to achieve more stable, secure, and diverse
20 supply chains in the short and medium term, and
21 perhaps not intuitively, support long-term supply
22 chain security by exporting more U.S.-made

1 products. Allow me to explain.

2 First, we encourage USTR to explore
3 supply chain agreements with international
4 partners that are capable of mining, refining, or
5 manufacturing necessary goods. Potential
6 counterparts should include market-based
7 economies, such as those who have signed onto the
8 Minerals Security Partnership or have expressed
9 interest in the Global Arrangement on Sustainable
10 Steel and Aluminum.

11 USTR, with the development agencies,
12 should consider creative approaches that combine
13 trade agreements with investment or development
14 agreements.

15 China has successfully used its One
16 Belt One Road investment strategy to build
17 economic ties and supply chain relationships with
18 many resource-rich developing economies. The
19 U.S. cannot outcompete China in public finance,
20 but is uniquely able to leverage institutional
21 investors, who hold, roughly, \$150 trillion in
22 assets, by re-risking investment and building a

1 large, actionable project pipeline in developing
2 countries. Introducing development or investment
3 commitments can be a real terrific sweetener for
4 supply chain agreements.

5 The second prong to this strategy is
6 exports. Secure supply chains are increasingly
7 carbon-efficient supply chains. U.S.
8 manufacturers hold what we call a carbon
9 advantage and produce goods with 44 percent fewer
10 emissions than the global average and 70 percent
11 fewer emissions than China. But, in 2021, the
12 U.S. supplied just 6 percent of global clean
13 technology exports compared to China's 22 percent
14 share.

15 As recent legislation drives
16 unprecedented volumes of federal and private
17 investment into U.S. decarbonization, American
18 firms are well-positioned to supply the goods,
19 services, and deep experience that the global
20 marketplace needs to decarbonize. Indeed, one
21 analysis found that, for every ton of emissions
22 that we reduce here in the U.S., it will reduce

1 up to three tons globally.

2 And so, we encourage USTR to identify
3 opportunities for trade or cooperative
4 arrangements to expand markets for U.S. product
5 abroad, particularly by addressing non-market
6 practices and improving tariff and non-tariff
7 barriers, intellectual property protection, and
8 market readiness.

9 Another component to exporting more
10 U.S.-made product is creating a reward system for
11 lower carbon goods by introducing Border Carbon
12 Adjustments. This would address the 75 percent
13 of U.S. imports that come from markets with
14 higher carbon intensities than our own and
15 increase the competitiveness of U.S.
16 manufacturers abroad. BCAs will enable the U.S.
17 to outcompete international rivals on the basis
18 of carbon intensity.

19 USTR has already initiated promising
20 discussions through forums like the Global
21 Arrangement. We encourage you to hold the course
22 and bring in more international partners. This

1 framework to shore up supply chains and leverage
2 U.S. exports to decarbonize our supply chains can
3 align U.S. economic security and global
4 decarbonization.

5 We look forward to working with you to
6 realize this vision. Thank you for your time and
7 attention.

8 MR. MILLER: Thank you, Ms. Rorke.

9 And last, but not least, Ms. Shennum.

10 MS. SHENNUM: Hi. Thank you so much
11 for having me --

12 MR. MILLER: I hope I got the name
13 right.

14 MS. SHENNUM: Yes, it's okay. Nice to
15 meet you all and thanks for having me today.

16 My name is Krista Shennum. I'm a
17 researcher at Climate Rights International.
18 We're a U.S.-based civil society organization
19 that conducts research and advocacy on the human
20 rights dimensions of the climate crisis. So,
21 today, I'll be giving you some of the findings of
22 our recent report "Nickel on Earth," which

1 documents the human rights, environmental, and
2 climate impacts of Indonesia's nickel industry.

3 As you may be aware, the Indonesian
4 government has announced its interest in a
5 limited trade agreement with the United States to
6 cover critical minerals, including nickel. With
7 this potential critical minerals trade agreement
8 in mind, my goal today is just to shine a light
9 on the way that nickel mining and processing in
10 Indonesia currently impacts people and the
11 environment.

12 So, for a bit of context, Indonesia is
13 the world's largest producer of nickel and
14 provided more than half of the world's nickel
15 last year. Globally, demand for nickel is
16 growing, in part, due to its use as a transition
17 mineral in renewable energy technologies,
18 including for electric vehicle batteries.

19 So, our report, which is available on
20 our website online, documents the human rights
21 abuses at one large nickel industrial complex,
22 the Indonesia Weda Bay Industrial Park, or IWIP,

1 as well as nearby mining concessions.

2 So, for this work, Climate Rights
3 International interviewed, roughly, four dozen
4 people living near IWIP and other mining
5 concessions. Notably, one of the ways that we're
6 seeing human rights abuses is through the process
7 of land acquisition. Community members told us
8 that their land had been taken by companies with
9 no compensation, including in cases where people
10 held the legal land certificate or title to their
11 lands. In other cases, people's land was
12 destroyed by companies prior to the process of
13 negotiation.

14 In almost all cases, people were not
15 able to fairly negotiate the price that they
16 would like to sell their land for, where they
17 were, essentially, given a single low price in a
18 take-it-or-leave it scheme. In some cases, when
19 people refused to sell their land, they
20 experienced intimidation by police or military
21 personnel working on behalf of the companies.

22 Where this project is in Indonesia is

1 eight hours from Jakarta. It's quite remote.
2 Many of the people who are living in these
3 villages near the industrial park and near mining
4 concessions self-identify as indigenous. Under
5 indigenous rights best practices, people have a
6 right to free, prior, and informed consent. Yet,
7 not a single person that we interviewed was able
8 to exercise this right before a project went
9 forward that impacted them or their customary
10 lands.

11 In addition, traditional livelihoods,
12 including fishing and farming, have been
13 destroyed. People who want to continue their
14 traditional livelihoods, who want to continue
15 fishing, are no longer able to because
16 significant pollution has absolutely destroyed
17 waters and destroyed wildlife.

18 The environmental impacts from these
19 projects are really significant and not only
20 impact the environment, but also people's rights,
21 including the right to a healthy environment.
22 There are entire villages that no longer have

1 safe, reliable access to clean drinking water.
2 In addition, community members told us that they
3 were very concerned that newly developed health
4 ailments were connected to industrial activities.

5 So, while we know we need this nickel
6 for electric vehicles which are an important part
7 of the energy transition, the way that nickel
8 mining and smelting is currently being done in
9 Indonesia is not necessarily a climate solution.

10 We use geospatial analysis and other
11 geospatial tools to document deforestation within
12 mining concessions and have calculated thousands
13 of sectors of forests, of tropical primary
14 forests, that have already been lost.

15 In addition, across Indonesia, there's
16 been a massive buildout in captive coal plants to
17 power the nickel industry. So, captive coal
18 plants, in case you're unfamiliar with that term,
19 are coal plants that are directly powering
20 industrial activity. So, they're not providing
21 energy to local communities in any way.

22 At IWIP alone, once it's fully

1 operational, it will be home to 12 brand-new
2 captive coal-fired power plants that otherwise
3 would not exist. Those coal plants will have a
4 capacity of 3.78 gigawatts. So, for comparison,
5 that's about the amount of coal burned in Spain
6 or Brazil in a year, and that is just at this one
7 industrial park.

8 Across Indonesia, there's currently 14
9 gigawatts of captive coal. By the end of this
10 decade, that number is expected to rise to about
11 30 gigawatts. And I'll just briefly flag that
12 the United States is one of the Co-Chairs of
13 Indonesia's Just Energy Transition Partnership,
14 which currently excludes this category of captive
15 coal from Indonesia's Energy Transition Plan.

16 So, given these very significant
17 impacts on people and the environment, Climate
18 Rights International requests that any critical
19 mineral trade agreement with Indonesia, or with
20 any other country, incorporates strong, enforced
21 human rights and environmental protections. A
22 trade deal should include specific provisions

1 that require indigenous people's free, prior, and
2 informed consent prior to the development,
3 expansion, or extension of mineral products that
4 may affect those peoples or their customary
5 lands.

6 In addition, any serious discussion of
7 critical mineral supply chain resilience must
8 begin with a commitment to exploring all options
9 for reducing the need for continued extraction of
10 such minerals, including through demand
11 reduction.

12 Thank you.

13 MR. MILLER: Thank you, Ms. Shennum.

14 And thank you to all the other witnesses.

15 Why don't we just jump into questions?
16 Just a reminder to be succinct when responding to
17 leave time for others, and also, note that you
18 can all follow up in post-hearing comments with
19 additional information, if needed.

20 I will start with my first question,
21 and this one is for Mr. Carr. You note in your
22 written submission that the Inflation Reduction

1 Act, the IRA, has created incentives for
2 companies to reshore production of their solar
3 supply chains. However, you also note that
4 below-cost imports are undermining the economic
5 viability of those domestic investments.

6 What actions can the U.S. Government
7 take to ensure that domestic investments are not
8 undermined by foreign competitors that benefit
9 from non-market practices of their own country?

10 MR. CARR: Thank you for the question.

11 Yes, and I think it's worth actually
12 pointing out that, at the time that the IRA
13 incentives were passed, we saw pricing in the
14 solar sector approximately 50 percent higher than
15 we have seen since. And that drop in pricing
16 coincided with a dramatic import surge that was
17 at least partially the result of a moratorium on
18 tariff collections.

19 I think you're very right to point to
20 this secondary aspect of protecting those
21 investments in the IRA via trade enforcement. I
22 think all the manufacturers are really looking

1 for is a level playing field. And what we have
2 seen in the last two years is what we suspect to
3 be below-cost dumping across the supply chain,
4 particularly at the module level. And as I
5 mentioned in my testimony, there are these non-
6 market subsidies across the board.

7 So, I think in the near term the main
8 thing we really need is for policies to unwind a
9 little bit of the stockpiling that has taken
10 place that is still having a market effect. You
11 know, the surge in imports over the last two
12 years has suppressed prices to an unsustainable
13 level, but, according to the proclamation, they
14 must all be installed by December of this year.
15 If you look at those numbers, it's unrealistic to
16 expect that that can possibly happen.

17 So, we believe that the Administration
18 is going to have to take some unusual measures to
19 try to ferret out where that oversupply exists
20 and make sure that it complies with the
21 proclamation deadline.

22 The other is, I think, ongoing

1 monitoring, as the Administration has, has
2 indicated continued future import surges and
3 below-market pricing throughout the component
4 supply chain, as well as at the module level.

5 MR. MILLER: Thank you, Mr. Carr, for
6 that answer.

7 Now, I will turn it over to my
8 colleague Rachel Howe for her set of questions.

9 MS. HOWE: Hi. Good morning.

10 My name is Rachel Howe. I'm the
11 Director of the Interagency Center on Trade
12 Implementation, Monitoring, and Enforcement, or
13 ICTIME, at USTR. It's just another office that
14 does enforcement work at USTR. It's a long name.

15 But, yes, thank you again to all of
16 the panelists for your submissions and your
17 appearances today.

18 I, too, wanted to start with a
19 question for Mr. Carr in response to his
20 submission.

21 You recommended that USTR work with
22 like-minded trading partners to address non-

1 market-oriented conditions in countries where
2 there is excess capacity in the solar sector.
3 So, what I would like to ask is: what is USTR
4 doing right now in this space with like-minded
5 trading partners that's working? And what is it
6 not doing that you suggest it do with regard to
7 engaging with like-minded trading on this, the
8 problem of non-market-oriented practices?

9 MR. CARR: It's a good question. It's
10 a difficult one to answer, primarily because the
11 trade flows are so complex and difficult to
12 track.

13 We have seen a fair amount of
14 transshipment through market economies that we
15 think would be something that USTR would need to
16 address.

17 I think the other big issue that we're
18 seeing is inconsistent enforcement of or lack of
19 coordination among our trading partners for
20 either components or finished products that we
21 will need to address. Otherwise, you end up
22 playing sort of Whac-A-Mole, as trade gets

1 shifted around.

2 And I think the final thing to think
3 about, and to potentially address, is: what
4 happens when product is rejected for various
5 reasons, whether it's compliance with the Uyghur
6 Forced Labor Prevention Act or circumvention?

7 As far as we can tell, that product
8 doesn't leave the market. It just gets re-
9 exported. And so, you end up with sort of a
10 forum-shopping or a port-shopping dynamic that I
11 think a coordinated effort could potentially
12 address.

