

USTR- PROMOTING SUPPLY CHAIN RESILIENCE
Hearing on 05/28/2024

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE (USTR)

PROMOTING SUPPLY CHAIN RESILIENCE

Tuesday, May 28, 2024, 10:00 AM ET

Ted Weiss Federal Office Building
30th Floor Conference Center, Conference Room 2
290 Broadway
New York, NY 10007

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2 MR. BAN: All right. Good morning, everyone,
3 and welcome to this public hearing on promoting supply
4 chain resilience convened by the Office of the United
5 States Trade Representative. I'm Victor Ban, Special
6 Counsel at USTR.

7 MR. GUNDERMANN: I'm Chris Gundermann,
8 Director of Intergovernmental Affairs and Public
9 Engagement.

10 MS. OETKEN: I'm Jennifer Oetken, Director
11 for Labor Affairs at USTR.

12 MR. BAN: On behalf of our colleagues at USTR
13 and our partners across the interagency, I want, first
14 and foremost, to express our sincere gratitude to our
15 witnesses. Thank you for taking the time out of your
16 day to participate in this public comment process, and
17 for sharing your views at this important inflection
18 point in the development of U.S. trade policy. I'll
19 note for the record that we're joined today remotely
20 just via audio by a few colleagues from USTR and from
21 the interagency, not from the public, but they're just
22 listening in remotely from Washington.

23 Before we get started, I'll offer some brief
24 opening remarks. First of all, USTR's Federal Register
25 Notice of March 7th, provides an overview of how the

1 agency understands supply chain resilience, and its
2 significance within a broader shift in U.S. trade and
3 investment policy away from a focus on short-term cost
4 efficiency and tariff liberalization. As the notice
5 explains, the question of how to enable supply chains
6 to bounce back quickly after crises or disruptions is
7 important, but it's only one dimension of resilience.
8 For USTR, supply chain resilience is multifaceted,
9 encompassing transparency, diversity, security, and
10 sustainability. So what does this broad vision of
11 resilience mean in practical terms when it comes to
12 formulating trade and investment policy?

13 That's why we're here today. We want to
14 understand from all of you where the challenges and
15 pain points are and where potential solutions may lie,
16 whether through existing trade tools or new ones.
17 Importantly, we don't want to limit this hearing or the
18 public comment process more generally to USTR's
19 existing trade policy strategies and approaches. We
20 certainly welcome any discussion of existing tools.
21 But USTR's invitation was more open-ended, and we
22 welcome blue sky thinking about possibilities for the
23 future. Thank you all for accepting that invitation
24 and for joining us here today.

25 That brings me to my last point. Amid all

1 the heightened policy interest in supply chain
2 resilience, it's important that we, as the federal
3 government, recognize that the actual building of
4 supply chains isn't the sole work of the government.
5 Rather, supply chains are born through the collective
6 efforts of workers, businesses large and small,
7 communities, and civil society, enabled by sound
8 government policy. We need your partnership and
9 expertise to develop thoughtful and durable policies
10 and to help all Americans prosper and thrive.

11 In this spirit, in addition to this hearing,
12 we convened in Washington, D.C., four weeks ago for a
13 public hearing, and we then held a hearing in St. Paul,
14 Minnesota. And additionally, last week, we convened
15 virtually for a third public hearing.

16 Thank you again for being here and for
17 working with us in this endeavor.

18 MR. GUNDERMANN: Just a few process points
19 before we get underway. The agenda for today will --
20 is posted on the USTR website. You can just go to
21 ustr.gov, and under trade topics, you'll see a tab for
22 supply chain resiliency. And the agenda is linked on
23 that page.

24 Second, the run of show is that we'll first
25 receive all testimony from the witnesses in

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1 alphabetical order as shown on the agenda. This will
2 ensure that each witness can speak for the allotted
3 eight minutes before we move on to questions. In
4 responding to questions, do please try to be concise so
5 that we can proceed and hear from all witnesses for
6 both panels. A word about transcripts. We have a
7 court reporter joining us -- joining us today who will
8 prepare a transcript of today's hearing. USTR intends
9 to post this transcript on our website as soon as
10 possible after the conclusion of this hearing, and
11 given that we are preparing a transcript, please try to
12 speak clearly. And so before -- and so before we begin
13 your testimony, please state your name and introduce
14 yourself. Note that last week we posted the transcript
15 for the D.C. and St. Paul hearings.

16 After the hearing, our docket will remain
17 open until June 4th to receive post-hearing comments.
18 Note that, as provided in our April 3rd Federal
19 Register Notice, "USTR will permit any person to submit
20 post-hearing comments so long as the comments respond
21 to testimony provided at any of the four public
22 hearings in this proceeding." So any person includes
23 not only the testifying witnesses, but also anyone here
24 who isn't testifying. You're all welcome to submit
25 comments if you want to respond to anything stated

1 during this hearing or any other public hearing. If
2 any witnesses are asked questions that require further
3 research or factual information, it's also acceptable
4 to state that you'll respond and follow up with a post-
5 hearing comment.

6 And lastly, I want to acknowledge, though
7 he's not here, the tremendous contributions of George
8 Crews of the General Services Administration for his
9 diligence and support in making this hearing come
10 together. We are deeply appreciative of the GSA's time
11 and location, so thank you very much.

12 MR. BAN: Great. With that, I'll turn it
13 over to the chair of our first panel.

14 MS. OETKEN: Okay. Again, I'm Jennifer
15 Oetken. I'm Director for Labor Affairs at the U.S.
16 Trade Representatives. I'm going to be chairing this
17 first panel. We will have five minutes of testimony
18 from each of our witnesses, and then we'll move on to
19 about 20 minutes of question and answer.

20 So we'd like to begin with Mr. Griffith.

21 If you want to start your testimony.

22 MR. GRIFFITH: Sure. Thank you. And -- and
23 good morning, everyone. I want to thank you all for
24 inviting me to speak on this very important topic. My
25 name is Brendan Griffith, and I'm the chief of staff at

1 the New York City Central Labor Council, AFL-CIO.

2 As you know, New York City and the
3 surrounding areas are a major economic hub for an
4 incredibly diverse number of businesses, workers, and
5 producers who are part of the global supply chains and
6 beneficiaries of international trade and investment.
7 So we understand in New York City, the importance of
8 international trade to our local, our state, and our
9 national economies.

10 For too long, our nation's trade and
11 investment policies largely reflected the influence of
12 powerful corporate interests. They protected what's
13 important to Corporate America but did little to
14 nothing to safeguard the rights of workers and the
15 environment here and around the world. In the name of
16 greater economic efficiency, they fueled a race to the
17 bottom in wages and standards, where workers everywhere
18 lost. Let me share some sobering statistics.

19 According to the Bureau of Labor Statistics,
20 from the passage of NAFTA in 1994 through 2018, New
21 York State lost 391,658 manufacturing jobs. This
22 figure is for total manufacturing employment, so it
23 takes into account both jobs created by exports and
24 jobs displaced by imports. During the same period,
25 123,855 workers in New York State were certified as

1 having lost their jobs due to imports or offshoring
2 under the Trade Adjustment Assistance Program.

3 That is why the New York City Central Labor
4 Council, AFL-CIO has opposed and worked to defeat
5 corporate-dominated trade deals, like the Trans-Pacific
6 Partnership, or TPP. It is also why we strongly
7 support the Biden administration's worker-centered
8 trade policy that supports good jobs at home and
9 sustainable development abroad. And we especially
10 appreciate Ambassador Tai's emphasis on enforcing our
11 trade laws already on the books to address unfair trade
12 practices that create an unlevel playing field for
13 workers and domestic producers.

14 As this current investigation notes, high-
15 standard trade agreements and full enforcement of our
16 trade laws are vital to creating more sustainable and
17 resilient supply chains. In New York City, we all too
18 well remember the shortages of personal protective
19 equipment faced by our healthcare workers, including
20 unionized nurses and others, and all of workers on the
21 front lines. So I'd like to commend the administration
22 for connecting the dots between trade policy and
23 rebuilding our nation's manufacturing base, especially
24 in sectors that are critical to our economic and
25 national security. We simply cannot afford to lose the

1 ability to produce PPE, lifesaving drugs, and other
2 products in the name of corporate efficiency.

3 Let me wrap up with some thoughts on the
4 importance of sustainable and resilient supply chains
5 to the green energy transition. I'm proud to say that
6 New York City and New York State are leaders in
7 promoting a just transition to clean energy that
8 creates good union jobs. One example I'd like to
9 highlight is the project labor agreement signed between
10 the New York City Building & Construction Trades
11 Council and offshore wind company called Ecuador --
12 Equinor. As a result of this agreement, some of New
13 York's first offshore wind hubs will be built with
14 union labor. This is the kind of high-standard trade
15 and investment that we need more of to ensure our green
16 energy supply chains and projects are resilient and
17 sustainable.

18 Let me stop here, and I look forward to any
19 questions you might have. Thank you.

20 MS. OETKEN: Thank you.

21 Now we'll go to the testimony for Mr.
22 Weinhold.

23 MR. WEINHOLD: Good morning. Thank you for
24 providing me the opportunity to testify. My name is
25 William Weinhold. I'm the plant chairman of UAW Local

1 74. I traveled just over 1,000 miles to join you
2 today. I'm from the heartland of this country in
3 Ottumwa, Iowa, and I work at the -- at the John Deere
4 Ottumwa Works. We've built agriculture equipment in
5 Ottumwa for 113 years strong. We are proud of that
6 fact. I've worked at John Deere for 20 years. I
7 started at Ottumwa Works when I was 33 years young. I
8 come from the skilled trades and started at John Deere
9 as a machine repairman. Two of my sisters, my brother-
10 in-law, and my sister-in-law also work at John Deere
11 Ottumwa Works. The union jobs we fought for at Ottumwa
12 have sustained my family and will continue to long into
13 the future.

14 We've had a union in Ottumwa since 1942.
15 That's 82 years running. For generations, our union
16 has fought to secure high wages, good benefits, and job
17 security for the now 600 workers at the Ottumwa plant,
18 and nearly 12,000 union workers at the John Deere
19 plants across Iowa, Illinois, Kansas, and John Deere
20 distribution centers in Colorado and Georgia and
21 Illinois.

22 In Ottumwa, my union brothers and sisters and
23 I build hay balers, forage harvesters, and windrowers.
24 They're the massive pieces of farm equipment that you
25 see in the fields when you drive by different fields in

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1 -- in the Central America. Our worker ensures that
2 this country has food on the table and gas at the pump.
3 American farmers and the crops they produce rely on the
4 union labor for reliable, state-of-the-art equipment
5 and make possible the nearly 400 million acres of
6 farmland they cultivate every year using the machines
7 that we make, touching everything from the ethanol in
8 our gas, the feed for our livestock, and the starches,
9 oils, and sweeteners in our food. UAW-made farm
10 equipment is the central link in the supply chain.

11 But as I hope to demonstrate today, the
12 strong link of union workers that drive the supply
13 chain is and has always been under constant threat of
14 breaking. The present, yet rarely mentioned, culprit
15 is corporate greed and a billionaire class that wield
16 it. Our link is whittled away with every outsourced
17 job and with every threat of offshoring more. The
18 corporate conduct is a clear and present danger to
19 supply chain, and the days of getting off scot-free
20 must come to an end.

21 The UAW -- UAW firmly believes that a
22 resilient supply chain should be built from the bottom
23 up. Because of the central role the union workers
24 occupy in the domestic food chain -- supply chain, our
25 nation's trade negotiations, enforcement, and overall

1 trade policy must promote supply chain resilience by
2 putting these workers, workers like me, first, before
3 all other competing consideration. The primary goal of
4 our trade policy must be to protect and expand the
5 domestic workforce against the corporate actors that
6 seek to cut wages, bust unions, and offshore jobs.

7 With our historic standup strike, the members
8 of the UAW not only provide -- or proved that -- their
9 importance to the supply chain, but we also provided a
10 model for what the effective trade policy could be.
11 When UAW members walked off the job, we shut down the
12 auto industry, disrupted the economy of billionaire
13 class, while also raising the standards of workers
14 across the industry at non-union automakers. We even
15 forced the company to reopen a plant instead of
16 shipping jobs to Mexico. It was working people
17 standing together that prevented the company from
18 offshoring 1,200 union jobs from Illinois to Mexico.

19 Our nation's trade laws provide no --
20 resource -- recourse. That needs to change. Our
21 strike showed the corporate actors will never do what
22 is best for the country and the American workers on
23 their own. Corporate America only responds to economic
24 consequences for their destructive behavior. Our trade
25 policy must deliver real economic consequences to a

1 company if it decides or threatens to close a plant for
2 offshore jobs.

3 We can see this most acutely at John Deere.
4 In 2021, 10,000 UAW members waged in a month-long
5 strike for a new six-year contract. We beat back the
6 company's offers to make our jobs less secure, and
7 consequently to make our supply chain less reliable.
8 We won 20 percent wage increases to return -- and we
9 returned to cost-of-living adjustments, and we kept our
10 pensions.

11 But with every victory the workers
12 collectively achieve, our country trade policy offers a
13 trump card. It allows corporate actors to seek lower
14 costs elsewhere, while still benefiting from the U.S.
15 market, despite being used to toil crops on the
16 American soil. The machines we build are increasingly
17 being moved from our plants to be built in -- at
18 factories in Mexico. Just a few months after we
19 ratified our contract following the '21 strike, John
20 Deere announced it was shipping tractor cab and mower
21 conditioners to Mexico.

