

U.S. INTERNATIONAL TRADE REPRESENTATIVE

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U.S.-JAPAN TRADE AGREEMENT

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PUBLIC HEARING

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MONDAY

DECEMBER 10, 2018

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The Public Hearing convened in the
United States International Trade Commission
Hearing Room, 500 E Street, SW, Washington, D.C.,
at 9:30 a.m., Ed Gresser, USTR, Chairman,
presiding.

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

2 (9:36 a.m.)

3 CHAIRMAN GRESSER: Thank you, all, for
4 coming. I'm Ed Gresser, with the U.S. Trade
5 Representative Office. I'd like to welcome you,
6 all, to this Trade Policy Staff Committee Hearing
7 on the U.S.-Japan Trade Agreement.

8 This is a very important matter for us,
9 given our scale of two-way trade with Japan, now
10 running at \$19 billion dollars, in goods flows,
11 per month, and \$6 billion dollars in services
12 trade.

13 We are grateful to all of you, for
14 coming to share your insights and your views, on
15 the prospecting agreement. I would like to ask
16 one thing of the witnesses, make sure, please,
17 that you respect the time limit for testimony.

18 We would like to make sure that all of
19 you have your chance to give your say and that,
20 all of our panelists have a chance to ask the
21 questions that, that, that you can help them
22 with.

1 So thank you, again. Welcome, to
2 everyone, and let us begin. Let me, now, turn to
3 Michael Beeman, Assistant U.S. Trade
4 Representative for Japan, Korea, and APEC, to
5 lead the session.

6 MR. BEEMAN: Thank you. Good morning,
7 Ladies and Gentlemen. As Ed noted, my name is
8 Michael Beeman, I'm Assistant U.S. Trade
9 Representative for Japan, Korea, and APEC.

10 It's a pleasure to have you here, this
11 morning, and I welcome you to today's hearing, to
12 seek public input on the negotiations of a
13 U.S.-Japan Trade Agreement.

14 Over the course of the next three days,
15 a wide-range of interested stakeholders, over the
16 course of the next, course of today, a wide-range
17 of interested stakeholders, including those
18 representing U.S. consumers, businesses, farmers
19 and ranchers will provide views on the nature of
20 the Trade Agreement that we should pursue with
21 Japan.

22 In accordance with the Bipartisan

1 Congressional Trade Priorities and Accountability
2 Act of 2015, or TPA, Ambassador Lighthizer
3 notified Congress, on October 16th, of the
4 President's intent to enter into negotiations
5 with Japan, to conclude a U.S.-Japan Trade
6 Agreement, or USJTA.

7 As required by Trade Promotion
8 Authority, USTR's notification to Congress began
9 a 90-day period of consultations and provides the
10 opportunity for members of the public, as well
11 as, the Congress, to comment on the substance of
12 the negotiations.

13 To promote this consultative process,
14 USTR published a Federal Register notice,
15 soliciting comments on this negotiation.

16 We received nearly 160 comments and we
17 appreciate all the effort that has gone into
18 these submission, as well as, for your testimony
19 of all that have asked to join us today. We take
20 your input and interest very seriously.

21 Let me say a few words about our
22 negotiations with Japan. This past September,

1 our Governments agreed to a Joint Statement that
2 announced our intentions to launch negotiations
3 for a U.S.-Japan Trade Agreement.

4 As reflected in that Statement, the
5 scope of negotiations is to include goods, as
6 well as other key areas, which is to include
7 services issues, among others. The goal is
8 to reach an agreement that produces early
9 achievements in all these areas. It was also
10 agreed that further issues in the areas of trade
11 and investment would be covered in additional
12 negotiations.

13 As is reflected in many of the
14 submissions that we received, access to Japan's
15 market for goods, of course, is not only tied to
16 the issue of tariffs, or quotas, which Japan has
17 some very low, as well as, some extremely high
18 levels of protection, but also is tied to the
19 issue of addressing non-tariff barriers, which
20 often can be the most important barriers to U.S.
21 exports to Japan.

22 Removing non-tariff barriers may

1 include, for example, just to, to provide some
2 sense of the comments we've received, the need to
3 address broad, cross-cutting issues, such as
4 transparency, or adequate protections for
5 American intellectual property.

6 They also include the need to address
7 specific barriers in specific sectors, such as
8 unique standards, or testing issues.

9 In addition, we have received
10 submissions that cover other issues and concerns,
11 including, with respect to a level playing field,
12 and other market-access challenges in the area of
13 services.

14 The number of stakeholders, also, have
15 indicated the importance they attached to
16 including broader labor and environmental
17 obligations, among other areas, including digital
18 trade.

19 As we consider and develop negotiating
20 priorities and objectives, we welcome and look
21 forward to hearing from you and from the
22 panelists, through the rest of the day, on how we

1 can best achieve outcomes that incorporate
2 priorities of interested U.S. parties.

3 The Office of the U.S. Trade
4 Representative takes the issue of transparency
5 and trade negotiations seriously. Today's
6 hearing is the one example of USTR's engagement
7 with interested stakeholders and members of the
8 public, concerning U.S. Trade Policy.

9 We very much look forward to receiving
10 the testimony to help guide our efforts. Before
11 asking the Panel to introduce themselves, as we
12 go panelist-by-panelist, a few logistical
13 details.

14 As the Agenda notes, we have a long day
15 of speakers, for today. We ask, as mentioned,
16 each panelists to be mindful of the time
17 allotted, which is five minutes of oral comments,
18 for panelists.

19 Once all the panel members have spoken,
20 we, the Agencies represented here, on the, on the
21 Panel, from the TPSC, will ask a few questions of
22 each panel.

1 This hearing is being transcribed, by a
2 court reporter, and video recorded. These, both,
3 will be posted, at a later date, to the USTR
4 Website. We'll now turn to our first panel.
5 Thank you.

6 MR. BISHOP: Mr. Chairman, our first
7 Panelist is Desiree Hoffman, with the United Auto
8 Workers. Ms. Hoffman, you have five minutes.

9 MS. HOFFMAN: Good morning. My name is
10 Desiree Hoffman, International Representative,
11 with the United Auto Workers Union, on behalf of
12 UAW President, Gary Jones, and the more than one
13 million members of, and retirees, of the UAW,
14 thank you for the opportunity to be here today.

15 We are deeply concerned that an FTA with
16 Japan could, ultimately, further widen our
17 enormous auto trade deficit and hurt our auto
18 industry.

19 Since we already have an open market and
20 Japan maintains one of the most closed auto
21 markets in the developed world, the U.S. should
22 focus on reducing its trade deficit.

1 Provided that the U.S. is likely to
2 enter into an FTA with Japan, our preference is
3 to exclude the auto sector from the negotiations,
4 but recognize that's unlikely to happen.

5 Therefore, we'd like to offer
6 recommendations for negotiating objectives, for a
7 U.S.-Japan Free Trade Agreement. For example,
8 some of the suggestions that we have, would be to
9 establish a Japanese vehicle quota.

10 Require strong labor standards. Require
11 enforceable protections against currency
12 manipulation, strengthen rules of origin, carve
13 out protections for next-generation auto
14 components, protect by American, and eliminate
15 the Investor State Dispute Settlement, ISDS.

16 But, before going into those recommended
17 negotiating objectives, I'd like to say a little
18 bit more about the auto trade deficit, to put
19 things into perspective.

20 Trade with Japan has been an unambiguous
21 failure for American workers. Decades of
22 well-intention-efforts, by U.S. trade negotiators

1 and republican and democrats that democratic
2 administrations to open the Japanese auto market
3 to foreign competition, has been a clear failure.

4 In 2017, the U.S. had a
5 \$68.9-billion-dollar trade deficit with Japan,
6 with nearly 75 percent of that deficit coming
7 from motor vehicles and auto parts.

8 What makes the prospect of a more
9 balanced playing field, with, so unlikely that
10 Japan's automotive tariff is already zero
11 percent.

12 To insulate its domestic automotive
13 manufacturers, Japan has, instead, used
14 non-tariff barriers. These barriers include
15 currency manipulation, discriminatory system of
16 taxes, onerous and costly vehicle certification
17 procedures, for imported automobiles, just to
18 name a few.

19 These barriers have created an uneven
20 playing field so much that, for every car the
21 U.S. exported to Japan in 2017, Japan sent 100
22 back.

1 Any loosening of the 2.5 percent
2 automotive, or 20 percent light-truck tariff,
3 would further direct Japan's overcapacity to our
4 shores, exacerbating the problem.

5 In addition, the elimination of the
6 light-truck tariff, considerably reduced the
7 existing economic incentive for Japan producers
8 to locate production and employment, here in U.S.

9 As mentioned earlier, our preference
10 would be to exclude the auto sector from
11 negotiations, but recognize, this is not likely
12 to happen.

13 Therefore, we recommend the following.
14 In a trade deal with Japan, quotas must not
15 merely be a backstop against future runaway
16 imbalances, but rather an active way to level the
17 playing field.

18 The U.S. should impose uploading quota,
19 which follows the import rate of American autos
20 and auto parts, to Japan, from the previous
21 quarter. Also, requiring strong labor standards.

22 Any agreement with the United States and

1 Japan, must include a strong and enforceable
2 labor chapter, which protects the rights of
3 workers to collectively bargain and hold
4 multi-national companies accountable for unfair
5 labor practices.

6 In addition, any agreement must contain
7 strong and enforceable currency disciplines,
8 aimed at preventing Japan from using currency,
9 its currency, to gain a competitive advantage and
10 undermine the expected benefits of a trade
11 agreement.

12 Without strong and enforceable currency
13 disciplines, any achievements in the text could
14 be eliminated, overnight, by currency
15 manipulation.

16 In addition, negotiators must prevent
17 benefits of an agreement, from being leaked
18 outside U.S.-Japan. USMCA standards must be
19 viewed, as a floor, and not a ceiling.

20 Since it is bilateral, higher standard
21 is needed, to prevent free-riders, countries that
22 benefit from the agreement, without agreeing to

1 the standards.

2 And it looks like I have one minute, so
3 I'll briefly say a little bit about the rest of
4 the negotiating objectives. Carving out
5 protections for next-generation auto components.

6 Today, most of the production footprint,
7 for tomorrow's advanced automotive technically,
8 is being developed overseas. Lithium ion
9 batteries are the most valuable component for
10 electric vehicles, and the U.S. is lagging far
11 behind Asia and Europe in the production of EVs.

12 In addition, protect by American and
13 eliminating investor state dispute settlement
14 should, also, be a part of any free trade
15 agreement.

16 In conclusion, the UAW is deeply
17 concerned, about the potential negative
18 consequences on American workers and our
19 communities, if the Administration goes through
20 in negotiating that trade deal with Japan. Thank
21 you.

22 MR. BISHOP: Thank you, Ms. Hoffman.

1 Our next witness is Matt Blunt, with the American
2 Automotive Policy Council. Mr. Blunt, you have
3 five minutes.

4 MR. BLUNT: Thank you. I'm Matt Blunt,
5 President of the APC, the American Automotive
6 Policy Council, which represents the public
7 policy interest of America's auto makers, Fiat
8 Chrysler, Ford, and General Motors.

9 First, we wish to thank the
10 Administration, for their efforts to promote
11 free, fair and reciprocal trade with Japan. We
12 also thank them, for the opportunity to share our
13 views and recommendations, today.

14 Japan's auto market is the world's third
15 largest, behind only China and the United States,
16 yet, Japan, through non-tariff barriers imposed
17 on foreign automakers, maintains one of the most
18 closed auto markets in the developed world.

19 In fact, U.S. auto industry exported
20 less than 20,000 cars to Japan, last year.
21 Meanwhile, Japanese automakers export half of the
22 vehicles built in Japan, to open markets across

1 the globe, including the United States, where
2 over 1.7 million Japanese-built autos arrived in
3 2017.

4 Even though Japan does not impose
5 tariffs on imported vehicles, vehicles made in
6 the United States, Europe, and the rest of the
7 world, accounted for only seven percent of the
8 Japanese passenger car market last year. This
9 closed auto market is sustained by the Japanese
10 government's persistent use of non-tariff
11 barriers.

12 AEPC strongly believes that any
13 bilateral trade agreement with Japan must contain
14 a definitive agreement to lift these barriers,
15 including provisions for the full-acceptance of
16 U.S. automotive standards, commitments to
17 immediately address a number of technical
18 barriers, and a provision to prevent future
19 currency manipulation by Japan.

20 Japan employs an array of regulatory
21 barriers that effectively limit the ability of
22 American automakers to compete on a level playing

1 field, in the Japanese auto market.

2 These regulatory barriers, which our
3 written submission describes in further detail,
4 including unique mix of safety and environmental
5 standards, which add significant, often,
6 insurmountable costs, to participating in the
7 Japanese auto market.

8 Unfortunately, past efforts to open the
9 Japanese market have, ultimately, stalled,
10 despite the considerable pressure that U.S.
11 officials have tried to place on Japan.

12 We recommend that a broad cross-cutting
13 approach to be used, rather than trying to
14 address individual technical barriers,
15 one-by-one.

16 Securing Japan's full acceptance of
17 vehicles certified to U.S. auto safety and
18 environmental standards, would be the most
19 effective way to achieve this outcome.

20 American automakers were pleased to see
21 provisions addressing auto regulations, included
22 in the recently-completed KORUS amendments and,

1 in the USMCA.

2 And we urge our negotiators to follow
3 the precedent of including the acceptance of U.S.
4 safety auto standards in all future trade
5 agreements, including any trade agreement with
6 Japan.

7 Another precedent set in the USMCA was
8 the groundbreaking provision to address currency
9 manipulation. Currency manipulation can provide
10 an unfair, competitive advantage to trading
11 partners that manipulate their currencies and
12 undermine the expected benefits of our trade
13 agreements.

14 While stopping short of designating
15 Japan a currency manipulator, the U.S. Treasury
16 cautioned Japan against manipulation, as recently
17 as 2013. And Japan has been on Treasuries
18 monitoring list, since the Agency began using
19 that designation, in 2016.

20 Given the potentially harmful effects of
21 an artificially-depreciated Yen, on U.S.
22 automakers, in the United States, Japan, and in

1 third-markets, where they compete head-to-head,
2 American automakers would hope for a strong
3 currency discipline, or a strong discipline
4 against currently manipulation, with more robust
5 enforcement mechanisms than those included in the
6 USMCA.

7 Despite the challenges that U.S.
8 negotiators will face in any discussion, to level
9 the automotive playing field with Japan, we also
10 believe there are unique opportunities.

11 In particular, we hope that a trade
12 agreement with Japan would include provisions on
13 future cooperation and coordination to align the
14 country's respective automotive vehicle
15 regulatory frameworks, such a provision would
16 build upon the recent dialogue and cooperation
17 that the United States and Japan have enjoyed at
18 the WP29 Forum.

19 It would also help the parties avoid a
20 piecemeal approach to autonomous vehicle policy
21 development in each country's market, which could
22 shut American AVs out of the Japanese and other

1 foreign markets.

2 While AV cooperation represents a
3 realistic tangible outcome for the negotiations,
4 we wish to underscore the importance of including
5 provisions that will force Japan to finally open
6 its market, in a meaningful way, to U.S. cars and
7 trucks.

8 Accordingly, we recommend that the
9 Administration avoid making any concessions that
10 would further open the U.S. market to Japanese
11 imports, unless and until, there is evidence that
12 Japan is truly committed to opening its auto
13 market to American vehicles.

14 We believe the best way to achieve such
15 an outcome is for the U.S. to only agree to a
16 long, backend of tariff phase-outs that are
17 contingent upon measurable increases in import
18 market share in the Japanese auto market.

19 We look forward to working with you to
20 ensure free, fair, and reciprocal trade with
21 Japan, as well as our shared goal of
22 strengthening the American auto industry. Thank

1 you.

2 MR. BISHOP: Thank you, Mr. Blunt. Our
3 next witness is John Bozzella, with the
4 Association of Global Manufacturers. Mr.
5 Bozzella, you have five minutes.

6 MR. BOZZELLA: Mr. Chairman, Members of
7 the Trade Policy Staff Committee, good morning.
8 My name is John Bozzella, and I'm the President
9 and CEO of the Association of Global Automakers
10 and spokesperson for Here for America, which
11 represents all international automakers,
12 operating in the United States, as well as,
13 several suppliers.

14 International automakers have invested
15 nearly \$82 billion in the United States and have
16 become a major part of the American manufacturing
17 landscape.

18 In fact, 14 companies now produce cars
19 and trucks in the United States, with a 15th
20 scheduled to begin production in 2021. Ten of
21 those 14 originated elsewhere and several have
22 been building vehicles here for over 30 years,

1 including all four current U.S. producers that
2 originated in Japan.

3 International auto companies are deeply
4 enmeshed in the U.S. communities in which they
5 operate. Combined, these companies directly
6 employ 133,000 Americans, at nearly 500
7 facilities, and create jobs for some 1.29 million
8 Americans.

9 Significantly, international automakers
10 produce, nearly, half of all cars, SUVs, vans,
11 and light trucks, made in America last year, and
12 it counted for nearly half of U.S. vehicle
13 exports.

14 Japanese origin manufacturers have
15 invested more than \$48 billion dollars in 24
16 manufacturing and 44 R&D and design centers here
17 in the United States.

18 These companies, collectively, produced
19 3.8 million cars in 2017, and exported 423,415
20 American-built vehicles around the world. Those
21 same manufacturers employ more than 92,000
22 Americans.

1 A trade agreement with Japan can promote
2 economic growth, increased jobs, benefit
3 consumers, and enhance the global competitiveness
4 of U.S. producers.

5 We also believe that the measures I
6 intend to outline will help advance these
7 objectives. There are, however, some trade
8 actions, we believe, complicate the negotiating
9 process and, which, should be resolved, prior to
10 negotiations with Japan.

11 First, the 232 tariffs on steel and
12 aluminum imposed on Japan and several other U.S.
13 trading partners, are damaging to the auto
14 industry and contrary to the spirit of proposed
15 negotiations with Japan, they should be removed
16 immediately.

17 A second issue involves a threat of
18 additional tariffs on autos and auto parts under
19 the current Commerce Department Section 232
20 Investigation. There is no credible
21 justification for the idea that automotive
22 imports threaten our national security.

1 In fact, the growth of international
2 automakers and employment in the United States,
3 during the past quarter-century, proves
4 otherwise.

5 Mr. Chairman, there are five key issues
6 that I would like to urge the Administration
7 consider, as it begins the negotiation of a
8 U.S.-Japan Trade Agreement.

9 First, we believe all vehicle tariffs
10 should be eliminated, at the earliest
11 opportunity.

12 While our member companies have
13 U.S.-produced products that compete in the U.S.
14 market, immediate, duty-free treatment of autos
15 and auto parts would benefit all U.S. automotive
16 producers, facilitate U.S.-Japan trade, enhance
17 the competitiveness of U.S.-made motor vehicles,
18 and benefit workers and, ultimately, consumers,
19 in the United States and Japan.

20 We recognize that, as with other trade
21 agreements, there may be an interest in including
22 a rule of origin for automobiles, as part of any

1 tariff concession, included in a U.S.-Japan Trade
2 Agreement. Should negotiators pursue such a
3 role, we believe it should be balanced, flexible,
4 and consistent with the tariff benefits obtained.

5 Second, we believe a U.S.-Japan
6 agreement should embrace global harmonization,
7 for future automotive standards and regulations
8 and that both countries should work through
9 global bodies, like the United Nations Working
10 Party 29, to the greatest extent possible.

11 Third, in today's world, a constant
12 stream of data flows seamlessly across national
13 borders. It is, therefore, essential to have a
14 clear, consistent set of rules in place that
15 allow for unimpeded flow of data.

16 We, therefore, encourage the inclusion
17 of provisions that prohibit the imposition of
18 localization requirements, as well as language,
19 to promote e-commerce.

20 Fourth, we believe a U.S. trade
21 agreement should include customs and facilitation
22 provisions that mirror those in recent U.S. Trade

1 Agreements, such as the newly-signed USMCA and
2 KORUS.

3 Finally, we believe that currency is an
4 international issue, more properly addressed in a
5 multi-lateral context, such as the G7, or G20,
6 rather than, in a bilateral, or regional trade
7 agreement.

8 If currency provisions are included in
9 the U.S.-Japan Trade Agreement, those disciplines
10 should not restrict U.S. Policy options, or
11 preempt multi-lateral treatment of the issue.

12 Mr. Chairman, and Members of the TPSC,
13 Global Automakers, in here, from America,
14 appreciate the opportunity to testify today and
15 we look forward to answering your questions.
16 Thank you.

17 MR. BISHOP: Thank you, Mr. Bozzella.
18 Our next witness is Anne Wilson, with the Motor
19 and Equipment Manufacturers Association. Ms.
20 Wilson, you have five minutes.

21 MS. WILSON: Good morning. My name is
22 Anne Wilson, and I am the Senior Vice President

1 of Government Affairs, for the Motor and
2 Equipment Manufacturers Association.

3 MEMA represents more than 1,000 vehicle
4 suppliers that manufacture new, original
5 equipment and aftermarket components and systems
6 for use in passenger cars and commercial
7 vehicles.

8 Vehicle suppliers are the largest sector
9 of manufacturing jobs in the United States,
10 directly employing over 871,000 Americans in all
11 50 states.

12 Supplier manufacturing jobs have
13 increased 19 percent, since 2012. In large part,
14 because the investment in new innovative
15 technologies that are dependent on a global
16 supply chain.

17 I am pleased to be here, today, to
18 address our thinking of priorities for a free
19 trade agreement with Japan. Japan is a critical
20 trading partner for U.S. vehicle parts
21 manufacturers.

22 MEMA supports this opportunity for the

1 U.S. to strengthen our trading relationships with
2 Japan, particularly, related to vehicles and
3 vehicle parts.

4 We are encouraged that the
5 Administration has taken this important first
6 step to open negotiations for a free trade
7 agreement between the parties, to work through
8 critical concerns.

9 MEMA has a long history of working with
10 Japan on trade relations. For decades, MEMA
11 participated with our Japanese colleagues and
12 vehicle manufacturers, to strengthen the U.S.
13 supply base.

14 This has led to an interwoven
15 highly-dependent supply base, as demonstrated in
16 our written statement. In order for this supply
17 chain to remain healthy, we are all dependent on
18 a strong trading rule system.

19 However, the potential for Section 232
20 tariffs on imported autos and parts, presents a
21 hindrance to near-term trade talks and must be
22 addressed.

1 The United States and Japan must agree
2 to terms, related to the current Section 232
3 tariffs on steel and aluminum and any potential
4 Section 232 tariffs on automobiles and vehicle
5 parts.

6 Moreover, MEMA would urge the parties to
7 agree to full exemption, without any caps, or
8 quotas. Quotas present challenges and
9 uncertainty, especially, for the vehicle
10 industry, which has a long-production cycle.