13 MS. HOWE: Thank you for that.

14 That's it. Thank you.

15 MR. MILLER: Do you want to do another
16 one or --

17 MS. HOWE: Well, maybe we go -- okay.

18 MR. MILLER: All right. I'll turn it
19 over to Ms. Rudman from the Department of Labor.

20 MS. RUDMAN: Hi. Chelsea Rudman. I'm
21 an International Labor Advisor for Trade Policy
22 at the Department of Labor in the Bureau of

1 International Affairs.

2 My first question is for Ms. Bruckner.

3 So, IRMA's governance model is actually fairly
4 unique relative to other private standards and
5 governance models in the critical mineral
6 industry, in that it includes representatives in
7 a meaningful way from affected communities, NGOs,
8 and labor.

9 You alluded to some of the positive
10 outcomes of this model in your remarks, but if
11 you could elaborate, I'd love to hear more about
12 some of the positive outcomes for labor rights
13 compliance through our critical mineral supply
14 chains and how the model has achieved those
15 outcomes. And then, additionally, how you
16 envision this model continuing to achieve
17 positive outcomes for labor and the environment
18 in the future.

19 MS. BRUCKNER: Thank you for that
20 question. Working across sectors is not always
21 easy, but it is what makes IRMA so unique and
22 it's so essential to the integrity of our

1 standard and system.

2 While we hear from the labor sector,
3 alongside other sectors engaged in IRMA, it's
4 that labor needs an equal seat at the
5 decisionmaking table, not just a side committee,
6 but a powerful decisionmaking ability in the
7 governance of standards, and then, our standard
8 at IRMA. So, that's been really essential to
9 IRMA's model and in strengthening our
10 requirements in the IRMA standard for responsible
11 mining.

12 We also require audits at the mine
13 site level that workers and union representatives
14 are a key stakeholder and are consulted in the
15 audit process, and that they have access to
16 grievance mechanisms which are available for all
17 stakeholders and rights holders, and which we
18 have at the secretariat level as well, for the
19 IRMA standard and system.

20 We see that improvements are being
21 made through increased engagements and dialog and
22 the ability to have independently produced audit

1 reports that demonstrate site-level performance.
2 That can be useful for all stakeholders,
3 including labor. And because organized labor has
4 a direct role in establishing and improving our
5 standard and system, we're able to learn from
6 boots-on-the-ground experience the types of
7 requirements and the types of mechanisms that
8 work and those that don't work. And we really
9 are based on continuous improvement at the site
10 level and, also, in our standard and system.

11 We have seen that some of the highest-
12 scoring chapters so far, based on IRMA audit
13 reports that we've heard to date, are around fair
14 labor and worker health and safety, but we have a
15 long way to go to continue improvement. And we
16 do that only by walking alongside the
17 representatives from the IndustriALL Global
18 Union, United Steelworkers, and their global
19 membership who are helping us be responsive to
20 their needs.

21 As mentioned in my remarks, I see, and
22 IRMA sees, a real opportunity to raise the level

1 of standards around environmental, labor,
2 indigenous rights, and other issues through trade
3 agreements. And there are so many ways that USTR
4 has done this in agreements, including in the
5 U.S.-Mexico-Canada Agreement and the Facility-
6 Specific Rapid Response Labor Mechanism. I think
7 that is a model that could be used in an
8 agreement such as between the U.S. and Indonesia,
9 governing critical energy transition minerals,
10 that could be expanded to cover environmental
11 issues as well.

12 But I think it takes some creativity
13 and it's certainly possible to increase standards
14 alongside meeting the needs for the energy
15 transition. It doesn't have to be "either/or,"
16 and we see that it cannot be "either/or" when
17 we're talking about secure supply chains.

18 MR. MILLER: Thank you.

19 Ms. Dickson?

20 MS. DICKSON: Hi. Cora Dickson, U.S.
21 Department of Commerce.

22 Actually, I would like to ask another

1 question to Mike Carr, if it's okay.

2 Hi, Mike.

3 One of the three points you mentioned
4 is processing of the 301 exclusions. I believe
5 you are alluding to the exclusions for solar
6 manufacturing equipment, is that correct?

7 MR. CARR: That's right.

8 MS. DICKSON: Okay. So, given that,
9 you know, we also want to reduce our dependence
10 on China for that equipment, for that
11 manufactured equipment, what would you say is the
12 best way to implement those exclusions so that we
13 can keep our eye on the long-term goal, that
14 long-term goal, and find other sources for that
15 equipment, especially from Europe? So, how do we
16 balance the short-term exclusions with our long-
17 term needs for more secure, reliable sources of
18 that equipment?

19 I hope that makes sense, the question.

20 MR. CARR: Yes. No, I think it's a
21 great question.

22 I think it's useful to take a step

1 back and recognize that the vast majority of the
2 equipment suppliers in the early days of the
3 solar market were either U.S.- or EU-based.

4 Those equipment suppliers, as China began to
5 dominate the manufacturing, they also began to
6 really scale up their equipment supply, their
7 domestic equipment manufacturing, and eventually,
8 crowded out those suppliers.

9 And so, unfortunately, we're in a
10 situation now, as we try to reshore, where
11 substantially all of the equipment suppliers
12 outside of China have exited the market. That
13 doesn't mean they've lost track of the
14 technology, but it does mean that, to build/scale
15 manufacturing in the United States right now, you
16 really don't have a choice. And so, to build, at
17 least in the first iteration, again, at that
18 globally competitive scale, we will have to
19 import machinery from China.

20 But, really, to a company, whenever we
21 talk to our members, that is a very, very short-
22 term bridge to reshoring the equipment supply.

1 And really, fundamentally, equipment suppliers
2 are the real sign of a healthy manufacturing
3 ecosystem.

4 And so, I think, fundamentally, first
5 and foremost is just building a scale of
6 manufacturing throughout the supply chain that
7 provides customers for those equipment suppliers
8 to come here. We have not yet in solar lost the
9 lead on technology. And so, we don't see that
10 there's any fundamental reason why we can't
11 reshore the equipment suppliers.

12 Other supply chains have enough sort
13 of overlap in the skill sets that we could see
14 machinery being produced in the United States in
15 relatively short order, but it's really just a
16 numbers game. Are we generating enough product
17 here in the United States to justify the location
18 of those facilities? And that doesn't
19 necessarily all have to be in the United States.
20 Obviously, our trading partners in the EU are
21 also a big part of that.

22 MS. DICKSON: Thank you.

1 MR. MILLER: Thank you, Mr. Carr.

2 Ms. Howe?

3 MS. HOWE: So, the next question is
4 for the Climate Leadership Council and Ms. Rorke.

5 You recommended in your submission
6 accelerating partnerships with developing
7 countries, you know, reducing emissions,
8 increasing trade, and friendshoring our supply
9 chains. Could you give an example of a
10 developing country and/or a sector where you
11 think this is possible? Or expand on your
12 thinking a little bit there.

13 MS. RORKE: Thank you for the
14 question.

15 Perhaps the most pressing example for
16 the United States has to do with access to
17 critical minerals. Many partners in Latin
18 America have resource abundance, but they do not
19 have the domestic resources to both mine and
20 process those resources domestically. So, in
21 many circumstances, they're directly exporting
22 mined product instead of a higher-value processed

1 product.

2 This works to the advantage of China,
3 which is actively working to corner the market on
4 minerals processing. So, for example, lithium is
5 extracted from Chile, ships to China, is
6 processed, and then, we have to buy it from them.

7 There appears to be a better solution,
8 which is accessing the institutional investor
9 market to finance the ability of developing
10 countries to create that next higher value of
11 product domestically, and then, trade on the
12 market with free market economies. That will
13 alleviate the stranglehold that China has on
14 processing; diversify the sources from which we
15 can access useful minerals, but it's also going
16 to allow the United States to begin developing
17 and exporting the processing technologies that we
18 also want to build here.

19 That seems like a really promising
20 cooperative relationship on a number of fronts --
21 better environmental outcomes in countries of
22 origin, more secure supply chains for American

1 manufacturers, and eroding the dominance of an
2 adversarial partner in those supply chains.

3 But it doesn't have to just be mined
4 product. For example, the United States has
5 reasonable security concerns for long-term access
6 to aluminum or steel that meets certain
7 properties necessary for the defense industry.
8 While we can and should continue to invest in
9 making those materials at home, recognizing that
10 our supply chains are more secure if we can
11 identify reliable non-American sources as well
12 will be extraordinarily beneficial.

13 So, helping our developing country
14 partners who are rapidly industrializing, who are
15 generating capacity for metals manufacturing;
16 identifying manufacturing practices that meet our
17 requirements; helping them install the necessary
18 technologies and create more robust supply chains
19 will go a long way to improving our own concerns
20 about what our supply chains look like, even in
21 those basic commodities.

22 Thanks.

1 MR. MILLER: Thanks, Ms. Rorke.

2 Ms. Rudman?

3 MS. RUDMAN: Yes, this next question
4 is, I think, primarily for Mr. Carr, but,
5 actually, I think all the witnesses could speak
6 to this. And we would like to hear from other
7 folks to the extent you have responses.

8 So, there's been a growing use of
9 industry-led traceability protocols, particularly
10 in the solar and clean energy industries. To
11 what extent would the expanded use of such
12 traceability protocols strengthen the
13 competitiveness of clean energy supply chains
14 that maintain high labor standards? And I
15 suppose the same question about critical mineral
16 and supply chains that we've discussed today.

17 MR. CARR: Yes, thank you for the
18 question.

19 I think in the solar industry the
20 particular dominance of the sort of the middle of
21 the supply chain at the wafer production level
22 has led to a great deal of difficulty in tracing

1 product, particularly from the metallurgical-
2 grade silicon and polysilicon point of view.

3 The United States is still a
4 substantial producer of polysilicon and a world
5 leading producer of polysilicon. So,
6 traceability standards and, in particular, maybe
7 we could use such things as blockchain, other
8 kinds of new technologies, in tracing products
9 and avoiding mixing and sort of overestimating
10 the amount of product that is coming from the
11 United States in the end products. I think that
12 would make a huge difference in our ability to
13 enforce our higher labor and environmental
14 standards here in the United States.

15 MS. BRUCKNER: I'm happy to add a few
16 comments from our experience at IRMA.

17 We are working on and have shared
18 publicly a second draft of the IRMA Chain-of-
19 Custody Standard. And in our research and pilots
20 and conversations to inform the current draft
21 Chain-of-Custody Standard, this topic does come
22 up. As a standard, we don't promote any certain

1 type of technology for traceability. So, we see
2 it's important to have processes that really
3 enable a wide range of types of technologies or
4 low-tech protocols.

5 But some of the things that we have
6 learned about is, as you know very well, the need
7 to enhance transparency around mineral
8 processing. Usually, it's fairly easy to track
9 from the mine site to a smelter, from the smelter
10 to the end user, but the mineral processing level
11 can be a challenge. And I think, as the world
12 diversifies and the U.S. promotes diversification
13 of mineral processing, it will help to address
14 some of those issues around transparency through
15 the processing phases.

16 Also, the need to understand -- and
17 this implicates the mineral processing phase as
18 well -- how to responsibly source recycled and
19 scrap material. So, we are working with partners
20 around the world, including with the Roundtable
21 on Responsible Recycling of Metals that launched
22 a report yesterday on our findings at the (audio

1 interference) wide range of issues to be
2 addressed, including basic definitions of what
3 recycled means.

4 But I think there's a lot of movement
5 in this area, and we are open to continuing
6 engagement with you and others on this topic.

7 MR. MILLER: Thank you very much.

8 I think we have time for one more
9 question.

10 MS. DICKSON: Cora Dickson, Department
11 of Commerce.

12 A question for Ms. Shennum. Following
13 up on your observations about Indonesia, where
14 should the U.S. source nickel in order to meet
15 its needs while adhering to these higher
16 standards? And sort of relatedly, would that
17 involve initiatives with allied and our partner
18 economies to encourage nickel -- I'm sorry, I'm
19 stumbling a little bit on the words here.

20 But my point is, in order to source
21 nickel from places other than Indonesia, what can
22 we do -- for example, agreements, initiatives, et

1 cetera -- with more like-minded partners in terms
2 of rule of law and ESG?

3 MS. SHENNUM: Yes, thanks for your
4 question.

5 Like I started my brief statement
6 with, Indonesia last year produced over 50
7 percent of the world's nickel. That number is
8 supposed to increase up to 75 percent by the end
9 of this decade.

10 So, the reality of the current state
11 of nickel is that most of it is coming from
12 Indonesia. So, just divesting from Indonesia is
13 not addressing these problems.