22 At that time, we were told that the USMCA
23 would help prevent this from happening in the future.
24 We were told the trade agreement would help blue-collar
25 workers like us. Unfortunately, we are still waiting.

1 Unfortunately, two years later, we are back here to
2 report more offshoring and the loss of more jobs at
3 John Deere.

4 Just since March of this year, John Deere has
5 announced layoffs of over 650 workers at our plants
6 across the country, and instead of working with our
7 union or even giving us advanced notice, the company
8 has staggered these layoffs to avoid the threshold for
9 compliance with the state and federal WARN Act
10 requirements. This threat of offshoring is ever-
11 present in the working people. Every time we try to
12 fight back and organize or bargain for a better deal,
13 the billionaire class threatens to offshore our jobs
14 and destroy the communities. It is economic terrorism,
15 plain and simple.

16 We cannot have a resilient supply chain when
17 corporate actors are free to undermine the gains that
18 workers achieve together. We demand a comprehensive
19 approach to both trade and industrial policy that puts
20 workers first. The USMCA's six-year review is two
21 years away. We have 24 months to decide whether the
22 working people of this country are best served by a
23 trade regime that offers a race to the bottom, pitting
24 workers here against workers in Mexico, or whether we
25 need a different approach.

1 As the Biden administration considers its
2 next course of action, we hope you look to our fight at
3 John Deere, to the scores of other examples across this
4 country where the working-class communities are left
5 picking up the pieces of a shuttered plant, and resolve
6 to never let it happen again. I welcome any of your
7 questions.

8 MS. OETKEN: Thank you so much for your
9 testimony.

10 I am going to start with a question for both
11 of you. Just to reiterate, we really appreciate you
12 taking the time to -- to testify today. So the -- the
13 first question I have is whether or not you have
14 suggestions for how the U.S. government can better
15 incorporate worker and community voices into its
16 policies on resilient supply chains?

17 MR. GRIFFITH: So yet -- I -- I -- first I
18 will say, you know, I am -- I am, you know, a local
19 advocate, part of a large infrastructure through the
20 AFL-CIO and a more robust one, so I think my answer
21 will be somewhat limited, but I can certainly expand on
22 it in -- in comments after the hearing.

23 You know, I will say that hearings like this
24 are -- are -- are very important to have workers'
25 voices represented, and -- and, you know, working for

1 the AFL-CIO, I can certainly appreciate my role, but
2 most important, I think, is having workers on the front
3 lines of this, like -- like the UAW who are here, Mr.
4 Weinhold, who is here, to speak to the very personal
5 experiences that happen when we deal with trade that is
6 not favorable to domestic production, to domestic
7 workers.

8 MR. WEINHOLD: Could you repeat that
9 question, please?

10 MS. OETKEN: Yeah. Just whether or not you
11 have any additional suggestions for how the U.S.
12 government could better incorporate worker and
13 community voices into our -- our trade policymaking?

14 MR. WEINHOLD: I think just allowing
15 testimonies like myself at hearings like this is a big
16 advocate for our voices to be heard.

17 MS. OETKEN: Great. Another question that --
18 for -- for either of -- of the witnesses, if you have
19 any additional recommendations how -- for how our trade
20 tools and policies could be utilized to respond to
21 supply chain challenges, or when we have supply chain
22 crises?

23 MR. GRIFFITH: Sure. You know, I would just
24 put a very strong emphasis on enforcement. You know,
25 the rules that exist are only as good as their ability

1 to be enforced and to have very specific repercussions
2 when those rules are not followed. If there is not
3 only an unfair -- if there is an unlevel playing field,
4 excuse me.

5 If there is an unlevel playing field, then
6 domestic production, domestic workers are going to be
7 coming from behind in the first place. And I would
8 also just suggest that beyond creating a level playing
9 field, ensuring that there is a robust investment in
10 domestic manufacturing to help stimulate markets.

11 MS. OETKEN: And then one -- one final
12 question from me is -- and this is really coming out of
13 the -- the Federal Register Notice question, but if you
14 have any additional recommendations that you would like
15 to make today or in additional written testimony about
16 how U.S. trade and investment policy can promote a race
17 to the top in terms of stronger labor and environmental
18 protections?

19 MR. GRIFFITH: You know, I would just refer
20 to my previous answer, and say that I can certainly
21 expand upon that in comments after the hearing.

22 MS. OETKEN: Thank you so much.

23 Victor, did you have any additional
24 questions?

25 MR. BAN: Yeah. I do. So thank you both,

1 first for your testimony, echoing Ms. Oetken.

2 Mr. Weinhold, so I -- I -- I know you have
3 been at John Deere for a few decades now, and I am
4 interested in understanding a bit about how you make
5 what you make at -- at your job.

6 Did the -- do the supply chains that support
7 your work, are they running primarily through the U.S.,
8 or are there imports that enable you to manufacture at
9 your facility, if you could speak to that?

10 MR. WEINHOLD: Yeah. So we have both. And
11 so in the last few years, the imported parts that we
12 are bringing into our facility have set us back on
13 being able to do production and get the product out the
14 door that we need, just because the supply chain had
15 slowed down and there was no way to get parts to us,
16 which, in turn, we made less money at that time because
17 we wasn't able to work. We were laid off at different
18 times because parts availability was it -- it wasn't
19 there.

20 MR. BAN: And the disruptions were related to
21 COVID or other factors.

22 MR. WEINHOLD: It started with COVID back in
23 '19, and then things just slowly have started to get
24 better. But it was a two or three-year delay since
25 that happened that we were having supply chain issues,

1 and it directly affects our profitability when we can't
2 put products out the door.

3 MR. BAN: And is there any move to -- to
4 reduce the amount of dependency on imports or to
5 shorten those supply chains, that you are aware of?

6 MR. WEINHOLD: Not that I am aware of. We
7 have brought it up to senior leadership at the company
8 that, you know, we probably need to in source some of
9 this work that we have outsourced so that we have it
10 available here, but they can get it done cheaper
11 somewhere else, so.

12 MR. BAN: Aside from availability, are there
13 other concerns that you have seen from your vantage
14 point in terms of potentially risk or quality of
15 supply?

16 MR. WEINHOLD: So we have seen quality issues
17 when we moved product to Mexico before on our LSB, and
18 we were getting some of those products back, and the
19 quality was terrible. We ended up insourcing some of
20 that work back into our factory.

21 It -- it just makes it tough to bargain for
22 good wages when you got somebody on the other side that
23 can undercut everything and we can get it all done
24 cheaper and the corporations can maintain their
25 profitability and the workers get nothing except for

1 loss of jobs.

2 MR. BAN: And you mentioned LSB. Can you
3 spell that out?

4 MR. WEINHOLD: That is the large square baler
5 that we build.

6 MR. BAN: And you testified earlier that --
7 that certain supply chains or products have moved
8 offshore already, even in recent years. What is your
9 sense of the reason for the portion that hasn't moved,
10 that -- that has remained in the U.S.? Do you
11 understand those products to be special or
12 differentiated in some way that has enabled them to
13 stay here?

14 MR. WEINHOLD: No. Not necessarily, and the
15 fear is always there that those will move right along
16 with everything else.

17 MR. BAN: So you testified about recent
18 movements to Mexico, in particular. Are you aware that
19 the products are -- that are manufactured there have
20 already begun serving the U.S. market or are those --
21 is that production still in -- in the process of
22 ramping up?

23 MR. WEINHOLD: It is -- right now, they are
24 just getting ramped up down there. I am not even sure
25 that they have been able to put a quality machine off.

1 Their production is quite a bit less than what our
2 production rates are, so I don't know that they have
3 been able to produce quite as much as we are.

4 MR. BAN: And do you have a sense of whether
5 what is made at your particular facility is destined
6 primarily for export or for the U.S. market's use?

7 MR. WEINHOLD: I think the most part, it is
8 for the U.S. market.

9 MR. BAN: Okay.

10 MR. GUNDERMANN: I just have two quick
11 questions that I am curious for both of your thoughts
12 on.

13 The first one is Rapid Response Mechanism in
14 the USMCA. I think it was a novel inclusion and
15 curious how you think that is working, how you would
16 like to see that modified, or expanded, or used in the
17 future, more teeth. Any thoughts? Maybe both of you
18 can go -- go to the first.

19 MR. GRIFFITH: Now I will be honest. I am --
20 I am quite -- not quite so familiar with that and --
21 and would need to do more research and -- and reply
22 after the hearing.

23 MR. GUNDERMANN: Okay.

24 MR. WEINHOLD: Same.

25 MR. GUNDERMANN: And then just my second

1 question is just one Ambassador Tai loves to ask
2 whenever she is meeting with folks. I am curious how
3 COVID has led to lasting changes, or any lessons you
4 have learned at your plant, or in your labor council,
5 more broadly, going forward as we move into a new
6 paradigm of thinking about outsourcing, reshoring. How
7 has that changed?

8 MR. WEINHOLD: You can go ahead first, if you
9 would like.

10 MR. GRIFFITH: Sure. You know, I -- I think
11 that being on the ground in New York City during COVID,
12 and in -- in my remarks, I wrote -- referred to a -- a
13 lack of PPE really showed -- showed what I think people
14 who are not in the labor movement, that -- that
15 essential workers are really essential workers. If you
16 are in the labor movement, I think that we always
17 understood that healthcare workers, grocery store
18 workers, workers who are -- are, you know, public
19 facing on the front line of the economy have always
20 been essential.

21 But COVID made that clear in a way I think
22 many did not really -- did not realize. That being the
23 case, I -- I think we are also coming to a place where
24 we can acknowledge that society has short memories, and
25 that workers are being continuously displaced, and --

1 and that designation of essential has since been
2 forgotten by many.

3 We also know that -- I think, that working
4 people realize that just having a job, you know, and it
5 is not a good job, is not enough. Workers deserve good
6 jobs with fair pay, good benefits with, you know,
7 upward mobility, and COVID really showed that, you
8 know, the -- there is certainly a recalibration of
9 values that we -- working people deserve more. Working
10 people are finding their voices. We are seeing
11 organizing throughout this country.

12 Mr. Weinhold referred to the fight at the
13 UAW. That was a fight that was not just for workers at
14 the UAW at those three plants and not just for UAW
15 workers at other plants, but for workers across this
16 country. And we are seeing that in many other places.
17 While not solely a result of COVID, I think COVID
18 certainly allowed workers to find their power, find
19 their voice, gave a glimpse to society of the value of
20 working people, and now it is up to the labor movement
21 to make sure that that value is not forgotten.

22 MR. GUNDERMANN: Can I add -- ask one quick
23 follow-up?

24 MR. GRIFFITH: Sure.

25 MR. GUNDERMANN: What changes are you seeing

1 in how the labor movement is moving forward or new
2 strategies or techniques based on the increased
3 emphasis they got during COVID?

4 MR. GRIFFITH: Again, I think we are we -- we
5 are seeing a lot of worker-led efforts in ways that we
6 haven't before, and I think that's just a wonderful
7 thing. You know, the voices of workers who are day in
8 and day out experiencing the struggles that come from,
9 you know, various policies' inclusion, and why we are
10 here, and trade policy, that are seeing the negative
11 effects of saying that we are not going to -- we are
12 not going to stand for this anywhere. We are going to
13 fight back. Our voice is as important as any voice at
14 a corporate board meeting.

15 MR. WEINHOLD: I would just piggyback off of
16 what he said, honestly. COVID -- the attrition rates
17 in the factory during COVID, we ended up with a lot of
18 people that didn't necessarily want to work, I guess.
19 You start bringing people in. They didn't work very
20 long, and they were gone, and the attrition rates were
21 just crazy. We couldn't get people trained. We
22 couldn't get people into the factory. Everybody was
23 trying to get somebody to work for them, so the number
24 of people that we could get at one time was terrible.
25 I mean, we couldn't even find workers, and then the

1 workers that we did get at that time weren't the best
2 workers in the world, I guess. It set us back quite a
3 bit.

4 We still struggle now. We hired extra people
5 back in those times to cover the attrition and to cover
6 the people who were going to be gone and things like
7 that, and we carried that burden of those extra workers
8 for a while. And now, when we started moving all this
9 stuff to Mexico, then we had to start laying people off
10 and getting rid of jobs in the -- in the factory.

11 MR. GUNDERMANN: That's all I have.

12 MR. BAN: Mr. Griffith, a few questions, if I may. So
13 you testified about the case of Equinor, I believe,
14 this offshore wind project and the PLA that -- that
15 came with that.

16 Can you unpack that a bit for us and explain
17 how that success came to be and some of the key factors
18 that have played into it?

19 MR. GRIFFITH: Sure. Yeah. I -- yeah. As -
20 - as an agreement that was made locally between the New
21 York City Building Construction Trades Council and
22 Equinor, I think, one of the more significant factors
23 is that, you know, the prevalence of union construction
24 in -- in New York City and the high degree of training
25 that goes into it.

1 While this is a new industry coming to the
2 United States, New York City unions have the
3 infrastructure to ensure that their workers have the
4 training and the skills necessary to put out a -- a
5 quality product. And I think that's one -- one
6 significant aspect of it.

7 You know, I -- I think that, you know,
8 another part of this is a realization from
9 multinational companies that there is just -- there is
10 no -- there is no workforce that can compete with
11 unionized labor when it comes to, you know,
12 construction of -- be it wind farms or anything else.
13 Union labor gets it done successfully, gets it done
14 with quality, gets it done the first time.