11 Addressing these exemptions would
12 signify the importance of our trading
13 relationships and provide the ongoing stability
14 that suppliers need to thrive in the United
15 States.

16 Adjustments to imports of automotive
17 parts would, likely, cause declines in overall
18 U.S. production, as the cost inputs increase and
19 member companies are faced with the inevitable
20 choice of passing these higher production costs
21 onto their customers, the vehicle manufacturers,
22 or absorbing the price increases.

1 Passing along the cost, may not be
2 possible, because OEM customers will probably
3 seek other suppliers. If the supplier absorbs
4 the cost, however, they may be forced to delay,
5 or cancel, planned U.S. investment, such as
6 workforce training, or facility expansion.

7 Regardless, the end result will be a
8 lost market share for MEMA member companies and a
9 less competitive and profitable U.S. automotive
10 industry.

11 Furthermore, during trade talks between
12 the U.S. and Japan, MEMA urges the parties to,
13 one, allow for mutual recognition of existing
14 standards, without further modification, testing,
15 or certification, providing that safety levels
16 and environmental protection are not lowered.

17 Second, address non-tariff barriers to
18 trade. Third, promote opportunities for a strong
19 worldwide system, a future-aligned vehicle
20 regulations to the United Nations' process, under
21 the 1998 Agreement.

22 Fourth, eliminate tariffs reciprocally

1 and secure 100 percent liberalization, with
2 relatively short phase-out periods. Fifth,
3 require the imports of all automotive parts,
4 including remanufactured goods, are not treated
5 differently, from new good imports.

6 And, finally, enable a strong sustained
7 political commitment, at the highest level of
8 Government and regulatory authorities, allowing
9 for transparency and regular consultation with
10 industry stakeholders.

11 MEMA recognizes the vehicle industry, as
12 a key industry for the economies of both parties.
13 Certainly, considerable care must be taken, not
14 to jeopardize the vehicle supply chain and weaken
15 U.S. employment.

16 MEMA stands ready to work with the
17 parties on these objectives. If key issues,
18 specific to the automotive sector, are addressed,
19 a possible U.S.-Japan Trade Agreement would be
20 mutually beneficial to our industries, citizens,
21 and respective economies.

22 Such an agreement should aim to provide

1 expanded opportunities for U.S. vehicle
2 manufacturers, as well as vehicle suppliers.

3 Thank you for considering our comments,
4 today. I look forward to your questions.

5 MR. BISHOP: Thank you, Ms. Wilson. Our
6 next witness is Henry Seiner, with the Titanium
7 Metals Corporation. Mr. Seiner, you have five
8 minutes.

9 MR. SEINER: Thanks. I'm Vice President
10 of Business Strategy, for TIMET, Titanium Metals
11 Corporation.

12 Eliminating tariffs on imports of
13 titanium, under the USJTA, will have a severe
14 adverse impact on the American titanium industry
15 and on the national security of the United
16 States.

17 Titanium is a strategically-important
18 metal that meets critical needs in the aerospace,
19 events, and other industries.

20 Titanium is a special military
21 significance, because of its light-weight and
22 high-strength make it suitable for use in

1 demanding military applications, particularly,
2 jet engines, vehicle armor, and stealth aircraft.

3 Elimination of the titanium tariffs,
4 under the USJTA, would contravene the
5 long-standing Government-wide policy of
6 encouraging investment in a healthy domestic
7 titanium industry that has three major producers,
8 who compete, vigorously, with each other and with
9 multiple foreign suppliers, and employs more than
10 4,000, directly, employs more than 4,000
11 highly-skilled workers and many more, additional
12 and suppliers and subcontractors.

13 TIMET is the only vertically-integrated
14 titanium manufacture, in that, we produce
15 titanium sponge, the basic form of titanium
16 metal, in addition to melded products, long and
17 flat products.

18 Titanium sponge, from Japan, currently
19 accounts for 94 percent of all titanium sponge
20 imported into the U.S. Japan's capacity to
21 produce sponge more than doubled, from 30,000
22 metric tons annually, in 2004, to nearly 69,000

1 tons by 2016, and is running between 70 and 75
2 percent of capacity, currently.

3 Japan's expanded sponge capacity
4 explicitly targeted the export market for
5 aerospace, including military aerospace
6 applications.

7 Since 2013, U.S. capacity to produce
8 sponge, has been reduced by approximately
9 two-thirds. Japan has enough excess capacity to
10 take over the rest of the U.S. market.

11 Expansion of Japan's downstream
12 production, has been aided and abetted by
13 subsidies from the Japanese Ministry of Economy
14 Trade and Industry.

15 In August of 2017, TIMET filed an
16 anti-dumping petition against titanium sponge
17 imported from Japan. The investigation was
18 terminated in October, when the ITC issued a
19 negative injury determination, based on its
20 findings that TIMET's captive production of
21 sponge does not compete directly with imported
22 sponge sold on the commercial market.

1 As a result of the ITC's determination,
2 imports of titanium sponge are, effectively,
3 exempt from anti-dumping and countervailing
4 duties.

5 A large and significant investment is
6 required to sustain Henderson's, TIMET's
7 Henderson, Nevada sponge plant. Should it close,
8 due to unrestrained imports, the United States
9 will become a 100 percent dependent on foreign
10 sources for titanium metal. Those sources are
11 located in Russia, China, Kazakhstan, Ukraine,
12 and Japan.

13 In response to Executive Order 13806,
14 the Department of Defense, earlier this year,
15 highlighted this specific risk on titanium
16 sponge.

17 All of the world's foreign sponge
18 producers, including Japan, are geographically
19 remote from the U.S., making the supply chain
20 vulnerable to disruption from military
21 hostilities and political turmoil.

22 None of these remote foreign producers

1 can be counted on to maintain shipments of
2 titanium metal to the United States. Japan,
3 despite its political reliability, is
4 particularly vulnerable to disruption, caused by
5 an armed conflict, because of Japan's proximity
6 to China, Russia, and North Korea.

7 As indicated in my late August meeting,
8 with Mr. Beeman and Mr. Boling, in September of
9 this year, TIMET filed a petition, asking the
10 Department of Commerce to initiate an
11 investigation, under the 230, Section 232 of the
12 Trade Expansion Act, regarding the effective
13 imports of titanium sponge on the national
14 security of the U.S.

15 USDR should not undermine the OC's
16 analysis of the vulnerability of America's
17 defense supply chain, by agreeing to remove
18 tariffs of sponge, while the Department of
19 Commerce is evaluating the impact of such imports
20 on the security of the United States.

21 I urge the TPSC Representatives to
22 oppose the reduction, or elimination, of

1 important tariffs on titanium sponge, as on
2 titanium products, especially, titanium sponge.

3 The current tariffs should be maintained
4 indefinitely. Announcement of a phase-out period
5 will have a substantial and immediately-chilling
6 effect on continued investment in the America's
7 titanium industry.

8 It will immediately devalue the
9 investments that American companies have made in
10 their assets and undermine a critically-important
11 segment of the defense industrial base. If
12 titanium is included, the tariff phase-out period
13 should be extended and rules of origin should be
14 strengthened.

15 The USTR should seek a 20-year phase-out
16 period to allow recovery of capital investments
17 by U.S. producers, and enforce rules of origin
18 consistent with the recently-negotiated USMCA.

19 Thank you very much.

20 MR. BISHOP: Thank you, Mr. Seiner. Our
21 final witness on this panel is Terrence L.
22 Hartford, with Allegheny Technologies,

1 Incorporated. Mr. Hartford, you have five
2 minutes.

3 MR. HARTFORD: Thank you. Good morning,
4 Mr. Chairman, and Members of the Trade Policy
5 Staff Committee. I'm Terry Hartford, Vice
6 President of Defense of ATI, Allegheny
7 Technologies, or ATI.

8 ATI is one of the largest and most
9 diversified specialty metals and components
10 producers in the world. Our company's product
11 support diverse markets and industries, such as
12 aerospace and defense, oil and gas, electrical
13 energy, medical, automotive, and other industrial
14 markets.

15 The focus of my testimony this morning
16 is ATI's manufacturing operations, involving
17 titanium and titanium alloy products. Due to
18 their light-weight, strength, and resistance to
19 corrosion on high temperatures, titanium and
20 titanium alloyed products are critical to many
21 applications that make vital contributions to our
22 country's economic and national security.

1 With respect to the negotiation of a
2 potential U.S.-Japan Trade Agreement, ATI urges
3 the Trump Administration to pursue three
4 titanium-related priorities in its interactions
5 with the government of Japan.

6 First, we urge the immediate phase-out
7 of the 15 percent normal duty on imports of
8 titanium sponge from Japan. Titanium sponge is
9 the purest form of titanium metal and it is
10 combined with alloying elements to manufacture
11 downstream mill products.

12 Demand for titanium sponge in the U.S.
13 substantially exceeds the capacity of the sole
14 U.S. producer of titanium sponge, TIMET. Indeed,
15 TIMET's production of titanium sponge, at its
16 Henderson, Nevada facility, does not satisfy even
17 its own internal demand. As a result, TIMET is a
18 substantial importer of titanium sponge.

19 ATI previously produced titanium sponge,
20 at its facility in Rowley, Utah, in December
21 2016, however, our company idled that facility.

22 That decision was based on several

1 factors. One was ATI's ability to secure a
2 long-term supply of titanium sponge from two of
3 our long-term, long-standing offshore suppliers,
4 including a producer in Japan.

5 Another factor was the strategic
6 disadvantage of the production process at Rowley.
7 Specifically, the need to source important import
8 inputs, in the production process from unrelated
9 suppliers, relative to the operations of TIMET
10 and offshore producers.

11 While we don't expect to restart the
12 Rowley facility in the foreseeable future, it was
13 idled in a manner that will allow its prompt
14 restart, should market conditions warrant.

15 While TIMET has claimed in the past
16 that, purportedly, unfairly low-priced imports of
17 titanium sponge, from Japan, are responsible to
18 injury of domestic titanium sponge producers,
19 that is simply not the case.

20 TIMET's internal consumption of,
21 virtually, all of the titanium sponge, it
22 produces in the U.S., makes it vitally important

1 that there is a steady supply of
2 reasonably-priced titanium sponge available in
3 the U.S. market.

4 The current normal duty, at 15 percent,
5 on imports of titanium sponge from Japan, only
6 increases the cost of a critical input used, by
7 the domestic titanium industry and the production
8 of downstream titanium products.

9 Eliminating the normal duty, on import,
10 imports of titanium sponge from Japan, will
11 improve the global competitiveness of the
12 domestic titanium industry.

13 Second, ATI urges the Trump
14 Administration to maintain the existing normal
15 duties on all other titanium products from Japan.
16 In particular, the Trump Administration should
17 maintain the existing normal duties indefinitely.

18 Or, at a minimum, phase-out the normal
19 duties, over a 15-year period, consistent with
20 the United States' commitment to Japan, in the
21 Trans-Pacific Partnership Agreement.

22 The lengthy phase-out period in the TPP

1 Agreement is reflective of the critical
2 importance of titanium and titanium products, to
3 the economic and national security interests of
4 the United States.

5 We believe that, all domestic producers
6 of titanium and titanium products support this
7 position.

8 Third, the Trump Administration should
9 ensure that the rules of origin applicable to
10 titanium products prevent unscrupulous producers
11 in third-countries, from exploiting the benefits
12 intended for the producers in the U.S. and Japan.

13 Specifically, as discussed in more
14 detail, in our written submission, to the TPSC,
15 we urge the adoption of the product-specific
16 rules of origin for titanium products, in the
17 United States Canada Mexico Agreement, or USMCA.

18 Those rules would provide for a
19 significant regional value content requirement
20 for unwrought titanium that is produced in
21 non-signatory country and is converted into an
22 article of titanium in Japan.

1 Such a rule would avoid the disastrous
2 circumstances in a U.S.-Korea, or KORUS Free
3 Trade Agreement that, enabled China and Kazakh
4 producers to export titanium ingots slabs to
5 Korea, where they were subjected to minimal
6 further processing and then, became eligible for
7 duty-free entry into the United States.

8 The titanium-specific rule of origin in
9 the KORUS Agreement resulted in a reduction of
10 U.S. producer's exports of titanium products to
11 Korea and a significant increase in U.S. imports
12 of titanium products from Korea, significantly
13 harming the domestic titanium industry.

14 If the rules of origin in the USMCA, are
15 not adopted, it is likely that the same
16 circumstances will repeat themselves with respect
17 to U.S. imports of titanium from Japan.

18 On behalf of ATI and its 8,500
19 employees, I appreciate the opportunity to
20 testify this morning and I'll be happy to take
21 your questions. Thank you.

22 MR. BISHOP: Thank you, Mr. Hartford.

1 Mr. Chairman that concludes direct testimony from
2 this panel.

3 MR. BEEMAN: Thank you. Thank you, very
4 much, for your testimony. And, we have a, a
5 handful of questions, I know, for the Panel. I'd
6 like to begin with some, a handful of questions
7 on autos and the motor vehicle sector, before
8 moving on to the issue of titanium.

9 We'd like to cover all this in the next,
10 within the next half-hour. So, Governor Blunt,
11 and Ms. Hoffman, there was some common elements,
12 both, in both your testimonies, both, written, as
13 well as, some of the oral, points that were made,
14 including concerns and barriers, with barriers,
15 in Japan, to unique, or complex, safety, or other
16 standards.

17 Issues related to distribution, were
18 also mentioned, I think, in both your
19 submissions, some means, to ensure U.S. autos can
20 improve their market share in Japan, among
21 others.

22 Helpful, for us, to hear from you, both

1 of you, individually, directly, what your top two
2 to three priorities are that you feel would go
3 the furthest, in terms of helping to secure the
4 level of access to the Japanese market that you
5 deem acceptable.

6 We will come to the issue of currency,
7 in a moment, so I'd like to set that aside. But,
8 focusing on changes within the legal, regulatory,
9 or other environmental, other environment,
10 business environment-type issues, specific to the
11 auto sector. Appreciate your, your views.

12 Maybe, start with Ms. Hoffman?

13 MS. HOFFMAN: Thank you for that
14 question. The top two, or three, priorities that
15 the UAW would like to see in terms of, did you
16 say non-tariff barriers? I guess, I didn't hear
17 the --

18 MR. BEEMAN: Pardon me. Focusing on
19 barriers that you feel that, if they were removed
20 in Japan, would, would allow for a level of
21 access to U.S. autos that, that you would see, as
22 having made substantial progress?

1 MS. HOFFMAN: Okay. And that's outside
2 of the currency manipulation that, we --

3 MR. BEEMAN: We'll come to that, in a
4 second.

5 (Simultaneous speaking.)

6 MS. HOFFMAN: Great, got you. So one of
7 the -- a couple of the priorities we would say,
8 to address this web of closed systems that makes
9 it really difficult for manufacturers, from
10 abroad, to have successful sales.

11 So some of the additional non-tariff
12 barriers that, we believe, should be addressed,
13 would be the complex and changing set of safety
14 noise and pollution standards, many of which
15 don't conform to international standards.

16 And they add significant development and
17 production costs. Also, an unwillingness of
18 Japanese dealerships to carry foreign
19 automobiles. And then, also, government
20 incentives to purchase Japanese-made key cars.
21 So those would be some examples.

22 MR. BLUNT: All right, so there are, as

1 you well-know, given all of your work on this
2 subject, a number of technical challenges that
3 U.S.-built vehicles face, in terms of, export to
4 Japan. We, you know, we touch on some of those
5 technical challenges in our, our written
6 submission.

7 But, we believe that, the most effective
8 and swift way, to remove the regulatory barriers,
9 would be for the Japanese to agree to
10 full-acceptance of vehicles that are built to
11 U.S. Safety and Environmental Standards.

12 Similar to what was achieved in the
13 KORUS, or even more broadly, achieved in the
14 USMCA. We think that would cut through the, the
15 Gordian knot of all the regulatory challenges
16 that we face, today.

17 And, you know, one of our fears would be
18 that we might address all of the challenges that
19 exists, at this moment, but, of course, new
20 regulatory barriers could emerge in the future.

21 So we believe, full-acceptance of
22 products built to U.S. Safety and Environmental

1 Standards is the most effective solution.

2 MS. MOGHTADER: Turning to the issue of
3 currency. Ms. Hoffman, and Governor Blunt, you
4 both stressed the importance of including
5 enforceable currency disciplines.

6 Could you comment on, what specific
7 approaches and outcomes that you would recommend
8 for negotiations with Japan, especially, as
9 compared to the outcomes in the USMCA?

10 MR. BLUNT: Sure. And, I'll begin, if
11 that's okay? Yes, we, we, certainly, would want
12 to commend with the USTR and the U.S. Government,
13 the Trump Administration achieved, in the USMCA.

14 It's significant. It's the strongest
15 currency provision of any free trade agreement,
16 anywhere in the world and, with those trading
17 partners, we believe, is meaningful.

18 In terms of trade with Japan, where you
19 have an economy that has a history of
20 manipulating their currency and a direct market
21 intervention, to devalue their currency, to gain
22 a trade benefit, we do think you need a stronger

1 provision.

2 We think there should be a more
3 enforceable, enforceability, within the
4 provision. We don't have a specific solution
5 that we've offered, but we've always thought --
6 we've, we've offered a solution in the past, but
7 at this moment, you know, we, we would love to
8 have an opportunity to work with Treasury, as
9 they develop some sort of a framework. We've
10 always believed the types of things that the
11 Treasury looks at, in the semi-annual report, are
12 the types of things that we ought to be a part of
13 a well-defined currency provision.

14 In the past, we've advocated for a test,
15 a three-part test, if a country had a significant
16 foreign exchange reserves, which we define as six
17 months of imports, and a current account deficit.

18 If they had those two provisions in
19 place, and they were to intervene in the market,
20 they'd be deemed a manipulator and they would,
21 actually, lose the tariff benefits of the
22 agreement, while, for, for, at least a year.

1 We think that's, sort of, a clear,
2 clearly-defined definition of what currency
3 manipulation would be, for purposes of the
4 agreement, with a very swift and, a penalty, is
5 the sort of approach we ought to take, with an
6 economy like Japan.

7 MS. HOFFMAN: There's really not much
8 more to add, based on what he has covered, in
9 terms of an approach, but we do know is that,
10 Japan, you know, has historically engaged in
11 these practices and they artificially devalue the
12 Yen.

13 And, it makes it very difficult for
14 American workers and it puts foreign companies,
15 you know, gives them unfair profit advantages
16 that result in hardships for American workers.

17 I would say that, in terms of, making
18 sure -- I mean, the enforceability is, very much,
19 a cheap component of this, and going beyond any
20 reporting requirements.

21 So I'd have to look a little bit deeper
22 to see, where we stand, at this moment in time,

1 in terms of how we approach it, but it is
2 definitely a concern, giving how big the auto
3 trade deficit is and how we are already at zero
4 percent, in Japan.

5 Obviously, they're engaging in a number
6 of practices, which keeps their market closed,
7 their auto market closed, and currency
8 manipulation is, is definitely an area that we
9 need, need to tackle.

10 MS. MOGHTADER: I thank you, both. Just
11 to follow-up, Mr. Bozzella, you, also, expressed
12 a view, in your submission, that currency is more
13 properly addressed, in a multi-lateral context.

14 The Trade Promotion Authority sets out
15 a negotiating objective, related to currency, for
16 U.S. Trade Agreements. In your view, how can
17 this TPA objective be met, while also, addressing
18 the point you raise in your comments?

19 MR. BOZZELLA: Yes. Thank you for the
20 question. I think the, the short answer is,
21 carefully. I think you have, you know, again,
22 the proper approach, already, with regard to G7,

1 G20.

2 The challenge we face, of course, is
3 that currency exchange rates aren't set in a
4 bilateral context. And, we don't want to limit
5 our options, our policy options, to promote
6 economic growth here.

7 And so I think you have to be,
8 obviously, thoughtful. I recognize the, the, the
9 TPA objective, but I think we've got to be
10 thoughtful, in terms of, how we do that, without
11 limiting your policy objectives and, also,
12 failing to address actions that take place
13 outside the bilateral context in which you're
14 discussing this.

15 MR. KENNEDY: Good morning. I'm Scott
16 Kennedy, the Director of Offices of
17 Transportation and Machinery at the Commerce
18 Department. I have a question for Ms. Wilson and
19 Mr. Bozzella.

20 So both, in your testimony and in your
21 public comments, from both of your organizations,
22 you touched on the importance of the efforts to

1 work towards standards harmonization for new
2 technologies for motor vehicles.

3 What are your views, on how to most
4 effectively achieve this outcome within the
5 context of a trade agreement negotiation?

6 MS. WILSON: Well, thank you, for the
7 question. We really have embraced the work that
8 is being done, currently, under the UN Provisions
9 and the WP29, specifically, with regard to what
10 they're doing on automated vehicles.

11 We think it's important for the U.S. to
12 continue their very active engagement, which
13 currently exists. We need to align those.

14 As one of the technical people, in one
15 of our companies, who's very involved in
16 automated technology, said to me, "you know, we
17 don't like to make brake systems to three or four
18 different standards."

19 "But, we cannot make the upcoming
20 automated vehicle technology to three or four
21 different standards, it's too expensive, there's
22 too much at risk, cyber security, just to name a

1 few other concerns."

2 I would also point out that it's
3 important for us to align where we are, in future
4 technologies, with where our regulatory climate
5 is.

6 In separate submission on fuel
7 efficiency, our Trade Association differed,
8 slightly, from some of the vehicle manufactures.
9 It is important for us in the United States, to
10 have a market for technology, for us to develop
11 and invest in that technology in the United
12 States.

13 I think that's one of the things that we
14 need to keep in mind when we make requirements on
15 vehicle manufactures, or their suppliers, to
16 invest in the U.S.

17 MR. BOZZELLA: Yes, I would agree with,
18 with Anne. I think WP29 is the appropriate
19 context for this. I do agree that, this is
20 extremely important. This is where the industry
21 is going.

22 And, I think, also, this is, not only is

1 it an important standards question, I also think
2 it relates to a potential rule of origin, if you,
3 if you contemplate that, within the context of
4 U.S.-Japan, in the sense that, if you're too
5 restrictive that innovation could happen
6 elsewhere, outside the bilateral arrangement.

7 And so I think, for both of those
8 reasons, I think it's important that we work in
9 a, in a, in a broad, a global context, and WP29
10 is the right way to go.

11 MR. KENNEDY: If I could, just, ask a,
12 a follow-up question, to Ms. Wilson? So, as data
13 in your submission, made very clear, U.S. exports
14 to Japan of auto parts, remain extremely low,
15 compared to our exports to other major auto
16 manufacturing countries.