14 We know that some U.S. companies,
15 including Ford, have direct investments in
16 Indonesia's nickel industry. And so, we are
17 seeing efforts by U.S. companies to really engage
18 and try to tackle these issues through engagement
19 and through strong partnerships that uphold
20 environmental and human rights standards -- you
21 know, looking at the ways that projects impact
22 workers, impact local communities.

1 So, rather than just sourcing nickel
2 from another country, I definitely would
3 encourage taking the opportunity of using a
4 Critical Minerals Agreement, or through other
5 efforts, to really uphold corporate
6 responsibility and government responsibility over
7 environmental and human standards.

8 You know, the types of harms
9 documented in our report are very easily
10 avoidable. And just by very basic governance and
11 corporate due diligence protections, it would
12 really prevent harm.

13 So, definitely, rather than
14 encouraging a complete pullout of any specific
15 place -- whether it's Indonesia in nickel or
16 other countries in other critical minerals and
17 transition minerals -- it's really looking at
18 what is the role of the U.S. Government on
19 pushing for stronger regulations and stronger
20 implementation of existing regulations around
21 human rights and environmental protections.

22 MR. MILLER: All right. I see we're

1 at the top of the hour.

2 So, thank you to all the witnesses and
3 all the panelists as well for joining us today.

4 Just a reminder that you can follow up
5 in post-hearing comments with any additional
6 information, if needed.

7 So, thank you again, and that
8 concludes Panel 2.

9 (Whereupon, the above-entitled matter
10 went off the record at 12:02 p.m. and resumed at
11 12:41 p.m.)

12 MR. BAN: Good afternoon, everyone.
13 We're ready to go back on the record. Do we have
14 our court reporter on the line?

15 COURT REPORTER: Yes, sir.

16 MR. BAN: Excellent. Thank you very
17 much.

18 Well, welcome to the third panel of
19 today's virtual hearing on promoting supply chain
20 resilience convened by USTR. Thank you to all
21 the witnesses for joining us. And I think, in
22 the interest of time, we will get started.

1 Just a reminder. We're going to
2 proceed through the witnesses first in the order
3 as shown on the schedule before we open it up for
4 questions and answers.

5 And, again, for the record, I'm Victor
6 Ban, Special Counsel at USTR. I'm joined by
7 Katherine White, Chief Textiles and Apparel
8 Negotiator at USTR, and Jennifer Knight, Deputy
9 Assistant Secretary for Textiles, Consumer Goods,
10 and Materials from the Department of Commerce.

11 With that, why don't we jump in with
12 our first witness, Ms. Conis from the American
13 Mold Builders Association?

14 You have the floor.

15 Ms. Conis, we, unfortunately, can't
16 hear you. I do believe you are online. But if
17 you could just check your audio settings and see
18 whether your microphone is muted, that would be
19 great.

20 Well, in the interest of time, why
21 don't we move to Ms. Ghazarian of Austere? And
22 hopefully, in the interim, Ms. Conis can

1 establish an audio connection.

2 Ms. Ghazarian, you have the floor.

3 MS. GHAZARIAN: Okay. Can you hear
4 me? Oh, you can't hear me?

5 MR. BAN: Yes, we can.

6 MS. GHAZARIAN: Oh, you can? Okay,
7 good. I just wanted to make sure.

8 MR. BAN: Yes, Ms. Ghazarian. Yes,
9 Ms. Ghazarian, we can hear you. Thank you.

10 MS. GHAZARIAN: Okay, great.

11 Hi. My name is Deena Ms. Ghazarian,
12 and I am the founder and CEO of Austere, a tech
13 accessories company. I have more than 25 years
14 of experience driving top consumer technology in
15 fashion brands, and I also serve as the Chair of
16 the Executive Board of the Consumer Technology
17 Association.

18 Let me tell you a little bit about my
19 company. In 2018, I began discussions with
20 retailers and partners about addressing a gap in
21 the marketplace: high-end, beautifully designed
22 HDMI cables, surge protectors, and cleaning

1 products. I focused on finding contract
2 manufacturers that could meet my stringent design
3 and quality requirements. These manufacturers
4 largely existed in China, given its extensive
5 manufacturing and testing ecosystem.

6 In 2019, at CES, at the annual
7 technology show in Las Vegas, I locked up all of
8 my suppliers, capital, partners, and launched
9 Austere. Little did I know that the massive U.S.
10 tariffs on my products were coming around the
11 corner for my SKUs.

12 In 2018, as we all know, the Trump
13 Administration imposed a 10 percent tariff on
14 \$200 billion in imports from China, encompassing
15 all of my products. My company's scarce capital
16 had to be reallocated to cover these new
17 expenses. The new year, the tariff rate
18 increased to 25 percent -- placing even more
19 pressure on my young company.

20 To be clear, I paid the tariffs; China
21 did not. I had to absorb the cost of the tariffs
22 to avoid pricing products out of a very

1 competitive accessories landscape.

2 To mitigate the supply chain
3 disruption, I sought new suppliers outside of
4 China, but shifting supply chains is not costless
5 and does not happen overnight. With my effort
6 and resources, I have found new manufacturers in
7 other countries to meet my design and quality
8 requirements, but I was not able to abandon China
9 entirely. I have shifted about 70 percent of my
10 manufacturing to other countries.

11 Our challenges continued with the
12 onset of the COVID-19 pandemic. The U.S.
13 Congress and Trump Administration helpfully
14 offered the Paycheck Protection Program, and I
15 definitely took advantage of it. For my company,
16 the PPP loaned served to offset my tariff
17 payments. It would have been more efficient at
18 the time to repeal tariffs entirely, which would
19 have lessened the need for companies like myself
20 to seek government resources to stay alive.

21 As the U.S. economy rebounded from
22 COVID and consumers increased their demand for

1 technology products for their homes, shipping
2 costs jumped to historic levels and delivery
3 times were increased due to backlogs at all the
4 West Coast ports. The cost to ship products from
5 Asia to the United States became prohibitively
6 expensive.

7 To get my products delivered on time
8 to market, I pivoted yet again. I shipped my
9 products to the lower-cost port of Savannah in
10 Georgia. This pivot helped stabilize my costs,
11 keep Austere competitive, and maintain our
12 foothold in the market.

13 I did not seek these challenges, but
14 confronted them as a founder and leader. These
15 experiences taught me valuable lessons and
16 equipped me to build efficient and resilient
17 supply chains, while keeping my costs low.

18 Aside from the PPP program, I had no
19 support from the government to help me navigate
20 Austere's challenges. The U.S. Government did
21 not provide any sympathy to startups who were
22 harmed by the Section 301 tariffs. Our only

1 avenue for relief was the non-transparent and
2 highly uncertain product exclusion process that's
3 been run by the USTR. We did apply for
4 exclusions, but never received any feedback from
5 USTR after it denied our exclusion request --
6 leaving us feeling like adversaries, rather than
7 a U.S.-headquartered company employing Americans
8 and innovating new products in the United States.

9 Considering these experiences, I offer
10 the following recommendations:

11 First, USTR should express sympathy
12 for startups that face supply chain challenges;
13 treat us like partners, and offer tangible
14 support. Money alone is not always the solution,
15 and often, active listening and hands-on guidance
16 make an even stronger impact.

17 USTR's focus should be on building
18 private and public partnerships; creating an
19 atmosphere of trust and confidence; sharing of
20 best practices; early identification and
21 awareness-raising of supply chain chokepoints,
22 and continued emphasis on making supply chain

1 resilience more efficient to reduce trade costs
2 for startups and small businesses. We want to
3 help. We want to partner with you, and we want
4 to figure this out.

5 Second, USTR should greatly consider
6 the small business impact of the Section 301
7 tariffs and any future tariffs that it may impose
8 under Section 301 or other U.S. trade
9 authorities. These tariffs remain a burden on
10 U.S. companies, especially small businesses like
11 mine. It's time to end these ineffective and
12 harmful tariffs which make supply chains less
13 resilient, given their high cost, administrative
14 burden, and pressures on availability of
15 sourcing.

16 I appreciate the opportunity to
17 testify and I eagerly await your questions.

18 MR. BAN: Thank you, Ms. Ghazarian,
19 for your testimony.

20 And let me check with Ms. Conis and
21 see if she's online and able to connect now.

22 Ms. Conis, are you there?

1 (No response.)

2 MR. BAN: All right. Why don't we
3 proceed, then, to Ms. Gibian of the Forging
4 Industry Association? Ms. Gibian?

5 MS. GIBIAN: Hi. Thank you for the
6 opportunity to speak today. My name is Angela
7 Gibian. I am the Deputy Chief Executive of the
8 Forging Industry Association, based here in
9 Independence, Ohio.

10 Our association has 230 member
11 companies, of which 106 are forging producers.
12 Forging, if you do not know, is a metalworking
13 process where metal is manipulated by die plates
14 which act as large hammers pressing, pounding, or
15 squeezing the material into a final or near net
16 shape.

17 Most forging plants are small
18 businesses with 55 percent of our FIA members
19 reporting sales below \$30 million and only 12
20 percent reporting sales over \$120 million.

21 Many aircraft have over a thousand
22 forgings. A typical passenger vehicle or truck

1 can contain 250 forgings. These products are a
2 critical part of U.S. national and economic
3 security -- with, roughly, 20 metric tons of
4 forgings in a typical large wind turbine and 550
5 forgings in a heavy tank.

6 The Department of Defense identifies
7 forgings as being of national security
8 significance. In a February of 2022 report, the
9 Pentagon said that forged parts "are critical to
10 the development, procurement, and sustainment of
11 all major defense systems." In 2020, the Defense
12 Logistics Agency identified 30,061 out of 32,597
13 specialized items that contained casting and
14 forged parts.

15 While USTR recently increased the
16 tariff rate on a select group of products, FIA
17 believes that USTR should also increase the
18 tariff on items identified as of national
19 security and economic significance.

20 Imports of products in a special
21 category should face a higher tariff rate,
22 including forgings. While the tariff rate of 25

1 percent continues to make U.S. forgings more
2 competitive, FIA members still report that forged
3 imports from China remain 40 to 80 percent
4 cheaper. A special category with a higher tariff
5 rate will help protect our manufacturers and the
6 supply chain.

7 Over the past two decades, U.S.
8 manufacturers have watched in real time as China
9 increased exports, leaving China in control of 46
10 percent of the global forging market. Trade laws
11 should work in real time to prevent this type of
12 market concentration, so that the "next China"
13 does not undermine domestic supply chains.

14 A prime example of this is the rise in
15 competition from India, as production shifts from
16 one country to another country following the
17 Section 301 tariff action. Imports of iron or
18 steel forgings, not further worked, from India
19 increased from \$7.2 million in 2019 to over \$13
20 million last year. Steel forgings for vehicle
21 gearboxes also jumped from \$13.4 million in 2017
22 to \$31 million in 2022.

1 In the time it takes to initiate a
2 trade investigation and impose tariffs or duties
3 to protect U.S. industry, the imports shift to a
4 different company within China -- or to a new
5 country altogether.

6 Goods now coming from that new source
7 are often transshipped, receive transnational
8 subsidies, or both. Aluminum forgings from
9 Vietnam increased from \$152,000 in 2017, prior to
10 the imposition of tariffs on China, to \$3.1
11 million worth of imports in 2022. These actions
12 undermine the effectiveness of the 25 percent
13 tariff imposed under the Section 301 tariff
14 action on imported Chinese forgings.

15 As the U.S. begins to review the
16 USMCA, we ask that USTR pay particular attention
17 to the surge of imports of forgings from Mexico.
18 According to import data, Mexico shipped only
19 \$2,000 worth of aluminum forgings to the U.S. in
20 2017. Following entry into the USMCA and
21 imposition of tariffs on China, those imports
22 totaled \$22.4 million in 2022.

1 The U.S. needs to update its system of
2 trade laws to adapt to today's global strategy of
3 evading tariff actions through tactics including
4 transshipment and transnational subsidies. USTR
5 should investigate and track the country of
6 origin if it's suspected that the "substantial
7 transformation" is, in fact, minimal and simply
8 used to change the country on a shipping label to
9 evade tariffs.

10 Thank you for allowing to speak today
11 and I look forward to answering your questions.

12 MR. BAN: Thank you very, Ms. Gibian.

13 And we'll proceed next to Mr. Harden
14 -- excuse me, excuse me -- Ms. Harden of the
15 Retail Industry Leaders Association.