15 MR. BAN: Thank you. You also testified
16 about rather striking job loss data that I believe you
17 attributed to the period post-implementation of NAFTA,
18 and I believe those were New York statewide data.

19 MR. GRIFFITH: Yes.

20 MR. BAN: Do you have any sense of the
21 sectoral breakdown within those numbers, if some
22 sectors were -- were impacted more than others within
23 the state?

24 MR. GRIFFITH: I -- I don't, and I don't want
25 to misspeak, but I can certainly respond in the

1 comments after the hearing.

2 MR. BAN: Relatedly, do you have any sense of
3 going -- building on Mr. Weinhold's testimony, do you
4 have any sense of whether the trends have changed in
5 recent years, in particular after the conclusion of the
6 USMCA?

7 MR. GRIFFITH: You -- I -- I -- I can't refer
8 to specific numbers. I don't have that knowledge.
9 What I would say, which -- and probably somewhat more
10 than anecdotally, is that the attitudes have changed,
11 and I think there's still a lot of work to be done for
12 the trends to be moving in the direction that we want.
13 As Mr. Weinhold explained, there's still a number of
14 struggles for domestic manufacturing that we have to
15 get through, but I know, you know, partnership between
16 the labor movement, between pro-labor government, and
17 between U.S. domestic manufacturers that, you know,
18 want to help contribute to a domestic economy and a
19 thriving -- thriving workforce, we -- we can work on
20 those challenges.

21 MR. BAN: Thank you. And one final question,
22 if I may. This relates to your testimony about the
23 Equinor project, but of course, the -- the Biden
24 administration has -- has provided much support to our
25 domestic clean energy sector through the IRA and other

1 measures. Have you noticed any impact of that here
2 from where you sit in New York? Are -- are there more,
3 for example, construction projects relating to the
4 energy sector?

5 MR. GRIFFITH: I -- I would say offshore wind
6 certainly stands out as an example in the -- in the
7 local New York area. Beyond that, I would -- I would
8 want to do more research, and then -- then respond in
9 the comments afterwards.

10 MR. GUNDERMANN: One additional question off
11 of that is, going forward, we have seen that
12 investment. Not referring to any specific figures, but
13 what would you like to see going forward as we continue
14 to -- IRA money continues to be unfurled and spent and
15 factories are built. What have you seen that's been
16 good so far, and what has been lacking?

17 MR. GRIFFITH: Sure. I -- I think the most
18 important -- one of the most important parts of this is
19 that it's tied to -- to very strong worker protections.
20 You know, all of the investments have to be tied hand
21 in hand with the creation of good jobs. Whether, you
22 know, it's in New York City or beyond.

23 If that's not the case, then all we're doing
24 is continuing, and I -- I believe the idea of the
25 virtuous cycle might have been referred to before, but

1 we're -- we're looking at a vicious cycle where we're
2 promoting low road jobs where, you know, companies are
3 simply looking at profit as the primary motivator with
4 no consideration for those folks that are working for
5 them.

6 MS. OETKEN: I have -- I have one question
7 for -- for either of the -- the witnesses.

8 Would you consider labor to be an essential
9 component of supply chain resiliency? Or -- yeah.

10 MR. GRIFFITH: Yes. Enthusiastically, yes.
11 And labor -- labor needs a seat at every table. You
12 know, a strong labor movement, strong worker
13 protections, the ability for workers to form unions are
14 integral to supply chain resiliency.

15 MS. OETKEN: Any -- any final questions?

16 MR. GUNDERMANN: Nothing from me.

17 MS. OETKEN: Okay.

18 MR. GUNDERMANN: Unless there are any other
19 thoughts on the infrastructure investments that you've
20 been seeing over the past couple of years, I'd love to
21 hear them. Anything that hasn't been touched on, on
22 clean energy.

23 MR. GRIFFITH: No. I -- I -- again, I -- I
24 will include more information and comments after this,
25 but I do want to say that I appreciate the opportunity

1 to testify. Thank you.

2 MS. OETKEN: Well, thank you so much. That
3 concludes our -- our questions. Thank you for your
4 responses and for taking the time to meet with us
5 today.

6 MR. BAN: We'll take a brief break and go off
7 the record for a few minutes and transition to our
8 second panel. Thanks.

9 (OFF THE RECORD)

10 MR. BAN: Back on the record at 10:53 a.m.
11 All right. So we are a few minutes ahead of schedule,
12 but seeing as all of our witnesses are here, I think
13 we'll go ahead and kick off Panel 2.

14 Once again, Victor Ban, Special Counsel at
15 USTR, and this is our second of two panels in New York
16 City. We will go ahead and get started. As before,
17 we'll proceed in the order shown on the agenda, and
18 we'll be hearing from a wide range of witnesses and
19 sectors.

20 So without further ado, we'll go ahead and
21 get started with Mr. Boring. You have the floor.

22 MR. BORING: Thank you. I appreciate the
23 opportunity to provide testimony here today. My name
24 is Trey Boring. I am president of IMS Worldwide, Inc.,
25 which is a privately held consulting firm that works in

1 international supply chains, focusing a lot on U.S.
2 bonded programs, specifically the Foreign Trade Zone
3 program run out of the Department of Commerce.

4 What I wanted to offer up today is really
5 just some of the experiences that we -- we've had with
6 clients related to supply chain disruptions and the
7 nature of what causes those. What I like to explain to
8 clients, and to anyone, is that a supply chain is just
9 like any other system that you build. Systems are
10 fragile, and they are susceptible to disruption points
11 based on many factors. But when you disrupt that --
12 those supply chains, what you disrupt is, generally,
13 economic impacts to companies, to society, and to
14 employees, as we heard from the first panel.

15 These disruptions are what we would love to
16 avoid at any cost, but there are factors sometimes that
17 you can't. One of the things that we look at is that
18 supply chains are really built on a -- a few factors.
19 I'll paraphrase with some here that -- the availability
20 of resources is one of those factors. Costs,
21 obviously, is another. Existing trade agreements and
22 trade policies are also elements that drive companies
23 to build supply chain models. And any impact to any
24 one of those, obviously, will cause a potential
25 disruption in what the company experiences.

1 We very often say that supply chains are
2 impacted most recently by tariff regimes, 301s, 232s
3 that were implemented in the previous administration.
4 Pandemics. Obviously, the pandemic in 2020 caused a
5 significant disruption to many supply chains. Regional
6 conflicts. We saw that a little bit with the Ukraine
7 and -- and Russian conflict. So regional conflicts
8 certainly play a part. And, in essence, trade
9 policies. One example more recently would be the
10 forced labor, a policy that needed to be enacted, a --
11 a process that needed to be put in place, but the
12 unintended consequence of some of those was the
13 disruption of the supply chain for importers until they
14 had an opportunity to catch up with the enforcement and
15 be able to work through the issues that they were
16 experiencing.

17 So the evidence that we have in all of this
18 really is that supply chains don't change on a dime.
19 In many cases, supply chains take, optimistically,
20 weeks, more often, months to years to change. We saw
21 that with 301, and the fact that the Chinese tariff
22 regime pushed a lot of companies to go back and look at
23 their contracts, their P.O.s, the things that establish
24 these relationships for manufacturing in other
25 countries.

1 And in the last, you know, four to five
2 years, you have seen changes where companies have moved
3 out of China, but it has taken that amount of time.
4 People were not able to move quickly to -- to -- to
5 address those issues. But basically what we look at in
6 -- in a lot of these is that we know that the
7 government and the administration, Congress, they all
8 look at very -- very specifically the why questions.
9 Why do we need adjustments to trade policy? Why do we
10 need trade agreements? Those are very valid questions
11 that need to be answered.

12 I think my only recommendation in my
13 testimony is the how questions also need to be
14 considered in many cases when we implement certain
15 elements of trade policy. How it will impact
16 employees, as our previous panel mentioned. How will
17 it impact domestic manufacturing. How will it impact
18 U.S. companies that employ individuals, and more
19 specifically and dear to what I do for a living, is how
20 will it impact companies that utilize special trade
21 programs, such as the Foreign Trade Zone Program.

22 Many of the implementation rules that we have
23 seen have driven negative impacts to companies that are
24 not only committed to U.S. locations and U.S.
25 employment, but use the program such as the Foreign

1 Trade Zone -- or programs, such as the Foreign Trade
2 Zone Program, to incentivize the operation remaining in
3 the U.S.

4 And when we have a policy that comes, that
5 negatively impacts foreign trade zones more so than it
6 does a regular importer, you know, you're impacting
7 organizations that have half a million people employed
8 in them, that do just over a trillion dollars in
9 imports into the U.S. every year, according to the 2022
10 Foreign Trade Zones Board report. They do just under
11 1.62 million, I believe, was the number in 2022 of
12 exports. So these are major players, major importers,
13 many of which are your most compliant in the
14 government. They are CTPAT participants. They are
15 participants in other trade-related programs that are
16 run by the Customs and Boarder Protection.

17 So these -- these are things that we think
18 would help as trade policy is being debated, is asking,
19 at points, the how questions. How will this impact our
20 current industry, et cetera. I think those are going
21 to be the main things from a trade policy perspective
22 that will absolutely assist us in being a more
23 resilient supply chain as a nation.

24 MR. BAN: Thank you, Mr. Boring.

25 We'll move next to Mr. Gutterman.

1 MR. GUTTERMAN: Thanks so much for the time
2 to testify. My name is Lucas Gutterman. I'm the
3 Designed to Last campaign director with U.S. PIRG or
4 the Public Interest Research Group. I want to provide
5 some comments on critical minerals and electronic
6 waste.

7 So critical minerals are needed for
8 lifesaving medical devices, our country's green
9 transition, and many other essential products. Their
10 importance makes it all the more absurd that Americans
11 are throwing away these valuable and finite resources
12 in the form of electronic waste at the rate of eight
13 million tons each year.

14 Electronic waste is the fastest growing waste
15 stream in the world, and the U.S. generates more than
16 nearly every other country in the world as well. So
17 PIRG advocates to reduce harmful or needless
18 manufacturing, reuse what we've already produced, and
19 recycle the rest until we achieve zero waste. In the
20 electronic space, we campaign for the right to repair,
21 which removes barriers to repair and reuse, including
22 allowing farmers to repair their John Deere tractors,
23 as we actually heard about in the last panel.

24 We also work to ensure that all the products
25 that we use are designed to last and not part of an

1 endless treadmill of disposable devices. We've been
2 campaigning more and more around electronics because of
3 the unique ways that electronic manufacturing, e-waste,
4 and the extraction of critical minerals powering these
5 devices threaten our health, climate, and environment.
6 To address concerns around finite, valuable, and
7 necessary critical minerals, our first step should be
8 to stop wasting materials by manufacturing them into
9 unfixable and disposable devices.

10 The United Nations 2024 Global E-waste
11 Monitor found that rare earth elements are critical for
12 future green technologies, but less than 1 percent of
13 our supplies actually come from recycling. Rare earth
14 elements are critical minerals used in magnets, memory
15 storage, electronic cars and buses, e-scooters, and
16 other necessities for a future without the air
17 pollution that causes climate change, yet 99 percent of
18 these elements being used to meet demand actually come
19 from extraction, while less than one percent are from
20 recycled materials. Our current recycling system is
21 just not capable of creating a circular economy for
22 these elements.

23 Instead of opening new, destructive mining
24 operations, we should stop wasting the critical
25 minerals we use in products that are destined for the

1 dump. Too many consumer electronics have glued-in
2 batteries that act as timers counting down their
3 lifespan. No device with consumable batteries that
4 can't be replaced -- or no device should have these
5 consumable batteries that can't be replaced when they
6 die.

7 These products, including Apple AirPods,
8 aren't designed to last. They're taking rare Earth
9 elements such as neodymium and dysprosium with them to
10 the landfill. And after disposal, neodymium can cause
11 adverse health effects, and dysprosium can actually
12 present an explosion hazard.

13 I want to mention another product as well,
14 which is vapes. The Global E-waste Monitor announced
15 that vape waste is a major e-waste contributor. It's
16 getting worse. Disposable cigarettes, better known as
17 vapes, have become a really pervasive part of our
18 society. The vape market is expected to grow by 31
19 percent annually until 2030, and vape waste could grow
20 at an equally dangerous rate.

21 Nothing we use for a day or two should
22 pollute our environment for hundreds of years. And
23 according to CDC Foundation sales estimates, lining up
24 the disposable vapes sold a year would stretch more
25 than 7,000 miles, which is enough to span the

1 continental U.S. twice.

2 Because of their nicotine residue and the
3 glued-in batteries, there's just no standard legal way
4 for consumers to recycle these products, meaning many
5 of them just are tossed into landfills, and the
6 critical minerals that they contain are lost as well.

7 So U.S. PIRG Education Fund's vape waste
8 report found that Americans throw out 4.5 disposable
9 vapes per second. The United Nations found that the
10 vape batteries produced in 2022 contained 286,000
11 pounds of lithium. Mining for and disposing of this
12 element could have really negative environmental
13 repercussions.

14 The report points out that although lithium
15 recycling is technically feasible, it's not
16 economically viable under current conditions. In 2022,
17 only 13,000 pounds of lithium was recovered from all e-
18 waste. That's less than five percent of the lithium
19 needed just to power disposable vapes sold that year.