17 Of the proposals that you outlined, in
18 your testimony, which of those proposals should
19 we focus on, to help ensure U.S. auto parts
20 exports have a better success in the future, in
21 Japan?

22 MS. WILSON: I think, when Governor

1 Blunt addressed, you know, acceptance of U.S.
2 Standards, immediately, as it is in the USMCA, I
3 think, that that is something that our members
4 would embrace.

5 But, if you look at testing requirements
6 and individual certification requirements, these
7 become particularly burdensome, particularly, for
8 vehicle suppliers, who are, primarily, in the
9 U.S. and, who do not have a global footprint.
10 Those need to be addressed, immediately, not just
11 within the context of U.S.-Japan, but with the
12 other trading partners.

13 And we've been working very long with,
14 you know, past administrations, the current
15 Administration, to address those, but that is,
16 this is an opportunity to address that with the,
17 within the context, between the United States and
18 Japan.

19 MR. BEEMAN: Let me make sure we have
20 enough time, to spend on titanium, as well, which
21 is another important industry, in the United
22 States.

1 Mr. Seiner, in your view, based on the
2 testimony you had submitted, what accounts, from
3 your perspective, for the decline and the price
4 of titanium sponge that we're seeing from Japan,
5 and is there anything, you feel that can be done,
6 in a trade agreement, to address that particular
7 cause?

8 MR. SEINER: Excess capacity over
9 capacity globally of titanium sponge has been the
10 number one cause. The Japanese went from 30,000
11 tons of capacity to nearly 69,000 tons, from 2004
12 until today.

13 And, there is no growth in their home
14 market. Half of their sponge is exported.
15 They'd like to export more. Two-thirds of their
16 mill products are exported.

17 And, the most attractive market,
18 available, is the aerospace market, in the United
19 States. There isn't a domestic, significant
20 domestic aerospace industry in, in Japan, hence,
21 we're the, we're the target.

22 And I just, I don't, I think that sponge

1 needs to be treated separately. The U.S. needs,
2 for national security, needs a healthy sponge
3 industry, both, domestically and in Japan and
4 it's those unique requirements that make sponge a
5 little bit different from mill products.

6 MR. BEEMAN: Thank you. And also, just
7 in your testimony, both, written and oral, just
8 now, you also touched on the issue of subsidies
9 that, you have argued, or been provided, by the
10 Japanese government, does this go to the
11 over-capacity issue that you've referenced, or
12 can you can say more about what your knowledge is
13 of these subsidies?

14 MR. SEINER: I don't have a detailed
15 knowledge. I believe, it's been more along the
16 lines of mill product production than, for
17 titanium sponge, specifically.

18 MR. BEEMAN: All right, thank you. And
19 then, for Mr. Hartford, as well. How should we
20 look at, obviously, you know, there are other
21 comments on, with respect to the elimination of,
22 views, on the elimination of tariffs on titanium

1 sponge from Japan.

2 And, you know, obviously, there's the
3 argument that eliminating domestic production in
4 the U.S., potentially, from the steps that a
5 trade agreement might result in and leave U.S.
6 Military hardware vulnerable to, potentially,
7 unreliable foreign suppliers. Those are a set of
8 national security arguments that have been made.

9 What are -- can you opine on your views,
10 as to how, or the extent, of which, those are
11 actually significant, from your perspective,
12 perspective of your operation?

13 MR. HARTFORD: Yes, thank you for the
14 question. I think it's important to look at the
15 titanium products market segment, as being
16 somewhat separate from the titanium sponge
17 segment.

18 The titanium sponge business is a raw
19 material input, to make finished titanium
20 products, in the United States. U.S. producers
21 have, historically, been reliant upon imported
22 sponge, to make our products. It's been that way

1 for years.

2 Even, TIMET, the sole producer, relies
3 upon imported sponge to satisfy all of their
4 needs, in addition, to what they make in
5 Henderson.

6 When we were running Rowley, Utah, we
7 also, relied upon imported sponge to finish our
8 products. There are two other domestic
9 producers, who rely upon imported sponge, and it
10 has been that way for years.

11 And, the Japanese have demonstrated,
12 over a very long period of time, that they are a
13 secure, reliable, responsible producer of sponge,
14 for U.S. producers.

15 Japan, being the strong ally of the U.S.
16 that it is, has always made that trade
17 relationship work very well for us.

18 MR. BEEMAN: Thank you. I don't know,
19 if there are any other questions, from the Panel,
20 for this group?

21 (No audible response.)

22 MR. BEEMAN: All right. All right,

1 thank you, again, for your time. So given that,
2 we're running, about, seven minutes ahead, maybe,
3 we will just wait, until the appointed time, to
4 make sure the next panel is seated. Thank you.

5 (Whereupon, the above-entitled matter
6 went off the record at 10:32 a.m. and resumed at
7 10:47 a.m.)

8 MR. BISHOP: Mr. Chairman, our first
9 witness on this panel is John Stanford, with the
10 Small Business Roundtable. Mr. Stanford, you
11 have five minutes.

12 MR. STANFORD: Chairman, members of the
13 Committee, thank you for the opportunity to
14 testify, and for the diligent pursuit of improved
15 relations with other countries, which, for small
16 businesses, means additional markets, which
17 entrepreneurs can innovate, compete and fuel the
18 American economic engine.

19 My name is John Stanford and I'm the
20 Executive Director of Small Business Roundtable,
21 a coalition of leading small business and
22 entrepreneurship organizations.

1 Trade policy has long been a priority
2 for our community, as exporting offers new
3 markets and customers to business owners. And
4 that is effectively the sum of our ask today.

5 We urge the U.S. Government to negotiate
6 with other countries to facilitate better access
7 to 95 percent of the world's customers living
8 beyond our borders, and their two-thirds of the
9 world's purchasing power.

10 It's not simply a matter of more
11 revenue. The Institute for International
12 Economics found that not only are these business
13 faster-growing, they're far less likely to go out
14 of businesses.

15 We hardly need to debate why. An
16 increased customer base, improved competitive
17 advantage, expanded product lines, all while
18 developing partnerships and mitigating domestic
19 and seasonal economic turbulence.

20 Prioritizing small business in the
21 Japanese market will pay dividends to the tens of
22 millions of businesses here that can compete

1 across the Pacific.

2 To that end, Small Business Roundtable
3 has identified six principles for consideration
4 throughout these negotiations.

5 First, provide certainty in foreign
6 markets. Small businesses thrive when barriers
7 to innovation and competition are removed. A
8 corollary of this is the need to ensure that
9 business conditions do not change through the
10 course of starting or growing a business.

11 As such, as with all trade deals, we
12 prioritize certainty for American businesses.
13 USTR should establish commerce norms that can be
14 relied on for years to come. Uncertainty is
15 anathema to entrepreneurship. So, we insist on
16 achieving certainty for business overs.

17 The existence of a strong, free, fair
18 and reliable international marketplace is
19 integral to the ability of small enterprises to
20 succeed.

21 Second, and in line with certainty, we
22 urge you to simplify and harmonize trade

1 regulations with U.S. law as much as possible.
2 Decreasing regulatory barriers at the border will
3 increase the interests of entrepreneurs when they
4 shy away from foreign markets.

5 The most obvious example of simplifying
6 commerce through trade deals is by increasing the
7 de minimis levels of our foreign partners. The
8 current level for low-value shipments to Japan is
9 US \$90.

10 Increasing this level would be the most
11 tangible impact on small businesses. We also ask
12 that you encourage the Japanese to evaluate
13 regulatory impacts on their entrepreneurs.

14 This was achieved in the customs and
15 trade facilitation, and cross-border services
16 chapters of the USMCA, and is of value.

17 Third, I encourage you to pursue
18 fairness through market competition. These trade
19 deals must emphasize the need to remove
20 government policies that pick winners and place
21 arbitrary limits on American businesses.

22 The Japanese market is notoriously

1 complex, a possible byproduct of many regulations
2 and technical specifications that do not conform
3 to global standards.

4 Decision-making bodies in the Japanese
5 Government are difficult to track, leaving
6 American business owners with limited insight
7 when evaluating investment in the market.

8 Each of these prevents free market-based
9 decisions for small business owners.

10 Nonetheless, the preferences of Japanese
11 consumers and a culture embracing of innovation,
12 paired with a large economy, make an ideal
13 opportunity.

14 We urge the USTR to challenge any
15 domestic preferences. And I think my colleagues
16 here today will provide a great deal of
17 specificity on the barriers industry-by-industry.

18 Fourth, we ask that you provide
19 protection of American innovation abroad. A
20 common refrain from would-be exporters is a
21 concern over their goods and services.
22 Effectively, their entire businesses being

1 pirated in a foreign country with no recourse.

2 For this reason, strong IP protections
3 must be at the heart of any trade deal. The
4 theft of trademarks, trade secrets, proprietary
5 designs, and the proliferation of counterfeit
6 goods, steals profits and dilutes reputation.

7 The protection of IP rights and trade
8 agreements with other countries inoculate small
9 business owners by providing an equal competitive
10 foundation on a global scale.

11 As noted in the U.S. Chambers' Global
12 Innovation Policy Center IP index, Japan has
13 strong IP rights, but would benefit from an FTA
14 enshrining gold-standard IP rights, and we urge
15 USTR to establish those in this US-Japan
16 agreement.

17 Similarly, the USTR has well-documented
18 specific concerns in their 2018 Special 301
19 Report, and we would reiterate that many of those
20 challenges impact small business directly and
21 indirectly.

22 Fifth, create downstream supply chain

1 benefits. Millions of small businesses play
2 critical roles in supporting the production of
3 goods and services in America's largest
4 companies.

5 If trade policy can increase the
6 competitiveness of these larger firms, small
7 businesses in the supply chain can benefit.

8 Sixth, keep small business at the table.
9 The signing of trade deals is hardly the end of
10 the road for negotiations between countries.

11 We urge the USTR to build on the gold
12 standard set in the USMCA, whereby government
13 insisted on a small business chapter in the trade
14 deal, as well as the establishment of an ongoing
15 SME dialogue.

16 The increased cooperation of
17 entrepreneurs might help break down cultural and
18 business barriers between our two economies.

19 In many ways, this may be one of the
20 largest benefits, as the sharp contrast of
21 cultures would not be overcome by a trade deal
22 alone, but instead the renewed sense of

1 partnership between allies.

2 In conclusion, an evaluation of any
3 future deal would be through the lens of
4 increased opportunity, simplicity and fairness.

5 We've seen in recent trade negotiations
6 the commitment of the Administration to achieving
7 these outcomes, and look forward to working
8 alongside your agencies to ensure such results
9 can be the new standard.

10 As the world's third largest economy,
11 Japan is of great interest to American businesses
12 both large and small. Few are well-poised to
13 reap benefit from this market as American
14 entrepreneurs, whose innovation knows no border.

15 We urge the Administration to consider
16 the aforementioned principles, and we thank you
17 for the opportunity to testify here today.

18 MR. BISHOP: Thank you, Mr. Stanford.
19 Our next witness is Charles Freeman, with the
20 U.S. Chamber of Commerce, US-Japan Business
21 Council. Mr. Freeman, you have five minutes.

22 MR. FREEMAN: Thank you. Chairman

1 Gresser, members of the Committee, it's an honor
2 to be here today to address this important topic.
3 As was mentioned, I do represent the U.S. Chamber
4 and the U.S. Business Council. And many of our
5 specific sectoral issues and recommendations are
6 contained in the written submission from last
7 month.

8 But let me address some principles that
9 surround our concerns and our hopes for this
10 agreement.

11 At the outset, we recognize the
12 agreement -- the negotiation has not taken place
13 in a vacuum. There are two very significant
14 agreements that are in the region that are going
15 into effect at the end of this year or the
16 beginning of next.

17 The comprehensive and progressive Trans-
18 Pacific Partnership Agreement will take -- will
19 go into force on December 30th, and the EU-Japan
20 Economic Partnership Agreement goes into effect
21 on February 1st.

22 These are not insignificant deals, and

1 their going into effect will effectively
2 disadvantage U.S. businesses, their workers,
3 farmers and ranchers.

4 And, for example, the US -- the Japan-EU
5 economic partnership deal represents an open
6 trade zone covering more than 600 million people.
7 The agreement will remove over a billion Euros
8 and tariffs paid annually by EU companies to
9 Japan, and there are significant gains to the EU
10 in areas that have been identified previously as
11 of particular concern in autos and agricultural
12 products, from which U.S. exporters won't
13 benefit.

14 That said, that's -- we really commend
15 the Administration for -- and Japan for
16 announcing the negotiations beginning in the US-
17 Japan trade agreement, and is a real opportunity,
18 we believe, to create gold standard trade
19 agreement for a globally-competitive U.S. trade
20 industry.

21 We recognize the negotiations will be
22 challenging, and we obviously stand ready to work

1 with both sides to secure successful outcomes
2 that strengthen ties between two of the world's
3 largest economies.

4 Some specific recommendations.

5 Obviously, we believe strongly that the USTR keep
6 closely to negotiating objectives in the trade
7 promotion authority, and we urge the U.S. and
8 Japan to negotiate a truly comprehensive
9 agreement, rather than focus narrowly on the
10 reduction of tariff measures in particular goods
11 or agricultural products or services.

12 Clearly, tariff reductions will result
13 in market access gains for many sectors,
14 including agricultural and automobiles. But the
15 service-to-sectors parties should not be ignored.

16 Service sector is highly competitive in
17 the Japanese market already, and the U.S. service
18 exports totaled \$46.4 billion in 2017. These are
19 gains on which we can build.

20 We also recognize that there are --
21 there is a strategic component to this agreement,
22 and we believe that a successful agreement will

1 help mitigate risks in what is already an area or
2 region with significant trade frictions.

3 Further, and just me highlight a couple
4 of important areas of concern. Any US-Japan
5 trade agreement should really promote innovation
6 and ensure future competitiveness. And that's
7 why we think attention to the digital chapter,
8 drawing on the USMCA agreement text, is critical
9 for future competitiveness.

10 In 2015, for example, all things digital
11 in the economy were valued at over \$19 trillion,
12 which is 22.5 percent of global GDP, and by 2020
13 those numbers are expected to be \$25 trillion, or
14 something like 25 percent. So, getting the
15 digital piece right is fundamental.

16 Also, on the intellectual property
17 section chapter, there's enormous opportunities
18 for gains, and to contribute to creativity and
19 innovation.

20 There's real opportunity in this
21 negotiation for a particular victory for the
22 biologics and pharmaceutical industry in

1 establishing 12 years of IP protection.

2 The business community has looked at the
3 US-Korea free-trade agreement and the USMCA for
4 signals of where USTR will take these
5 negotiations. We want to say that some of those
6 chapters or sections are already gold standards
7 and can be improved upon.

8 But I think, as a basis or fundamental,
9 that includes digital trade, IP, financial
10 services, SPS, TBT, competition policy, SOEs,
11 good regulatory practices, telecom, and customs
12 and trade facilitation.

13 However, USMCA fell short in some
14 particular areas that are of concern. Those
15 include investment protection, government
16 procurement, the de minimis rules -- as was
17 already suggested -- and Canada's cultural
18 exemption in the USMCA were disappointing.

19 And further, areas of managed trade that
20 appeared in the USMCA we would urge be excluded
21 from these negotiations and from this text.

22 As I said, we've attached detailed

1 comments to our written submission, but we
2 believe that areas of significant opportunity
3 include agriculture and biotech, automobiles,
4 competition, cosmetics, customs, digital trade,
5 direct selling, electronic payments, energy and
6 infrastructure, express delivery, financial
7 services, functional foods and dietary
8 supplements, procurement, investment,
9 pharmaceutical and medical devices, and trade
10 remedies and dispute settlement.

11 All of these area are ripe for
12 significant contributions through this agreement,
13 and we wish you godspeed. Thank you.

14 MR. BISHOP: Thank you, Mr. Freeman.
15 Our next witness is Christopher LaFleur, with the
16 American Chamber of Commerce in Japan.
17 Mr. LaFleur, you have five minutes.

18 MR. LAFLEUR: Chairman, fellow
19 panelists, thank you very much for giving us this
20 opportunity today.

21 I'm here from Tokyo to represent the
22 nearly 3,500 members of the American Chamber of

1 Commerce in Japan -- the ACCJ -- which has been
2 the voice of American business in Japan since
3 1948.

4 We are the leading foreign business
5 organization in Japan, and I'm honored to
6 represent our views today.

7 The ACCJ has been calling for a new
8 bilateral trade dialogue for a number of years.
9 So, let me begin by expressing our full support
10 for negotiations aimed at a new US-Japan trade
11 agreement.

12 Even though Japan is America's fourth
13 largest export market, there is more American
14 business could do.

15 Consider the evolution of the U.S.
16 commercial relationship with Japan and where
17 we're headed. For example, in 1985, medical
18 technologies and pharmaceuticals each accounted
19 for little over one percent of U.S. exports to
20 Japan.

21 Today, medical technology accounts for
22 more than seven percent of all U.S. exports to

1 the country, helping U.S. industry capture a
2 nearly 25 percent market share. And
3 pharmaceutical exports have soared, allowing U.S.
4 manufacturers to gain a 20 percent share of a
5 \$95 billion market.

6 These innovative exports support
7 thousands of American jobs across the country.
8 To continue expanding U.S. exports, we should
9 prioritize such industries of maximum
10 opportunity, those that will drive sustained U.S.
11 growth in the 21st century.

12 The ACCJ respectfully proposes four
13 principles, which we hope will guide the
14 negotiations.

15 First, preserve and enhance the market
16 opportunities which leading U.S. industries have
17 worked to build in Japan. U.S. companies have
18 won significant market share not only in
19 pharmaceutical and medical technology, but also
20 in financial services, information technology,
21 and professional services.

22 Those successes are not guaranteed over

1 time. For example, evolving policies and
2 regulations in Japan are beginning to
3 disadvantage U.S. pharmaceutical companies, which
4 account for a major share of U.S. goods exports
5 to Japan today.

6 Preserving opportunities where U.S.
7 companies are most competitive should be among
8 the very highest priorities with these
9 negotiations.

10 Second, negotiators should focus on both
11 goods and services. Some US-made goods face
12 clear market access issues, such as in
13 agriculture. We hope to see such barriers
14 lowered and removed.

15 We also believe conflicting, restrictive
16 and outdated government standards discourage
17 merchandise exports in multiple sectors --
18 notably, automobiles.

19 We hope you will seek bilateral adoption
20 of common standards not only for today, but also
21 to secure common standards for future
22 technologies, such as autonomous vehicles.

1 We also hope negotiations will deliver
2 outcomes for American workers in services, where
3 the U.S. enjoys a \$14 billion trade surplus with
4 Japan, and where exports have grown 22 percent
5 since 2007.

6 There is further immense opportunity in
7 Japan to sell innovative, American-made services
8 in areas such as cloud computing, online
9 shopping, and electronic payments.

10 Securing common standards and growth-
11 oriented policies can help ensure that American
12 success in services continues.

13 Third, the U.S. should seek a model
14 agreement that raises the global bar. This
15 negotiation is an opportunity to collaborate with
16 a major U.S. ally and a willing partner, to
17 advance shared ideals in intellectual property
18 protection, regulatory transparency, and best-
19 practices, and to strengthen the frameworks
20 necessary for a robust digital economy, such as
21 guaranteeing cross-border data flows, protecting
22 personal information, and bolstering

1 cybersecurity.

2 The Indo-Pacific is witnessing an ever
3 expanding array of alternative trade
4 arrangements. This arrangement can and should
5 set a new benchmark for the future of global
6 trade.

7 Fourth and finally, the agreement should
8 reinforce pro-growth reform in Japan. Prime
9 Minister Abe has been implementing pro-market
10 reforms to confront demographic headwinds, and
11 make Japan's market more efficient, transparent
12 and growth-oriented. These efforts are working.
13 Japan is now in its longest growth streak since
14 the 1940s.

15 American companies and products compete
16 well in areas where Japan's reforms have leveled
17 the playing field.

18 Only a few years ago, the Japanese
19 cellphone market, for example, was dominated by
20 domestic technologies. Today, U.S. technology
21 companies lead.

22 American exports of information

1 technology services to Japan in fact have nearly
2 tripled since 2014.

3 Continued expansion of U.S. exports to
4 Japan requires that Japan stay the course towards
5 sustainable growth. Therefore, these
6 negotiations should reinforce those reform
7 efforts and ensure that workers and consumers in
8 both countries see our future agreement in one in
9 which both sides win.

10 In conclusion, it is no accident that
11 the ACCJ's membership today is at its highest
12 level ever. American business in Japan is
13 competing and winning in key sectors. We look to
14 these negotiations to expand those playing fields
15 and ensure they remain level, with a forward-
16 looking, future-oriented trade agreement.

17 We commend the U.S. Government for
18 pursuing this new bilateral agreement, and ask
19 the Administration to continue seeking private-
20 sector inputs throughout the negotiation.

21 The ACCJ stands ready to offer its
22 expertise on every issue. Thank you.

1 MR. BISHOP: Thank you, Mr. LaFleur.
2 Our next witness is Celeste Drake, with the
3 AFL-CIO. Ms. Drake?

4 MS. DRAKE: Mr. Chairman, members of the
5 Committee, good morning. I appreciate the
6 opportunity to testify on behalf of the AFL-CIO,
7 and its more than 12 million working families on
8 a potential trade agreement with Japan.

9 I have submitted written testimony for
10 the record and will summarize my comments here.

11 The AFL-CIO does not believe that more
12 of the same trade policies that brought us the
13 original NAFTA and WTO will fix the problem, and
14 appreciates the USTR's willingness to think
15 outside the box.

16 With respect to Japan specifically, the
17 AFL-CIO is concerned that a bilateral trade deal
18 may be the wrong approach. Our experience,
19 including more than 35 years of unsuccessful U.S.
20 efforts to pry open Japanese markets gives us no
21 faith that any commitment secured in the proposed
22 deal will be effective at changing the trade

1 relationship in ways that benefit ordinary
2 workers.

3 A traditional trade deal will not
4 adequately address the \$68.9 billion U.S. goods
5 trade deficit with Japan, 75 percent of which
6 comes from motor vehicles and parts, particularly
7 given that Japan consistently produces more cars
8 and car parts than it could possibly consume.

9 Despite decades of efforts by Japan's
10 trading partners to open the Japanese market to
11 imported automobiles, Japan remains the most
12 closed automotive market in the world, despite a
13 Japanese automotive import tariff of zero.

14 South Korean Hyundai Motors, which
15 attempted to penetrate the Japanese auto market
16 and pulled out in frustration in 2009, provides a
17 cautionary tale.