16 MS. HARDEN: Great. Thank you.

17 Good afternoon.

18 On behalf of the Retail Leaders
19 Association, thank you for the opportunity to
20 participate in today's hearing.

21 My name is Blake Harden and I am the
22 Vice President for International Trade at RILA.

1 RILA is the U.S. trade association for leading
2 retailers. RILA members include more than 200
3 retailers, product manufacturers, and service
4 suppliers, which together account for more than
5 \$2.7 trillion in annual sales, millions of
6 American jobs, and hundreds of thousands of
7 stores, manufacturing facilities, and
8 distribution centers, domestically and abroad.

9 RILA and our members support the
10 Biden-Harris Administration's efforts to craft a
11 trade policy that fosters resilient supply chains
12 and benefits all Americans. However, we strongly
13 disagree with the premise that U.S. trade and
14 investment policies over the last several decades
15 were designed primarily to drive short-term cost
16 efficiency and have led to a, quote, "race to the
17 bottom." End quote.

18 In its 2024 Economic Report of the
19 President, the Council of Economic Advisors
20 noted, quote, "Well-documented gains from trade
21 and cross-border investment flows. The benefits
22 of global integration include lower inflation, a

1 greater variety of goods and services, more
2 innovation, higher productivity, good jobs for
3 American workers in exporting sectors, foreign
4 direct investment in U.S. industries, and a
5 higher likelihood of achieving our climate
6 goals." End quote.

7 Moreover, a 2021 joint association
8 study entitled, "Imports Work for American
9 Workers," found that, quote, "Imports support
10 more than 21 million net American jobs." End
11 quote. The study found that these jobs are often
12 good jobs that, quote, "pay good wages and
13 provide employment to millions of workers." End
14 quote. This same study cautioned that changes to
15 U.S. trade policies "that impose new barriers to
16 imports would have a negative impact on import-
17 related jobs."

18 Given the well-documented benefits of
19 global trade for the United States, we urge USTR
20 to embrace past trade policies that have yielded
21 enormous growth and opportunity for Americans and
22 evolve these policies to meet today's challenges.

1 With this in mind, we recommend USTR
2 take the following steps to promote greater
3 supply chain resilience:

4 First, we urge USTR to negotiate new
5 trade agreements that lower tariff and non-tariff
6 barriers. Coupled with robust enforcement
7 mechanisms to ensure that trading partners abide
8 by their commitments, trade agreements encourage
9 resilient supply chains and raise standards with
10 countries who share our values -- setting a gold
11 standard for others to follow.

12 The USMCA is the prime example of how
13 trade agreements can promote stronger supply
14 chains through alignment with like-minded
15 partners across a variety of disciplines,
16 including strong labor and environmental
17 protections. The USMCA's novel Rapid Response
18 Mechanism and dispute settlement provisions help
19 ensure that Canada and Mexico abide by their
20 commitments -- all of which helps create a more
21 level playing field for American workers and
22 businesses. These ambitious standards cannot be

1 replicated without market access incentives for
2 partner countries.

3 With other countries, including China,
4 actively pursuing new trade agreements, it's
5 essential that the U.S. reclaim its leadership
6 role in negotiating comprehensive trade
7 agreements that tackle tariff and non-tariff
8 barriers and raise standards, so that American
9 companies and workers can compete.

10 Second, we urge USTR to leverage
11 flexibility in existing trade agreements to help
12 drive growth, investment, and more diversified
13 supply chains. For example, the CAFTA-DR
14 includes a short supply mechanism that allows
15 petitioners to get access to third country
16 fibers, yarns, and fabrics when an administrative
17 process finds that the requested input is not
18 available in commercial quantities in the parties
19 to the agreement. Better processes and
20 utilization of the short supply process would
21 help drive more and diversified sourcing in the
22 Western Hemisphere and help grow production for

1 all stakeholders in the region.

2 Third, we urge the Administration to
3 take steps that support sustainable supply chains
4 by examining the Harmonized Tariff Schedule to
5 identify where lower duties could promote greater
6 use of sustainable products such as recycled
7 content or safer chemicals.

8 We also encourage USTR to work with
9 trading partners to develop and align green trade
10 processes, procedures, and incentives. Creating
11 different systems with diverging rules would
12 increase the costs of compliance for companies
13 and diminish the value of incentives to create
14 more sustainable supply chains.

15 Fourth, we caution against adopting
16 policies that create too much dependency on
17 domestic production. Resilient supply chains are
18 diverse supply chains, and dependency on any one
19 source -- including a domestic source -- creates
20 supply chain risks.

21 I can speak from personal experience,
22 as a mom whose infant son was exclusively

1 formula-fed during the infant formula shortage,
2 that a supply chain which relies predominantly or
3 exclusively on U.S. production is no more
4 resilient than one that relies exclusively on
5 China.

6 Finally, we urge USTR to abandon
7 harmful Section 301 tariffs on consumer goods,
8 which have failed to alter China's behavior.
9 Tariffs are taxes paid by American businesses and
10 consumers -- not China. Tariffs are also
11 regressive and disproportionately impact lower-
12 income Americans -- negatively impacting their
13 paychecks. We urge USTR to reconsider the
14 imposition of these harmful tariffs on consumer
15 goods.

16 Thank you for the opportunity to
17 testify today. I look forward to your questions.

18 MR. BAN: Thank you, Ms. Harden.

19 We will proceed next to Ms. Popken of
20 the U.S. Footwear Manufacturers Association.

21 Ms. Popken, you have the floor.

22 MS. POPKEN: Thank you.

1 On behalf of the United States
2 Footwear Manufacturers Association, USFMA, thank
3 you for the opportunity to provide the
4 perspective of the domestic footwear industry on
5 how the Office of the United States Trade
6 Representative can leverage trade policy to
7 promote supply chain resilience.

8 My name is Karlee Popken. I'm the
9 Trade Policy Director of the USFMA. USFMA is a
10 nonprofit 501(c)(6) association founded in 1986
11 to protect and enhance the footwear industry's
12 manufacturing base in the United States. USFMA
13 members include both domestic footwear
14 manufacturers as well as domestic suppliers and
15 higher education institutes.

16 In recent years, the domestic footwear
17 manufacturing industry has made significant
18 investments in domestic capacity and production
19 level, but significant global competitiveness
20 challenges remain. Textile manufacturing is
21 still considered an import-sensitive industry,
22 and while these investments in new manufacturing

1 facilities have been a benefit, any trade policy
2 taken up by the Biden-Harris Administration can
3 have a profound impact on domestic footwear
4 manufacturing and supply chain resiliency. The
5 United States domestic manufacturing is still
6 striving to compete with state-subsidized
7 industries abroad.

8 Not only does the domestic footwear
9 industry support thousands of good-paying jobs,
10 but the supply chains for domestically made
11 footwear also support critical industries and PPE
12 and medical supplies. It serves as a linchpin
13 for the demand of yarns, fabrics, and foams
14 essential for various medical devices,
15 emphasizing the industry's commercial viability
16 and its broader contribution to the national
17 emergency preparedness.

18 Moreover, the domestic footwear
19 industry holds strategic significance in military
20 readiness -- supplying high-quality, Barry-
21 Amendment-compliant footwear to our Nation's
22 service members. Developing domestic and

1 regional footwear manufacturing not only
2 fortifies our economic security, but also
3 bolsters our national defense capabilities.

4 The domestic footwear industry has
5 long been recognized as sensitive to imported
6 footwear from countries with dramatically low
7 wages, less stringent environmental and labor
8 practices. USFMA staunchly advocates for trade
9 policies and regulations that prioritize and
10 protect critical domestic industries and supply
11 chains.

12 Statistics from the U.S. Bureau of
13 Labor Statistics paint a sobering picture,
14 indicating a steady decline in footwear
15 manufacturing employment over the years. This is
16 primarily attributed to expansion of footwear
17 manufacturing abroad, driven by offshoring of
18 much of the supply chain components over the last
19 30 years.

20 We applaud the Biden-Harris
21 Administration's recent announcement on
22 maintaining and expanding the Section 301 tariffs

1 against China. USFMA has been advocating for
2 maintaining the 301 tariffs to support recent
3 investments in domestic footwear manufacturing.

4 At the same time, USFMA implores the
5 Biden-Harris Administration to enact and uphold
6 additional trade policies that support increased
7 private sector manufacturing investment, which
8 fosters job creation and economic opportunity.

9 While tariffs present one avenue for
10 support of domestic supply chains, USFMA also
11 recognizes the need for broader embrace of free
12 trade agreements with our partners in the Western
13 Hemisphere. FTAs empower the United States to
14 advocate for higher regional value content
15 requirements, robust labor and environmental
16 standards, and protection of human rights.

17 One area that USFMA believes the USTR
18 could be focused on is implementing strict rules
19 of origin in free trade agreements. Currently,
20 some of our free trade agreements are being
21 exploited by less friendly nations. These
22 countries, faced with import restrictions, have

1 established or collaborated with factories
2 registered in other countries that can ship to
3 the United States with favorable duty rates.
4 These factories can use Chinese materials and
5 components that might otherwise not be able to
6 ship directly to the United States, enabling
7 China to recover some market share through less
8 restrictive duties. Policies that carefully and
9 strictly outline minimum country-of-origin
10 requirements could help address this exploitation
11 of our trade policies.

12 We firmly believe that a worker-
13 centric policy is crucial for the sustainable
14 growth of our industry and the broader economy.
15 Prioritizing workers ensures fair wages, safe
16 working conditions, and job security, which not
17 only enhances their quality of life, but also
18 promotes productivity and innovation.

19 Raising labor and environmental
20 standards in free trade agreements and trade
21 preference programs brings significant benefits
22 to both workers and the global community. By

1 enabling stringent labor standards in trade
2 policies, we ensure that workers worldwide are
3 treated fairly, with access to decent wages, safe
4 working conditions, and the right to unionize.
5 This creates a level playing field where
6 companies compete based on innovation and
7 efficiency, rather than the exploitation of
8 labor.

9 Moreover, integrating robust
10 environmental standards in these agreements helps
11 address the pressing issues of climate change and
12 environmental degradation. When countries are
13 held to higher environmental standards, they're
14 encouraged to adopt sustainable practices, reduce
15 emissions, and protect natural resources. By
16 prioritizing environmental sustainability in
17 trade policies, we can promote global economic
18 growth that is both inclusive and ecologically
19 responsible.

20 While it is outside the scope of this
21 hearing, I would like to note the role that
22 Congress has in supporting resilient supply

1 chains. From ending the de minimis loophole, to
2 increasing eligibility criteria for the
3 Generalized System of Preferences, and the
4 elimination of finished products in future rounds
5 of the Miscellaneous Tariff Bill, Congress plays
6 a significant role in trade policy that affects
7 the domestic footwear industry. We encourage
8 USTR to robustly and proactively engage with
9 Congress to advocate for policies that support
10 domestic supply chains and manufacturing.

11 Thank you for your dedication to the
12 well-being of our country and its domestic
13 industries. USFMA looks forward to working
14 together to promote domestic footwear
15 manufacturing, resilient supply chains, and the
16 broader American economy.

17 Thank you for the opportunity to
18 testify today. I look forward to your questions.

19 MR. BAN: Thank you, Ms. Popken.

20 And just noting that we are trying to
21 get in touch with Ms. Conis. I understand that
22 we still don't have an audio connection. In the

1 event, Ms. Conis, that you can hear us, please
2 put up your hand in Webex whenever you are able
3 to speak.

4 I'm getting a little bit of an echo.

5 But I think we will proceed.

6 MS. CONIS: Can you hear me?

7 MR. BAN: Yes, we can hear you.

8 Excellent.

9 MS. CONIS: I'm trying to get rid of
10 the echo. Oh, my goodness.

11 MR. BAN: We can hear you without an
12 echo. It might just be on our side.

13 MS. GHAZARIAN: It's not. Kym, put
14 your computer on mute and leave your phone
15 unmuted, and it will work. The tech expert
16 weighs in.

17 MR. BAN: And I'm just noting that we
18 can extend a few minutes, I think, given the
19 technical difficulties, beyond the scheduled end
20 time.

21 MS. CONIS: Okay. Am I coming across
22 with an echo? Can you hear me?

1 MR. BAN: We can hear you. We can
2 hear you very well without an echo, Ms. Conis.

3 MS. CONIS: Okay. I will attempt to
4 go through this. There's a huge echo on my end,
5 but I'm going to go for it.

6 Thank you so very much for your
7 patience, and thank you for allowing me to speak
8 today on behalf of supply chain resilience
9 related to molds, tooling, and dies.