20 Dozens of countries around the world have
21 banned disposable vapes. In the U.S. lawmakers across
22 the country have introduced some 48 bills that ban,
23 partially ban, or implement recycling programs for
24 vapes. We need to ban these disposable vapes that are
25 wasting our finite resources and retailers, and

1 franchisees like 7-Eleven, Mobil, CITGO, and others
2 that have received warnings directly from the U.S.
3 Food and Drug Administration should also stop selling
4 these products.

5 So the upshot is that we need to start with
6 reduce, reuse, repair, and recycle. The U.N. E-Waste
7 Monitor found that electronics manufacturing is growing
8 five times faster than recycling. Even though global
9 recycling is growing at a rate of 30 billion pounds per
10 year, it just can't keep up with our insatiable
11 manufacturing of electronics.

12 The only way recycling can work is if we
13 manufacture much less, starting with the stuff that
14 shouldn't exist at all. Right now, only 22 percent of
15 global electronic waste is recycled, and so our social
16 norms of buying, using, and tossing phones, laptops,
17 and other electronics just can't continue at this rate.

18 The first step to resilient supply chains is
19 to stop throwing out the valuable and necessary
20 critical minerals used to manufacture short-lived
21 products with glued-in batteries and limited life
22 spans. Consumers and the environment deserve better
23 than a world where nothing is designed to last. So our
24 supply chain resilience policy should focus on
25 reducing, reusing, and recycling the electronics that

1 require critical minerals before engaging in more
2 damaging extraction.

3 By slowing the flow of e-waste and extending
4 the life span of a wide variety of products, we can
5 reduce pressure for new forms of mineral extraction and
6 lay the foundation for a sustainable circular economy
7 and critical minerals for decades to come. So thanks
8 so much, and I welcome questions.

9 MR. BAN: Thank you, Mr. Gutterman.

10 We'll hear next from Ms. Jaeger.

11 MS. JAEGER: Yes. Good morning, and thank
12 you for the opportunity to be here today and testify
13 and share our views. My name is Kathleen Jaeger, and I
14 am the president and CEO of the Center for American
15 Medicine Resiliency. It's a nonprofit -- bipartisan
16 nonprofit dedicated to restoring medicine resiliency,
17 which to us is synonymous with health resiliency, and
18 also which is fundamental to our national pursuits such
19 as, you know, food insecurity, energy resiliency, and
20 CHIPS.

21 So in -- in 2021, the White House actually
22 issued the executive order 141 -- excuse me -- 14017,
23 which identified at least four critical sectors. And
24 from there, we saw energy, batteries, semiconductors,
25 and pharmaceuticals. And then subsequently, the U.S.

1 passed the CHIPS and Science Act, allocating \$280
2 billion to drive semiconductor resiliency to support
3 clean energy and biotechnology.

4 And then we saw the National Biotechnology
5 Act invest \$2 billion to enhance domestic biotechnology
6 and bio manufacturing. And then in 2022, we saw the
7 nation further invest in the Inflation Reduction Act to
8 bolster domestic energy production and manufacturing.

9 Yet despite these investments, the critical
10 sector of affordable medicine remains unaddressed. So
11 every day, you know, we are delaying, we're actually
12 effectively providing one of our -- a very adversarial
13 nation the opportunity to compromise our national
14 security. This is a very clear and present danger, a
15 danger to the United States, the United States health
16 infrastructure, our economic prosperity, and military
17 readiness and national defense.

18 Since 2019, the U.S. China Security and
19 Economic Commission has warned Congress about the
20 dangers and the excessive over-reliance on China for
21 affordable medicine. We source these medicines
22 directly from China, and we also source them indirectly
23 from China through active pharmaceutical ingredients
24 called APIs, and also key starting materials which are
25 called KSMs and other critical chemical inputs.

1 In 2021, the Department of Defense Inspector
2 General also echoed all these concerns, and these
3 concerns have been echoing even just recently. And so
4 what we've really got to do is look at these warnings
5 and -- and realize that they actually underscore the
6 depth of the U.S. exposure, and the need for
7 accelerated strategic action.

8 Health resiliency is not limited to
9 healthcare. It doesn't. It transcends to all
10 industries, from energy production to national defense,
11 impacting every American from semiconductor engineers
12 to oilfield workers to truck drivers to the military
13 generals, and really from Main Street to Wall Street.

14 The truth is that health resiliency underpins
15 every critical sector, driving both economic prosperity
16 and national security. And as we have witnessed during
17 COVID robust health infrastructure, we know that this
18 infrastructure is critical, requiring urgent government
19 attention and decisive action. And in fact, the White
20 House has stated that keeping America's drug supply
21 chain robust and resilient is essential for national
22 security and economic prosperity.

23 So here we are today. Very few Americans and
24 very few policymakers are aware that the building
25 blocks, the very basic building blocks of our everyday

1 medicines, are mirrored in this global web that
2 actually has a very deep dependency, and it stretches
3 all the way back to China, regardless of where that
4 generic medicine is made. It can be made in the UK.
5 It can be made in Japan. It can be made in the EU,
6 Canada, Mexico. All basically critical inputs come
7 from China.

8 So we're in a situation where all of us,
9 United States and all our trusted allies, are deeply
10 dependent on China, and we are at the mercy of this
11 international geopolitics and political coercion by
12 that country. And over the years, we all know that
13 China has engaged in aggressive, unfair trade
14 practices, undercutting global markets and establishing
15 a near-monopoly on key starting materials required for
16 affordable medicines like antibiotics and
17 hypertensives.

18 So it's really time to adjust the past
19 threats and also to mitigate any potential future
20 threats here, and we need to do that by derisking,
21 rebalancing, and rediversifying our supply chain. So
22 we were actually very pleased to see that on January
23 2024, this year, U.S. and India, the joint statement
24 agreement, acknowledged the need to work together to
25 diversify the API and KSM inputs.

1 So we here -- are here today to say, let's
2 accelerate resiliency here, and we're asking USTR and
3 the federal government to proactively engage and
4 execute sectorial bilateral trade agreements with key
5 goals, and they -- really, again, the key goals are
6 resiliency, diversification, security of a supply
7 chain, along with industry sustainability through
8 investments, innovation, collaboration, and
9 manufacturing of our prioritized inputs.

10 Certainly, the guiding principles are
11 everything that USTR stands for, which is transparency
12 and accountability and a fair and level playing field
13 for all. We also need to ensure that we have
14 technology transfer in onshoring activities, and we
15 need to do that through collaboration for R&D,
16 technology transfers back to the United States, data
17 sharing, and innovation and research development.

18 We also need to provide financial and
19 investment opportunities to drive resiliency. We need
20 to be looking at public-private partnerships that
21 provide a -- a real good, solid suite of innovation in
22 the funding and opportunities to invest in this sector.
23 And we also need to look at the resilience. And so
24 really looking at the mapping of the inputs, looking at
25 stockpiling as we move forward, and then looking at

1 market creation and creating a market demand for those
2 products that are clean and free of adversarial inputs.

3 So further, you know, we also had --
4 furthermore, we had global CEOs from India just
5 recently come to the United States back in April, and
6 they actually proffered a U.S. India affordable
7 medicine partnership that if it -- if it was executed
8 would actually set a very strong foundation, and it
9 actually would create a construct for collaboration
10 that would drive that innovation, and it would drive
11 manufacturing both across -- actually, in India, as
12 well as here domestically.

13 And also, once it was established, we could
14 really take that construct and expand it to other
15 countries and use that as a model for the EU, the --
16 you know, Japan, EK, the EU and -- and Canada and the
17 like. And that way, we can really build a very secure,
18 diverse supply chain for affordable medicine.

19 So we really are asking the Biden
20 Administration to strongly move forward here to
21 immediately engage on this proposal and -- and really
22 work to build out this partnership proposal, at the
23 same time also extend the Defense Production Act to
24 extend not just to drug shortages of sterile products,
25 but also to ensure that we can prevent outages -- drug

1 outages, and so we aren't at the mercy of political
2 coercion.

3 We also want to -- we also realize that it
4 really --necessitates this whole situation is just so
5 urgent that we also are asking for USTR to take a
6 broader advocacy role and really look at perhaps
7 supporting federal legislation. Much like the CHIPS
8 Act, it would be the Medicines Act, that would look at
9 opportunities to streamline the domestic manufacturing
10 and allied manufacturing opportunities, at the same
11 time looking at opportunities to interface with the
12 government and streamline the -- the FDA approval
13 process, the environmental process, and the funding.
14 And so that would be much like a comprehensive piece
15 like semiconductors, so that we can accelerate and
16 derisk as fast as -- as we can.

17 But lastly, the one piece we would also like
18 to urge USTR is to be cautious, and as you're looking
19 at legislation on the Hill and -- and you're looking at
20 legislation that we -- respect to trade, anything
21 that's something similar like the Medical Supply Chain
22 Resiliency Act, which is supported by PhRMA, this
23 legislation might set some very needless barriers and -
24 - and hurdles to overcome, and it also is just driven
25 for one industrial sector.

1 So we ask that USTR instead support and
2 streamline measures that actually will accelerate
3 sectoral bilateral agreements that will really
4 effectuate meaningful change and really build a
5 resilient supply chain to secure our nation. So with
6 that, I thank you for the opportunity to be here today,
7 and happy to share our views.

8 MR. BAN: Thank you, Ms. Jaeger.

9 We move next to Mr. Kennedy.

10 MR. KENNEDY: Good morning. John W. Kennedy.
11 I am now with the -- the New Jersey Economic
12 Development Authority. I'm the senior advisor to the
13 governor, and to the CEO of the EDA and -- but most of
14 my background has been in engineering and
15 manufacturing. I owned engineering and manufacturing
16 companies in New Jersey for many years. Supply chain,
17 my doctorate is in supply chain. So it's always
18 interesting to me to hear that we have this incredible
19 need on supply chain now when it's been going on for
20 30, 40 years and we ignored it, and that's part of the
21 issue.

22 What happens, though, is that we take supply
23 chain in bite-sized pieces. All right. Most people
24 look at supply chain. We need batteries. We need
25 batteries. That's great, but as one of the gentlemen

1 said down here, you know, where's the minerals coming
2 from? That's the supply chain. How do we feed this?
3 How do we take away? It's not just the end product.
4 You know, we can't build cars because we don't have
5 chips. Well, it's a lot more to that.

6 You know -- you know, we're looking to fix it
7 now, and -- and one of the jobs that I had for 12
8 years, I worked -- I ran the New Jersey Manufacturing
9 Extension Program, which is part of a national program
10 through Department of Commerce and NIST. The MEP
11 National has 51 representatives, every state and Puerto
12 Rico, and they're not an association. They're a
13 working group to assist manufacturing and supply chain.
14 You cannot have manufacturing without supply chain.
15 And we worked very hard to try to work that through.
16 And my role took not only the New Jersey market, which
17 by the way has 11,000 manufacturers and 340,000 workers
18 in -- in a small state such as New Jersey. So consider
19 the impact overall when you are talking about 50
20 states, and -- and so when you look at it, what did we
21 -- what have we learned?

22 Well, first of all, we always know that our -
23 - as somebody mentioned -- the tariffs. You know,
24 everybody sees it as a political football. The dumb
25 engineer in me sees it that we don't make steel and

1 aluminum like we did in the past. Steel and aluminum
2 aren't just one-size-fits-all. There are multiple
3 levels of what types of steels and -- and what types of
4 aluminums, and what you can do with it, and what you
5 can't do with it. And so what it taught me was that we
6 are in trouble right now. That is not part of the
7 discussion.

8 During COVID, we mentioned COVID, what you
9 saw was a lot of good stuff, as well as a lot of bad
10 stuff. You all had enough to eat. You all had water
11 that was clean and, everything, right? You had
12 medicine, electric. You gassed up your car. That is
13 all because of manufacturing.

14 But what we didn't have was a sustainable
15 process to go past that. One of the issues is that we
16 don't look at our supply chain. There is no national
17 supply chain database. There is none. It does not
18 exist. We rely on companies whose -- their intent is
19 to make profit. Well, it should be. That is their
20 job.

21 So what happened during COVID was that you
22 had 51 MEP centers communicating with all sorts of
23 databases, so what should have taken minutes in a
24 combined database took days of back and forth, and
25 that's -- that's a problem. So what I found was --

1 somebody that has been in New Jersey, and been in this
2 industry, and we have a database in New Jersey of 9,400
3 companies, what I found was we couldn't get PPE and
4 stuff, right?

5 MS. MONTGOMERY: Uh-huh.

6 MR. KENNEDY: Two hundred and forty-seven
7 companies make PPE in New Jersey, some portion of PPE.
8 I did not know that, and I should have, and that's part
9 of the problem. If we don't know what is in our supply
10 chain, we don't know what we need.

11 The easiest statement is, we don't make that
12 here anymore, and that is a bunch of bull. We do make
13 a lot of these things. We just don't pay attention to
14 it because we don't know, and that is problematic. If
15 you look at the CHIPS Act, there is a section on
16 national supply chain database tool. It is in there,
17 because I wrote it. MEP worked very hard to get that
18 bill passed because it is critical to our security or -
19 - and so many other aspects. It is supposed to get a
20 \$131-million investment over five years. It got 20
21 million and stopped. My opinion was you run it through
22 the MEP system because they already got four to 5,000
23 people, boots on the ground, but also you tie in, you
24 know, all of our aspects.