18 Some of Japan's trade barriers are
19 regulatory. But the USTR's past approach to
20 regulatory barriers, which is to set up rules
21 that allow firms and parties to attack legitimate
22 public interest regulations, as well as market-

1 protective measures masquerading as such, may
2 occasionally help a global firm to pad its bottom
3 line, but usually leaves working families
4 unprotected, and undermines democratic decision-
5 making.

6 The AFL-CIO recommends that any
7 reduction in U.S. tariffs on Japanese imports
8 must be tied to actual, verifiable opening of the
9 Japanese auto market and a substantial reduction
10 in our bilateral auto trade deficit with Japan.

11 We also recommend a sunset clause that
12 provides for the automatic termination of the
13 agreement if the anticipated change in access to
14 the Japanese market does not materialize.

15 An appropriate metric for the sunset
16 clause would be a 50 percent reduction in the
17 non-military, bilateral industrial goods trade
18 deficit between the two countries.

19 Additionally, Japan's history of
20 currency manipulation and misalignment is
21 unlikely to be meaningfully addressed by a
22 provision such as that included in the new NAFTA.

1 The AFL-CIO urges USTR to include
2 specific currency disciplines that are
3 enforceable in a timely way. The deal must also
4 include a mechanism by which the parties will
5 cooperate to address common threats, such as
6 currency manipulation and overcapacity by third
7 parties, or efforts by firms to engage in
8 transfer mis-pricing, duty evasion, or tax
9 avoidance.

10 Finally, Japanese automakers
11 manufacturing in the United States have
12 persistently denied their workers a fair and
13 democratic opportunity to decide on union
14 representation.

15 Without binding, effective rules to
16 address this, any new U.S. jobs will not be
17 family-wage jobs, but rather, more low-road jobs
18 that further exacerbate income and equality.

19 Although we understand that the
20 administration shares our concerns about the
21 United States' enormous, persistent global
22 deficit, to-date we have not seen the

1 comprehensive transformation of U.S. trade policy
2 required to bring about inclusive growth and
3 shared prosperity.

4 For example, although the renegotiated
5 NAFTA includes a meaningful paring back of
6 investor-to-state dispute settlement, a new
7 approach to labor obligations, and automotive
8 rules of origin and an innovative review
9 mechanism, we have concerns about whether these
10 new provisions -- particularly given the
11 inadequate dispute settlement mechanism -- will
12 transform trade relations in North America.

13 Additionally, too much of the new NAFTA
14 duplicates or expands upon corporate giveaways
15 present in trade agreements from the original
16 NAFTA to the WTO, to the TPP.

17 Provisions that keep drug prices
18 astronomically high and interfere with our
19 ability to regulate Wall Street and toxic
20 chemicals, have no place in a trade agreement.

21 They will not help create rising wages
22 or the shared prosperity that working families

1 need.

2 We urge the USTR to omit these
3 provisions, and instead focus on tariffs and
4 safeguards, cooperative mechanisms to address
5 abusive practices by third parties, and strict
6 labor and environmental terms to prevent a race
7 to the bottom.

8 The United States cannot afford another
9 trade agreement that hollows out our industrial
10 base and adds to inequality.

11 The AFL-CIO will not support any trade
12 agreement unless it is well-balanced, supports
13 good jobs, protects the rights and interests of
14 working people, promotes a healthy environment,
15 and protects our democracy.

16 I thank the Committee for its time, and
17 would be pleased to answer any questions you may
18 have.

19 MR. BISHOP: Thank you, Ms. Drake. Our
20 next witness is Rufus Yerxa, with the National
21 Foreign Trade Council. Mr. Yerxa, you have five
22 minutes.

1 MR. YERXA: Thank you, Mr. Chairman.
2 And thank you for inviting me today. I want to
3 begin by saying our membership -- membership of
4 the National Foreign Trade Council, which
5 includes some of the nation's most successful and
6 innovative global companies, and also largest
7 exporters -- wants to state our unequivocal
8 support for an outcome in these negotiations that
9 will maintain and build on the strong existing
10 US-Japan relationship.

11 They consider it essential to ensure
12 that negotiations result in a strengthening of
13 these ties and do not introduce further
14 impediments into the trading relationship.

15 We believe that the agreement can
16 strengthen this relationship and are prepared to
17 work closely with you to identify key potential
18 gains for the US.

19 We have submitted to you a detailed
20 statement, which includes some overall guiding
21 principles that I'd like to articulate.

22 First, that this agreement should create

1 more open markets and better rules, not new
2 restrictions. Negotiations should be focused on
3 improving market access and ensuring greater
4 fairness, but must not become a pretext for
5 designing new trade restrictions or undermining
6 existing access.

7 Secondly, this agreement should reflect
8 changes in the world economy, and negotiations
9 should create new rules to ensure open markets in
10 areas like digital trade, e-commerce and other
11 new technologies, and modes of commerce that
12 represent the modes of delivery of the future.

13 And thirdly, that the negotiations
14 should address the section 232 tariffs, which are
15 adversely affecting both our trade with Japan and
16 the U.S. economy. More generally, U.S.
17 manufacturers, consumers and exporters.

18 And we would strongly advocate that
19 these unwarranted restrictions be removed as a
20 byproduct of these negotiations.

21 We have submitted to you, as I said, a
22 statement that contains a number of specific

1 negotiating objectives in ten key areas. I'll
2 just state those areas briefly. Obviously,
3 willing to answer questions about our submission
4 on any of them.

5 On customs and trade facilitation,
6 digital trade, trade-related IP, SPS and TBT,
7 regulatory coherence, market access and goods,
8 barriers to trade and services, investment,
9 government procurement and SOEs.

10 And overall, I think in all of those
11 areas, what we're stressing is something that
12 Charles Freeman talked about -- how important it
13 is to use this agreement to restore the
14 competitive parity with other TPP countries that
15 were lost as a result of U.S. withdrawal from the
16 TPP agreement, and the decision of the remaining
17 11 countries to go forward with the CPTPP.

18 It is vitally important that we have
19 this new agreement with Japan in order to restore
20 that competitive parity.

21 It's made even more important by the
22 fact that now Japan has entered into an FTA with

1 the EU, and this is creating one of the largest
2 free-trade zones -- if you want to call it
3 that -- in the world, which the U.S. will be
4 outside of if we're not successful in negotiating
5 new agreements with both Japan and the EU.

6 And I know the Administration's also
7 announced a proposal to go forward with
8 negotiations with EU.

9 So, a lot's at stake in these
10 negotiations, in order to ensure that U.S.
11 manufacturers and exporters don't find themselves
12 at a permanent or long-term competitive
13 disadvantage with the other major economies of
14 the world.

15 As I said, we're prepared to work with
16 you as you go through this process, and I'll be
17 glad to discuss any of our specific comments as
18 you get to that section.

19 MR. BISHOP: Thank you, Mr. Yerxa. Our
20 next witness is Michael Mullen, with Express
21 Association of America. Mr. Mullen, you have
22 five minutes.

1 MR. MULLEN: Thank you for the
2 opportunity to talk with you today. I'm
3 testifying on behalf of the Express Association
4 of America, which represents DHL, FedEx and UPS,
5 the three largest express delivery service
6 providers in the world.

7 EAA-member companies serve over 200
8 countries, have estimated annual revenues in
9 excess of \$200 billion, employ more than
10 1.1 million people, and delivery more than
11 30 million packages each day -- or about twice
12 that these days.

13 EAA strongly supports the concept of
14 negotiating a trade agreement with this
15 significant U.S. trading partner, provided that
16 Japan agrees to a high-standard, comprehensive
17 agreement.

18 EAA members' concerns regarding Japan
19 arise mainly from the Japan Post, one of the
20 world's largest, most powerful and wealthiest
21 State-owned enterprises.

22 In addition to its basic mail-delivery

1 services, Japan Post provides a large variety of
2 delivery and financial services that compete
3 directly with services offered by the private
4 sector.

5 Japan's 2005 postal privatization bill
6 pledges that the cabinet and Japan Post will take
7 measures to, quote, ensure equal competitive
8 conditions, unquote, between the Japan Post
9 operations and those of private companies engaged
10 in the same lines of business.

11 But this pledge has not been honored in
12 practice. Express Delivery Services and other
13 value-added services offered by Japan Post
14 continue to enjoy significant regulatory
15 advantages over competing services offered by the
16 private sector, and little or nothing has been
17 done to ensure that Japan Post does not use
18 profits and resources obtained from its monopoly
19 and dominant market position, to subsidize other
20 services.

21 The Express Delivery Service industry's
22 immediate concern is the regulatory preference

1 given to Japan Post's international parcel
2 delivery services, including express mail
3 service, and other value-added services that
4 compete directly with the private sector.

5 Japan attempts to justify this unequal
6 treatment by applying an expansive definition of
7 the basic universal postal service that has no
8 basis in international law or practice.

9 Japan Post's express mail service should
10 be subject to the same regulations imposed on
11 private express delivery services.

12 Specific issues regarding the
13 discriminatory treatment received by Japan Post
14 include the customs clearance process, the
15 handling of quarantine requirements, and the
16 submission of advanced air cargo information.

17 Furthermore, the US-Japan trade
18 agreement presents an excellent opportunity to
19 speed the flow of trade by improving and
20 harmonizing customs procedures.

21 With the exception of the de minimis
22 provisions, chapter 7 of the USMCA would serve as

1 an excellent template for the agreement with
2 Japan on customs and trade facilitation issues.

3 Specific opportunities with regard to
4 Japan in this area include separating the
5 physical release of goods from the duty and tax
6 collection process, providing for the immediate
7 release of express shipments upon arrival, and
8 raising Japan's current de minimis level of
9 ¥10,000 -- about US\$90 -- to a more commercially
10 meaningful level.

11 Under no circumstances should the U.S.
12 suggest -- as we did in the USMCA -- that it
13 would lower its de minimis level as negotiating
14 leverage in these or any other trade
15 negotiations.

16 The U.S. economy benefits significantly
17 from the statutory level of \$800, which is a spur
18 to greater engagement in the global e-commerce
19 marketplace, in which is the U.S. is a leader.

20 Reducing the de minimis level is the
21 equivalent of raising taxes, as it will cause
22 more shipments to be subject to tariffs, which is

1 just a tax by another name.

2 This would be a highly regressive tax,
3 as it falls mostly on small businesses and
4 individual consumers for whom paying the tariff
5 could be particularly burdensome.

6 This is why a lower de minimis rate is
7 strongly negative for the U.S. economy. It
8 imposes higher bureaucratic cost on the small
9 business likely to be the most dynamic
10 entrepreneurs in the U.S. business community.

11 Finally, lowering the U.S. de minimis
12 rate for some trading partners but not others,
13 also opens the door to a potential WTO challenge,
14 as it would impose different de minimis rates for
15 different countries.

16 Thanks again for the opportunity to
17 testify, and I look forward to your questions.

18 MR. BISHOP: Thank you, Mr. Mullen. Our
19 final witness on this panel is Danielle Kessler,
20 with the International Fund for Animal Welfare.
21 Ms. Kessler, you have five minutes.

22 MS. KESSLER: On behalf of the

1 International Fund for Animal Welfare and its
2 nearly two million supporters, I'd like to thank
3 the U.S. Trade Representative and the Trade
4 Policy Staff Committee for the opportunity to
5 testify today on the proposed US-Japan trade
6 agreement.

7 Protecting the world's wildlife and
8 species vulnerable to overharvest,
9 overexploitation and other human-induced threats,
10 is not a restriction to industry and innovation.
11 In fact, quite the opposite is true.

12 Here in the United States we have some
13 of the strongest domestic standards and policies
14 to protect imperiled and declining species, and
15 strive for effective implementation of
16 international environmental treaties to which we
17 are a signatory.

18 We are simply saying that we expect
19 other particularly economically advanced nations
20 like Japan to achieve the same. To allow them
21 not to be held to such standards creates an
22 uneven playing field for U.S. agencies and

1 companies who take their obligations seriously.

2 The illegal trade in wildlife and
3 wildlife products has become a massive global
4 industry with profoundly negative impacts upon
5 endangered species protection and ecosystem
6 stability, as well as an increasing threat to
7 national and global security.

8 This trade, which includes products as
9 shocking as rhino horn and bear bile, to as
10 seemingly mundane as rosewood timber and seafood,
11 has become ranked as the fourth largest global
12 illegal activity, after narcotics, counterfeiting
13 and human trafficking.

14 Organized crime groups -- especially
15 those with smuggling capabilities -- find
16 wildlife trafficking attractive because of its
17 low risks, high profits and weak penalties
18 relative to other crimes.

19 Japan is one of the remaining legal
20 domestic markets for elephant ivory, and reserve
21 ports have shown significant unresolved risk in
22 Japan's system for regulating its legal markets

1 that are being exploited by illegal traders.

2 An increase in illegal ivory exports
3 from Japan has been documented, as well as
4 considerable sales of ivory on the Yahoo! Japan
5 website, with lack of proof of legal origin and
6 high non-compliance with the requirements of
7 display business registration for ivory sellers
8 online.

9 When ivory hanko sellers were asked if
10 they would sell ivory to someone who declared
11 their intent to export the ivory, more than half
12 said that they would, despite it being illegal.

13 The United States has been a leader in
14 urging the closure of domestic ivory markets,
15 spearheading strong action through the Convention
16 on International Trade in Endangered Species of
17 Wild Fauna and Flora, and implementing a near
18 complete ban on its own ivory market.

19 Legal ivory markets anywhere are a
20 threat to elephants everywhere. The U.S. should
21 safeguard the future of elephants and call for
22 the immediate closure of Japan's ivory market.

1 Japan's engagement in scientific whaling
2 is another area of critical concern to
3 biodiversity conservation and animal welfare,
4 that should be addressed through a US-Japan trade
5 agreement.

6 In 2018 Japan's programs killed 333
7 minke whales in the Southern Ocean -- including
8 122 pregnant females -- and more than 50 minke
9 whales in the Antarctic Marine-protected area.

10 The U.S. should call upon Japan to end
11 its unnecessary special permit whaling programs
12 in the Antarctic and North Pacific, and to cease
13 its efforts to overturn and undermine the
14 International Whaling Commission moratorium on
15 commercial whaling, which was adopted with
16 unwavering support from the U.S. and then-
17 President Ronald Reagan.

18 A US-Japan trade agreement, if ratified,
19 would be of paramount importance, and contribute
20 to the development of global rules in areas
21 including environmental protection and
22 sustainable development.

1 There's an urgent need to mitigate the
2 detrimental effects of increased wildlife
3 trade -- both legal and illegal -- on the local
4 and global survival of trade of wild animal
5 species, including the effects on individual
6 well-being of traded animals.

7 Protecting biodiversity and the welfare
8 of endangered threatened, captive and otherwise
9 imperiled wild animals should be a key priority
10 for U.S. and Japan negotiators alike.

11 Thank you for your time, and we would be
12 pleased to work with you on these recommendations
13 as negotiations move forward.

14 MR. BISHOP: Thank you, Ms. Kessler.
15 Mr. Chairman, that concludes direct testimony
16 from this panel.

17 MR. BEEMAN: Thank you. Thank you to
18 all the panelists for your time and the effort to
19 not only be here, but in all the work that was
20 put into the submissions. Obviously, I know five
21 minutes is a rather limited time to cover.

22 The breadth of many of the submissions

1 we received were rather lengthy and we've read
2 those very carefully. So, I want to assure you
3 of that.

4 I just wanted to start with -- if I
5 could -- with a question that came to my mind of
6 Mr. Freeman, Mr. LaFleur and Mr. Yerxa, which is
7 the submissions that your organizations put
8 forward, obviously cover a broad range of
9 sectoral and cross-sectoral issues and
10 priorities, some of which were overlapping.

11 Obviously, they included a range of
12 issues that affect goods trade, but also services
13 trade and other broad areas as well, including
14 digital trade, intellectual property and customs
15 provisions, are just some examples.

16 In these areas, your associations are
17 seeking more comprehensive rules, if you will,
18 for the trade agreement.

19 Can you speak to why you believe
20 including these cross-cutting, broad rules and
21 chapters is important from your perspective?

22 In particular, why is it important from

1 your perspective to include these even in cases
2 where there may not be any current concern with
3 the state of law or practice in Japan at the
4 current time?

5 MR. FREEMAN: Thank you, Mr. Beeman. If
6 I could start in response, I mean, clearly we
7 want to make sure that this agreement is truly a
8 gold standard for the bilateral trade
9 arrangement.

10 But also, going forward, we think that
11 these are two countries that share like minds on
12 some critical issues of concern for the future of
13 the global trading system.

14 And for the two governments to get
15 together and decide among themselves what makes
16 sense for a global trading system in these areas
17 is a signpost for future trade agreements much
18 beyond this one.

19 MR. LAFLEUR: Let me add that in the
20 areas such as transfer of data across borders,
21 this is an issue of the utmost importance, not
22 only to the business that evolve in the digital

1 economy, but increasingly to all business that
2 are operating in Japan or exporting to Japan.

3 So, this is a quite critical principle
4 that ought to be enshrined for the long-term in
5 bilateral agreements, both, I think -- as
6 Mr. Freeman indicated -- to set a gold standard
7 for other negotiations that are in process as we
8 speak, but also to ensure -- or best ensure --
9 against any future contingencies.

10 Policy in this area, across all
11 governments, is evolving very rapidly along with
12 the digital economy itself, and this bilateral
13 offers an opportunity to set again the highest
14 standards and ensure that those, as technology
15 progresses, that our standards are wide enough
16 and pro-growth oriented sufficiently to encourage
17 the growth in this area, where American companies
18 are very, very competitive.

19 MR. YERXA: So, let me just add that I
20 support the comments the other two have made, but
21 I would stress further that from our perspective
22 when the U.S. decided not to go forward with the

1 TPP, we not only created a competitive problem
2 for ourselves with other TPP countries, but we
3 lost an important strategic advantage.

4 You know, thankfully, the USMCA
5 agreement restores some of those principles that
6 the U.S. was able to incorporate into that
7 agreement with respect to digital trade.

8 For example, state-owned enterprises,
9 and a number of other things. And we think
10 that's particularly important for our future
11 relationship with China, and that this agreement
12 is an opportunity to create a system of norms in
13 those areas, particularly if we can then reassert
14 the same norms in an agreement with the EU,
15 because I think that if we're to move China in
16 the right direction with respect to issues like
17 forced technology transfer like IP -- like the
18 digital economy -- the norms that we create
19 through these agreements are going to be
20 exceedingly important.

21 The Administration has pointed out that
22 the WTO agreement, for example -- which hasn't

1 been updated for over 20 years -- falls short in
2 some of these areas.

3 This is an opportunity for us to create
4 broader multilateral norms in those areas, that
5 will be exceedingly important with respect to how
6 China emerges as a player in the global economy
7 in the future.

8 MR. BEEMAN: Thank you. Thank you for
9 your perspectives on that. In a similar vein, I
10 want to address a question to Ms. Drake and
11 Ms. Kessler.

12 There were, you know, some very specific
13 concerns that you've identified with respect to
14 labor and environment issues in Japan.

15 So, certainly we've heard that very
16 clearly from you. Setting that aside -- I don't
17 want to minimize it, but just setting that
18 aside -- why do you consider it important to
19 include broader rules on labor and environment
20 provisions with respect to issues where Japan may
21 typically not be thought of as a source of major
22 concern in those areas?

1 MS. DRAKE: Thank you for the question.
2 As referenced in my oral testimony, one of the
3 big concerns that we have with Japanese labor
4 practices is how it treats workers when it
5 invests abroad, and particularly with Japanese
6 auto manufacturers operating in the U.S. South.

7 They do everything possible to deny
8 workers a free and fair choice of whether they
9 want to have a union in the workplace or not.
10 And we think that rules should address that.

11 Moreover, Japan's home labor standards,
12 which traditionally have been very high, and
13 wages there have been very high, in recent
14 decades has really duplicated the practices of
15 many U.S. companies, which is to take workers
16 from being well-paid workers with union rights
17 and good pensions, and all of those things that
18 allow workers to have a sustainable family, to
19 turning them into perma-temps -- so, repetitive
20 renewal of very short-term contracts -- which
21 really undermines the right to organize and to
22 negotiate for better wages.

1 So, we believe that since the U.S. and
2 Japan relatively -- compared to the rest of the
3 world -- have decent basic labor standards and
4 decent basic wages, they should work together to
5 set high-road rules that will prevent a race to
6 the bottom, and then use those with other trade
7 agreements in the future, to really set a new
8 higher standard.

9 MR. BEEMAN: Thank you. And
10 Ms. Kessler, as well, if you could address -- I
11 think in your -- in the written testimony, you
12 mentioned the desire for a strong environmental
13 chapter. Could you speak to the importance of
14 that chapter from your perspective, less the two
15 specific issues that you've identified?

16 MS. KESSLER: Yeah, so with regard to
17 the environment provisions -- and these are very
18 specific issues, as you mentioned -- that you
19 pointed out for Japan -- the end of ivory trade
20 and whaling -- more broadly though, you would be
21 hard-pressed to find any wildlife conservation or
22 environmental issue that Japan, as the third

1 largest economy, isn't contributing significantly
2 to, from marine conservation, carbon emissions,
3 over-agriculture, these are all issues that we
4 certainly want to make sure that the U.S. has a
5 level playing field as they're implementing high
6 standards on this, that Japan is equal, and that
7 we're creating that little playing field for the
8 two economies.

9 We do think as well, I would add, the
10 USMCA agreement, the environmental chapter there
11 does make some significant strides. I think it's
12 a great baseline to start negotiations from,
13 particularly there's some new things added to
14 that with regard to -- marine litter has become
15 an increasing issue -- addressing that --
16 prohibiting and taking measures to be on shark
17 fin trade.

18 So, there's some significant progress
19 made in the USMCA chapter, and I think it
20 provides a really great baseline.

21 MS. MOGHTADER: Ms. Drake, in your
22 written comments you argue that USMCA took a step

1 in the right direction as to currency
2 manipulation, but did not go far enough on
3 enforcement mechanisms.

4 Can you describe what type of mechanisms
5 you believe would be most effective to include in
6 the US-Japan agreement?

7 MS. DRAKE: In particular, we would
8 recommend that all of the currency provisions be
9 subject to binding enforcement, and not just the
10 reporting requirements. So, we think that that's
11 a major omission.

12 Secondly, we would make sure that the
13 dispute settlement mechanism is really effective.
14 And we believe that the potential for a party to
15 block panel formation if a dispute were to go to
16 dispute settlement -- which exists in the NAFTA,
17 and which the U.S. has used before, to prevent
18 NAFTA disputes from going to settlement -- that
19 should be omitted.

20 And thirdly, we think that the currency
21 provisions could be strengthened by adding rules
22 to say, the U.S. and Japan should work together

1 when they identify a third party with whom both
2 trade, that is engaging in currency manipulation,
3 or has severely misaligned currency that doesn't
4 quite fit the definition of manipulation, the
5 U.S. and Japan should address that together,
6 because that would make the U.S. and Japan
7 stronger, and any efforts taken against those
8 third parties to be more effective, because they
9 wouldn't simply be unilateral.