10 My name is Kym Conis, Managing
11 Director of the American Mold Builders
12 Association, based in Indianapolis.

13 Established in 1973, AMBA is the
14 largest organization in the United States
15 dedicated solely to the mold manufacturing
16 industry. We have over 200 member companies and
17 more than 50 supplier members, providing molds,
18 dies, and tools to virtually all industries,
19 including automotive, aerospace, defense,
20 infrastructure, medical, among others.

21 Today, I will focus on three areas:
22 understanding downstream domestic capacity and

1 capabilities; tracking imports of critical
2 downstream goods with domestic sources, and
3 addressing transshipment and transnational
4 subsidies.

5 AMBA members play an essential role in
6 the supply chain. Industrial molds appear in the
7 100-day review under White House Executive Order
8 14017, building resilient supply chains,
9 revitalizing American manufacturing, and
10 fostering broad-based growth.

11 Manufacturers use industrial molds to
12 produce a variety of parts and components ranging
13 from materials from plastics to metals. The
14 industry is classified under NAICS 33351,
15 Industrial Mold Manufacturing -- with the U.S.
16 Census reporting 1340 establishments existing
17 across the country with over \$6.5 billion in
18 annual sales and employing, roughly, 31,000
19 Americans with an average annual salary just
20 under \$62,000.

21 It is this figure on which I would
22 like to focus, the 1300 American mold

1 manufacturers currently operating in the U.S.
2 AMBA's online membership directory allows
3 customers, as well as policymakers, to search by
4 industry served, materials used, certifications,
5 mold sizes, machining processing, and much more.

6 I urge USTR and all agencies in the
7 federal government to work with trade
8 associations to develop a better understanding of
9 not only domestic capabilities, but also
10 vulnerabilities. The AMBA believes that USTR
11 should better incorporate capacity utilization
12 measurements for domestic industry, both when
13 developing public policy and reviewing Section
14 301 tariff exclusion requests.

15 Policies intended to support supply
16 chain resiliency must first begin with
17 understanding domestic capacity and capabilities.
18 AMBA maintains a capacity tool which allows
19 members to identify others in the association
20 with open capacity.

21 Die builders report a 68 percent
22 capacity utilization rate with mold builders

1 reporting 74 percent. Both figures are below the
2 most recent monthly Federal Reserve estimate for
3 manufacturing, which is 76.9 percent.

4 USTR should develop a monitoring
5 system for products identified by federal
6 agencies in response to White House Executive
7 Order 14017 on building resilient supply chains.
8 A specific and targeted import monitoring program
9 will help policymakers across the federal
10 government track imports of goods deemed critical
11 to U.S. infrastructure and national and economic
12 security. Such a system could allow USTR to take
13 steps to support U.S. downstream industries in
14 the event of an identified surge in imports.

15 The third policy recommendation is to
16 address transshipment and transnational
17 subsidies. Today, the 25 percent Section 301
18 tariffs help, though would be more effective at
19 50 percent. Regardless of the rate, we are
20 increasing seeing Chinese molds entering the U.S.
21 through third countries, especially Mexico.

22 A recent example came in the form of

1 online exchange between one of our members and a
2 senior tooling manager at a Chinese mold supplier
3 just last week. I'd like to read the short
4 exchange between the Chinese shop and our U.S.
5 member, the mold manufacturer.

6 Chinese Shop: "By the way, do you
7 have the office in Mexico?"

8 U.S. Shop: "No, not in Mexico. Why
9 Mexico?"

10 Chinese Shop: "If you have the office
11 in Mexico, you can pick up the molds from Mexico.
12 That means the molds go to the shipment from
13 Mexico firstly. That import from Mexico, the
14 tariff will be as per Mexico, then, move to the
15 USA. Many customers doing this way to avoid the
16 high tariff."

17 U.S. Shop: "But you build it in China
18 still?"

19 Chinese Shop: "The molds from China
20 to Mexico can avoid the tariff."

21 We need a process to identify and
22 track the true identity of origin. Chinese

1 molder builders and distributors continue to game
2 the system, and unlike the example I just gave,
3 typically, try to mask the origin as being from
4 China.

5 USTR should work with the Commerce
6 Department and industries identified as critical
7 to establish a mechanism for businesses to report
8 incidents of tariff evasion and transshipments.
9 Knowing our domestic capabilities, identifying
10 input spikes as they happen, and addressing
11 tariff evasion through transshippings will help
12 strengthen U.S. downstream supply lines.

13 Thank you for the opportunity to
14 testify today, and I truly appreciate your
15 patience.

16 MR. BAN: Thank you very much, Ms.
17 Conis.

18 I think we've solved the echo issue on
19 our end. So, appreciate everyone's -- oh, I
20 spoke too soon, perhaps. Hoping the echo won't
21 be captured in the transcript.

22 So, we'll proceed with questions and

1 I'll kick off with a question to Ms. Ghazarian.

2 Thank you for your testimony.

3 You mentioned in your written
4 submission the need for more guidance from the
5 federal government, in particular. And I think
6 in your testimony you elaborated a bit in terms
7 of providing more information on best practices
8 or chokepoints. Can you explain that a bit more
9 or if you had other ideas in mind with respect to
10 guidance for SMEs, in particular?

11 MS. GHAZARIAN: Absolutely. Thank you
12 for the question.

13 Here, we in technology have a lot of
14 certification programs that are required for us,
15 as an example. That certification establishment,
16 the majority of it, for my products specifically,
17 were created and established within the China
18 infrastructure supply chain over the last 40-50
19 years.

20 Where I would love to get support is,
21 if I were to do something and bring it back here,
22 where would I even start for certification along

1 those lines and making sure that I actually get
2 my product certified? So, even if I created it
3 here, it would actually have to go somewhere in
4 China to be tested and come back. So, that's one
5 example.

6 The second example is, how would I
7 leverage different supply chain infrastructure to
8 be able to maybe, like, overcome some of the
9 different hurdles that have come our way as an
10 industry? So, as a great example, the Savannah
11 port that I mentioned in my testimony, that was
12 something I found through my team and research.
13 It wasn't something that was available in regards
14 to research or via a website of where there were
15 other options to bring in product, and to do so
16 that would be quick and efficient.

17 Because that port is actually a non-
18 unionized port, they worked during the supply
19 chain crisis. They actually worked longer hours
20 and got the goods through faster. So, funny
21 enough, I had goods to market way quicker than a
22 lot of my competitors who were forced to come

1 through, like, the West Coast ports.

2 But that is something we figured out
3 on our end versus if the government had supplied
4 information and/or resources for us to be able to
5 leverage that and quickly shift and utilize those
6 factors, I think a lot of other small businesses
7 in my situation would have probably come through
8 in a much easier fashion for the holidays. Then,
9 a lot of them didn't receive their goods until
10 later, like January and February, and in turn,
11 that caused a lot of pain for consumers and pain
12 for the manufacturers with all the excess
13 inventory that existed in the market after that.

14 So, those are just two examples.

15 MR. BAN: Thank you, Ms. Ghazarian,
16 for that elaboration. Much appreciated.

17 I have a question, next, for Ms.
18 Gibian. So, you testified, similar to Ms. Conis,
19 about a rise in imports from other countries
20 other than China that may seek to evade Section
21 301 tariffs. I think Ms. Conis gave some
22 interesting factual information that suggested

1 that this was, in fact, goods that had not been
2 substantially transformed in these other
3 countries.

4 Is that your experience as well, that
5 you're aware of instances where the goods are not
6 actually being produced and that it's a
7 transshipment issue, as opposed to relocating of
8 manufacturing operations in these third
9 countries?

10 MS. GIBIAN: Yes, exactly. I would
11 echo her sentiments. Very similarly, we're
12 hearing the same things from our members about
13 parts coming from China, and then, being
14 minimally machined in Mexico and shipped, or just
15 shipped to Mexico and straight shipped to the
16 U.S. So, I echo her sentiments exactly. We're
17 hearing the same things in our industry.

18 MR. BAN: Thank you for that
19 clarification, Ms. Gibian. I appreciate that.

20 Ms. Conis, coming to your testimony, I
21 believe in both your written submission and your
22 testimony you suggested the use of import

1 monitoring systems or downstream import
2 monitoring systems. And I wanted to clarify
3 whether you were referring to monitoring goods
4 that are made with molds or whether you're
5 concerned about finished molds that may be
6 downstream from inputs that are used to make
7 those molds. So, looking at, for example,
8 imported inputs, and then, monitoring downstream
9 of those inputs.

10 MS. CONIS: Can you hear me?

11 MR. BAN: Yes, we can.

12 MS. CONIS: Okay. And no echo?

13 MR. BAN: You're good. And if others
14 could be sure to mute. We are now getting a
15 little bit of an echo that we didn't have before.
16 So, if you're not speaking, if you could please
17 mute. Thank you.

18 MS. CONIS: Can you hear me now?

19 MR. BAN: Yes.

20 MS. CONIS: I'm sorry. I apologize
21 for the echo.

22 Maybe I could address the questions in

1 the post-hearing brief because I can't get the IT
2 issues under control, and I truly apologize.

3 MR. BAN: You're coming through
4 clearly now without an echo, Ms. Conis.

5 MS. CONIS: Okay. All right. Then, I
6 will go through it.

7 So, in answer to your question, we are
8 concerned with the finished molds coming from
9 those countries. They're not being manufactured
10 in those third countries. Like as was just
11 suggested, there might be minimal work to them,
12 often no work at all, and then, coming from that
13 country as a product of that country.

14 MR. BAN: Understand. So, the
15 proposed monitoring system would focus on
16 finished molds from a range of origins, is that
17 correct?

18 MS. CONIS: Correct.

19 MR. BAN: Understood. Thank you, Ms.
20 Conis.

21 I may have a few questions later, but,
22 for now, I'll turn the floor over to Ms. White.

1 MS. WHITE: Thank you, Victor.

2 Good afternoon.

3 I'm Katherine White, Chief Textiles
4 and Apparel Negotiator at USTR.

5 I'm pleased to be here today for this
6 discussion about how we may advance trade and
7 investment policies that contribute to stronger,
8 more resilient, and more sustainable supply
9 chains.

10 I would like to start with a question
11 posed to Ms. Harden. Ms. Harden, thank you for
12 your testimony today.

13 As you're aware, the global nature of
14 apparel supply chains demands increased
15 visibility and transparency to ensure compliance
16 with U.S. trade laws and the customs laws of
17 other countries.

18 How are your member companies taking
19 into account traceability and transparency
20 considerations in supply chain and sourcing
21 decisions?

22 MS. HARDEN: Thank you very much for

1 the question, and I'm happy to also provide a
2 more detailed in response post-hearing comments.

3 But, as a general matter, there is,
4 and has been for the last several years
5 certainly, a trend to require more supply chain
6 transparency. And certainly, the U.S. has taken
7 steps to require that in certain instances, and
8 we see that in the EU and other places more
9 globally.

10 So, it is certainly an imperative for
11 companies, to the extent that they had
12 visibility, to deepen that, and for those who
13 maybe were slow starters, to start that work
14 quickly and earnestly, because we certainly see
15 the trend across a variety of product categories,
16 but certainly with respect to textiles and
17 apparel.

18 So, I think, as a broad matter, there
19 are a number of factors that go into where to
20 locate supply chains, but, certainly, this
21 ability to have confidence that your vendors and
22 suppliers are able to provide the information

1 that our companies need, whether that's because
2 it's in pursuit of their own sustainability goals
3 or because it is a requirement for U.S. law to
4 import something into the United States, that is
5 becoming increasingly important.

6 And those trusted supplier
7 relationships, and sort of the ability for
8 suppliers to provide that information, is
9 certainly something that our companies are
10 increasingly taking into consideration, as they
11 think about where to source from.

12 MS. WHITE: Thank you.

13 Next, I'd like to address a question
14 to both Ms. Harden and Ms. Popken.

15 We have seen an explosion of imports
16 entering the United States through the de minimis
17 environment since the increase of the de minimis
18 threshold from \$200 to \$800. What impact has the
19 rise in direct-to-consumer sales had on your
20 members? Additionally, what tools do you think
21 the United States could use to strengthen
22 enforcement of U.S. customs laws for low-value de

1 minimis shipments to ensure that foreign
2 businesses cannot abuse the de minimis privilege
3 and disadvantage American companies?

4 MS. HARDEN: I'm happy to start.

5 Well, thank you for the question.

6 I guess I would start, well, one, I
7 wish CBP was here with us for this question since
8 they kind of have responsibility for enforcing
9 these provisions at the border, of course.