25 Mr. Ban, you spoke about this is a combined

1 effort, and somebody said public-private partnerships,
2 right? That is the public-private, U.S. firms, the
3 governments, you know, our trade partners. Hell, our
4 union partners are very -- very important in this
5 aspect, too. We talked about offshore wind, not just
6 the -- the building of it, but how do we maintain these
7 -- these aspects? Because everyone we are putting in
8 is basically a prototype, because we are building them
9 bigger and bigger and nobody has built them that big
10 before, so there are going to be maintenance issues.
11 You know, our ports of entry and our flexibility in our
12 supply chain so that in critical times, whether it is a
13 pandemic, whether it is weather, I'm scared, but
14 defense that -- I don't think things are going to get
15 better. If you look at certain things and you look at
16 certain charts, even our military gets almost all of
17 their chips materials from who we might consider foes,
18 and that is a problem, right, and this is all the
19 materials.

20 Spoke of recycling. What about glass
21 recycling for substrates? What about films and
22 chemicals, all of these things that we need to be able
23 to do? And this is the critical aspect of where we are
24 going with this, because I think everything you are
25 talking about is really important. The thing that

1 scared me the most during the pandemic was I read an
2 article in the Wall Street Journal that said we get 80
3 to 90 percent of our blood pressure medicine from
4 China. I don't know if that is absolutely true, but
5 that was in the Wall Street Journal. Then the New York
6 Times came out two -- two days later with an article
7 saying 50 percent of us are on blood pressure medicine.
8 I am one of the lucky ones. My -- my wife says I am a
9 carrier, so I give high blood pressure, I don't -- but
10 -- but think about that. If you went to war, 50
11 percent of us would have an issue because we wouldn't
12 have -- and the second thing I read was almost 100
13 percent of the ibuprofen comes from China.

14 MS. MONTGOMERY: Yes.

15 MR. KENNEDY: Anybody have a Tylenol over the
16 last week or so? These are issues that we are not
17 thinking about, and we should, and it doesn't end --
18 begin and end with government. It begins and ends with
19 all of us, whether that is labor, whether that is
20 engineering and manufacturing, whether that is, you
21 know, all of these aspects, and we need to figure this
22 out. But every time we have this conversation, the
23 crisis passes and we go back to normal.

24 As a kid, my dad worked -- was in the Army
25 Air Corps during World War II. He took me to air

1 shows. And I remember in the '60s, he took me to an
2 air show and showed me a B-52, and this was like '65.
3 And he said, gee, John, take a look at this because
4 these planes won't be flying that much longer. They
5 are probably going to be replaced. It is now 2024.
6 Guess what our big bomber still is, the B-52. Who
7 makes the components to put them up in the air? Not
8 many.

9 Thank you for having me and listening to me.
10 I forgive my passion. It just comes out.

11 MR. BAN: Thank you, Mr. Kennedy, for your
12 testimony.

13 We will move to our last witness of the
14 panel, Ms. Montgomery.

15 MS. MONTGOMERY: Good morning. My name is
16 Megan Montgomery, and I am fortunate to be the
17 Executive Vice President of the National Customs
18 Brokers And Forwarders Association of America. We
19 couldn't agree more with some of the comments that Mr.
20 Boring made regarding the how of trade policy, and the
21 requirement that we need to implement the core -- the
22 core infrastructure in any sort of trade policy.

23 The NCBFAA represents more than 1,300 member
24 companies consisting of the nation's leading customs
25 brokers, freight forwarders, ocean transportation

1 intermediaries, non-vessel-operating common carriers,
2 and air cargo agents. Our industry manages
3 approximately 97 percent of goods coming into the
4 country, and over 90 percent of outbound goods. We are
5 the only industry to touch every air, land, and sea
6 port, every participating government agency or PGA,
7 every harmonized tariff code, HTS, and every
8 congressional district. We have the kind of visibility
9 into the logistical and regulatory movement of goods
10 that no other industry has, and we are a vital
11 component of Homeland Security in the cargo space.

12 I will be making three main points in my
13 testimony today. First, any supply chain solution must
14 be implementable, administrable, and operationally
15 viable through all trade lanes. NCBFAA believes that a
16 consistent, rational, and practicable set of trade
17 rules that all traders and service providers can
18 implement will support supply chain resilience. Clear,
19 transparent, and uniform rules could and should lead to
20 the seamless processing of goods, as well as optimally
21 focus the government's enforcement capabilities.
22 Further, federal officers and administration --
23 administrators who regulate trade need training
24 throughout their career to stay current with the same
25 rules and procedures to which the trade community must

1 adhere.

2 NCBFAA strongly supports USTR's efforts to
3 understand and improve the resiliency of the U.S. and
4 global supply chain. The pandemic and its impact on
5 cargo flows showed us how truly vulnerable we all are
6 to the stability of the global supply chain. Empty
7 grocery store shelves, panic buying, toilet paper and
8 PPE shortages are not something that any of us want to
9 see repeated.

10 We urge that any changes, suggestions, and
11 solutions be made in partnership with the ports of
12 entry and the transportation and logistics
13 intermediaries. USTR excels in enacting trade policy,
14 but the implementation of trade policy on the ground is
15 a delicate business. It is full of nuanced terms of
16 art that are often redundant and defined differently in
17 various contract -- contexts and built upon a wholly
18 complete supply chain microsystem already in place.

19 We also want to work with USTR to make sure
20 that there are as few missed opportunities as possible.
21 We often see when updates, changes, or additions to
22 governmental policies and programs are rolled out that
23 there are areas where a few additional words, a
24 different phrase, or just a slight tweak to the policy
25 could have resulted in large additional gains at no

1 cost to what was already accomplished. This is also
2 often a case in legislation, as we spend a significant
3 amount of time working in partnership with legislators
4 draft -- legislative drafters to provide technical
5 assistance to ensure that the legislators mean what
6 they want it to mean -- the legislation means what it -
7 - they want it to mean and does what they want it to
8 do. We hope that we will be able to provide that same
9 partnership and support to the USTR.

10 Point number 2. Digital and physical
11 infrastructure must be co-created through public-
12 private partnership to maintain viable supply chains.
13 NCBFAA has expressed concern to both Customs and Border
14 Protection and the Department of Homeland Security
15 regarding how much of our port and trade infrastructure
16 is controlled by non-U.S. entities. We have heard
17 reports that in some ports more than 40 percent of
18 terminals are leased by foreign parties, mainly China.
19 This is alarming because the lessee of that terminal
20 ultimately has control over what ships and cargo can
21 move through the terminal.

22 Picture the ports of LA and Long Beach a few
23 years ago with 80-plus ships docked, backed up,
24 anchored off the coast. Now, imagine that four to five
25 of those 13 combined terminals were leased by China,

1 and China got to decide which ships' cargo was allowed
2 to dock and unload. That would have made an already
3 challenging situation exponentially worse.

4 We also, as this -- as the country currently
5 allows foreign importers of record outside of the
6 jurisdiction of the U.S. government, which creates
7 enforcement challenges for the U.S. We should be sure
8 when working towards a more resilient supply chain, we
9 are comfortable with the amount of foreign influence
10 and control leveraged in our infrastructure.

11 Another area that needs to be revisited is
12 the commercial -- is the Automated Commercial
13 Environment single window, commonly known as ACE. It
14 is the system of trade management systems that was
15 declared complete in 2016, and was intended to
16 incorporate all federal agency requirements related to
17 the importation and exportation of goods and eliminate
18 paper forms. Now eight years later, we find that some
19 agencies are reverting to their own system,
20 nomenclature, standards, and/or requiring paper
21 submissions. This creates redundant data, and coupled
22 with the repeat reporting and storage requirements,
23 makes for an atrophied logistics system that is much
24 less flexible and scalable than it needs to be. Every
25 port has its own unique ecosystem and layering CBP,

1 PGAs, and multiple layers of redundant data weakens
2 supply chains, making them less able to flex and change
3 when circumstances do.

4 This was a significant factor in some ports
5 having very large backups during this -- the pandemic
6 and some with almost no backups at all. The cargo just
7 can't set sail for a less -- a less congested port.
8 That cargo is, literally, regulatorily and
9 logistically, locked into place. A resilient supply
10 chain should stay as data-lean as possible for Homeland
11 Security, while allowing changes in the physical
12 movement of goods to best capitalize on any available
13 option in times of system stress. Holding respectful
14 (sic) federal agencies accountable through the Border
15 Interagency Executive Council, or the BIEC, is
16 imperative if we are to achieve a one USG electronic
17 cargo release. Accordingly, ACE, this vital IT system,
18 needs dedicated, ongoing funding for enhancements and
19 improvements as necessary to keep trade flowing.

20 The IT infrastructure overall needs to be
21 modernized as part of our supply chain resiliency
22 review. We are all vulnerable to cyber-attacks, system
23 failures, and overall outages. We need co-created
24 public-private partnership plans, tabletop exercises,
25 and shared drills to ensure that legitimate goods can

1 continue to move to deliver vital products to America's
2 grocery stores and front doors.

3 And finally, number 3. Trade policy must be
4 transparent and consistent so that companies can
5 formulate business decisions that promote nearshoring
6 and ally shoring. USTR should seek to level the
7 playing field with a consistent and reliable trade
8 policy resulting in fair and competitive trade.
9 Companies make long-term, multi-decade investment in
10 plants, sourcing partners, supply routes, and
11 instruments of international trade. These cannot
12 change on a whim.

13 The government's lapse of preferential trade
14 legislation, like MTB, GSP, and AGOA severely hinder a
15 company's ability to make long-term investment
16 decisions abroad. While we understand that
17 geopolitical issues arise, trade should not be
18 weaponized, because in the end, people paying a price
19 for that are American companies and ultimately American
20 consumers. Companies need stable and predictable U.S.
21 policy upon which to layer their own internal and
22 business risk assessments.

23 U.S. supply chains also need sufficient time
24 for implementation of all trade policy changes, trade
25 remedies, or changes to trade rules or procedures.

1 Changing trade policies and procedures when goods are
2 on the water is very disruptive to the supply chain and
3 should be avoided at all costs. Thank you for allowing
4 us to share our views today, and we look forward to
5 answering your questions.

6 MR. BAN: Thank you, Ms. Montgomery, for your
7 testimony.

8 I'll start off the question and answer
9 portion with a few questions for Mr. Gutterman.

10 Thank you, Mr. Gutterman, for your sobering
11 submission about the imperative to increase recycling
12 of critical minerals, especially from e-waste. Your
13 submission focuses on product design and consumer
14 behavior as two key areas for developing solutions.
15 Can you speak a bit to the technology or infrastructure
16 needed to improve recovery and recycling of minerals
17 from e-waste, and what can be done to build a stronger
18 supply chain for these recyclables?

19 MR. GUTTERMAN: Yeah. Thanks for the
20 question. I guess I would clarify that one of my whole
21 points is that we actually really can't recycle our way
22 out of this problem. And so the reason why I'm
23 focusing on product design and extraction is because
24 that's where I actually think the intervention is.

25 Recycling rates are -- are quite low. They

1 vary by metal -- metal. Really common metals like
2 aluminum and copper actually can have quite high
3 recycling rates, but the critical minerals and the rare
4 earth elements that I talked about often have
5 incredibly low metal recovery rates. And so
6 ultimately, the solution is to just use them less and
7 make sure that the products we are using them for are
8 the products we want to use them for, and then make
9 sure those products last as long as possible.

10 One really simple thing, though, that I would
11 point to, just in terms of, you know, the sort of
12 global situation, is that disposable vapes are actually
13 not authorized in the U.S. They have not been approved
14 by the Food and Drug Administration. There's --
15 there's 13 vapes that have been approved that are all
16 tobacco flavored and are not disposable. And so one
17 really easy solution is just actually to enforce that
18 ban. I mean, we could walk outside right now and I'm
19 sure find disposable vapes at every convenience store
20 in the city. And so that's something that actually can
21 be done, you know, at the border, just prevent these
22 disposable vapes that are manufactured from other
23 countries from -- from crossing over.

24 But ultimately, the solution really is to
25 stop manufacturing things that don't last and stop

1 manufacturing things that shouldn't exist at all in the
2 first place, like disposable electronics with batteries
3 that are fundamentally consumable and fail, and like
4 disposable vapes that are -- are really sort of
5 designed for the dump. They're -- they're disposable
6 electronics through and through, and that just
7 shouldn't exist.

8 MR. BAN: Thank you, Mr. Gutterman. Just to
9 clarify, so when you mention recovery rates, that is a
10 rate that describes a maximal amount of material that
11 can be recovered based on existing technology? It's
12 not a --

13 MR. GUTTERMAN: Effective recovery rates.

14 MR. BAN: Effective recovery rates.

15 MR. GUTTERMAN: Yeah.

16 MR. BAN: So it's not a function of behavior
17 or willingness to recycle or build infrastructure?

18 MR. GUTTERMAN: Yeah. There is sort of a --
19 a funnel, right? Where the first step is just actually
20 designing products that -- that can be recycled easily.
21 When you have a product like a headphone, like AirPods,
22 or like a disposable vape, those batteries are glued
23 in. It actually can be really difficult to just
24 actually recycle the product and -- and manually take
25 it apart and move the components. Then consumers need

1 to actually recycle the product, and then there needs
2 to actually be the economic and chemistry available to
3 recover the actual metals from the products.

4 So it's all well and good to encourage
5 consumers to recycle. We like to say that, you know,
6 the -- the worst recycling is better than the best
7 landfilling, but ultimately, the solution is -- is --
8 is not recycling, because the functional recovery rates
9 for especially these critical minerals is extremely
10 low, either because we don't have the technology or
11 because we don't have the economic incentive to do so.