10 MS. MOGHTADER: Thank you. And then,
11 just following up, Mr. Freeman, in your written
12 submission you state that currency language in
13 the US-Japan agreement should not infringe on the
14 ability of the Federal Reserve or the Bank of
15 Japan to steer U.S. or Japanese monetary policy,
16 respectively.

17 What is your view on the currency
18 provision in the USMCA, and could you elaborate
19 on how a US-Japan agreement could best address
20 the issue of currency?

21 MR. FREEMAN: I am not an expert on the
22 USMCA's currency provisions. I will say that

1 monetary policy is fragile by nature, and putting
2 excessive rules and constructs around monetary
3 policy, as conducted by either the Fed or the
4 Bank of Japan, is something which should be done
5 with the utmost caution.

6 As a general rule, we believe that
7 currency policy is something best left to the
8 currency experts, and not the trade experts.

9 MS. BONNER: Mr. Stanford, thank you so
10 much for coming and for your testimony on the
11 challenges that SMEs face. Going forward, we'd
12 love to know if you could testify on any
13 additional transparency measures or mechanisms
14 that could improve market access and transparency
15 for small businesses in Japan. If you have other
16 additions, we'd love to hear from you.

17 MR. STANFORD: Yeah. I think you raise
18 a particularly good point, and I think some high
19 standards set in recent trade
20 deals -- particularly, the US-Mexico-Canada
21 agreement -- really took a new step in pushing
22 those countries to be fair to those small

1 businesses.

2 In the United States we have a strong
3 practice of looking at the small business
4 implications for any regulatory provision and
5 promulgation. I don't need to tell the SBA about
6 how important the SBREFA process is.

7 The Japanese Government does not seem to
8 have at least certainly a similar process. And
9 so, we would look to see where entrepreneurs in
10 Japan typically would be the best advocates for
11 entrepreneurs everywhere.

12 And so, the more these deals can require
13 that governments -- whether it's simple
14 notification about regulations impacting small
15 businesses, or if it's allowing them to shape
16 that regulatory process itself -- that would
17 certainly be warranted, and we certainly thought
18 USMCA struck a right balance both within the SME
19 chapter, and the other chapters laid out in our
20 testimony.

21 MR. BEEMAN: I also wanted to touch on
22 an issue that's of -- I think has been raised by

1 a number of the panelists as well, but I wanted
2 to get the views of Mr. Stanford and Mr. Mullen
3 in particular, which has to go to the issue of
4 Japan's customs de minimis level, and how changes
5 to Japan's level could -- that is made more
6 reciprocal with the U.S. level -- may provide
7 opportunities for small and medium-sized
8 enterprises.

9 Can you speak in a more focused way on
10 how important that has been when you've seen
11 cases where SME exporters have been benefitted by
12 other countries lifting their de minimis levels,
13 and how important that is to the SME sector?

14 MR. STANFORD: I'm happy to take the
15 first crack at that. And we'll follow up by
16 providing the Committee sort of more than
17 anecdotal evidence, and we'll look at some past
18 examples.

19 We're excited about what the new levels
20 in Mexico and Canada may mean for our community.
21 But speaking in broad strokes, raising that level
22 decreases the barriers at the border.

1 You will only see entrepreneurs,
2 innovators and small businesses enter markets
3 where they feel comfortable. The higher that
4 threshold is, the more they can do and the more
5 they'll be willing to enter those markets.

6 A point that I don't know that we've
7 touched on entirely about the importance of de
8 minimis thresholds, is simply the expediency and
9 simplicity.

10 It may not so much be that the duties
11 will come into play. Small businesses will seek
12 solutions wherever they can find it to be
13 profitable.

14 So, whether or not the taxes are on
15 those -- that \$800 limit coming into the United
16 States, is less important than the importance of
17 expediency and the ability to do things just in
18 time, and to have a functional supply chain.

19 And so, the increasing of that level for
20 the Japanese will certainly allow not just
21 American small businesses to purvey low-value
22 goods over there, but also to balance the

1 ecosystem that will allow for an improved supply
2 chain in which largely entrepreneurs would
3 benefit.

4 MR. MULLEN: I certainly want to second
5 what John said. He summarized it very well. The
6 issue is really making the business transactions
7 more simple for small and medium-sized
8 enterprises.

9 And because both the U.S. and Japan have
10 fairly low tariffs on the kinds of products that
11 we're talking about -- low-value tariffs -- low-
12 value products -- the tariffs being collected are
13 really fairly minuscule from a broader budget-
14 wide perspective.

15 So, just adding that nuisance to the
16 operations for a small business is really not a
17 good idea.

18 We're not -- the express industry is not
19 saying that Japan should -- we should put a lot
20 of pressure on Japan to come up to \$800. Some
21 increase in the current level would be fine.

22 But we don't think that this should be

1 made into a major political issue in the
2 negotiations, because it's not likely that we'll
3 get the results that we want from that kind of a
4 process.

5 We should encourage them to raise their
6 level, which hasn't been raised in quite a long
7 time, but to maybe focus harder on the other
8 provisions in the customs and trade facilitation
9 chapter, that will allow for a more expeditious
10 clearance process across the border.

11 MR. BEEMAN: Thank you. Thanks for your
12 perspectives. And for Mr. Mullen, as well, I
13 just wanted to ask a question on the written
14 testimony.

15 And it was also reflected in -- a number
16 of the other organization spoke in very detailed
17 way about the different advantages that Japan
18 Post express mail service has over private
19 competitors.

20 So, without rehashing the specifics, has
21 your -- or have your associations attempted to
22 calculate like a cost differential that your

1 companies tend to face based on the additional
2 regulatory requirements that the companies have
3 to face in Japan, compared to Japan Post?

4 MR. MULLEN: Well, it's very difficult
5 to calculate it in a precise way. But it's
6 major -- we're talking about three different
7 areas, mainly.

8 One is the customs clearance process for
9 goods under Japanese ¥200,000 yen, which is about
10 \$1,800, which is most of the express mail
11 industry.

12 Japan customs handles all the paperwork
13 for Japan Post. So, Japan customs will fill out
14 the declaration for those shipments, they'll
15 calculate the duties and tariffs, and they'll
16 submit all the required documents.

17 I mean, it's all done electronically,
18 but my members hire hundreds of people to perform
19 those functions, because they don't get that kind
20 of service from Japan customs.

21 The second area is quarantine. The
22 quarantine officials in Japan allow Japan Post to

1 truck shipments from the airport to the postal
2 distribution center, and the quarantine officials
3 go there and do whatever inspections they need to
4 do and clear the shipments.

5 The private sector has to pay for that
6 kind of process to be done on space at the
7 airport. Those shipments have to be cleared at
8 the airport by the private sector.

9 And again, the cost of doing it there is
10 significantly higher than what -- the system that
11 Japan Post has.

12 And then, the third area is the
13 submission of advanced information. The private
14 sector has to provide shipment-level data for
15 everything they're bringing into the country
16 three hours in advance of the flight arriving.

17 Japan Post has no such requirement.
18 They don't have to provide advance data. So,
19 those are the big -- I could go on and on, you
20 know. Japan Post can double-park anywhere in
21 Japan. In the middle of Tokyo, Japan Post can
22 double-park. I'll ask Mr. LaFleur to address the

1 meaning of that significant benefit. The private
2 sector gets a ticket if they try to do that.

3 So, it's just a system with a lot of
4 built-in advantages that are really unfair
5 compared to the private sector. And I would say
6 the express delivery annex of the USMCA was best
7 we've had in any trade agreement up until now.
8 That's a good template for starting. But the
9 whole issue of express delivery comparability
10 should be a major focus of these talks.

11 MR. BEEMAN: Thank you. Thank you very
12 much. Did you have another question?

13 MS. MOGHTADER: Mr. Freeman, one
14 additional question for you. In your written
15 comments you state that the US-Japan agreement
16 should commit to deepened regulatory cooperation
17 and coherence in fintech developments
18 complementing multilateral and other bilateral
19 efforts aimed at promoting cross-border financial
20 technology development and growth.

21 How do you envision incorporating such
22 commitments into an agreement, particularly those

1 tied to multilateral efforts?

2 MR. FREEMAN: We can submit a much more
3 detailed set of recommendations than I can
4 provide here. I do say that fintech is key to --
5 for our industry in Japan, and some of the data
6 provisions in particular are central to those.
7 So, I think as we look at the whole array of
8 digital concerns, fintech is front and center of
9 those. But we'll provide some additional
10 comments to the Committee.

11 MS. BONNER: Mr. Freeman and
12 Mr. LaFleur, thank you for your testimonies.
13 Could you share which of your recommendations
14 would be most beneficial for small businesses
15 seeking market access in Japan?

16 MR. FREEMAN: I think in general, as has
17 been suggested before, the de minimis provisions
18 are probably front and center on that. I mean,
19 when you're looking at a ¥10,000 level, we think
20 it should -- we're probably a little out there.
21 We think it should be ¥100,000.

22 That would really enable -- particularly

1 as we advance in the digital provisions that
2 enable small businesses to get into the market in
3 ways that they have not before.

4 So, I think we start from the de
5 minimis, and then some of the customs and
6 facilitation provisions, as well, would be
7 central to that. But, you know, I think de
8 minimis, digital and customs.

9 I should -- I want to follow up just
10 briefly and to address the fintech thing if I
11 might.

12 I think the key to us -- in all this is
13 transparency. And so, we want to make sure the
14 transparency obligations are as robust as
15 possible.

16 MR. LAFLEUR: This is one of those
17 choosing your favorite child questions, I think.
18 But clearly, the issues we've just heard by some
19 of the witnesses mentioning on de minimis and
20 regulations, are simplification of regulations,
21 and improvement -- in the case of deliveries of
22 regulations and treatment of the national carrier

1 in Japan -- would all be of significant benefit
2 to small business in a variety of areas.

3 I just might add to that that since
4 small businesses are typically the ones that are
5 most innovative in the areas of both fintech, and
6 also of the digital economy in general, that
7 further efforts to strengthen the cooperation
8 between the two countries, and harmonize the
9 regulatory treatment in the digital economy area,
10 I think would probably benefit small companies,
11 SMEs, even more perhaps than the large companies.

12 And so, that I think becomes very
13 important for us in this agreement for small
14 companies.

15 MR. BEEMAN: I just have one -- I have
16 a couple more minutes. One last question for
17 Mr. LaFleur, in particular coming from Tokyo.
18 Obviously, you speak to a number of U.S.
19 businesses on the ground there, and the issue of
20 transparency and good regulatory practice was an
21 issue that was also raised in your submission,
22 including -- and submissions of others as well.

1 Can you speak to what areas in
2 particular would be of most benefit to ensure
3 better transparency in Japan? Certainly, we hear
4 different experiences of U.S. companies.

5 Some feel the situation of transparency
6 is improved. Some feel they have no access to
7 the opportunities that the Japanese companies
8 have to express views with respect to potential
9 regulations or policies, and therefore, they get
10 left out. Can you speak to kind of your views on
11 how to deal with the issue of transparency?

12 MR. LAFLEUR: Certainly. Indeed, there
13 are -- it's important to recognize indeed there
14 has been progress in some areas in Japan in
15 trying to expand transparency. And, as I
16 mentioned in my oral statement, this in fact is
17 one thing that the Prime Minister and his
18 Abenomics policy has been trying to work on in
19 Japan since I think the Japanese Government
20 recognizes that increasing transparency across
21 the economy is going to be one of the ways they
22 can stimulate the growth that Japan so badly

1 needs as they address their demographic
2 challenges.

3 So, I think we need to recognize that
4 there has been progress in some areas. But, in
5 certain areas -- and I mentioned pharmaceuticals
6 in my statement a moment ago -- we find a process
7 in which very clearly the views of foreign-based
8 pharmaceutical companies -- and even in certain
9 instances, we suspect, the Japanese companies --
10 doesn't appear to be having a big impact on -- or
11 an opportunity to be involved at an early enough
12 stage in the deliberations within the government,
13 to have any real effect.

14 So, for example, we're well aware that
15 Japan is trying to find ways to reduce the rising
16 costs for healthcare, which the government
17 supports in their single-payer system. But the
18 opportunity for private sector to be involved in
19 discussion of creative solutions to that problem
20 really isn't there sufficiently at this stage.

21 And instead, what we're seeing is a
22 focus on certain areas, such as pharmaceutical

1 prices, in a sort of exclusive way, to help Japan
2 address this problem.

3 Certainly, Japan has a big problem here.
4 We all recognize that. But we would like to work
5 together, and we think we can work cooperatively
6 if business is given an opportunity to
7 participate in a sufficiently early stage of the
8 discussions.

9 MR. BEEMAN: Thank you to -- again,
10 thank you to the panel. Obviously, we have a
11 very broad scope of views and opinions and
12 priorities.

13 But I really -- we have, as I say, have
14 digested -- many of the submissions we received
15 from this panel particularly are rather lengthy,
16 and we have digested them all in full I want to
17 assure you. So, I just wanted to leave that with
18 you.

19 PARTICIPANT: Thank you.

20 MR. BISHOP: We release this panel with
21 our thanks. I'm going to invite the members of
22 panel 3 to please come forward.

1 Would everyone please find a seat.

2 Mr. Chairman, our first member of this panel is

3 Phil Agress, with AdvaMed -- pardon me.

4 Mr. Agress, you have five minutes.

5 MR. AGRESS: Thank you very much, and
6 I'm pleased to be here on behalf of AdvaMed, the
7 Advanced Medical Technology Association.

8 AdvaMed represents manufacturers of
9 medical devices, diagnostics and health
10 information systems. Our members provide
11 patients throughout the world with the best and
12 highest quality products to treat their medical
13 conditions and to enhance their lives.

14 AdvaMed welcomes the announcement by the
15 U.S. and Japan of their plans to negotiate a
16 bilateral trade agreement.

17 We believe that a trade agreement that
18 expands opportunities for U.S. medical device
19 manufacturers in Japan will increase U.S.
20 economic growth and well-paying U.S. jobs.

21 Our industry is the clear world leader
22 in medical device manufacturing, sales and

1 innovation. We're one of the few U.S.
2 manufacturing industries that's consistently
3 running trade surplus globally, and that's
4 consistently run a trade surplus with Japan.

5 US-Japan trade agreement provides an
6 opportunity to ensure that U.S. medical device
7 manufacturers can benefit fully from their
8 comparative advantage in Japan.

9 US-Mexico-Canada trade agreement
10 provides a useful template for the US-Japan trade
11 agreement.

12 But of course, since conditions vary
13 between the two markets covered by these
14 agreements, the terms of the US-Japan trade
15 agreement would need to be modified as
16 appropriate to suit the particular conditions
17 that characterize medical device trade between
18 the U.S. and Japan.

19 Now, let me briefly describe the
20 negotiating objectives that AdvaMed would like to
21 see the U.S. Government adopt for the US-Japan
22 trade agreement.

1 First, it's important to ensure that
2 Japan does not adopt any measures contrary to the
3 spirit of the US-Japan joint statement of
4 September 26th.

5 In the case of medical devices, this
6 means that any revisions to reimbursement prices
7 carried out in conjunction with Japan's plant
8 consumption tax increase, should not take effect
9 before the tax increase, and should not be used
10 as the basis for a subsequent move by Japan to
11 adopt annual reimbursement revisions.

12 Next, an important priority for AdvaMed
13 is the inclusion of provisions on transparency
14 and procedural fairness in the early achievements
15 portion of the agreement.

16 We also support the inclusion of
17 provisions on regulatory coherence similar to
18 those in the US-Mexico-Canada agreement, and we'd
19 also like to see these included in the early-
20 achievements portion of the agreement.

21 In addition, we encourage the U.S. to
22 seek a commitment from Japan in the early-

1 achievements portion, to work toward common
2 regulatory systems for the review and approval of
3 medical devices.

4 The goal should be to eliminate
5 duplication of approvals or regulatory
6 activities, where possible.

7 Another negotiating priority that we
8 strongly encourage is based on a provision in the
9 trade promotion authority legislation.

10 That provision states that one of the
11 U.S. negotiating objectives shall be, quote, to
12 achieve elimination of government measures such
13 as price controls and referenced pricing, which
14 deny full market access to United States
15 products, unquote.

16 In view of this provision in the TPA
17 legislation, we ask the U.S. Government to seek
18 the elimination of Japan's reference pricing
19 system for medical devices.

20 In addition, we'd like to see language
21 in the agreement to constrain any revisions to
22 Japan's reimbursement cycle, that would undermine

1 the value of medical devices.

2 Now, all of these negotiating objectives
3 apply specifically to medical devices. AdvaMed
4 also supports the inclusion of broader, more
5 general, provisions in the agreement that would
6 encourage the adoption of good regulatory
7 practices generally, that would address issues
8 that create particular challenges for small and
9 medium-sized enterprises, that protect
10 intellectual property rights, that address issues
11 involving State-owned enterprises, that balance
12 the need for the smooth flow of data and the
13 protection of privacy, and that support the rule
14 of law and combat corruption.

15 Thanks very much for your time, and for
16 this opportunity to present our views.

17 MR. BISHOP: Thank you, Mr. Agress. Our
18 next witness is Jay Taylor, with PhRMA.
19 Mr. Taylor, you have five minutes.

20 MR. TAYLOR: Thank you very much. It's
21 a pleasure to be here this afternoon on behalf of
22 the Pharmaceutical Research and Manufacturers of

1 America, or PhRMA.

2 PhRMA represents the country's leading
3 innovative biopharmaceutical research companies,
4 which are devoted to inventing, manufacturing and
5 distributing valuable medicines that enable
6 patients to live longer, healthier and more
7 productive lives.

8 A key component of America's high-tech
9 economy, the research-based pharmaceutical sector
10 supports nearly 4.7 million jobs across the
11 economy, including more than 800,000 direct jobs,
12 and contributes nearly 1.3 trillion in economic
13 output on an annual basis.

14 Our sector is one of the most research-
15 intensive in America, and one of the top U.S.
16 exporters among IP-intensive industries. In 2017
17 alone, our sector exported more than \$55 billion
18 in pharmaceuticals.

19 Innovators in this critical sector
20 depend on robust intellectual property protection
21 and enforcement, fair and transparent access to
22 overseas markets, and strong regulatory systems.

1 Japan is a critical destination for U.S.
2 biopharmaceuticals, representing the fourth
3 largest export market for pharmaceuticals in
4 2017, with exports to the market valued at just
5 under \$4 billion.

6 A strong trade agreement with Japan that
7 eliminates barriers to trade would foster even
8 greater exports.

9 PhRMA and its members, therefore,
10 strongly support the negotiation of a high-
11 standard trade agreement between the United
12 States and Japan.

13 The recently concluded US-Mexico-Canada
14 agreement, or USMCA, provides a very strong base
15 from which to negotiate a US-Japan agreement.

16 From the perspective of our industry,
17 negotiations with Japan should address the
18 following components.

19 First, negotiations with Japan and the
20 United States -- two of the most innovative
21 economies in the world -- should build on the
22 strong IP protections set forth in the USMCA, to

1 establish ambitious IP provisions that protect
2 and provide effective enforcement mechanisms for
3 inventions from each country.

4 In particular, the negotiations should
5 address several aspects of Japan's IP system,
6 including the need to provide patent term
7 adjustments in the event of patent office delays.

8 Further, consistent with U.S. law and
9 the negotiating objectives under Trade Promotion
10 Authority -- or TPA -- a US-Japan agreement
11 should require Japan to provide at least 12 years
12 of regulatory data protection for biologics.

13 IP is the backbone of the innovative
14 biopharmaceutical industry. By cementing strong
15 IP standards in a US-Japan agreement, the United
16 States could build on the successes of the USMCA,
17 establish a significant precedent for other
18 future agreements, and help to pave the way for
19 the next generation of treatments and cures.

20 Second, the negotiations should
21 establish rules to ensure that Japan
22 appropriately values, protects and encourages

1 innovation, and provides greater transparency in
2 pharmaceutical pricing and reimbursement
3 decisions.

4 The negotiations provide a critical
5 opportunity, consistent with TPA, to eliminate
6 price controls and ensure that government
7 regulatory reimbursement regimes in the market
8 are transparent, provide procedural fairness, are
9 non-discriminatory, and provide full market
10 access for U.S. products.

11 To this end and consistent with Japan's
12 existing international obligations, the
13 negotiations should address the discriminatory
14 elements of Japan's Price Maintenance Premium --
15 or PMP -- a system that appears to be biased
16 inherently toward domestic companies, calling
17 into question Japan's commitment to its WTO
18 obligations.

19 Further, the negotiations provide a
20 timely opportunity to ensure that any new
21 Japanese health technology assessment systems
22 incentivize innovation and provide patients with

1 timely access to new treatments.

2 The negotiations also should ensure that
3 the development and application of rules and
4 procedures that apply to pharmaceutical pricing
5 and reimbursement decisions are predictable,
6 transparent, and fairly applied, and that applied
7 rules are available to all U.S. companies in
8 sufficient detail and clarity such that they have
9 a full understanding of the rules and
10 methodologies used in decision-making.

11 Put simply, medical advancement cannot
12 occur absent predictable and transparent public
13 policies, and investment in the development of
14 innovative medicines cannot occur in unfavorable
15 or unfair business environments.

16 Third, the negotiations should establish
17 rules to ensure transparency in the application
18 of international standards in Japan's drug
19 approval and other regulatory processes.

20 As Japan develops new rules, regulations
21 and policies that will affect how U.S. products
22 are regulated and priced in its market, Japan

1 should allow meaningful opportunities for
2 interested stakeholders to provide input
3 throughout the process.

4 A strong regulatory framework not only
5 ensures that patients have fast access to safe,
6 high-quality and effective medicines, but also
7 encourages scientific research and innovative
8 drug development.

9 Finally, as the United States Government
10 identifies areas in which it could secure early
11 achievements as part of these negotiations, we
12 encourage you to consider the impediments faced
13 by the U.S. innovative biopharmaceutical
14 industry.

15 We also encourage the U.S. Government to
16 ensure that Japan -- consistent with the US-Japan
17 joint statement of September 26, 2018 -- refrain
18 from taking measures against the mutual trust and
19 spirit of the negotiations.

20 Such measures would include major
21 revisions to Japan's pricing and reimbursement
22 system, that would impact seriously the ability

1 of U.S. companies to access the Japanese market.

2 Thank you again for the opportunity to
3 testify. We believe that with the right policies
4 and incentives in place at home and abroad, our
5 member companies can continue to bring valuable
6 new medicines to patients, and contribute
7 powerfully to the American economy.