10 I would also raise, as a starting
11 point, we don't really view this as a consequence
12 of raising the threshold to \$800. I think, by
13 most reports, the value, the average value of
14 shipments coming into the United States through
15 the de minimis provisions are something like \$55,
16 certainly well under \$100. So, I don't think we
17 start there in terms of looking at the potential
18 concern.

19 But we are concerned that the
20 provision is not necessarily operating as
21 intended perhaps even just a few years ago. When
22 we think about the ability of overseas business

1 models to leverage the provision in a way that
2 perhaps was not previously considered, you know,
3 we take some pause with that, particularly for
4 our members, most of whom are shipping through
5 traditional channels, bringing things in through
6 formal entry procedures. And so, are certainly
7 confident that they will be held to high
8 standards by CBP when they bring their shipments
9 in at the border.

10 But they want to make sure that,
11 however folks are bringing things into the
12 country, that there is equal scrutiny and that
13 folks are investing equally in things like
14 compliance programs -- you talked about
15 transparency in the earlier question -- to ensure
16 that there is a level playing field in terms of
17 what is required, regardless of the value of the
18 shipment coming into the United States.

19 I think there are also a lot of
20 opportunities here for the government to partner
21 with its most trusted traders in thinking through
22 the potential challenges of this environment.

1 Certainly, many of our members are CTPAT members
2 or CTPAT trusted trade compliance members, which
3 are held to more rigorous standards.

4 And so, we certainly welcome the
5 conversation to think through how do we tackle a
6 challenge that perhaps we didn't all necessarily
7 anticipate even just a few years ago.

8 MS. POPKEN: From USFMA's perspective,
9 this has had a profound, the de minimis loophole,
10 the abuse of it has a profound impact on not only
11 manufacturers, but suppliers as well. Three
12 million packages are imported online, entering
13 the United States without scrutiny, evading fair
14 trade policies, standard tariffs and taxes.

15 Shein and Temu alone account for about
16 a third of all the de minimis shipments. This
17 directly impacts USFMA members.

18 There's also a concern on our end that
19 companies can intentionally split up larger
20 shipments into multiple smaller shipments, each
21 valued below the de minimis threshold.

22 For us, de minimis was supposed to be

1 for folks going on vacation and bringing goods
2 back. It was never meant for an ecommerce
3 platform. We believe that we need to lower the
4 de minimis threshold and prevent China from
5 exploiting this and non-market economies from
6 being allowed to use the de minimis.

7 So, we think it has a profound impact
8 on our members. And I'm happy to provide more
9 information in a follow-up response.

10 MS. WHITE: Thank you both for your
11 responses.

12 MR. BAN: Next, Ms. Knight.

13 MS. KNIGHT: Hello. Good afternoon.

14 Again, I'm Jennifer Knight, the Deputy
15 Assistant Secretary for Textiles, Consumer Goods,
16 and Materials. And I'm happy to be here today.

17 I'll start with a question for Ms.
18 Harden. Imports of footwear are highly
19 concentrated in China and Vietnam. What other
20 countries are building capacity to be able to
21 compete globally? And what can the U.S. do to
22 incentivize more diverse supply chains?

1 MS. HARDEN: Thank you for the
2 question. I will certainly provide a more robust
3 response in written remarks, particularly when it
4 comes to the specific countries where we're
5 seeing increased capacity.

6 In terms of how the U.S. can build
7 more resilient supply chains, I think we
8 certainly encourage new market opening agreements
9 with other countries to create opportunities. We
10 think that this has the advantage of certainly
11 lifting standards and, also, creating incentives
12 for folks to work together to create capacity in
13 a variety of product categories.

14 We also understand that concentrated
15 supply chains in any one country can be a risk.
16 And so, folks are certainly actively looking to
17 where they can move their production, but that
18 does take time.

19 Certainly, the requirement for -- and
20 this has been discussed in a couple of different
21 panels, and I think on this one as well -- some
22 of the machinery that is required for some of

1 these products to be produced. I think we even
2 see on the new Section 301 announcement from last
3 week, and some of the exclusions that are
4 specifically listed, when we think about the
5 machinery needed for producing some of these
6 products in other countries, you know, that has
7 to be available.

8 But, certainly, the government can
9 work with other countries on a variety of other
10 factors that influence sourcing. So, when we
11 think about developing the inputs, when we think
12 about developing the skilled workforce that might
13 be needed to produce a particular product, we
14 think about the infrastructure that might be
15 available in a particular country to ensure that
16 folks can get goods to market, and we think about
17 building capacity when it comes to complying with
18 U.S. standards.

19 So, there's a host of ways -- and I
20 know you asked about footwear specifically --
21 that we can broadly work to kind of make other
22 countries a more attractive place to do business

1 and to start building up some of the capacity in
2 these other product categories.

3 But again, I'll provide more
4 information in the post-hearing comments.

5 MS. KNIGHT: Thank you.

6 My next question is for Ms. Popken.
7 Can you give more specifics on state subsidies
8 for footwear industries abroad and their impact
9 on the U.S. industry's ability to compete
10 globally?

11 MS. POPKEN: Absolutely, and I can
12 provide additional responses in written testimony
13 I submit.

14 The concern is that a lot of footwear,
15 as you mentioned, is coming out of China and
16 Vietnam. A lot of these factories are state-
17 subsidized factories that don't have
18 environmental/labor standards, and they're
19 allowed to produce footwear cheaply and ship it
20 into the United States under the de minimis
21 loophole and others.

22 So, there's concern that these

1 factories abroad are not working under the same
2 conditions that American manufacturers have,
3 including environmental standards, labor
4 standards, and the like. So, that's kind of the
5 concern with state-subsidized industries abroad.

6 MS. KNIGHT: Thank you. And just a
7 follow-up question. I know that a lot of the
8 domestic capacity for footwear supplies our
9 defense industrial base. The Barry Amendment is
10 vital to the industry. What are additional ways
11 that Barry could be improved to more effectively
12 support the domestic industry?

13 MS. POPKEN: That's a great question.
14 You know, there's a lot of responses I think that
15 I would have around the Barry Amendment and DoD
16 procurement generally when it comes to footwear.

17 Allowing service members to go to the
18 exchange and buy non-Barry-Amendment-compliant
19 boots and shoes, while only providing boots and
20 shoes for initial service members, is definitely
21 a concern of ours.

22 We think that any rolling back of the

1 Barry Amendment would harm our industry. It was
2 a fight to get footwear included as a part of the
3 Barry Amendment.

4 And then, the footwear industry in the
5 United States not only supports our service
6 members, but during the pandemic many of our
7 factories and suppliers were able to move quickly
8 to producing masks and other PPE for industry.
9 So, having that regional robust supply chain in
10 the United States, which allowed our suppliers
11 and members to pivot to provide not only service
12 members with the shoes they need, with the high-
13 quality shoes they need, but also for emergency
14 preparedness needs.

15 I'm happy to, again, supply additional
16 information in written testimony.

17 MS. KNIGHT: Thank you.

18 MR. BAN: I have a few more follow-up
19 questions. And just noting again for the record
20 that, since we had a few technical issues, we may
21 go until 1:45, if that's okay with everyone's
22 schedule.

1 So, coming back to Ms. Ghazarian, you
2 did mention that your team had to research cost
3 differences in ports, and you also noted certain
4 labor factors that may result in those cost
5 differences. Are there other factors that you
6 discovered that drive differences in port-related
7 costs for U.S. importers?

8 MS. GHAZARIAN: Yes. So, when we were
9 doing our research on two things -- first of all,
10 how to get the goods here quickly and
11 effectively, and then, two, instead of running
12 the business in an FOB standard, which is
13 traditional for our type of technology business
14 out of Asia, we actually brought all the goods
15 into the United States through Free Trade Zones,
16 which we, again, did homework and research on;
17 figured how to leverage, and then, ran our global
18 supply chain out of a Free Trade Zone location in
19 Atlanta, which is about an hour and some-odd-in-
20 change drive time from the Savannah port.

21 So, that was, again, something that
22 was not on our team's radar. It was not very

1 easily researched. Lucky for us, our 3PL partner
2 had just tripped into the information and, in
3 turn, educated us on that. And that's how we
4 made that quick decision.

5 When I talk to other small businesses
6 like myself -- and again, I'm not a big company;
7 I don't have a huge legal department to help me
8 find out this information. And even from the
9 supply chain perspective -- and I have a very
10 talented head of supply chain -- these were all
11 new things to us that were not necessarily
12 readily available.

13 And so, that's the type of information
14 and tools, as a great example, where I, then,
15 educated others in my industry on how to leverage
16 those tools as well, which made it easier for
17 them to keep their businesses alive, not only to
18 have goods here stateside as fast as they could,
19 but, then, be able to ship quickly to Europe and
20 Canada, which a lot of us, if you look at our
21 global business, the majority of it is here in
22 the United States, but a good chunk of it is in

1 Europe and in Canada for a lot of us on the tech
2 side.

3 MR. BAN: Thank you. That's helpful.

4 And I'll note that we actually had the
5 head of the National Association for Foreign
6 Trade Zones participate earlier today in a
7 separate panel.

8 So, your testimony is duly noted.

9 MS. GHAZARIAN: Great.

10 MR. BAN: I have a question for,
11 actually, both Ms. Gibian and Ms. Conis. I think
12 you both addressed, either in your written
13 submission or in your testimony, a concern about
14 transnational subsidization. And I'm wondering
15 if you have a view on recent changes, actually,
16 in Commerce Department regulations that would
17 permit AD/CVD -- excuse me -- CVD investigations
18 into transnational subsidies.

19 And if you don't have a view, that's
20 okay, too.

21 MS. GIBIAN: Sorry. We can't hear you
22 again, but I'll chime in from our perspective at

1 FIA. I'd be happy to provide some insight from
2 the organization in our post-hearing comments.

3 I don't have any remarks off the bat
4 in regards to that. Just that we are hearing
5 more and more from our members about these
6 issues.

7 MR. BAN: Thank you.

8 Ms. Conis, I think you were muted, but
9 if you try to unmute, we might be able to hear
10 you.

11 MS. CONIS: Can you hear me now? I am
12 unmuted.

13 MR. BAN: Yes. Yes, we can hear you.

14 MS. CONIS: Yes, you can hear me?
15 Okay. Awesome.

16 I don't have specific information to
17 what you asked, but I will say and concur with
18 what was just spoken. We are seeing incidences,
19 increasing incidences, not only from Mexico, but
20 even, according to the government's most recent
21 import report, you can see spikes in imports from
22 other countries. Germany, Italy, South Korea,

1 and Canada are all issues. Now, certainly,
2 Mexico and Canada, and specifically Mexico, are
3 the largest.

4 MR. BAN: Thank you very much.

5 I have one last question for Ms.
6 Gibian. Your written submission noted that trade
7 actions can often be reactive and responding to
8 what has already happened in the past.

9 Do you have suggestions for how trade
10 policy, particularly as related to promoting
11 supply chain resilience, can be more forward-
12 looking, perhaps by shaping incentives and
13 anticipating problems?

14 MS. GIBIAN: Sure. Thank you for the
15 question.

16 Yes, I think you hit the nail on the
17 head as far as shaping incentives. But we're
18 also just looking for the additional legwork or
19 research to be done on these items that are
20 coming in from places -- as my fellow panelist
21 said, Mexico -- to make sure that they're
22 actually being produced there and not just being

1 machined there. So, just doing the extra
2 research.

3 And I can address further in our post-
4 hearing comments about what else we would like to
5 see done proactively. But, yes, getting ahead of
6 it and keeping an eye on the companies that are
7 trying to look for loopholes or ways around the
8 existing tariffs.

9 MR. BAN: Thank you, Ms. Gibian.

10 Well, with the remaining time, I'd
11 like to open the floor to our witnesses and ask
12 if there are any witnesses that want to offer
13 additional elaboration or responses to other
14 testimony or rebuttal.

15 MS. HARDEN: Maybe if I could, just a
16 quick point, picking up a little bit on what Ms.
17 Gibian said and in response to the discussion
18 earlier, too, about transshipment.

19 I think one of the things we want to
20 caution is that, some of the trade policies that
21 are being implemented in order to reduce
22 dependencies on countries like China are intended

1 to move supply chains. And so, we will, as a
2 result of that, see increased imports, in all
3 likelihood, from other countries.