12 And then you know, finally, I would just say
13 that there's sort of this fantasy that, you know, I
14 think people have, that when they put their product in
15 the recycling bin, they're putting their old phone
16 there and they're just going to get a new phone out of
17 that. That's never happened, and I don't think it ever
18 will, right? That fundamentally these products are too
19 complicated. They have too many little components and
20 parts. I doubt it will ever be economically or
21 technologically feasible to make a new complete
22 consumer product like a phone from an old one.

23 MR. BAN: Thank you for the clarification.
24 Do you see the economic viability as differing based on
25 type of product or the value of the product? For

1 example, a large battery for energy storage --

2 MR. GUTTERMAN: Uh-huh.

3 MR. BAN: -- grid applications or electric
4 vehicles may be economically more viable to recycle
5 versus a small consumer electronic product?

6 MR. GUTTERMAN: Yeah. That -- that can be
7 true. I will say that that -- you know, because you
8 mentioned sort of EV batteries or -- or home storage
9 batteries. Lithium is a good example because we
10 actually have the technological process to recover
11 lithium, but it is just not economically viable. And
12 so instead, we just extract more lithium from the
13 environment because it's cheaper than, you know,
14 actually recovering it from -- from -- from lithium ion
15 batteries.

16 So sort of that -- that sort of -- I think
17 there is some question to that. And then I would also
18 highlight that the largest category of e-waste by
19 weight is actually small electronics. So it is really
20 important to, you know, recycle our refrigerators and
21 our appliances, and increasingly, in the next couple
22 years, electric vehicles and their batteries and e-
23 scooters. That's definitely an important part of the
24 process, but really, the most e-waste we're producing
25 is from electric toothbrushes and phones and vapes and

1 sort of all of these low-cost products that are just
2 really designed to end up being disposed.

3 MR. KENNEDY: And if I may, so many things
4 have semiconductor chips. Your -- your plug-in, you
5 know, air freshener has semiconductor chips, and how
6 we're able to recycle those and those materials,
7 whether that's glass silicates, or whether that's
8 galenic ore or all of these other aspects, we've got to
9 figure that portion out, and -- and we don't because
10 it's not, as he said, economically viable.

11 And also, to be honest with you, it's access,
12 a lot -- you know, I mean, my Boy Scout troop, we ran
13 electronics recycling in our town and charged \$5 a car
14 load, and in four hours made \$5000 because no one knew
15 where to bring the items.

16 MR. GUTTERMAN: Yeah.

17 MR. KENNEDY: We worked with a company that
18 could recycle because there's a lot of precious -- you
19 know, your highest conductive materials are gold,
20 platinum, silver, and so on. Not to mention, you know,
21 the -- the other stuff. So you know, these are things
22 that concern a lot of stuff. You talk about the car
23 batteries. If you ride your car for 150,000 miles,
24 you're going to go through at least three batteries.
25 What do you do with it? And -- and how do we recycle?

1 How do we figure it out? You know, and that -- that's
2 certainly things that we need to figure out, not just
3 for the United States, but for the world usage as well.

4 MR. GUTTERMAN: And just one more note on
5 that because we're talking about car batteries and sort
6 of large home storage batteries as well. One thing
7 that we're also concerned about is just making sure
8 that -- again, because recycling can actually not be
9 that effective, that we have re-manufacturing or
10 reselling or reuse potential for these batteries as
11 well, in a safe way.

12 That's why in New York we've had some really
13 high-profile fires, and that has resulted in
14 legislation that, you know, has certain licensing
15 requirements for the batteries that are used in
16 micromobility devices like e-scooters. That's
17 important, right? We want to make sure our lithium ion
18 batteries are safe.

19 We also want to make sure that the huge
20 batteries that are being used to power electric trucks
21 can actually find a -- a second life. There's no
22 reason why those batteries couldn't be used for home
23 storage or for micromobility or remanufactured for some
24 other use. And so I just want to -- we sort of have to
25 balance those tensions between making sure that we're

1 using these products safely and they're being
2 transported safely, and also that we realize that, you
3 know, an EV battery that has been used to 70 or 80
4 percent capacity still has a lot of life left in it and
5 can be useful for -- for consumers or for other uses.

6 MR. BAN: Thank you very much.

7 Mr. Jaeger -- I mean, excuse me, Ms. Jaeger.

8 MS. JAEGER: Uh-huh.

9 MR. BAN: You propose in your written
10 submission that developing federal government
11 procurement measures may help diversify generic
12 pharmaceutical supply chains.

13 Do you have a sense of how large the
14 government procurement market is when it comes to
15 generic medicines and whether focusing on this market
16 would be sufficient to shift supply chains? That's the
17 first question, and second and relatedly, apart from
18 government procurement, how can the U.S. government
19 encourage private sector manufacturers and/or procurers
20 to diversify pharmaceutical supply chains?

21 MS. JAEGER: Two great questions. So first,
22 again, generics represents 90 percent of all medicines
23 actually dispensed in the U.S. So -- and account for
24 about 85 percent in total pharmaceutical expenditures.
25 So when we're looking at procurement, you know, you're

1 looking at DOD for TRICARE, and you're looking at the
2 VA, and -- and you're looking at some of the other sort
3 of Medicare and Medicaid programs. And they are for
4 the most part -- they're -- they are not the big
5 commercial market.

6 That said, they are sufficient to actually
7 create a -- a triverset (phonetic), provided that we
8 actually create the right market demand for those --
9 for those concepts, and it's also that we have to
10 infuse within those procurement measures the need for
11 quality, sustainability, and again, for those inputs
12 across all -- all inputs within that drug product are
13 clear and free and are from trusted allies.

14 So if we create and -- create this demand
15 market through the government programs, and -- and
16 actually extending it down even to Medicaid, there are
17 also -- and other tools that we're actually seeing.
18 Just recently, the HHS just -- and the White House just
19 published a white paper basically incentivizing the
20 hospitals to start looking at opportunities through
21 value-based modeling, procurement modeling, so that
22 they actually look out and start looking not for the --
23 the -- the product that is the least expensive, but the
24 one that has the -- the one that has very strong
25 quality, meets those strong quality pieces, and

1 actually is sustainable and can be deliverable and has
2 that accountability in the system.

3 So there are some very creative ways when we
4 start looking at our commercial sector and to bring
5 them along afterwards, but I think that we -- we start
6 right away with the military. We start with all the
7 federal programs, and including Medicaid. I believe
8 that there's going to be a sufficient incentive built
9 in, as long as we build it right. At the same time, we
10 all should be looking at stockpiles for APIs and KSMS.
11 That too should also again have the right incentives
12 built into -- that again were rotating those KSMS and
13 APIs as we move forward. And that -- that should --
14 should help quite a bit.

15 In America, we're starting to look at who
16 should -- how do you incentivize folks to manufacture
17 APIs and KSMS here? That's a great question because,
18 you know, you have to remember, we have the capability.
19 We did -- we produced these. We gave it away for
20 efficiency reasons. So again, what we really need to
21 do is, again -- is to create this market back in the
22 United States that says we are going to reward quality,
23 we're going to reward products that are made only by
24 the United States and our domestic allies, and those
25 are going to be used for these programs.

1 And then two, we're going to provide you with
2 a suite of financial tools that are going to allow you
3 to have the right incentives through public-private
4 partnerships that allow you to come in and start to
5 build -- build new cluster and manufacturing and -- and
6 maybe in countries like India and the EU. And then
7 also domestically take the companies that we have here
8 and we have excess capacity for finished dosage forms,
9 and also -- and some other areas that are food and drug
10 related, that we could take some of the manufacturing
11 facilities we have here, refurbish them, and bring them
12 around to actually manufacture the key starting
13 materials and APIs.

14 India has already done this. They've
15 actually put forth what they call the production
16 incentive linked program. They actually -- EU and
17 India are farther ahead than the United States by far.
18 The EU and India were doing it in parallel tracks. EU
19 basically came out and said that -- and acknowledged
20 that with respect to brand products, that they do have
21 some concern about their critical inputs for those
22 brand products, but not as much to the same extent as
23 they do for affordable medicine. And affordable
24 medicine, they're completely dependent on China and
25 India. As I said, India is a dependent on China.

1 So we have a situation where they've actually
2 sat down and started to look and analyze and put
3 together an assessment about how to build resiliency
4 into the system. They haven't gotten too far in that -
5 - into that world yet on trying to create that
6 implementation strategy. Right now, they're kind of
7 focusing on shortages, drug shortages, which really is
8 just a symptom of the larger problem that we all have.

9 India, on the other hand, said, we -- we
10 don't have time; we have to move. And so during COVID,
11 they actually did identify -- they mapped out the most
12 critical APIs and KSMs, worked backwards, and said,
13 what doesn't our country have in terms of looking at
14 WHO, the World Health Organization's 560 essential
15 medicines? What don't we have here that we absolutely,
16 unequivocally need?

17 So they started with a phase one of 43.
18 They've built out right now, I think, 21 to 23
19 different manufacturing facilities through their
20 cluster manufacturing program in India, and they're
21 looking to build more. But we all know one country
22 can't do it alone. Not one country, not India, not EU,
23 not the United States. What we need to do is we need
24 to ensure that the U.S. gets in with India, because
25 India is the next leading pharmaceutical player in

1 affordable medicine, and it -- we -- and really, the
2 U.S. should be first before we get knocked out by the
3 EU or Japan or Australia. We need to be in there and
4 have a bi-sectorial trade agreement where we are
5 sitting down and we are looking at the products that we
6 need here in the United States, making sure that we
7 have a significant portion of what they're producing in
8 India allocated back to the United States.

9 At the same time, we're asking them to help
10 us bring back our R&D technology for affordable
11 medicine, we ask them to transfer back their technology
12 and manufacturing, and then we also help -- ask them to
13 upscale our workers here in the United States through
14 this sectorial bilateral agreement. And this way, it's
15 a very firm agreement with very certain business terms,
16 and that we also are building out what actually -- who
17 will procure those -- those goods on the other end. So
18 there, we can start to build that model, and then we
19 can actually expand it to others, but right now it's
20 India outside China. And then from there, we move into
21 -- to Europe, and then we move to Japan and to some
22 other countries.

23 But you have to remember, in America, 90
24 percent of all medicines are affordable medicines. And
25 so while we may have the biggest robust

1 biopharmaceutical industry in the world, and we are
2 dominant in that field, that only represents the
3 vaccines and the biopharmaceuticals. That's 10
4 percent. We need the other basic medicines. So while
5 we are very supportive and laudable in that piece, and
6 we support the national biopharmaceutical strategy,
7 that's a strategy that could take 15 to 30 years to
8 build, depending upon who you ask, on a biomass concept
9 to create APIs.

10 We still need that bridge to get there to the
11 future, even it's 10 years, 15, or 20 years from now,
12 and that means India is the central base, is the
13 pharmacy of the world. And hopefully the United States
14 will be first, not last, in being in that partnership.
15 And again, that's -- I think you build the right
16 incentives and you provide the right financial tools
17 with the right public partner -- private partnerships,
18 you can get there very easily.

19 MR. GUNDERMANN: Can I ask one quick follow-
20 up question? I noticed in your testimony, and then
21 just how you talked about transferring back knowledge.
22 I'm curious what incentives you had in mind to
23 incentivize that behavior, if you -- if there were any
24 further thoughts you had on how that would work?

25 MS. JAEGER: Yes. And -- because that the

1 other side of the coin is what the government -- what
2 the -- the government and the private manufacturers
3 would like is the U.S. to actually invest in new
4 facilities and in India and the EU. And so especially
5 India would love the U.S. to come in and actually
6 invest, and the sort of a quid pro quo is, well, we all
7 agree this is all -- we all work together, all boats
8 rise. So we need you to help us, provide us with that
9 R&D technology. It's kind of a quid pro quo. We'll
10 invest if you help us get back our domestic
11 manufacturing, and then -- and the technology.

12 And again, knowing that if you actually
13 create a demand back here in the United States, you
14 actually, I think, will see it happen anyway naturally
15 because, as I mentioned, over 55 percent of the top
16 five out of 10 therapeutic areas comes from -- you
17 know, from India for the U.S. Medicare program, and
18 nearly -- you know, you're looking at -- nearly 47
19 percent of all prescriptions come from India for the
20 United States, so they're already here. They already
21 have manufacturing facilities in the United States.
22 There's also some other -- domestic manufacturers that
23 we still have here that we could build out and expand
24 as well.

25 So I think we just have to give the right

1 incentives with the right program.

2 MR. GUNDERMANN: Thank you.

3 MR. BAN: Thanks, Ms. Jaeger. Can you
4 comment on -- on the extent of transparency in
5 pharmaceutical supply chains, including data for
6 sourcing of APIs and KSMS? Your submission notes that
7 your organization provides certain information and
8 data. Can you explain what data you provide, and how
9 you source those data?

10 MS. JAEGER: Uh-huh. It actually is very
11 complicated, and it's not transparent to a vast degree.
12 One, China just changed its policies, and now when an
13 API comes out of China or a key starting material comes
14 out of China, it does not tell you -- there's no lot
15 numbers. It doesn't even tell you where it's
16 manufactured anymore. It's very difficult. It just
17 happened in the last couple of years. They've shifted
18 their policy there.