8 PhRMA's written submission more
9 thoroughly outlines our positions for a US-Japan
10 agreement, but I'm happy to answer any questions
11 the panel has. Thank you.

12 MR. BISHOP: Thank you, Mr. Taylor. Our
13 next witness is Joseph Damond, with the
14 Biotechnology Innovation Organization.
15 Mr. Damond, you have five minutes.

16 MR. DAMOND: Okay, thank you. Good
17 morning. Also pleased to be here this morning,
18 representing the Biotechnology Innovation
19 Organization, which has a membership of more than
20 1,000 biotech companies, academic institutions,
21 state biotech centers, and related organizations,
22 in almost all 50 states, a number of foreign

1 countries.

2 The vast majority of our membership are
3 small and medium-sized pre-commercial companies,
4 or startup companies.

5 We also represent all aspects of the
6 biotech industry, including the biopharma sector,
7 agricultural biotech, and industry and
8 environmental applications in biotech.

9 I'm going to focus this morning mostly
10 on the biopharma sector, because that's where
11 most of the issues affecting the biotech sector
12 exists with respect to Japan.

13 I wanted to provide some key data points
14 behind the formal testimony that we submitted.
15 First of all, just to say that we support a US-
16 Japan trade agreement as the best opportunity to
17 address some of the critical issues outlined.

18 Some data points, though. Seventy
19 percent of all new medicines now originate with
20 small and medium-sized enterprises. Seventy
21 percent of all new medicines, that is, that are
22 approved by the FDA or PMDA in Japan, originate

1 with small enterprises.

2 Sixty percent of all new medicines
3 originate in the US, and increasingly, those are
4 biotech products.

5 Secondly, Japan's system, until
6 recently, has been greatly improved with respect
7 to both regulatory and reimbursements, in terms
8 of promoting innovative biotech and access for
9 innovative biotech, which created opportunities
10 for collaboration between the U.S. and Japan in
11 the biotech sector, and commercial opportunities
12 for both sides in the Japanese market.

13 This progress was reversed in the last
14 couple of years, with a series of anti-
15 innovation, reimbursement policies that were
16 imposed by the Japanese Government, as outlined
17 in our testimony -- I'll come back to those in a
18 second.

19 Third, we understand the fiscal problems
20 that Japan Government faces with respect to its
21 healthcare budget, but they are consistently
22 balanced on the back of the innovative

1 biopharmaceutical industry, especially innovative
2 biopharmaceutical companies, which account for
3 something like 20 percent of healthcare costs,
4 but routinely bear the brunt of 40/50 percent of
5 healthcare savings.

6 We consider this unfair, discriminatory,
7 and also restrictive of market access, both for
8 our industry, and also in terms of Japanese
9 patients.

10 And, from a Japanese perspective, it's
11 an inefficient allocation of healthcare resources
12 to focus on this one sector.

13 Moving on to the specific practices
14 outlined in our testimony -- without going into
15 great detail -- I just want to mention a few.

16 First of all, innovation changes to the
17 Price Maintenance Premium system that were
18 outlined, particularly focus and discriminate
19 against small and medium-sized enterprises.

20 We were a little bit taken aback at the
21 way these were designed, but the criteria for
22 getting innovation points, or being considered

1 innovative in Japan, particularly relate to the
2 number of drugs launched in Japan, the number of
3 clinical trials launched in Japan -- or done in
4 Japan -- which some of our larger companies or
5 larger members can meet those criteria, but the
6 small startup companies cannot.

7 So, some of our most innovative
8 companies will not be eligible for innovation
9 premiums in Japan.

10 Secondly, the non-transparent nature of
11 pricing and reimbursement policymaking in
12 Japan -- by Chuikyo in particular -- Chuikyo has
13 not done a particularly good job of taking into
14 account the comments of the innovative industry.

15 But in particular, for small and medium-
16 sized companies, it's very hard to get
17 represented in Japan.

18 Finally, the one just mentioned, that we
19 are very concerned about the way that health
20 technology assessment is being developed in
21 Japan, and that it could exacerbate the trend in
22 anti-innovation of Japan if not done in a way

1 that actually fosters access to new medicines.
2 And we're concerned that it's not doing that.

3 Our recommendations for the agreement
4 are that we -- as was mentioned -- apply
5 standstill commitments to the sector to not make
6 worse policies that are anti-innovation while
7 negotiations proceed.

8 Secondly, we see some opportunities to
9 capture and formalize past key agreements between
10 the two governments as part of any early
11 achievements in the process -- in particular,
12 agreements reached a long time ago -- to ensure
13 that new products are listed for reimbursement
14 between 60 and 90 days after regulatory approval.

15 We think the more complicated pricing
16 and reimbursement as they stand now can be
17 addressed in the main body of the trade
18 agreement, in terms of general principles, and
19 then specific commitments.

20 And, because new policies are always
21 coming up from the Ministry of Health, Labor and
22 Welfare in Japan, we think there needs to be an

1 ongoing system to ensure not only compliance with
2 what was agreed upon, but to ensure commitment to
3 innovation and market access over time.

4 Finally, I just want to mention two
5 points that build on existing trade agreements
6 and that are relevant to our sector.

7 We think good progress was made in the
8 US-Mexico-Canada agreement, on, particularly,
9 intellectual property rights, where there was a
10 greater degree of data protection -- data that
11 was specifically built in for biologic products.

12 We think that can be built upon, and
13 should be built upon in Japan, to get Japan -- as
14 was mentioned by Jay -- up to the U.S. standard
15 of 12 years of data protection for biological
16 products.

17 Secondly, with respect to agriculture,
18 I do not want to forget that aspect of our
19 sector. We welcome the potential of the US-Japan
20 trade agreement to strengthen the relationship
21 between the governments to ensure regulation of
22 biotech ag is science-based, transparent and

1 predictable.

2 We think there are lots of opportunities
3 for collaboration in this sector, and can be --
4 that both governments are sort of positively
5 inclined to do that. And we think that
6 predictable science and risk-based regulation is
7 critical to enabling innovation and attracting
8 investment in this sector.

9 So, with that, I'll conclude my comments
10 and glad to answer any questions. Thank you.

11 MR. BISHOP: Thank you, Mr. Damond. Our
12 final witness on this panel is Rachel Sher, with
13 the Association of Accessible Medicines.
14 Ms. Sher, you have five minutes.

15 MS. SHER: Thank you, and good morning.
16 Mr. Chairman and members of the Trade Policy
17 Staff Committee, my name is Rachel Sher and I
18 serve as Deputy General Counsel at the
19 Association for Accessible Medicines, or AAM.

20 AAM represents the manufacturers and
21 distributors of generic and biosimilar medicines
22 in the United States.

1 In the last decade, generic medicines
2 have saved U.S. patients, taxpayers and insurers
3 \$1.67 trillion, compared to prices that would
4 have been paid for brand-name prescription drugs.

5 In 2017 alone, generic medicines saved
6 \$265 billion, and the potential for savings from
7 biosimilars is projected to reach nearly the same
8 level.

9 In 2016, AAM members manufactured over
10 61 billion doses of prescription medicines in the
11 United States at 149 facilities in 16 states.

12 Our members manufacture generic and
13 biosimilar medicines in the United States for
14 domestic use and for export markets, including
15 Japan.

16 As an initial matter, AAM strongly
17 supports the Administration's blueprint for
18 lowering prescription drug prices. Generic drug
19 and biosimilar competition is the centerpiece of
20 the President's blueprint, because fair
21 competition is the best way to bring down the
22 cost of prescription drugs.

1 AAM supports provisions in U.S. trade
2 agreements that deliver on the mandate in the
3 bipartisan Congressional Trade Priorities and
4 Accountability Act of 2015 -- or TPA -- to ensure
5 that the Intellectual Property Rights -- or
6 IPR -- provisions of our trade agreements foster
7 innovation and promote access to medicines.

8 Any trade agreement reached with Japan
9 must maintain this careful balance, which also is
10 reflected in the current U.S. law.

11 AAM opposes the inclusion of IPR
12 provisions that extend monopoly protection for
13 branded products, such as longer pharmaceutical
14 data exclusivity provisions, or mandates to
15 extend a pattern term based on delays in granting
16 the patent or obtaining marketing approval.

17 AAM does not believe that the current
18 US-Mexico-Canada agreement -- USMCA --
19 pharmaceutical IPR provisions establish the
20 appropriate balance between protecting innovation
21 and encouraging access to medicines, and thus it
22 does not serve as an appropriate model for the

1 US-Japan trade agreement.

2 One area of great concern for AAM is the
3 requirement for countries under the agreement to
4 provide a ten-year exclusivity agreement for
5 brand-name biologics, independent of patent
6 protection.

7 In Japan, patients generally can access
8 biosimilar medicines after an eight-year period
9 of exclusivity granted to new drugs.

10 Increasing this period to at least ten
11 years will delay patient access to biosimilars in
12 Japan, blocking U.S. exporters from potential
13 markets and hampering their ability to invest in
14 the development of biosimilars for the U.S.
15 market.

16 Moreover, this provision will handcuff
17 U.S. policymakers from lowering the U.S.
18 exclusivity period below ten years, should
19 Congress decide that doing so is needed to lower
20 prices in the US.

21 Typically, the IPR chapter of U.S. trade
22 agreements includes many monopoly protections and

1 deterrents to generic competition, including the
2 extended biologics exclusivity provisions I just
3 mentioned.

4 Yet, the agreements often lack several
5 critical features of U.S. law that encourage
6 generic and biosimilar competition.

7 These features are outlined in more
8 detail in our written submission, and include a
9 robust regulatory review or Bolar period, an
10 incentive for the first generic drug applicant
11 that successfully challenges a weak brand-name
12 drug patent, and requirements to disclose the
13 best mode for carrying out a new invention.

14 Without such provisions, the required
15 balance between protecting IP and encouraging
16 access to medicines will not be met and the net
17 effect will be a slowdown in biosimilar and
18 generic deployment, and increase prescription
19 drug prices borne by patients in the US.

20 The US-Japan trade agreement presents an
21 opportunity to improve on the USMCA by including
22 provisions that enhance generic and biosimilar

1 drug development and access.

2 This approach will benefit U.S.
3 exporters of these products and advance the
4 President's goal of lowering U.S. drug prices.

5 Most importantly, it will ensure that
6 patients have greater access to affordable
7 medicines. In a nutshell, it's a win-win.

8 Thank you for the opportunity to
9 testify, and I look forward to answering any
10 questions you may have.

11 MR. BISHOP: Thank you, Ms. Sher.
12 Mr. Chairman, that concludes direct testimony
13 from this panel.

14 MS. BOHON: Good afternoon. Thank you
15 all for your testimony today. I have a question
16 for Mr. Taylor of PhRMA. In your written
17 submission, you observed the Japan's Price
18 Maintenance Premium -- or PMP -- criteria have
19 been made, quote, inherently biased towards
20 domestic companies.

21 Can you please explain further why this
22 is the case in your organization's view, and if

1 you believe this is a disguised industrial policy
2 that favors Japanese life sciences companies.

3 Thank you.

4 MR. TAYLOR: Thank you for your
5 question. The short answer is yes, this policy
6 seems to be inherently skewed toward the benefit
7 of local Japanese companies.

8 We've had to do quite a bit of digging
9 to better understand the way that companies have
10 been tiered within the PMP system, and it's not
11 been a transparent process, as I think my
12 testimony touched on in our written submission,
13 as well.

14 In order to benefit from 100 percent of
15 the Price Maintenance Premium, you need to be
16 qualified as a Tier 1 company, and then it goes
17 down -- Tier 2, Tier 3.

18 A number of highly innovative U.S.
19 companies did not qualify for Tier 1 status.
20 There are a number of very non-innovative
21 Japanese companies that did qualify for Tier 1
22 status.

1 And if you look at just the sheer amount
2 of research and development investment that U.S.
3 companies who are not benefitting from that
4 highest tier of the premium, it really does show
5 an inherent bias in the system.

6 But, you know, a large part of our
7 struggle has been the core transparency issue.
8 It's permeated all of the discussions around
9 Japan's pricing reforms of the last two years.

10 Whether it's their Chuikyo process at
11 which we've had very limited opportunities to
12 engage, certainly our comments have not been
13 listened to, or any other part of this set of
14 pricing reforms.

15 So, the answer is yes. I'm happy to
16 provide more information on that.

17 MS. BLEIMUND: Good afternoon. I'm
18 Emily Bleimund from the U.S. Department of Health
19 & Human Services. I have a question for
20 Ms. Sher. Your submission states that, quote,
21 being allowed to sell new biologics in markets
22 outside the United States allows the fixed cost

1 of biosimilar development over a much broader
2 patient base.

3 Could you explain further what those
4 fixed costs are? Do you see the sale of
5 biosimilars abroad, including in Japan, as a way
6 to reduce the cost of biosimilars in the United
7 States? Thank you.

8 MS. SHER: Thank you for the question.
9 Yes, as our submission states, our companies are
10 generally global companies that develop products
11 for markets all over the world.

12 So, being able to have access to foreign
13 markets -- including Japan's -- is a critical
14 aspect of our company's business model. I can
15 get you a more detailed description of exactly
16 what the fixed costs are.

17 But the concept is having access broadly
18 to markets all over the world is critical, and it
19 allows our members to spread those costs
20 throughout a much broader patient base.

21 MR. BEEMAN: Thank you. I wanted to
22 explore the issue of the types of provisions that

1 are actually -- you know, make the most sense
2 from the perspective of achieving the objectives
3 that you're aiming for.

4 I recognize they're not necessarily the
5 same objectives, but at the same time wanted to
6 talk about that with respect to how trade
7 agreements can address these issues in a way
8 which respects the government's rights and
9 ability to make policy and regulation, at the
10 same time that addresses the concerns not only of
11 market access, but also of access to medicines,
12 but also the medicines that -- the development of
13 the medicines themselves, that enable patients to
14 do well, essentially.

15 So, there are different ways of looking
16 at this. I think, Mr. Damond, in your testimony
17 you submitted, you cite the agreements with Korea
18 and Australia as particularly having aspects of
19 those agreements that you felt were important to
20 include in any agreement with Japan.

21 Can you elaborate on the types of
22 provisions that you find to be most -- have been

1 most effective in those agreements, and is there
2 anything in the USMCA that you would recommend
3 also including?

4 MR. DAMOND: Well, I think that the
5 provisions in the Australian and Korean
6 agreements are a good basis on which to build, in
7 the sense that, particularly with respect to the
8 transparency and accountability of the pricing
9 reimbursement system put in place, a number of
10 procedural disciplines that the countries needed
11 to follow, and in the text of the agreement, were
12 covered, generally.

13 And then, those were accompanied by side
14 letters that provided in greater specificity the
15 actual changes that would be made to those
16 systems.

17 I think that's a good model for ensuring
18 that what's agreed to is executable. I think it
19 needs to be built on in the case of Japan,
20 because now we're talking about not just ensuring
21 procedural fairness, but substantive fairness,
22 particularly when it comes to discrimination

1 against anti-innovative policies, or policies
2 that somehow single out, as I said earlier in my
3 testimony, the innovative biopharmaceutical
4 industry.

5 I think there need to be provisions
6 basically saying that such practices will not be
7 taken. But then, the agreement will need to get
8 specific about which practices we're currently
9 talking about.

10 But to just finally reiterate something
11 else I said is, I don't think we're under the
12 illusion that even such agreement would be
13 durable in the long run, because having covered
14 this issue for a couple of decades, I know that
15 the MHLW itself is very innovative in coming up
16 with new policies that have similar impact, while
17 they'd be different formally.

18 And there's going to need to be some
19 sort of ongoing process of compliance to make
20 sure that Japan sticks to the spirit and letter
21 of the agreement itself.

22 MR. BEEMAN: Thank you for that

1 perspective, and including that idea, you know --
2 I think you suggested it's an ongoing effort and
3 there's, you know, only certain things that can
4 be done in a trade agreement that will actually
5 get you to that point.

6 I wonder if I could just expand this
7 question for all the panelists then, now that
8 Mr. Damond has kind of given his views -- maybe
9 starting with Mr. Agress. Can you -- I mean,
10 this issue of addressing very detailed, you know,
11 specific topics and areas -- be it the HTA, be it
12 the PMP, be it the frequency of reimbursement
13 reviews, for example -- you know, there's this
14 challenge, in terms of the level of specificity
15 you can get into in a trade agreement, that
16 addresses these issues on the one hand, while
17 leaving sufficient room for -- to be able to
18 achieve other policy goals on the other hand.

19 Can you speak to maybe one or two of
20 your priority issues, and speak to kind of how
21 you see those best addressed in terms of a trade
22 agreement itself, or maybe what those limits may

1 be?

2 MR. AGRESS: Sure. Thank you very much
3 for the question. Let's talk a little bit about
4 their regulatory coherence, because I think
5 that's a good area that kind of fits the
6 question.

7 In any -- in the US-Mexico-Canada
8 agreement, as well as in other agreements, the
9 parties have agreed to provisions on regulatory
10 coherence that are somewhat general, I guess, in
11 nature, but specific enough that I think they
12 create a framework that provides discipline on
13 both sides to improve their regulatory procedures
14 and bring them closer together in a way that
15 benefits all parties, I think, to the agreement.

16 And -- for example, in Annex 12-E of the
17 US-Mexico-Canada agreement, that contains
18 regulatory coherence provisions that I think, you
19 know, are really an excellent template for other
20 agreements, including the US-Japan trade
21 agreement.

22 We would encourage you to look at those

1 as you move forward in negotiating the US-Japan
2 trade agreement. I think those can be built
3 upon. I think it's possible to move beyond
4 those, and we would encourage that, in the case
5 of the US-Japan trade agreement, to move closer
6 toward ultimately a system where the -- it's not
7 exactly mutual recognition, but where there is
8 less duplication of need for reviews and
9 approvals than currently exist.

10 MR. BEEMAN: Thank you. Also, I'll ask
11 the same question of Mr. Taylor and Ms. Sher, as
12 well. Just choose one or two of kind of your
13 priority topics, and how you think that's best
14 addressed.

15 Maybe it has been addressed in another
16 agreement that you think did a good job of it, or
17 maybe -- I'll let you expand on that.

18 MR. TAYLOR: I'll try not to choose
19 five. I think -- well, let's set aside the
20 intellectual property issues now, and hopefully,
21 we'll have a chance to touch on that.

22 But in the market access space and on

1 pricing reimbursement issues, our industry has
2 faced enormous challenges in the Japanese market
3 over the last couple of years.

4 I think, as Joe mentioned, there is a
5 good history here with the US-Korea, US-
6 Australia, and now the USMCA, text that covers
7 transparency and procedural fairness.

8 You know, there's a key provision in the
9 US-Korea agreement that says that if you're not
10 going to be a free open market, you should at
11 least have elements in your system to get close
12 to competitive market-based systems.

13 That's also reflected, I believe, in the
14 language in TPA, which sort of sets forth this
15 idea that price controls are a bad thing and we
16 should try to find ways to alleviate the
17 pressures that they impose on U.S. industries.

18 It's too big of an opportunity in the
19 US-Japan FTA to not try to find that right set of
20 provisions that address some of the worst
21 practices in Japan, building off of the US-Korea
22 and Australia, USMCA texts.

1 Maybe it's a question of altitude.
2 Maybe if you get too specific, it gets too
3 difficult. But we're seeing some basic
4 discrimination and basic practices at play that
5 you could presumably capture at some level of
6 text in an FTA.

7 A few that spring to mind, annual --
8 this potential shift to annual repricing in the
9 system from their biennial system, health
10 technology assessment, and the fact that it's
11 been laser-focused on the pharmaceutical
12 industry, and not the broader healthcare system
13 in Japan.

14 The Price Maintenance Premium and the
15 inherent discrimination that we touched on just a
16 moment ago, these are all parts of the Japanese
17 pricing and reimbursement system that are posing
18 real problems for U.S. industries.

19 This is a great opportunity to find a
20 way to address some of those, and to adhere to
21 this notion that if you're not going to be a
22 competitive market-based system, you need to have

1 disciplines in place that get you as close to
2 that as possible.

3 MS. SHER: Thank you for the question.
4 As I mentioned during the oral testimony, our
5 goal in any of these trade agreements is to honor
6 the priorities that were set forth in the TPA,
7 which is to balance innovation and access.

8 And to sort of answer your question
9 about an example of one that in this case we
10 think has not done it, it would be the USMCA, as
11 I mentioned. Our position is that that agreement
12 is skewed too much toward the innovation side,
13 with not enough on the access side.

14 And we are hoping that the US-Japan
15 agreement will strike that balance in a more
16 effective way.

17 More specifically, in terms of
18 provisions that we would like to see on the
19 access side, is mimicking U.S. law to provide an
20 incentive for the first generic applicant to
21 challenge the patents and bring the product to
22 the market.

1 In the U.S. law, as you know, there is
2 a 180-day term of exclusivity rewarded to that
3 first generic applicant, and that has been a
4 critical incentive for bringing generics to the
5 market at the earliest possible time. So, we
6 would hope to see that echoed in the Japan
7 agreement.

8 Similarly, the Bolar provision, which
9 allows our companies to use the patented
10 invention only for the purposes of developing
11 data and going through the regulatory review.

12 That also is a feature of U.S. law and
13 has been critical for bringing generics to market
14 at the earliest possible moment, as soon as the
15 effective patent life for exclusivity expires for
16 the branded products.

17 So, those are just to name a couple.
18 There are more outlined in our written
19 submission. But in general, we're really hoping
20 that that balance can be better struck in the
21 Japan agreement.

22 MS. BOHON: Okay, this question is for

1 Mr. Taylor, Mr. Damond and Mr. Agress. Are there
2 other provisions or principles in the US-Japan
3 MOSS agreement, as referenced in some of your
4 submissions, that you also find important to be
5 included in an agreement with Japan?

6 MR. DAMOND: I think that the key
7 provision of the MOSS talks that's in potential
8 jeopardy as Japan engages in its price reforms,
9 is the so-called 60-90 day rule that we mention
10 in our written submission.

11 I think that's a potentially prospective
12 concern if sort of these pricing reforms are
13 headed in the direction that they are, that you
14 wouldn't get approval within the 60-day period
15 and, you know, at the very latest the 90-day
16 period.

17 So, that is one component of the MOSS
18 talks we're paying a lot of attention to. But
19 I'm happy to provide more detail and follow-up,
20 as well.

21 MR. AGRESS: Yeah, thank you. I think
22 the fact that we're talking about the MOSS talks

1 at all 32 years after they were completed speaks
2 to the real value that they've had over these
3 past three decades, in serving as a forum for
4 discussion of issues on medical devices and
5 pharmaceuticals.

6 And personally, I think that's been
7 their greatest value over this time. Obviously,
8 the specific provisions are important, and I
9 don't disagree at all with what Jay said.