4 And so, as we're thinking about
5 increases in imports from other countries across
6 sectors, making sure that we're pinpointing where
7 the bad actors really are; where folks are really
8 trying to avoid the tariffs or avoid
9 countervailing duty orders; you know, where folks
10 have the intent to be skirting some of these
11 measures that were taken, and where there's just
12 a genuine movement of supply chains in response
13 to some of these actions; where there is an
14 increase in capacity if folks perhaps had a
15 supplier relationship and they're, okay, we're
16 going to ship to this country and increase
17 capacity here because we're now seeing barriers
18 or increased costs over here.

19 So, I think we just want to be
20 cautious about how we look at these changing
21 trends. I certainly can't speak for all the
22 industries that are on the line today; I wouldn't

1 dare to. But I just think we need to be
2 thoughtful about how we look at that.

3 And I think we also have to be careful
4 not to "boil the ocean," you know, in terms of
5 all of the measures that we are trying to take or
6 that the U.S. Government may be trying to take to
7 help create resilient supply chains. I think on
8 an earlier panel there was some really excellent
9 discussion about critical sectors and thinking
10 through that.

11 And so, perhaps we start in a few
12 places, but certainly welcome the U.S.
13 Government's actions to support companies. We
14 certainly welcome USTR's actions to promote more
15 diversity and resilience in supply chains, and
16 just look forward to continuing to work with you
17 all on that.

18 MR. BAN: Thank you, Ms. Harden.

19 Anyone else?

20 MS. GHAZARIAN: Hi. It's Deena
21 Ghazarian. I'll jump in. Two things.

22 The first, to back up Ms. Harden's

1 comment, in regards to supply chain, if we are
2 not careful and very conscious about who we
3 choose as our partners, I truly do believe where
4 the skill set has been built over the last 50-60
5 years of our supply chain, it will just shift to
6 other countries versus the United States helping
7 to promote a standard from the beginning with the
8 right partners.

9 So, I know the Consumer Technology
10 Association and some of the different feedback
11 that they have been looking at is: look to our
12 partners, such as Japan, the United Kingdom,
13 potentially some countries in Southeast Asia,
14 that really would align to do things right and
15 partner to grow together versus, sometimes if we
16 just ignore the problem, others get creative and
17 they quickly move, and you follow with them,
18 because, like as a small business like mine, you
19 don't necessarily have a choice. You want to
20 continue manufacturing goods and you go with who
21 you know.

22 So, if there is a way that USTR could

1 help with that, that would be amazing. That's
2 point one.

3 Point two, as a small business, if
4 there's a way that small businesses could
5 leverage the existing FTAs, and USTR could help
6 us with that and negotiate new FTAs, to give us
7 more options for trusted sourcing -- a little bit
8 along the lines of what I was talking about; you
9 going out and finding those two partners or
10 working with us to help find those good countries
11 and partners, and then, in turn, having those
12 FTAs there for us to leverage -- that would be
13 fantastic.

14 MR. BAN: Thank you, Ms. Ghazarian.

15 We have four minutes --

16 MS. POPKEN: If I could --

17 MR. BAN: Oh, yes, Ms. Popken.

18 MS. POPKEN: Sorry. Just building off
19 the question that was asked earlier about
20 footwear manufacturing outside of China or
21 Vietnam, we have seen investments in the Western
22 Hemisphere through CAFTA-DR. I think that one of

1 our concerns is that these are not -- and others
2 have mentioned this on the panel -- that these
3 aren't just China components being shipped into
4 the region, lightly transformed, and then, being
5 shipped into the United States. There is a real
6 concern about cut-and-sew shops being set up with
7 our free trade agreement partners.

8 So, I think, you know, to echo, some
9 of the countries-of-origin ruling, regional value
10 content, making sure that those are robust for a
11 free trade agreement, really support domestic
12 industries. We have members of USFMA who export
13 into the CAFTA countries. So, I think that's a
14 great example of where the USTR can really make a
15 robust investment in the Western Hemisphere.

16 MR. BAN: Thank you, Ms. Popken.

17 I think, with that, we may end this
18 particular panel.

19 And noting for folks on the next
20 panel, we did have some technical issues. So, we
21 ran a few minutes late. But if we have everyone
22 on the line, I think we'll try to get started as

1 soon as possible, so that we get back on
2 schedule.

3 But thank you to everyone on Panel 3
4 for your participation.

5 We'll go off the record just briefly
6 while we check to see where our witnesses are and
7 whether we're ready to go with the next panel.

8 Thanks.

9 (Whereupon, the above-entitled matter
10 went off the record at 1:45 p.m. and resumed at
11 1:47 p.m.)

12 MR. SCHAGRIN: This is Panel 4 in our
13 virtual session on supply chain resilience. My
14 name is Ken Schagrin. I'm the Assistant USTR for
15 Services and Investment. I also have a colleague
16 from the Department of Commerce, Ms. Baker, who
17 has just come on the screen.

18 And our panelists are Mr. Todd O'Boyle
19 from the Chamber of Progress. And we have
20 somebody from TechNet, Ebbie Yazdani. Are they
21 on? Yes? No? He's on the line? Okay, good.

22 So, why don't we get started? What

1 we'll do is we'll have Mr. O'Boyle go first, a
2 five-minute presentation, and then, turn to Mr.
3 Yazdani. And then, we'll have a question-and-
4 answer session on this.

5 So, without further ado, let's turn to
6 Mr. O'Boyle from the Chamber of Progress.

7 MR. O'BOYLE: Good afternoon. Thank
8 you. My name is Todd O'Boyle, and I serve as
9 Senior Director of Technology Policy at Chamber
10 of Progress, a tech industry coalition committed
11 to ensuring all Americans benefit from
12 technological progress.

13 Our corporate partners include
14 companies like Amazon, Google, and Apple, but our
15 partners do not have a vote or a veto of our
16 positions. Thank you for the opportunity to share
17 our thoughts on supply chain resilience today.

18 Supply chain resilience has become
19 imperative in today's global and interconnected
20 business environment. The ability to withstand
21 and swiftly recover from disruptions such as
22 natural disasters, geopolitical tensions, cyber-

1 attacks, or supplier failures can mean the
2 difference between maintaining operations and
3 devastating losses for merchants. More
4 importantly, they empower consumers by ensuring
5 they can access the goods they need from health
6 care to housewares.

7 Therefore, public policy must enable
8 resilient supply chains, including by removing
9 barriers to the free flow of goods and services
10 for the benefit of American consumers and
11 businesses.

12 First, globally, we have seen several
13 barriers to trade -- from countries like India
14 requiring companies to seek a license to
15 distribute hardware; thus, creating friction in
16 shipping. It's a critical area where the
17 American government can and should defend
18 American businesses.

19 While dismissing such barriers to
20 trade as small-bore or simply granting India
21 policy space to evaluate trade on its own terms
22 may be tempting, we should not mistake the impact

1 on our supply chains.

2 At a time of rising global
3 geopolitical competition, diversifying supply
4 chains into countries like India is a good thing.
5 It should be encouraged as a matter of
6 resiliency.

7 However, before American businesses
8 can consider spending the billions of dollars
9 necessary to invest deeply into those countries,
10 they need to know the Administration will be
11 ready to go to bat for them. Supply chain
12 resiliency, in other words, depends in no small
13 part on the USTR and others defending American
14 businesses abroad.

15 Now, I turn to digital trade. Digital
16 goods and services include everything from the
17 next grade up to Hollywood intellectual property.
18 The strong guidelines for digital trade and
19 digital retention are all the more important as
20 advances in artificial intelligence stand to
21 digitize our economy even further.

22 We reiterate our disappointment with

1 the Administration's October 2023 decision to
2 withdraw its support from the Joint Statement
3 Initiative on digital trade, data retention, and
4 other topics. Recent comments from the State
5 Department encourage us that the Administration
6 has not completely given up on digital trade,
7 which is good. The JSI included important
8 language on cross-border data flows and
9 preventing localization mandates.

10 Limiting cross-border data flows is
11 particularly harmful to the American startup
12 ecosystem. It's a one-of-a-kind phenomenon
13 globally.

14 It is essential that the U.S. re-
15 engage in digital trade negotiations, not only
16 because the U.S. digital economy supports 18
17 million jobs, but because it impacts supply chain
18 resilience.

19 Digitalization yields efficiency in
20 operation, which, in turn, enables more agile
21 supply chains. More broadly, American software
22 companies promote the kinds of organization and

1 communications that make logistical coordination
2 more flexible.

3 Finally, resilient supply chains
4 depend, in part, on clear, rational, and
5 efficient customs procedures. The U.S.
6 Government must be a leader here and, also, lean
7 on other governments to ensure that goods are not
8 snarled in foreign ports through inefficient
9 customs processing.

10 This is but one example of what we
11 believe that the USTR should be doing across the
12 board, assiduously identifying and removing
13 barriers to the success of American businesses
14 abroad.

15 Thank you, and again, I thank you for
16 the opportunity to speak today.

17 MR. KEATING: Great. Thank you.

18 Let's turn to our next speaker, Mr.
19 Yazdani from TechNet.

20 MR. YAZDANI: Good afternoon. Thank
21 you for the opportunity to testify today.

22 My name is Ebbie Yazdani and I serve

1 as the Federal Policy Director at TechNet.
2 TechNet is the national bipartisan network of
3 technology CEOs and senior executives advocating
4 and promoting the growth of the innovation
5 economy.

6 Our diverse membership includes
7 dynamic American businesses ranging from startups
8 to the most iconic companies on the planet, and
9 represents over 4.4 million employees and
10 countless customers in the fields of information
11 technology, artificial intelligence, ecommerce,
12 the sharing and gig economies, advanced energy,
13 transportation, cybersecurity, venture capital,
14 and finance.

15 TechNet believes it is critical that
16 the Biden Administration and Congress pursue a
17 decisive trade agenda that drives economic
18 growth, creates jobs, strengthens U.S.
19 competitiveness, and stands up for U.S. economic
20 interests abroad.

21 Maintaining a rules-based global
22 trading system, including through strong digital

1 trade provisions, will ensure that U.S.
2 businesses and workers are able to compete fairly
3 in the global marketplace.

4 The U.S. must also stand against
5 discriminatory and unfair trade practices that
6 target U.S. firms and improve market access for
7 the technology sector by developing and
8 cultivating strong relationships with our
9 international trading partners, leading efforts
10 to shape global trade rules, upholding digital
11 trade, and avoiding unnecessary trade wars that
12 hurt American consumers, workers, and businesses
13 of all sizes. These overarching policy
14 principles at TechNet are critical to not only
15 promoting supply chain resilience, but also
16 ensuring America wins the next era of innovation.

17 To achieve these goals, we urge
18 policymakers to take a whole-of-government
19 approach to advancing any new trade measures.
20 Such measures should not only advance U.S.
21 national security, but also minimize disruptions
22 to commercial activity.

1 We believe USTR can take several
2 concrete steps to promote supply chain resilience
3 that benefits all Americans and ensures the U.S.
4 wins the next era of innovation.

5 USTR should increase coordination and
6 collaboration with other agencies, such as the
7 Commerce Department, to further support the
8 significant progress achieved by the bipartisan
9 CHIPS and Science Act. This includes bolstering
10 USTR's advocacy in multilateral settings to
11 reduce barriers to trade.

12 Digital trade is one of America's key
13 competitive advantages in the global economy.
14 According to a report by the U.S. Chamber of
15 Commerce, digital trade exports supported more
16 than 3 million U.S. jobs in 2022.

17 Lowering costs and barriers to digital
18 trade is also a key factor in promoting supply
19 chain resilience. According to a study by the
20 Organization for Economic Cooperation and
21 Development, examining ways to protect critical
22 supply chains, governments should, quote,

1 "continue to enable digital trade to enhance the
2 resilience of supply chains, to mitigate the
3 economic slowdown, and to speed up the recovery."

4 OECD recommends easing restrictions on
5 goods and services that underpin access to
6 digital networks, reduce barriers to digitally-
7 enabled services, promote policies that bridge
8 the digital divide, and reduce barriers that
9 impinge on the movement of digitally-ordered
10 parcels.

11 Simply put, access to digitalization
12 technology unimpeded by restrictions on data
13 flows or data localization mandates is critical
14 to anticipating potential supply chain shocks.

15 Thank you for the opportunity to be
16 here today and share TechNet's perspective on
17 ways to strengthen America's supply chains.

18 MR. SCHAGRIN: Great. Thank you, Mr.
19 Yazdani.

20 Now, we'll have a couple of questions
21 from our panelists. I'll ask the first one.

22 And I'd like to focus my question to

1 Mr. O'Boyle, and then, I'm going to turn to
2 Lauren Baker from the Department of Commerce to
3 ask a question.

4 I wanted to pick up on the issue of
5 data flows. You know, we're seeking guidance on
6 trade policies to enhance supply chain
7 resilience, and we're trying to reduce dependency
8 on untrustworthy actors in these global supply
9 networks.