19 But once -- once you're actually procuring
20 that product and you're using that product, you know
21 where the -- your manufacture is, if you're a
22 manufacturer, and -- and from that, then you're
23 actually submitting data sets to the Food and Drug
24 Administration through what we call drug master files,
25 and those drug master files are actually before FDA.

1 Now, FDA doesn't know which drug master file
2 manufacturer you're using. Generally speaking, you
3 actually put multiple drug master files together to
4 support your application for resiliency purposes. But
5 at the end of the day, typically you're using one major
6 -- major source. And so from that standpoint, it's a
7 very commercial, a very competitive endeavor, and
8 everyone basically keeps all their cards close to the
9 vest.

10 However, if you sit down and do mapping, and
11 you do it quietly through government agencies, whether
12 it be DOD or others where it's for national security
13 reasons, the manufacturers will sit down, and they are
14 very willing to sit down and actually showcase where
15 and how they map the -- all the different ingredients
16 they have, and where they also know they're at the
17 greatest risk.

18 At the same time, India also has started to -
19 - you know, as I mentioned, done a lot of that --
20 started that work on -- at least for phase one and
21 phase two of their critical inputs. So it's two
22 governments sitting back, working with the -- the
23 commercial sector, and getting them, through
24 confidential means, to provide that information to the
25 government, because if you -- you know, I'm not sure

1 they'll want to share, but they will share with the
2 government for national security reasons.

3 MR. BAN: Thank you, Ms. Jaeger.

4 MS. MONTGOMERY: If -- if I could just add to
5 that really quickly.

6 You know, we have seen, at the very least,
7 anecdotal evidence that China in general is getting
8 more opaque with their supply chain. You know, I would
9 assume because of the timing that it is probably -- at
10 least can be presumed to be in part a reaction to the
11 Uyghur Forced Labor Prevention Act, because the more
12 opaque they make their supply chain, right, the harder
13 it is for companies to trace back and to find that
14 forced labor, which makes it ultimately harder, you
15 know, to get -- get those goods cleared through
16 customs.

17 And -- and we're certainly not pro forced
18 labor, but we need to make sure that when we implement
19 these sorts of rules, regulations, legislation,
20 protocol, that we do it in a way that doesn't harm U.S.
21 companies, because the reality of what we're doing now
22 with the Uyghur Forced Labor Prevention Act is that, by
23 the time we stop those goods, bad guys are already
24 paid. We only are hurting American companies.

25 MR. BAN: Thank you, Ms. Montgomery. If I

1 may turn next to you with a few questions.

2 You noted in your submission, also in your
3 testimony, the statistic that about 40 percent of port
4 terminals are leased by foreign entities, and you noted
5 in particular entities from the People's Republic of
6 China. Can you unpack the statistic a bit? You -- you
7 mentioned in your testimony the risk that entities
8 controlling the -- the space, the physical space, could
9 deny, for example, ships access to ports, but I'm
10 trying to understand how that risk would be different
11 from the risk, say, where the -- the space may be
12 leased by an American entity, but the goods are coming
13 from the PRC, and so the PRC supplier would deny the
14 ability of the goods to move.

15 So can you -- can you explain what --
16 particularly what the risk is of -- of the space being
17 leased by the PRC is?

18 MS. MONTGOMERY: Yeah. So first, you know, I
19 just want to make clear we have heard from some ports,
20 talking about other ports, that up to 40 percent of
21 their terminals are leased. I have tried my very best,
22 and there are no public statistics on this, right? We
23 raise this issue because it is out there.

24 So what is concerning particularly about the
25 PRC leasing our terminals under long-term leases is --

1 which is different than American companies. Is that in
2 times of national crisis, we believe, and have seen
3 evidence, that American companies are going to work in
4 conjunction with the American government to support
5 America, our consumers, our businesses, right?

6 We don't know that same to be true of other
7 foreign entities, particularly the PRC. They can, in
8 conjunction with those long-term leases, as long as --
9 you know, as we adhere to them, right, as long as that
10 contract is valid, they can deny whole -- whole steam
11 lines, right? They can come in and just say, thanks,
12 Maersk, we're not doing business with you today. They
13 can deny any, you know, let's say, U.S. flagged vessel,
14 right? Nope. Nope. PRC only, China flagged vessels.

15 You know, they really do control a huge
16 segment of the ability to flow goods into our country,
17 and they are not -- what was the phrase you used? They
18 are -- they could potentially be considered foe, right?
19 Certainly --

20 MR. KENNEDY: Just --

21 MS. MONTGOMERY: -- maybe not friend. And
22 then you couple that with all of the PRC goods that are
23 moving into Mexico, getting a -- you know, a -- a
24 Mexican country of origin getting trucked through the
25 border up to the U.S. as NAFTA, right? They -- they

1 have to do some sort of transformation in -- in Mexico,
2 but fundamentally, we are seeing Chinese setups,
3 manufacturing setups, staffed with Chinese workers
4 opening in Mexico, getting that -- you know, that
5 legitimate NAFTA certification, and coming up through
6 the land borders.

7 Laredo has relatively consistently been
8 beating both LA and Long Beach as the single biggest
9 port in the country. They are doing an average of
10 9,000 trucks a day, and they've got a huge rail
11 business, and that's before their second rail bridge
12 comes online at the end of this year, which will more
13 than double their rail capacity. They're a huge port.
14 The southern border is a huge component of our trade,
15 and we don't really have any -- much visibility into
16 how much China is down in Mexico, and we -- we
17 certainly have not been able to find solid statistics
18 on how much of our -- our seaport infrastructure China
19 controls here in the United States. You know, we want
20 to draw your all's attention to this because we think
21 it's a pretty serious issue.

22 MR. BAN: Thank you. And I understand now
23 that the concern is not just that these entities
24 control the flow of goods from the PRC, but from
25 potentially other sources --

1 MS. MONTGOMERY: Correct.

2 MR. BAN: -- as well? Understood.

3 MS. MONTGOMERY: Every -- every container,
4 every ship.

5 MR. BAN: You -- your submission also notes
6 duplicative PGA data requests as one challenge in
7 implementing race to the top strategies in trade
8 policy. Could you provide an example of this and what
9 you think would be required to standardize more fully
10 ACE data across CBP and the PGAs?

11 MS. MONTGOMERY: Absolutely. So you know,
12 when ACE was developed, when it was conceptualized
13 after 9-11, the idea was that it was one single window,
14 right? One portal, one pipeline. You put your goods
15 in this IT -- or you put your data in this IT system,
16 you get one, you know, set of data in, one cargo
17 release on the way out. Release means release.

18 But what we really have because of a lot of
19 politics and funding and lack thereof and, you know,
20 the reality of -- of inter-agency work, as you all know
21 well, is we really have maybe one window, but it's got
22 47 panes. And so in each window pane -- like, think
23 about, you know, if you want to open, right, a window,
24 and every -- you have to open every pane, right? Do I
25 have -- do I have EPA data? Oh, I have to open that

1 EPA pane. Oh, do I have FDA data? Oh, I have to go
2 and hand-crank that FDA pane.

3 You know, we really don't have one true
4 system of record, and, you know, there's a lot of
5 reasons for that. Congressional jurisdiction is
6 tricky. It's -- you know, it's -- it's not really
7 designed to make everybody work together. Federal
8 agencies really -- you know, CBP doesn't have -- and
9 even DHS doesn't have the authority to tell other
10 agencies what to do. There's eight agencies with
11 release-and-hold authority. Those -- some of them are
12 -- most of them are -- are pretty good at working with
13 CBP, but there are smaller agencies that have data
14 requirements that kind of just don't want to, you know,
15 participate in the ACE program.

16 And what that means is, you know, you have to
17 go in and enter your address or your MID, your
18 manufacturer ID number, or -- you know, or your -- your
19 HTS code. You have to enter it here in this system,
20 and you have to enter it here in this system, and you
21 have to enter it here in this system, and you get a
22 different release or a different hold from all three of
23 these systems, and it creates huge potential for
24 errors, right? Just human error. It creates really a
25 very choppy system of getting -- you know, think about

1 -- think about how quickly an air flight from Canada or
2 Mexico can come across that border. And if you're
3 waiting for three or four different systems to give you
4 a release, you -- you have -- you have an incredibly
5 tricky component to get, you know, all of those
6 releases to coincide with the landing of the aircraft,
7 if that makes sense.

8 MR. BAN: Thank you. Thanks for that example
9 and analogy.

10 I'll turn it next to Mr. Gundermann.

11 MR. GUNDERMANN: I'm going to turn to Mr.
12 Boring. You mentioned the FTZ program, and I believe
13 you've spoken with Mr. Ban about it previously. I was
14 curious if you could elaborate on your statement and
15 your submission about the no consideration about how
16 tariff actions are implemented within the FTZ program,
17 and any examples you could provide would be great as
18 well.

19 MR. BORING: Sure. So when we -- and I'll
20 use the 232 and 301s as an example, that's our most
21 recent history. What you had in the Foreign Trade Zone
22 program is, an importer is allowed to bring in the
23 merchandise, officially import it, but not pay duty or
24 entry on that material. And that import date can be,
25 in what we found, significantly in advance of the

1 implementation date of the tariff regimes that came
2 into play.

3 However, because nobody kind of considered
4 how this works in bonded warehouses, Foreign Trade
5 Zones, different other bonded programs, what
6 immediately happened is, is that importers who had
7 material in the U.S. for a year released it and were
8 popped with the punitive tariffs, even though they were
9 legally imported into the U.S. well in advance of the
10 implementation date of the -- the -- the regime.

11 We also had the fact that in ACE, there was
12 no -- there was no element early on that would show a
13 manufactured item, such as farm equipment or an
14 automobile or what have you, that would allow that to
15 come out of a Foreign Trade Zone without potentially
16 being impacted by 301 tariffs, because how the system
17 works is when you're doing a Foreign Trade Zone entry,
18 the transformation of the merchandise generally meets
19 our guidelines of either it's assembled in the U.S. or
20 manufactured in the U.S.

21 So from a country of origin perspective, it
22 can be labeled U.S. when it comes off of the assembly
23 line. However, the way the ACE system works, because
24 census wants certain data elements, that same tractor
25 that comes off the line may actually show, and it is

1 required to show, the largest foreign value country of
2 origin. And it's a census requirement only. But what
3 that did at the very beginning of the implementation of
4 the tariff regimes, is it popped every manufactured
5 item that had China listed as a 301 tariff implication
6 in ACE.

7 MR. KENNEDY: That's true.

8 MS. MONTGOMERY: Yeah.

9 MR. BORING: And each importer had to go back
10 and argue their points and, I'll say this politely, but
11 initially, it fell on deaf ears.

12 MS. MONTGOMERY: Yes.

13 MR. BORING: CBP went, nope. System says,
14 and the system is right, and we've got to listen to the
15 system.

16 Now, a lot of that ended up being cleared up,
17 but it certainly was a big disruption for Foreign Trade
18 Zone manufacturers.

19 The other element is in -- in like forced
20 labor. You had the same thing. I have product that
21 has been in Foreign Trade Zones for a year or two, well
22 in advance of the implementation date of UFLPA --
23 UFLPA. Everybody calls it something different. But
24 you know, the forced labor when it was -- when it was
25 put in. So these are materials that have been in the

1 U.S. for a year, two years in advance.

2 But because the implementation was driven at
3 the entry level, not at the import level, which, again,
4 that's a technicality because it's -- a lot of
5 instances entry and import occur at the same time.
6 Megan's group could all be -- explain that a lot better
7 than I can. However, it's, you know, it's that import
8 date was well in advance of the implementation date,
9 but there was no consideration given that Foreign Trade
10 Zones may have this material with this MID code because
11 we're required to trace that information for the
12 government.

13 And so when weekly entries were filed the
14 very first week of the implementation of forced labor,
15 the seizure notices that went out for containers in
16 Foreign Trade Zones was hilarious because customs sends
17 it out for, hey, I need that container, when the
18 reality is, there is no container. It's all goods
19 coming out of a building.

20 But there was no enforcement discussion about
21 how do we address these issues? And in -- and in most
22 cases, when they were finally cleared up, a vast
23 majority, including one major retailer in the United
24 States, discontinued their Foreign Trade Zone and
25 discontinued even the expansion they had for

1 distribution centers in the United States because they
2 went to look at how is this going to negatively impact?
3 They worked with customs, got through their initial
4 part, but it was one that it cost them a significant
5 amount of resources to fix the issue. So those are two
6 examples of kind of how when we come with a tariff
7 regime or a trade policy, just a consideration that you
8 have this amount of material running through a Foreign
9 Trade Zone is -- is certainly worth considering.

10 MR. GUNDERMANN: So two questions, and one
11 follow-up to that, that we did not plan for, and then
12 another one that I also want to ask you.

13 First, the most recent round of 301
14 announcements, I'm curious how you navigated that. If
15 there was any of these issues with the most recent FRN
16 releases and news from USTR.

17 And then the other question I have is you are
18 talking about the cost of maintaining the FTZ program
19 in Canada and Mexico. Curious, what key factors you
20 see your customers deciding to use U.S. FTZs versus
21 others and how you're seeing other countries navigate
22 some of these similar issues?

23 MR. BORING: Sure. Well, I will tell you on
24 the most recent, the -- to answer for the most recent
25 301 tariff decisions. The simplest way to answer it is

1 we all have experience now. We all understand how we
2 have to approach it, which unlike the very, you know,
3 first round, it was new and people were not prepared.
4 Supply chains and manufacturing, in -- in my case,
5 Foreign Trade Zone operations, were not prepared.