10 But I think having this kind of forum,
11 begin able to meet regularly and exchange views,
12 I think, is something that's tremendously
13 important and needs to be continued in some
14 fashion as we move forward.

15 MR. DAMOND: Just to add briefly, I
16 mean, I agree with what both of the preceding
17 comments were, and we mentioned the idea of
18 locking in the 60- to 90-day reimbursement
19 deadline after regulatory approval.

20 I would just also note that we should
21 probably all go back, I think, and look a little
22 bit more at what MOSS has produced over the last

1 30-some years. It's been an ongoing process.

2 Point about it is the agreements are
3 always provisional. They always last a year or
4 two. But over the decades of those discussions
5 between the U.S. and Japan, Japan has
6 episodically agreed to do things like forestall
7 the application of an annual pricing review
8 process and other steps that have to do with how
9 innovative drugs are assessed, and I think it's
10 worth -- even though it is 32-some years of
11 looking at it -- I think it is probably worth us
12 all studying some of the commitments that Japan
13 has made provisionally over the course of those
14 decades, and seeing if they can be formalized in
15 the context of the US-Japan trade agreement, and
16 made a little bit more permanent.

17 MS. BLEIMUND: This question is for
18 Mr. Damond. In Bio's written comments, it
19 highlighted the importance of Japan as an export
20 market for U.S. agriculture, and the achievements
21 made in the USMCA on agricultural biotechnology.

22 Can you expand on the provisions in the

1 USMCA that serve as a model for the US-Japan
2 trade agreement in that area or in others?

3 MR. DAMOND: USMCA we did think was a
4 very good model, with respect to cooperation on
5 agricultural biotechnology, because what it did
6 was established a ground rule, or set of ground
7 rules, that called for predictable and science-
8 based regulation in the two -- in the parties of
9 the agreement, and with a view towards making
10 approvals of biotech products more synchronous
11 with each other.

12 In other words, there's not huge delays
13 between the approval and one country and another,
14 and therefore reducing the uncertainty in the
15 global environment for biotech.

16 We have found through years of dialogue
17 with Japan on these issues, as I said earlier, as
18 I alluded to at the end of my testimony, that
19 Japan is amenable to working with the U.S. on
20 synchronizing its regulatory system for
21 biotechnology and agriculture.

22 And we think that the framework for

1 doing that -- establishing it as a more formal
2 process and establishing sort of the basic
3 objectives of that -- is a really good and
4 concrete way of moving that agenda forward.

5 MS. BOHON: This question is for
6 Ms. Sher. What provisions in the US-Japan trade
7 agreement would you say are the most critical to
8 enhance market access and patient access to
9 generic products?

10 MS. SHER: I think we would, first of
11 all, stress, as I mentioned, the need to avoid
12 erecting barriers to particularly the emergence
13 of biosimilar products, with the great concern
14 about putting the ten years in place.

15 As we mentioned, Japan currently has
16 eight years, and our view is that Japan and other
17 countries should have the ability to tailor their
18 systems appropriately for their own markets, so
19 avoiding that would be critical.

20 And then, as I mentioned, our written
21 submission goes into a lot more detail. But the
22 other provisions designed to encourage the

1 emergence of generic and biosimilar products by
2 providing incentives and protections for those
3 products, is critical, and there's a list of them
4 in our written submission.

5 MR. BEEMAN: Just a quick follow-up. In
6 terms of actual market access, I understand the
7 points you made. Do you find particular market
8 access barriers within Japan beyond those that
9 are specific to Japan's other regulations?

10 MS. SHER: I'm happy to get back to you
11 in writing on that. As of now, the main one that
12 we refer to are the -- the ones that we
13 mentioned.

14 CHAIRMAN GRESSER: Let me thank you all.
15 We are going to take a brief break for lunch and
16 be back promptly at 1:05. And thank you to all
17 our witnesses and those of the previous panels.

18 (Whereupon, the above-entitled matter
19 went off the record at 12:43 p.m. and resumed at
20 1:04 p.m.)

21 CHAIRMAN GRESSER: Will the room please
22 come to order? Thank you all very much for

1 coming and welcome to this Trade Policy Staff
2 Committee hearing.

3 Just a couple of notes. Please, all our
4 witnesses, we'd ask to respect the five-minute
5 limit for testimony, to make sure that all of our
6 witnesses can speak and provide their insights
7 and views.

8 We are grateful to you for coming and
9 want to make sure we hear from all of you. And
10 also to provide enough time for our panelists to
11 ask questions and go deeper into issues that
12 they'd like to learn a bit more about.

13 Once again, thank you. And let me turn
14 now to Mike Beeman, our Assistant
15 Secretary -- Assistant USTR -- for Japan, Korea
16 and APEC.

17 MR. BEEMAN: Thank you. Good afternoon.
18 Thank you for coming. As I mentioned this
19 morning for other panels that had come, we
20 greatly appreciate the time and effort that
21 you've made, not only to appear here today, but
22 also in all the effort that was put into

1 testimony, preparing that and submitting it in
2 the period of time.

3 We take all this very seriously and we
4 really appreciate you coming this morning. I
5 think we can begin the panel. Thank you.

6 MR. BISHOP: Mr. Chairman, our first
7 witness on this panel is Floyd Gaibler, of the
8 U.S. Grains Council. Mr. Gaibler, you have five
9 minutes.

10 MR. GAIBLER: Thank you very much. On
11 behalf of the U.S. Grains Council, I appreciate
12 the opportunity to offer our statement of
13 negotiating objectives in support of a US-Japan
14 trade agreement.

15 The Council has enjoyed over 50 years of
16 cooperation and relationships working to innovate
17 the Japanese feed, livestock and starch
18 industries.

19 Because of this mutual relationship and
20 our commitment to be a long-term, reliable
21 supplier, Japan has been a top customer of U.S.
22 corn exports.

1 The Council strongly supports the
2 objectives of a trade agreement with Japan,
3 similar to our support for inclusion of Japan
4 during the negotiations of the Trans-Pacific
5 Partnership.

6 In addition, the recently signed US-
7 Mexico-Canada agreement contains provisions in
8 both market access and regulatory provisions
9 that, in our view, should be service-foundational
10 language for negotiations in a US-Japan trade
11 agreement.

12 TPP provided new market opportunities
13 for U.S. feed grains by countering preferential
14 treatment from regional and bilateral agreements
15 Japan has in place.

16 For example, with the European Union
17 completing its trade negotiations with Japan and,
18 in fact, voting on it this Wednesday, EU barley
19 and barley products and sorghum will face lower
20 costs than the U.S. currently faces.

21 TPP eliminated the preferential
22 treatment and leveled the playing field for

1 market access.

2 So, in our view, matching or exceeding
3 the market access from these regional competing
4 agreements should be a key negotiating priority.

5 At the outset, the negotiations should
6 aim to eliminate and/or phase out all existing
7 tariffs and tariff-rate quotas.

8 At a minimum, market access provisions
9 with Japan should match or exceed those achieved
10 under TPP.

11 For us, that includes maintaining zero
12 duties on imports of corn for feed and industrial
13 use, corn gluten feed and dried grains, as well
14 as eliminating existing tariffs for barley for
15 feed outside the existing TRQ, sorghum and
16 ethanol.

17 In addition, under TPP, new country-
18 specific quotas for starches were provided, as
19 well as expanding the TRQ for barley.

20 Efforts to resolve outstanding bilateral
21 sanitary and phytosanitary disputes with all
22 trading partners are important to create a free

1 competitive environment, particularly within the
2 Asian region.

3 USMCA built on the already strong SPS
4 chapter agreed to during the TPP negotiations.
5 High standards of transparency import
6 notifications and technical consultations prior
7 to disputes among other provisions should be
8 helpful in establishing a baseline for future
9 trade negotiations, and serves as an ideal
10 placeholder for the US-Japan agreement.

11 TPP was the first bilateral or regional
12 trade agreement that includes biotechnology.

13 And recognizing ag biotechnology is an
14 important tool to feed the world's growing
15 population in a sustainable manner, and that an
16 agreement that included provisions that committed
17 TPP countries to foster transparency in science-
18 based regulations in their decision-making
19 process.

20 It also included provisions to promote
21 timely authorization of products of modern
22 biotechnology. The USMCA improved these

1 provisions and should be included in a US-Japan
2 agreement.

3 While Japan has a regulatory process
4 that is relatively synchronous with the US,
5 situations exist where asynchronous approvals of
6 biotechnology products by regulatory authorities
7 in exporting and importing countries, may
8 restrict innovation and create enormous risks to
9 the international trade of commodities, such as
10 our corn products and soybeans.

11 The provisions that were in TPP that we
12 think should be included in this agreement
13 include import and export restrictions,
14 performance requirements, import licensing, ag
15 export subsidies, domestic supports, ag
16 safeguards, food security export restrictions,
17 and trade -- State trading enterprises.

18 And as a member of the U.S. Food and
19 Agriculture Dialogue for Trade, we also support
20 provisions on a strong technical barriers to
21 trade chapter, good regulatory practices, and
22 customs administration and trade facilitation.

1 In conclusion, the Council strongly
2 supported completion of TPP and the inclusion of
3 Japan as a full negotiating partner.

4 While we would have preferred that the
5 U.S. would reconsider participation in the now
6 11-member CPTPP agreement, it is imperative that
7 the U.S. achieve a bilateral agreement with Japan
8 so that U.S. Food and Agriculture can reclaim its
9 market access benefits achieved under TPP, and
10 regain market shares.

11 As the world's third largest economy, a
12 trade agreement will provide opportunities to
13 expand free and fair trade, strengthen our
14 economic and strategic partnership between our
15 two countries, and help promote economic growth
16 in the Asia-Pacific region. Thank you very much.

17 MR. BISHOP: Thank you, Mr. Gaibler.
18 Our next witness is Vince Peterson, with the U.S.
19 Wheat Associates. Mr. Peterson, you have five
20 minutes.

21 MR. PETERSON: Thank you, gentlemen and
22 panel, for the opportunity to speak with you on

1 behalf of U.S. wheat farmers about these trade
2 negotiations with Japan.

3 Again, my name is Vince Peterson. I am
4 the President of U.S. Wheat Associates. Our
5 mission is develop and maintain expanded
6 international marketplaces on behalf of U.S.
7 wheat farmers. And frankly, one of our most
8 critical markets in this endeavor is Japan.

9 Given its overall demographic and
10 consumption trends, Japan is generally a market
11 that we endeavor to maintain our 53 percent
12 market share in that country. But today, we're
13 facing an imminent collapse because of being
14 outside of the TPP agreement.

15 Frankly, this is because of provisions
16 negotiated by USTR for the benefit of ourselves
17 under the Trans-Pacific Partnership. But our
18 competitors in Australia and Canada will, in
19 fact, now benefit from those provisions, as U.S.
20 farmers will remain on the outside and helpless
21 in that process.

22 So, over the immediate past five years,

1 Japan is our largest, most reliable and most
2 valuable customer that we have in the export
3 market.

4 The importers, Japan's Ministry of
5 Agriculture, Forestry and Fisheries -- or MAFF is
6 the acronym you're well aware of -- MAFF is the
7 only entity that can import duty-free in Japan.

8 All others must pay a prohibitive tariff
9 after MAFF imports the wheat and resells it to
10 the Japan flour milling industry with a
11 significant markup currently in excess of \$150
12 per ton to the price of that wheat. This is the
13 equivalent of a 60 to 70 percent ad valorem
14 tariff at today's prices.

15 So, while we certainly wouldn't hold up
16 this system as an example for others, it has
17 historically worked very well for us in Japan,
18 and for themselves.

19 Wheat is higher-priced there than
20 anywhere else, but MAFF still imports enormous
21 quantities of high-quality American wheat in the
22 process.

1 Since the wheat market in Japan is
2 relatively stable, there tends to be very little
3 variation in the quantity of imports between the
4 US, Canada and Australia, which are the three
5 primary principal suppliers to Japan.

6 However, this will start changing in
7 2019, as CPTPP takes effect. There will be an
8 immediate seven percent drop in the markup for
9 Canadian and Australian wheats. By April 1st, it
10 will have gone down by 12 percent.

11 In very real terms, as of April 1st U.S.
12 wheat will face a \$.40 per bushel, or \$14 per
13 ton, resale price disadvantage to Australia and
14 Canada, and that difference is a deal breaker in
15 any market.

16 After nine years, the U.S. will face an
17 automatic premium of \$70 per ton if nothing
18 intervenes in the interim. By that time most of
19 the market will be long gone for us in Japan.

20 Japanese food processors, they are
21 looking at ways to reduce their exposures, and
22 they're doing that right now.

1 They'll reformulate products to adapt
2 other wheats of different origins, because
3 they'll have to. And if they don't, their
4 competitor will. There's a competitive
5 environment in their marketplace and they will
6 fight for market share amongst themselves.

7 We are very relieved that this
8 Administration is prioritizing negotiations with
9 Japan, and we do urgently need a fix that will
10 erase this enormous vulnerability created by
11 CPTPP.

12 Three are other improvements that can be
13 made, such as WTO-plus and the SPS rules. But
14 for us there's really nothing more important than
15 fixing the markup disparity.

16 American farmers have been traveling to
17 Japan promoting U.S. wheat for more than six
18 decades, starting just shortly after World
19 War II. We've had an office in Japan for more
20 than 60 years in that process. We have spent
21 countless hours and millions of dollars of hard-
22 earned producer money building this market over

1 these years.

2 During that time, the Japanese milling
3 industry has become an indispensable partner with
4 U.S. wheat, particularly for farmers whose wheat
5 is exported out of the Pacific Northwest.

6 All of that is at risk without a quick
7 US-Japan agreement. In the meantime, U.S. wheat
8 farmers and Japan flour millers hope that we can
9 maintain provisional equivalents for U.S. wheat
10 imports while our two countries conduct ongoing,
11 good-faith negotiations.

12 So, we thank you for understanding the
13 plight of the farmers who are already facing
14 severe trade disruptions in other markets. As
15 you're well aware, the U.S. has not sold one
16 kernel of wheat to China in this trade war that
17 we're having since the first of March 2018.

18 So we urge you to act quickly to help us
19 and help save our markets in Japan, and we thank
20 you very much for the opportunity to speak with
21 you about it today.

22 MR. BISHOP: Thank you, Mr. Peterson.

1 Our next witness is Tom Slunecka, with the
2 Minnesota Soybean Research and Promotion Council.
3 Mr. Slunecka, you have five minutes.

4 MR. SLUNECKA: Mr. Chairman, members of
5 the panel, thank you for taking comments today on
6 the tariff and non-tariff barriers with Japan.

7 My name is Tom Slunecka. I am CEO for
8 Minnesota Soybean Research and Promotion Council,
9 but I'm here today representing Northern Soy
10 Marketing LLC.

11 This is made up of three QSSB
12 organizations -- North Dakota, South Dakota and
13 Minnesota. We administer the soybean research
14 and promotion funds from the Federal checkoff
15 organization or program.

16 The soybean farmers that I represent
17 today produced nearly one billion bushels of
18 soybeans in 2017, and that's worth an estimated
19 \$7.76 billion.

20 Each of our States, soybeans is the
21 number one, if not the number one -- export from
22 our farmers and the State as a whole. So, this

1 is a very, very important issue to us today.

2 Japan has long been an important trade
3 partner for U.S. soybeans. In 2017, Japan
4 imported more than \$1 billion worth of whole
5 beans and soybean meal.

6 Japan buyers largely purchase from
7 America's Gulf of Mexico ports due to an
8 outdated, misleading technical measurement that
9 states crude protein as the ultimate measure for
10 soybeans.

11 However, the most efficient route for
12 Asia is to purchase soybeans via the Pacific
13 Northwest, or PNW, because it is geographically
14 much closer to their marketplace.

15 The PNW offers great advantages for
16 transportation and cost efficiencies due to the
17 billions of dollars of private investments over
18 the last decade in infrastructure by the grain
19 elevator system, rail companies, and soybean port
20 transloading facilities.

21 U.S. soybeans are prized due to their
22 superior essential amino -- their essential amino

1 acid content, which enables poultry, swine and
2 fish to grow faster, while consuming even less
3 meal than other feeds.

4 Crude protein -- or CP content -- is an
5 out-of-date parameter that is not applicable to
6 feed for poultry, swine or aquaculture. In
7 reality, crude protein measurements are just
8 that -- crude.

9 The process tests, actually the nitrogen
10 level in the grain, and not its digestibility or
11 nutritive value.

12 So, the system to test crude protein was
13 established more than 200 years ago, and the
14 process has changed very little since that time.

15 Today's nutritionists know that the
16 building blocks of protein -- the five essential
17 amino acids -- are what determine the value of
18 any feed.

19 That's why they utilize near infrared
20 technology to rapidly analyze the quality and
21 makeup of all feeds. NIR technology is modern,
22 well-known, affordable, available across the

1 globe for many manufacturers.

2 As evidence of this change, many of the
3 world's buyers purchasing out of South Asia have
4 moved to this system.

5 But despite the growth in neighboring
6 countries, we have failed to make headway in
7 getting the Japanese market to switch to buying
8 soybean and soybean meal on the basis of amino
9 acid profile, instead of crude protein.

10 While in recent years the U.S. and other
11 global producers of soy have seen a decrease in
12 the amount of crude protein of soybeans at
13 harvest.

14 Soybeans grown in cooler climates --
15 northern states, for example -- have proven to
16 have a more desirable balance of essential amino
17 acids.

18 And the fact of climate compounded with
19 new soybean genetics is resulting in the ability
20 for northern states positioned at the beginning
21 of the PNW route, to provide Japanese livestock
22 industry and the very best possible feed

1 available.

2 As we compete against countries like
3 Brazil and Argentina, it is vital that the
4 soybeans produced and shipped from northern
5 states are promoted as the highest quality feed
6 in the world, especially for pork, poultry and
7 aquaculture.

8 We understand that issues like this and
9 many of the issues that you've heard today are
10 very complex, and we'd be happy to share the
11 information, or connect you with university
12 experts that have been studying this for decades,
13 and truly know the value of how feed is measured.

14 Ultimately, an internal mandate based on
15 outdated criteria and outdated technology, has
16 created a non-tariff barrier, locking out
17 northern-based American farmers from this
18 valuable market.

19 We urge you to request Japan to lift or
20 adjust its internal minimum crude protein
21 requirements, and give our soybean farmers free
22 trade access to this vital market.

1 Doing so gives more of the world access
2 to the technology, to allow soybeans to be
3 utilized across the world, and not just helping
4 U.S. farmers and Japanese producers. We're
5 really changing the paradigm for soybean
6 production and feed production across the world.

7 MR. BISHOP: Thank you, Mr. Slunecka.
8 Our next witness is Alicia Rockwell, with Blue
9 Diamond Growers. Ms. Rockwell, you have five
10 minutes.

11 MS. ROCKWELL: Thank you. I'd like to
12 thank the Chairman and the Committee members for
13 holding this important hearing today.

14 My name is Alicia Rockwell and I'm an
15 executive at Blue Diamond Growers, leading
16 communication and public affairs for the Blue
17 Diamond cooperative.

18 I serve as an appointed advisor to the
19 Agricultural Technical Advisory Committee for
20 Trade in Fruits and Vegetables, which is jointly
21 administered by the Office of the U.S. Trade
22 Representative, and the U.S. Department of

1 Agriculture.

2 I also serve as an alternate on the
3 Board of Directors for the Almond Board of
4 California. I welcome the opportunity to appear
5 before the Committee today to express Blue
6 Diamond's strong support for the President's
7 leadership in seeking to negotiate a high-
8 standard trade agreement with Japan.

9 I would like to begin my remarks today
10 by providing you some background information
11 about Blue Diamond.

12 Blue Diamond is comprised of over half
13 of California's almond growers, most of whom are
14 small, family farm operations. As the world's
15 leading non-profit, grower-owned almond
16 processing and marketing cooperative, operating
17 for 108 years, Blue Diamond is also the industry
18 leader in product research and innovation.

19 This trailblazing work has led to the
20 creation of globally-recognized market
21 applications for almonds and processed almond
22 products, including consumer-packaged flavored

1 almonds, almond flour and meal, almond oil,
2 crackers, and Almond-Breeze milk and yogurt.

3 Almonds are an unparalleled, grown-in-
4 America, success story. California accounts for
5 approximately 80 percent of global production of
6 almonds, with approximately 70 percent of that
7 production going for export.

8 In addition to providing a full range of
9 nutritious almond products to food manufacturers
10 and consumers in all 50 states, Blue Diamond
11 exports its products to over 100 countries around
12 the world.

13 Japan is a longstanding and valued
14 customer for California almonds, ranking as the
15 number four export destination in 2017, based on
16 value -- behind the European Union, India, and
17 Hong Kong.

18 U.S. exports to Japan of almonds in-
19 shell, shelled, prepared and preserved, more than
20 doubled over the most recent ten-year period,
21 topping \$226 million in 2017.

22 Through the first ten months of 2018,

1 the value of almond exports to Japan was running
2 over 16 percent ahead of the same period in the
3 preceding year.

4 In addition to in-shell and shelled
5 almonds, Japan is a growing market for consumer-
6 ready products, including snack almonds and the
7 beverage base used make Blue Diamond's Almond
8 Breeze almond milk.

9 The United States currently enjoys a
10 leading market share in Japan among the almond
11 import categories.

12 However, Australia is well-positioned to
13 make inroads in the market, given the
14 preferential market access it enjoys under its
15 existing economic partnership agreement with
16 Japan, as well as the soon-to-be-implemented,
17 Comprehensive and Progressive agreement for
18 Trans-Pacific Partnership, or CPTPP.

19 In addition, under the pending Japan-
20 European Union EPA, Spain will similarly gain
21 preferential access to Japan's market for the
22 full range of its almond products.

1 In light of Japan's various third-
2 country agreements, it is more imperative than
3 ever that the United States and Japan
4 successfully conclude a high-standard trade
5 agreement.

6 As the top priority in the upcoming
7 negotiations, Blue Diamond strongly urges the
8 Administration to undertake the negotiations on
9 an expedited basis, such that the eventual
10 agreement can be approved and entered into force
11 as quickly as possible.

12 The longer this process takes, the
13 further the United States will fall behind, to
14 the benefit of third-country competitors.

15 The written comments submitted by Blue
16 Diamond contain the relevant HTS numbers, for
17 which it has requested that U.S. negotiators
18 achieve the prompt elimination of Japan's
19 existing import tariffs, preferably on an
20 immediate basis upon entry into force of the
21 eventual agreement.

22 I would state for the record here today,

1 that in addition to the traditional categories of
2 in-shell, shelled, prepared and preserved
3 almonds, it is important that U.S. negotiators
4 take account for the full range of almond product
5 categories, including almond flour, meal, and
6 almond oil.