10 You mentioned that unnecessary
11 restrictions on cross-border data imposed by
12 other countries would undermine supply chain
13 resilience in the U.S. But what about the other
14 direction? Do you recommend extra restrictions
15 on data going to countries that we do not trust
16 with the data in order to minimize theft,
17 surveillance, or other nefarious actions?

18 MR. O'BOYLE: Thank you for that
19 question.

20 I think it's worth noting that, while
21 that's a very important matter, we should see
22 restrictions on data flows as a last resort, not

1 a first resort, when there are other tools
2 available to address the matters that you just
3 raised.

4 In particular, we look at the
5 compliance challenge for the American startups
6 who often have very small or have limited
7 compliance budgets. And thus, I would want us to
8 look first at what tools are at our disposal
9 before we fully turn to embracing restrictions on
10 cross-border data flows.

11 MR. SCHAGRIN: If I could just follow
12 up really quickly, okay, as a last resort, but
13 what are some of those tools? We're trying to
14 figure out, like, what are the right policies in
15 terms of supply chain resilience, and it would be
16 helpful to know what are some of those tools that
17 are available.

18 MR. O'BOYLE: Sure. Well, if I'm not
19 mistaken, I think I heard you say that there were
20 -- I think I heard you mention, at the beginning
21 of the question, I think I heard a reference to
22 intellectual property. And certainly, there are

1 venues for addressing questions regarding that.

2 I'd also be happy to submit more
3 fulsome remarks addressing that item directly in
4 a written follow-up.

5 MR. SCHAGRIN: Okay. Yes, that would
6 be really helpful because it's an important
7 question. We understand the importance of data
8 flows, but we are really focused a lot on trust
9 in those flows of data because of where certain
10 actors treat the data.

11 Let me turn to Ms. Baker for a
12 question.

13 MS. BAKER: Thank you.

14 So, this question could be for both of
15 the panelists. I welcome responses from both of
16 you.

17 One of the things that we are
18 considering at the Department of Commerce is how
19 to think about data and data infrastructure as
20 key inputs in supply chains, not just for digital
21 products and services themselves, but for all
22 products and services.

1 So, can you talk a little bit more
2 about how we should be thinking about that and
3 how data and data infrastructure access and
4 availability can impact traceability,
5 transparency, and investment decisions?

6 MR. YAZDANI: I'd be happy to --

7 MR. O'BOYLE: Would you like to go
8 first?

9 MR. YAZDANI: Yes, I'd be happy to
10 jump in.

11 I think that's a great question and
12 it's one that those types of components play an
13 important role in the supply chain and promoting
14 supply chain resilience, but, like, restrictions
15 or barriers to access to certain components,
16 things like semiconductors, could have unintended
17 consequences in terms of cost.

18 So, the lens that I think, generally,
19 we would look at it is finding a way to kind of
20 balance those interests from a security
21 standpoint, while minimizing any type of
22 commercial disruption or unintended shocks to the

1 supply chain.

2 MR. O'BOYLE: Largely agree with what
3 my colleague said.

4 MR. SCHAGRIN: Okay. I'll turn back
5 to Ms. Baker. She has additional questions.

6 If you have a follow-up, go ahead.

7 MS. BAKER: So, I was actually hoping
8 that our panelists -- and I'm happy to ask Mr.
9 Yazdani to go first, and then, Mr. O'Boyle second
10 -- if you could maybe provide us with some
11 examples of how access to or free flow of
12 digitally-enabled trade can affect different
13 types of businesses at different parts of the
14 supply chain, at least from the Department of
15 Commerce's perspective, we would appreciate any
16 inputs you have as to how that affects small and
17 medium-sized enterprises and startups, in
18 particular.

19 Thank you.

20 MR. YAZDANI: Sure, and I'm happy to.
21 I appreciate the question.

22 I think certain types of digitally-

1 enabled components, I think an example that has
2 been top of mind among a lot of stakeholders over
3 the past couple of years, following the COVID-19
4 pandemic, is access to the semiconductors. The
5 Biden Administration has taken a very thoughtful
6 approach in terms of promoting the resiliency of
7 our domestic supply chain to ensure that those
8 components are available.

9 I think we all remember kind of
10 working through the COVID-19 pandemic and seeing
11 the impact of shutdowns of a lot of industries,
12 critical industries. It took a while to get back
13 up-to-speed and get back up to our potential.

14 But one thing that enabled us to get
15 back to full speed ahead and get back to our
16 leadership in innovation was having globally-
17 connected supply chains. And one example is
18 that, for certain types of semiconductor
19 equipment, some countries have a productivity
20 advantage for particular components. I think
21 Japan, in particular, for certain types of
22 components for semiconductors, for the production

1 of semiconductors, has a critical advantage
2 there.

3 And so, ensuring that we maintain
4 those global supply chains, so that domestic
5 industries, small businesses, and manufacturers
6 have access to those products. And not to
7 exclude others, but semiconductors have become an
8 even more important part of, I think, a lot of
9 everyday products, including automobiles, which,
10 you know, 10-15 years ago, may not have been as
11 much of the case.

12 But, in tandem with that, continued
13 investments in our domestic manufacturing supply
14 chain is something that helps cover both of those
15 bases. I think it helps advance America's
16 national security interests and our economic
17 competitiveness over the long run.

18 MR. O'BOYLE: And I will add I think
19 Ebbie did a very good job of elucidating some key
20 points there.

21 I'll note that, if we shift more,
22 focus a little bit more specifically on AI

1 startups and small and medium-sized businesses at
2 the cutting edge of technology development, their
3 access to chips and semiconductors, it's a
4 necessary input and they're not able to develop
5 and thrive without access to some of those
6 critical inputs.

7 Thanks to shortages, prices have been
8 very, very high. But also, thanks to critical
9 investments, represented by the CHIPS and Science
10 Act, our hope is that we're overcoming some of
11 that cost curve. That will continue to foster
12 American leadership in an increasingly prominent
13 sector, as we look to things like the capacity of
14 AI to promote digitalization and alleviate other
15 forms of bottlenecks in the supply chain that can
16 be alleviated through digitalization.

17 MS. BAKER: Thank you.

18 MR. SCHAGRIN: Great. Thanks.

19 I want to shift to a topic that wasn't
20 mentioned in your presentations, but both of your
21 organizations have opined on this issue, and it's
22 the customs duty moratorium that is in the WTO,

1 that no duties would be placed on electronically-
2 transmitted content.

3 Do you see that issue as being linked
4 to supply chain resilience in any way? And if
5 so, how? I guess it's a question for both of you.

6 MR. YAZDANI: I'm happy to jump in.

7 I think one of the things that has
8 helped build a resilient supply chain -- and it's
9 going to continue to do so for the foreseeable
10 future -- are strong ecommerce standards and
11 growing online marketplaces. It's something that
12 American consumers all across the country have
13 benefitted from, and it's also something that
14 provides tremendous benefits for small businesses
15 and in terms of lowered barriers to entry to
16 reach customers.

17 And so, any and all policies to ensure
18 that that remains the case, where we're able to
19 empower workers and small businesses all across
20 the country, is a win for American innovation and
21 American competitiveness.

22 MR. O'BOYLE: And fundamentally, we

1 see this as friction in the development and
2 delivery of key American innovations. And so, to
3 the extent that customs moratoriums can reduce
4 some of that friction, we think that's exactly
5 areas where we should be identifying or removing
6 barriers to trade.

7 MR. SCHAGRIN: Thank you.

8 I wanted to maybe turn back to a
9 question that Ms. Baker raised about SMEs. What
10 does a resilient supply chain look like from
11 their perspective? And where do you see the main
12 risks to resilience? And how can trade policy
13 reduce those risks? Particularly focused on SMEs.

14 MR. O'BOYLE: Well, acknowledging that
15 many SMEs are using much larger companies or
16 plugging into logistic networks of much larger
17 companies that are doing global shipments and
18 global trade, we feel that they are very directly
19 impacted by challenges in the supply chain. And
20 so, to the extent that the Administration can be
21 addressing or removing them -- I think a previous
22 panelist referenced additional free trade

1 agreements, and that's certainly one area, among
2 many, that can have a direct consequence, a
3 direct impact on the ability of SMEs to conduct
4 business online.

5 MR. YAZDANI: And I would agree as
6 well. I think that's a critical lens to examine
7 trade policy and it's something that I think it's
8 important to note that digital trade is something
9 that has had a tremendous positive effect for
10 SMEs.

11 There was a study that estimated that
12 cross-border data flows led to an 82 percent
13 decrease in costs for SMEs, and that providing
14 small businesses, medium-sized businesses, SMEs,
15 with better access to global markets would
16 increase their sales significantly. And then,
17 U.S. economic output would rise by a
18 corresponding \$81 billion, creating close to a
19 million jobs.

20 So, it's something that would have a
21 tremendous positive effect on SMEs all across the
22 country.

1 MR. SCHAGRIN: Okay. Thank you.

2 Yes, I think what we're focused on is
3 sort of, what are the trade policies that will
4 reduce those risks? So, this is helpful.

5 Ms. Baker, do you have any additional
6 questions you would like to ask? We're almost
7 out of time, but I think we can go for another
8 couple of minutes, if you have some follow-up.

9 MS. BAKER: I would say, just as a
10 follow-up question -- and perhaps the panelists
11 could get into slightly more detail -- I think
12 that we would be interested to hear how trade
13 policy can be a tool to ensure SMEs and startups,
14 particularly those involved in emerging
15 technology -- you know, AI was already brought up
16 by Mr. O'Boyle. So, I think that's a great
17 example. How can we use trade policy in ways
18 that help ensure SMEs and startups have access to
19 the inputs they need?

20 So, inputs like computing resources,
21 inputs like data, inputs like collaboration with
22 other businesses and talent that they need. So,

1 how can we think about supply chain resilience
2 through that lens and use trade policy as a tool?

3 MR. SCHAGRIN: Well, again, it's a
4 question for both of you.

5 MR. YAZDANI: Yes, and I'm happy to
6 jump in. You know, I think going back to my
7 remarks at the outset -- and I'd be happy to
8 follow up with more details on recommendations
9 here -- but I think that you're spot-on in terms
10 of thinking through trade policy and finding ways
11 to reduce trade barriers.

12 Ultimately, any type of cost
13 associated in the global economy tends to hit
14 SMEs and startups harder. You know, they have
15 not achieved the scale to insulate themselves
16 from hostile increased costs borne out by a
17 supply chain shock.

18 And it's one of the reasons why
19 advocating for a digital trade agenda leverages
20 America's competitive strength. It's something
21 that's going to protect SMEs, in particular.

22 And then, on the point you raised

1 about access to talent, that is a critical issue.
2 It's something that I think policymakers in all
3 levels of the government, as well as policymakers
4 on the Hill, are continuing to wrestle with.
5 TechNet has long supported policies to ensure
6 that we can invest in our domestic STEM talent
7 pipeline, as well ensure that we're able to
8 attract and retain talent from around the world,
9 especially in advanced STEM fields.

10 And so, those are the kind of issues
11 that we would be happy to discuss in more detail
12 and follow up with more fulsome feedback on.

13 MR. O'BOYLE: I would only add that,
14 for some of these small companies, if you ask
15 them what is the single biggest challenge they
16 face, one of the very first things they will say
17 is access to talent.

18 And so, while that was maybe not the
19 central issue of our panel today, I think it
20 bears repeating. It bears underscoring that
21 access to talent and the ability to recruit and
22 retain talent from around the world -- and

1 removing barriers to that, as there are people
2 that want to come here and start businesses and
3 create the next great American technological
4 success story -- we should be working, we should
5 be having a whole-of-society approach to make
6 that happen.

7 MR. SCHAGRIN: Great.

8 Any follow-up, Ms. Baker?

9 MS. BAKER: No.

10 MR. SCHAGRIN: No? Good. So, I think
11 we've hit time. I know we could talk about this
12 for quite some time, but we do appreciate your
13 input and any additional information for the
14 record would be fantastic. But I think that
15 you've given us definitely some food for thought
16 as we move forward with this issue.

17 So, I appreciate your taking the time
18 this afternoon and appreciate my colleague from
19 the Department of Commerce, Ms. Baker, for
20 assisting with this panel.

21 (Whereupon, the above-entitled matter
22 went off the record at 2:14 p.m.)

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Before: USTR

Date: 05-23-24

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



Court Reporter

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