6 We are seeing a very small impact other than
7 a few people groaning because, you know, they're --
8 they're looking at, you know, what -- what is the
9 potential impact to them as an importer? But the
10 beauty of it is, is I don't think we're importing that
11 many electric vehicles. So you know, it's -- I think
12 it'll be minimal, but the good thing is every Foreign
13 Trade Zone that may be impacted already has practice.

14 MR. GUNDERMANN: Uh-huh.

15 MR. BORING: And for your second question,
16 the -- the big thing that we dealt with and -- and this
17 was confirmed in the USITC study last year that, I
18 think it was last year, yes, last year, that came out,
19 is that what we see when clients are debating
20 locations, the old NAFTA and U.S. current USMCA really
21 impacts decisions for most of my clients because of one
22 element and one element only. And that is, as a
23 Foreign Trade Zone, if they are manufacturing goods
24 that are going to be destined for the USMCA market
25 outside of the U.S., they do not get USMCA

1 consideration and or benefit. They must pay the U.S.
2 duty on the material that they're sending to Mexico and
3 Canada. Mexico and Canada do not have this
4 restriction. This is a historical element that goes
5 all the way back to NAFTA, but that is really the most
6 significant.

7 So if I have a very labor-intensive element
8 of my production and or an element of my production
9 that uses resources from China, then you are seeing
10 those individuals select Mexico for that interim
11 production because they're not facing 301 tariffs.
12 They are not facing the NAFTA restrictions. So they
13 can manufacture those components in Mexico, and any of
14 the components they send up to the U.S. for further
15 production assembly. I think you see this largely in
16 the automotive industry --

17 MR. GUNDERMANN: Yeah.

18 MR. BORING: -- they choose Mexico or Canada.
19 They don't choose the U.S. If it is a pure
20 straightforward, non-USMCA type play, where they are
21 looking at building to service the U.S. market, what we
22 have been seeing over the last 10 years is that
23 importers are selecting the U.S. Foreign Trade Zone
24 program and other beneficial programs in the U.S. to
25 establish facilities here, because any cost reduction

1 allows them to near shore, friend shore, or reshore the
2 best that they possibly can. And we are seeing that,
3 even though it is mostly in kind of the final stages of
4 assembly.

5 And, you know, a lot of the components we're
6 still seeing are manufactured elsewhere, but we're
7 seeing final assembly -- folks taking a -- a better
8 look at the U.S. because of the trade programs we may
9 have that will limit their cost.

10 MR. GUNDERMANN: Okay. Any follow up
11 questions before we switch to Mr. Kennedy?

12 You touched on a lot in your testimony. You
13 made me a little bit nervous about some things, but in
14 your submission, you suggested prioritizing
15 semiconductors, defense machinery and certain methods
16 for reshoring. How did you decide to recommend
17 prioritizing these areas versus others when looking at
18 rebuilding U.S. industrial base and what other areas do
19 you think are high priority?

20 MR. KENNEDY: Bio-med, for one. But to be
21 honest with you, if you look at the charts of where our
22 semiconductors are coming from and even when they come
23 from friendlys like Taiwan, a lot of it's coming -- the
24 materials in our supply chain are coming from China,
25 Ukraine, Russia, Africa nations, and stuff that are

1 overseen by China and Russia. And that's part of the
2 problem that we have here.

3 We are not -- you know, we used to own 40
4 percent of the semiconductor, you know, development and
5 manufacturer recently, you know, 15, 20 years ago. Now
6 we are down about 10 percent, so we don't produce
7 something that goes into everything we have. You
8 talked about, you know, recycling, you were talking
9 about, you know, your toothbrush -- electric tooth --
10 semiconductor chips. I was speaking to the people at
11 the joint base in New Jersey and Picatinny Arsenal in
12 New Jersey, because they're working with us on our
13 CHIPS Act work.

14 They're seeing that about 70 percent of the
15 chips that they get are infected. Not necessarily by
16 China, but they're infected or they're damaged or the
17 quality is poor, and so on. Seventy percent. If you
18 can imagine that your electric car has about 50 --
19 1,500 chips, could you imagine what the F-22 has?

20 So to be honest with you, it's been something
21 that's been on my radar when I owned engineering and
22 manufacturing companies. We worked a lot, DOD, so it
23 was there. But with the MEP system, it was shown to us
24 very -- very quickly. Years ago, there was America
25 COMPETES Act, which I think got passed, but never got

1 funded. Well, a lot of the chips verbiage came out of
2 that and went into, you know, the new bill that did get
3 passed. And these are issues that we have to come to
4 grips with. And some of that ties into, you know, what
5 we do with some of the materials, the substrates,
6 glass, thin films, all right. That's all -- that's all
7 chemical based.

8 All right. The third, which we're coming out
9 with artificial intelligence, it's called dimensional
10 or chiplets. Again, these are all components and
11 they're all made under different circumstances. So
12 obviously the plugin air freshener doesn't have the
13 same chip that your, you know, your -- your smartphone
14 has, but it's there. And the problem with them, if
15 they're compromised on a defense aspect, or even so
16 much as, you know, being used by industry to spy on us,
17 isn't it funny how you just looked for something --
18 last night I did something on my phone and immediately
19 I'm getting e-mails. I mean, it was that quick, you
20 know, that I was looking for, you know, a type of
21 window glass and immediately I'm getting all these e-
22 mails. I'm like, how the hell? Man, that's quick.

23 So it's not a matter of to be scared about
24 something. It's a matter to be concerned about it
25 enough to make the decision and move forward now. All

1 of the industries and everything that you're talking
2 about, it all ties in. This is the point. Supply
3 chain is everything. Everything. Name one thing that
4 -- name one thing that doesn't get shipped at least
5 once; that's your supply chain. Name one thing that
6 you see here that isn't manufactured by somebody. You
7 can't do that. So we've got to get a better grip out
8 of this. And this is what concerns me and the fact
9 that we do not know what's in our supply chain means
10 that we cannot find the holes quickly. God forbid
11 China decides not to ship us any medicine. For
12 whatever reason, they're ticked off at us. What do we
13 do?

14 MS. JAEGER: There's nothing.

15 MR. KENNEDY: I don't know. We had one out
16 of four companies that produce baby formula shut down
17 because of an issue. Not a supply chain issue, but an
18 issue for safety. What happened to baby formula?
19 Think about that. And that's why -- and not just --
20 but we need -- we need to stop giving it verbiage.

21 U.S. trade is both ways, right? You guys do
22 that every day. Thank you. But how do we figure it
23 out so that it's equal and important so that we have
24 partners in Europe and India and et cetera, that we can
25 rely on. But we all -- they also rely on us and aren't

1 going around us and using our own laws to provide us
2 and to take jobs away from our citizenry. Just my
3 opinion.

4 MS. JAEGER: And can I just add -- actually
5 just staying on that same sort of -- that sort of --
6 that same thread, you know, if you go back and think
7 about the heparin scare that we had here in the United
8 States, it was a very terrible situation where many,
9 many folks passed away because it was -- heparin was
10 actually contaminated.

11 But heparin actually is a naturally occurring
12 substance. It shouldn't have ever been contaminated.
13 And it took MIT, it took Stanford, it took Harvard, it
14 took many folks working 24/7 for almost eight to nine
15 weeks to figure out what was actually in the product.
16 And -- and it wasn't a naturally occurring substance
17 when they finally found it. It had to be -- there's
18 many that will say that it was willful. And -- and so
19 you've got that situation.

20 But you remember in the United States, or
21 actually anywhere else in the world, science is
22 science. You can only -- when you -- you have to know
23 what you're looking for to test it. So if you're just
24 testing the product on basic specifications and are
25 looking at for some general impurities, you're probably

1 going to pass. The product is going to pass. The
2 question is, what else is in there that is
3 sophisticated that needs to be concerned and checked
4 and looked at.

5 And I'm sure you're aware that right now, the
6 Pentagon also is doing its third party testing of -- of
7 a lot of medicine, and they're trying to figure out
8 whether or not the medicine they are giving, you know,
9 the -- the Pentagon officials and -- and the troops are
10 actually okay to be giving. Well, that's not a really
11 good place for us to be.

12 And we also know that we also know that
13 China's already threatened the United States and EU and
14 to try -- basically said, we aren't going to -- we're
15 not going to provide you with certain inputs in
16 medicine. And we had it again last year.

17 So it's not -- it's -- it -- to me, it's not
18 about a situation of, oh, you know, will they do it?
19 No. They will do it. It's a question what extent will
20 they do it to us and to the rest of the world. And
21 that means shortages beget shortages. We see that
22 already in the United States. You -- you have one
23 shortage, everyone runs around and every parent and
24 every family member runs around and tries to find that
25 next drug that can be that alternative. Well, that's

1 wonderful. But that drug then becomes a shortage.
2 Well, at the end of the day, we have to realize that we
3 have -- we cannot just be designing a system for the
4 next pandemic. It's great that we're looking at, you
5 know -- you know, I call it biopharmaceuticals and the
6 vaccines for -- for bird flu and other things.

7 But we got to know that today that if you had
8 a child and you needed a medicine and antibiotic for
9 strep throat, you may not get it if China decides to
10 play hard ball with the - with the United States or
11 with the EU, because remember under eminent domain,
12 every country's going to take what they have, and
13 they're going to just keep it closed and close to their
14 vest. And thus, actually, we saw that all the way
15 through the pandemic, and that's why the trade
16 bilateral agreements are so important to have a binding
17 agreement between the two countries, that on the
18 sectorial piece, we know that we have been invested in,
19 you know, X amount of dollars into your country for
20 these particular products. And you've invested so much
21 money in -- in these particular products in the United
22 States. And then we have given a proportion in -- in
23 our -- in our trade agreements so that we know it's a
24 50/50 split, 60/40. What is it? But at least we know
25 that we have ingredients to make -- starting materials

1 to make the active ingredients so that we can make sure
2 that we have that essential medicine list for WHO.

3 So it's not the pandemic essential list that
4 we all should be paying attention to. We need to be
5 paying attention to the WHO's essential list, which
6 covers chronic care, which covers hypertension, which
7 covers COPD, which covers -- right. You know, all the
8 various chronic disease -- diabetes -- we need to
9 ensure we know that health is intrinsically linked to
10 the -- our economic prosperity and our National
11 Security. That is the biggest lesson we came out of on
12 COVID. If we don't have our medicine, if we don't --
13 we can't get those inputs, our system -- we have the
14 best doctors in the world, the best facilities here
15 will be shut down. They will all just collapse. And
16 not only will ours collapse, so will Europe's and so
17 won't all our other trusted allies and what would have
18 we done?

19 And so at the end of the day, I -- I implore
20 -- implore you -- I know you're talking with Quad and I
21 know you're talking on, you know, Pacific Indo pieces,
22 but you've got to start with the one country that has
23 the infrastructure built and also has already moved out
24 on this and leverage what they know, so we can build a
25 real strong foundation, the biggest and the best

1 construct for the two nations and then take that and
2 expand it to the others. So we can have -- U.S. can
3 have health and national security. India can health --
4 health and -- and national security as well as UK.

5 But also we lead at the United States. We
6 also should be trying to ensure also global health so
7 that everybody -- everything we do, we protect our own,
8 but then we're also trying to protect others. If we
9 don't do it, no one will.

10 MR. KENNEDY: And it -- the odd thing to me
11 is that, when I owned my manufacturing company, the --
12 the first thing I learned was never single source.
13 Never have a single source, always have a backup. You
14 may have a favorite source for price or quality or
15 whatever. But yet it seems like our industry and our
16 government does a lot of single sourcing, and that's
17 bad business, let alone bad for thing -- we -- we tend
18 to push things to certain groups and certain companies
19 and certain countries and it -- it leaves us at a great
20 disadvantage and, you know, that's the thing -- comment
21 I made about the steel and the aluminum. We used to
22 own the industry, and then tariffs came along and you
23 couldn't get stainless steel. You couldn't get, you
24 know, aircraft aluminum. You couldn't get these
25 things.

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1 Guess what, every missile that's sent up by
2 Ukraine or Israel or whoever might be, aircraft
3 aluminum. Every single one has significant (sic) in
4 there. And if we don't have it, what do we do? Just
5 saying, I wish the -- I wish people didn't have -- I
6 wish we -- we played baseball games and, you know, the
7 winner take all instead of fighting. But
8 unfortunately, defense is critical.

9 MR. GUNDERMANN: Well, thank you very much
10 for that, and for all of you.

11 I just want to turn it over to Mr. Ban for
12 closing remarks given where we are.

13 MR. BAN: Yes. I think we are a bit over
14 time, so thank you for all of your testimony.

15 I will prepare to conclude the hearing. I
16 want to just remind everyone that our regulations.gov
17 docket will be open through June the 4th to receive any
18 post-hearing comments as provided in our April 3rd
19 Federal Register Notice. Thank you again for your time
20 and for your engagement. And with that, we conclude
21 the hearing. Thank you.

22 MR. KENNEDY: Thank you.

23 MS. JAEGER: Thank you.

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REPORTER'S CERTIFICATE

I, JOHN SHEFFIELD, do hereby certify that I was authorized to and did electronically report the foregoing remote proceedings [video teleconference/telephone] and that the foregoing is a true and accurate electronic recording of the proceedings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30th day of May, 2024.



JOHN SHEFFIELD
Court Reporter and Notary Public
Notary Commission No.
New York/01SH6435698
Commission Expires: July 5, 2026

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