7 I would like to thank the Committee,
8 again, for this opportunity to present these
9 views today. I am happy to answer any questions
10 later. Thank you.

11 MR. BISHOP: Thank you, Ms. Rockwell.
12 Our next witness is Matthew Aufman, with Welch
13 Foods. Mr. Aufman, you have five minutes.

14 MR. AUFMAN: Good afternoon, Committee
15 members. I'm Matt Aufman, Welch's Vice President
16 and General Counsel.

17 Welch's is the processing and marketing
18 arm of the National Grape Cooperative
19 Association, which is owned by approximately 800
20 family farmers in New York, Pennsylvania, Ohio,
21 Michigan and Washington. I'm privileged to
22 represent them before you today.

1 Our juices, jellies and other products
2 made from Concord and Niagara grapes are sold
3 throughout the United States and 40 countries
4 around the world, including in Japan.

5 Since TPP12 was first launched a decade
6 ago, Welch's has been seeking immediate, duty-
7 free access into Japan for U.S. grape
8 concentrated imports.

9 Japan is one of our most critical export
10 markets, representing seven percent of our
11 growers' proceeds.

12 We have a branded business in Japan, as
13 well as an ingredients business selling
14 concentrate to other manufacturers.

15 The ingredient side of our Japanese
16 business is managed by Mission Trading, which has
17 been importing our juice concentrate since 1971.

18 Mission sells the concentrate as an
19 ingredient to industrial customers, which then
20 uses it in products such as chilled juices,
21 confectionaries, and alcoholic beverages.

22 The branded side of our Japanese

1 business is handled by Asahi Group, which uses
2 our juice concentrate to manufacture Welch's
3 branded juice and confectionary products.

4 Japan is a large user of grape juice
5 concentrate, but produces very little
6 domestically. So, virtually all its domestic
7 consumption is satisfied by imports.

8 In 2017, its grape juice imports totaled
9 more than \$90 million, \$23 million of which -- or
10 roughly one-fourth -- came from the United
11 States.

12 Japan's grape juice imports enter under
13 two six-digit tariff categories -- 200961,
14 covering grape juice of a brix value of 30 or
15 less, and 200969, covering grape juice of a brix
16 value of more than 30.

17 MFN tariffs on these categories are
18 high, ranging from 19.1 percent to 29.8 percent.
19 These high MFN rates are putting U.S. grape juice
20 exporters at a substantial and growing
21 disadvantage.

22 Grape juice volumes from Chile and

1 Mexico are already entering Japan duty-free under
2 Japan's free-trade agreements with those
3 countries.

4 Very soon, Italian and Spanish volumes
5 will also be entering that market duty free when
6 Japan, under its EU Japan deal, eliminates in
7 year 1 the 19.1 percent tariff on 200969210 --
8 its main grape juice subcategory.

9 Since Welch's ships most of its grape
10 juice concentrate under that same subcategory,
11 our top priority in the US-Japan negotiations is
12 to obtain the same immediate zero-duty treatment
13 on this item as quickly as possible.

14 In addition, to ensure that future
15 Welch's grape juice exports enter Japan duty
16 free, regardless of their grape juice
17 subheadings, we are also asking for immediate
18 tariff elimination for all of Japan's other grape
19 juice subheadings, under 200969 and 200961.

20 Our Japanese customers value our premium
21 quality grape juice. But low-priced competition
22 from Argentina, Chile and Brazil -- and now Italy

1 and Spain -- are a growing market factor.

2 To maintain and expand U.S. grape juice
3 market share in Japan, immediate tariff
4 elimination on grape juice concentrate has become
5 an imperative.

6 Eliminating these Japanese tariffs will
7 be a win-win for both U.S. and Japanese
8 interests. They will increase profits for U.S.
9 producers, including the family farmers who own
10 National Grape and Welch's.

11 They will increase U.S. export revenues,
12 reduce costs for the Japanese manufacturers that
13 buy U.S. grape juice concentrate, and increase
14 access for Japanese consumers to high-quality,
15 healthy U.S. grape juice.

16 Welch's thanks the U.S. Government for
17 its prior negotiating efforts to eliminate
18 Japanese grape juice concentrate duties, and
19 urges that the same priority be given to
20 eliminating these tariffs in the upcoming
21 negotiations.

22 Given the imminent implementation of the

1 EU-Japan free-trade agreement, we further urge
2 the U.S. Government to make every effort to close
3 and ratify the new US-Japan deal as promptly as
4 possible.

5 We stand ready to work with the U.S.
6 Government throughout these negotiations to
7 achieve these ends.

8 I appreciate your attention, and would
9 welcome any questions you may have.

10 MR. BISHOP: Thank you, Mr. Aufman. Our
11 final witness on this panel is Nancy Wilkins,
12 with Grocery Manufacturers Association.
13 Ms. Wilkins, you have five minutes.

14 MS. WILKINS: Good afternoon. I am
15 Nancy Wilkins, Director of Federal Affairs for
16 the Grocery Manufacturers Association -- GMA.

17 I am pleased to be here today
18 representing GMA to align our priorities in
19 negotiating the US-Japan trade agreement.

20 GMA represents the world's leading food,
21 beverage and consumer products manufacturers.
22 Our industry is the largest -- the single largest

1 employer in U.S. manufacturing.

2 We directly employ 2.1 million Americans
3 in 30,000 communities across the United States,
4 an estimated 16 percent of all U.S. manufacturing
5 employment.

6 These are good, high-paying jobs, and
7 employment and consumer packaged goods
8 manufacturing has grown in recent years, when
9 other manufacturing employment declined. In
10 addition, our industry indirectly supports
11 11 million jobs, from farm to fork.

12 Our industry is a unique driver of
13 economic growth in the United States. Processed
14 food and beverage sales are valued at \$1 trillion
15 per year and contributed \$243 billion to the U.S.
16 GDP in 2015.

17 Taking advantage of sophisticated supply
18 chains and product innovation, U.S. processed
19 food and beverage manufacturers provide tens of
20 thousands of safe, affordable, nutritious
21 products that consumers rely on every day,
22 letting hardworking American families spend less

1 of their disposable income on food, than in any
2 other industrialized economy.

3 More than 95 percent of the world's
4 potential consumers live outside of the United
5 States. So, access to foreign markets is a key
6 component of future growth and competitiveness
7 for the U.S. food and beverage industry.

8 U.S. processed food and beverage exports
9 totaled approximately \$39 billion in 2017,
10 roughly a third of all U.S. agriculture exports.
11 Of these processed product exports, approximately
12 \$2.83 billion were destined for Japan.

13 Japan is the fourth largest market for
14 U.S. processed food exports, behind Canada,
15 Mexico and the European Union.

16 U.S. processed food and beverage exports
17 have grown in recent decades, thanks to a steady
18 decline in tariffs, contributing to an overall
19 agricultural trade surplus.

20 GMA hopes that the U.S. trade agenda
21 will continue this growth by seeking to remove
22 all remaining tariffs on U.S. consumer goods

1 exports, decreasing unnecessary regulatory
2 differences, and promote regulatory cooperation,
3 strengthen enforcement, and set fair rules that
4 level the playing field.

5 With Japan implementing the
6 comprehensive and progressive agreement for
7 Trans-Pacific Partnership -- CPTPP -- at the end
8 of this year, and likely the EU-Japan FDA in
9 2019 -- U.S. processed food exports will be at a
10 significant disadvantage in Japan.

11 We urge the Administration to not only
12 remove tariffs on U.S. exports to Japan, but also
13 to insist on expedited timelines for tariff
14 elimination, so U.S. goods do not lose market
15 share and can remain competitive.

16 GMA welcomed commitments achieved in the
17 US-Mexico-Canada agreement -- USMCA -- and other
18 previous U.S. negotiations that foster
19 transparency on measures related to modern
20 agricultural biotechnology. Equivalent
21 commitments should be included in the US-Japan
22 trade agreement.

1 In addition, we urge the administrations
2 to secure the same commitments made in USMCA --
3 that limit unnecessary technical barriers to
4 trade, and require sanitary and phytosanitary
5 measures be based on science.

6 The US-Japan trade agreement should
7 require all regulations to be implemented in a
8 transparent, predictable, and non-discriminatory
9 manner.

10 Access to the growing markets in Asia is
11 critical for the U.S. processed food, beverage
12 and consumer products industry. The US-Japan
13 trade agreement is an important step in securing
14 that access, including by removing non-tariff
15 barriers to trade and reducing costs that arise
16 from unnecessary regulatory barriers.

17 We look forward to working with the
18 Trump Administration, Congress, and other
19 stakeholders, to strengthen U.S. competitiveness
20 so that we can continue to grow our industry,
21 create jobs, and drive the U.S. economy.

22 Thank you for this opportunity to

1 testify, and I look forward to your questions.

2 MR. BISHOP: Thank you, Ms. Wilkins.

3 Mr. Chairman, that concludes direct testimony
4 from this panel.

5 MR. BEEMAN: Thank you, again, for all
6 your time. Why don't I turn to some of my
7 colleagues to ask some number of questions that
8 we have.

9 MR. WENTZEL: Good afternoon. I'm Roger
10 Wentzel, with USTR's Office of Agricultural
11 Affairs. Mr. Slunicka, you described the issue
12 of crude protein requirements for soybeans
13 exported to Japan.

14 I wondered if you could just briefly
15 describe any discussions that your industry
16 association has had with Japanese industry or
17 government officials regarding this issue. Thank
18 you.

19 MR. SLUNECKA: Most of our conversations
20 happened with the milling processing group, and
21 crude protein is -- we're fairly new on the
22 cutting edge of being able to switch over from

1 this 200-year-old measurement to something more
2 modern and something more accurate.

3 This number that was put in place many
4 years ago has never really been challenged. And
5 so, ultimately, we're just asking for a reduction
6 of a percent or a percent-and-a-half in their
7 meal requirement number for crude protein.

8 That would allow for the vast majority
9 of beans produced in the Upper Midwest to be able
10 to be shipped out of the PNW, just opening that
11 marketplace.

12 And many times those soybeans -- a
13 portion of those soybeans can make their way to
14 the Gulf of Mexico, but it's far less efficient.
15 And so, in the conversations that we've had with
16 the companies, they do understand, but they feel
17 as though that they're tied to this agreement,
18 and so the conversation never went any further.

19 MR. WHITLEY: Good afternoon. And I'm
20 Daniel Whitley, with the USDA's Foreign
21 Agricultural Service. And I just want to echo
22 the Chair's comments about the importance and the

1 value of you all being here and sharing this
2 information with us.

3 Mr. Peterson, my first question goes to
4 you. U.S. Wheat Associates noted that Japan is a
5 relatively inelastic buyer of U.S. wheat, but
6 that our market share is not guaranteed.

7 Could you briefly describe what
8 characteristics or factors determined this
9 inelasticity, and are there certain quality
10 characteristics or particular end uses which make
11 U.S. wheat more suitable than wheat from other
12 countries -- for example, Canada or Australia?

13 MR. PETERSON: Yes. Thank you for the
14 question. We work very hard to differentiate the
15 various classes of U.S. wheat in all markets, but
16 Japan is probably more sensitive and more
17 particular than most.

18 We have a differential between U.S. and
19 Canadian spring wheat, where our wheat is
20 slightly stronger, higher gluten, for application
21 in certain bread products that are desirable over
22 Canadian wheat.

1 We have soft, white wheat from the
2 Pacific Northwest that is particularly low-
3 gluten, low-protein, very highly desirable for
4 sponge cakes in Japan, almost irreplaceable from
5 any origin.

6 There's a center part, hard red winter
7 wheat, which is the center part of the demand
8 base for products in Japan. So, Japanese millers
9 are well-formulated in these things. They are
10 highly sophisticated, and they price those
11 ingredients according to their needs for their
12 end products.

13 And, because of that industrial process,
14 we've maintained a better-than-50-percent market
15 share because of the functionality of the wheat.

16 MR. WHITLEY: Thank you very much.
17 Ms. Rockwell, thank you for being here, as well.
18 In your testimony, you noted interest in tariff
19 elimination not only for almonds, but also almond
20 products, including almond flour and almond oil.

21 Can you briefly describe the market for
22 these kinds of products in Japan, and the extent

1 to which the demand for these products has grown
2 in recent years? Also, do Australia and Spain
3 compete in these market segments, as well, in
4 Japan?

5 MS. ROCKWELL: Very good question, thank
6 you very much. Japan is an extremely important
7 market for almonds.

8 It's very important and it's respected
9 partner to Blue Diamond, and we have the
10 capabilities of providing such products as the
11 meal, the flour and the oil, to the high
12 standards that Japan requires.

13 And therefore, it's extremely popular,
14 and we see the potential for a lot of growth in
15 those areas. So, it is critical for us to get
16 some tariff relief in those areas, particularly
17 in the meal and the flour category.

18 It's probably the highest out of all
19 that we face in Japan today. And so, to be able
20 to provide our high-grade quality product to a
21 market that demands that kind of quality would be
22 incredibly important to our growers and our

1 ability to provide a higher return back to them
2 to sustain their family farms. So, the market is
3 really important.

4 And yes, we do face intense competition
5 among Australia, and likely Spain in the future.
6 But right now, Australia has an advantage.

7 They are not fully vested in these
8 activities yet, but we anticipate that, given the
9 incentive of the advantage with their tariff,
10 that they would invest in that, and probably go
11 into that whole Asian rim more aggressively than
12 they do today.

13 MR. PETERSON: Thank you very much.
14 Mr. Aufman, this question is in response to your
15 testimony. You noted that its top priority would
16 be to obtain the same immediate zero-duty
17 treatment as specified in both CPTPP, as well as
18 the EU-Japan agreement, on Welch's juice
19 concentrate.

20 I think that duty is currently at
21 19.1 percent. What are the other competitors for
22 these products in the Japanese market?

1 MR. AUFMAN: Because we sell through a
2 partner, I don't have the -- as good a visibility
3 as some of my colleagues here, in terms of who
4 we're competing with, when we look at United
5 Nations data, which I think might look at the
6 categories a little bit differently than you guys
7 do.

8 But we see that we have about a quarter
9 of the US -- of the market there is US, and I
10 think we believe that we represent by far the
11 largest share of that.

12 But there's a couple of other
13 significant competitors. About another half
14 comes from Argentina and Chile, and the other
15 quarter comes from other countries.

16 And I think the real concern for us
17 going forward is Italy and Spain, because while
18 we have a -- you know, we have a long history of
19 coexisting with kind of low-cost commodity grape
20 juice from South America.

21 If you go to the store here and buy a
22 bottle of white grape juice that's not ours,

1 it'll probably have country of origin labeling on
2 it from Argentina or Chile.

3 We don't have a long track record of
4 coexisting with price-advantaged European
5 competition, and I think we've been unsuccessful
6 in building a significant ingredients business in
7 Europe and we have only a very small consumer
8 business in the United Kingdom.

9 And so, I think we worry about what that
10 means for us in Japan going forward. If you'd
11 like me to dig further, I just really don't know
12 who the companies are that are selling in those
13 countries.

14 MR. PETERSON: No, no. I think that's
15 helpful. Thank you.

16 MR. BROWN: Council of Economic
17 Advisors. And I would like to thank all our
18 witnesses for being here today. I have a
19 question for Ms. Wilkins.

20 The written summary of your testimony
21 says that GMA supports negotiations for a
22 comprehensive US-Japan trade agreement. And then

1 you enumerated a number of areas. Could you
2 explain why GMA emphasized that the agreement be
3 comprehensive in nature?

4 MS. WILKINS: Sure. Thank you for your
5 question. We believe that there are several
6 opportunities as it relates to processed food and
7 beverage exports for the US-Japan trade
8 agreement.

9 In addition to tariff elimination on
10 processed food and beverage products, we also
11 believe that there are some opportunities based
12 on the USMCA, particularly as it relates to a
13 food formula confidentiality index -- annex --
14 excuse me -- as well as also some language that
15 was included on products from modern agriculture
16 biotechnology in the USMCA.

17 MR. DUNN: Good afternoon. My name is
18 Patrick Dunn. I'm from the U.S. Department of
19 State, Office of Agricultural Trade Policy. Once
20 again, let me add my thanks to the rest of the
21 panel for your presence here today.

22 Mr. Gaibler, this question would be for

1 you. In your written comments you express
2 support for including language from chapters
3 related to agriculture, that were included in TPP
4 and, more recently, in USMCA.

5 What specific aspects or elements of
6 those agreements -- for example, rules of origin,
7 biotechnology, SPS or TBTs -- would you like to
8 see in a new US-Japan agreement? Thank you.

9 MR. GAIBLER: Thank you for that
10 question. I think the top priority for us
11 amongst all of those areas that you mentioned,
12 would probably be biotechnology.

13 Again, we think the USMCA language was
14 a vast improvement over TPP because it added not
15 only traditional R&D, but also the new plant
16 breeding techniques. And we know that Japan is
17 one of those governments that's trying to figure
18 out how to regulate that.

19 We had also suggested in prior
20 negotiations, about the concept of mutual
21 recognition of safety determinations for food and
22 feed.

1 You know, this is a concept that has
2 worked its way through the process in several
3 different venues.

4 It's really trying to provide
5 opportunities to achieving comparable outcomes
6 without having to have individual countries
7 following the same exact processes, and we would
8 like to see that concept put into the
9 biotechnology chapter, if that was at all
10 possible.

11 But in general, I think our view is that
12 we would like to see the provisions that we got,
13 particularly on market access under TPP, to, at a
14 minimum, be put in place.

15 And, if nothing else, if we can't get
16 more access, accelerate the provisions that would
17 have taken effect if we would have -- if TPP
18 would have gone into effect this year.

19 MR. BEEMAN: If I could take that basic
20 question, again, kind of what elements and other
21 trade agreements do you see as critical beyond
22 those that you've identified here, in terms of

1 being able to achieve a level of predictability
2 and access that you need for your -- to deliver
3 on exports to Japan.

4 You know, we can cover areas --
5 biotechnology was just mentioned, for example --
6 SPS measures, TBT measures, labeling, any other
7 types of issues.

8 I know many of you have identified
9 certain elements of these in some of your
10 testimony, but if you could highlight kind of the
11 most important ones to you that go beyond the
12 straight market access issues that many of you
13 have identified, I think we would benefit from
14 that.

15 So, maybe we just go through the line
16 Mr. Gaibler has already mentioned. So, maybe
17 Mr. Peterson? Or, if you want to add to it,
18 please, Mr. Gaibler.

19 MR. GAIBLER: No. Again, I think we
20 have to -- you know, first of all, timing is of
21 issue here. You've heard this, you'll hear it
22 again.

1 And I think you'll need to make the
2 political calculation of whether you try and get
3 more access than we got under TPP, and I know
4 some of our commodity groups like Vari & Rice
5 would certainly like to have more.

6 But the key here is that whatever you
7 do, we need to, at a minimum, at least accelerate
8 the process in terms of timing, of phasing out
9 and eliminating tariffs or expanding TRQs.

10 MR. PETERSON: I would thank you again
11 for the chance to weigh in. From our standpoint,
12 we were extremely supportive of the effort to
13 negotiate TPP in the first place.

14 We were grateful and supportive of the
15 results you obtained in that agreement, and
16 frankly, served the wheat industry well at that
17 time.

18 There were a few minor things where they
19 mentioned in their testimony about WTO plus SPS
20 issues. That's really more just codifying some
21 process with Japan.

22 Frankly, Japan is extremely fastidious

1 about the testing of U.S. wheat. They test 450
2 different criteria, and we've never missed one
3 yet. So, we've got a very good track record with
4 Japan.

5 So, our primary concern is just simply
6 the markup -- solving it soon -- because we're in
7 imminent danger of losing market with that one.
8 Thank you.

9 MR. SLUNECKA: Well, I echo Vince's
10 comments, as well. I think the soybean
11 associations across the nation appreciate the
12 work that's been done, and have been very
13 supportive.

14 For this issue, I'm representing today
15 50,000 farmers, a large percentage of those
16 simply cannot move their soybeans off of their
17 farms into the elevator systems.

18 We're drowning in this product and it's
19 all because we can't move it into China. Japan
20 is relatively the same distance, the same -- it's
21 a very large marketplace that we can start to
22 capitalize on if we just simply make a small

1 adjustment.

2 And the adjustment is one that is a win-
3 win. It's a win for the Japanese producers.
4 It's a win for the feed industry. It's a win for
5 the U.S. farmers. It's a win for science,
6 because we just want to evolve the science.

7 So, whether the debate is made around
8 the science or the access, either way will gain
9 us a huge advantage at a time that's truly in
10 peril for many of these northern producers.

11 MS. ROCKWELL: Thank you for the
12 question. It's very good, and I tend -- I agree
13 with my colleagues here. Urgency is paramount.
14 The almond growers in California -- there are
15 over 6,000 of the growers in the state -- we are
16 staring a three billion pound crop in the face.

17 It is going to happen. It's not if,
18 it's when, and when is coming soon. We need a
19 place for it to go. The Asian rim is a huge
20 market for almonds.

21 Sending a message, getting into Japan,
22 will help influence that whole area, and

1 hopefully get us greater access throughout -- I
2 mean, yes, we would have loved to have stayed in
3 TPP. We understand the reasonings around that.
4 But getting into Japan can help instigate even
5 broader access in that area.

6 And right now -- I talked about
7 Australia being a major competitor for us. Well,
8 they're not just a competitor because of their
9 agreement -- their trade agreement -- but they
10 have location access.

11 Where they are provides them an
12 advantage, as well. So, definitely would hope
13 that we could expedite these talks and get
14 something penned with Japan sooner, rather than
15 later, and would like to just echo my colleagues.
16 But the urgency's important for us.

17 MR. AUFMAN: There are differences in
18 food regulations between the United States and
19 Japan, of course. But at least in our little
20 narrow area of the world I wouldn't describe them
21 as structural impediments to trade. This is
22 really a tariff issue for us.

1 MS. WILKINS: Thank you for the
2 question. So, Japan is an important and growing
3 market for the processed food and beverage
4 industry.

5 In addition to the SPS and TBT measures
6 that I mentioned in response to an earlier
7 question, I think another opportunity
8 conceptually within the SPS chapter is around
9 risk assessment and making sure that risk
10 assessment is appropriate to the circumstances of
11 that risk, and that the risk management measure
12 that's put in place is no more trade-restrictive
13 than necessary.

14 We'd also like to see a provision that
15 encourages parties to use transparent risk
16 communication techniques to share information and
17 explain measures to consumers and other
18 stakeholders.

19 So, all this gets at is making sure that
20 SPS measures are made in a transparent,
21 predictable and non-discriminatory manner that
22 helps facilitate trade.

1 MR. BISHOP: We release this panel with
2 our thanks and we invite the members of panel 5
3 to come forward and be seated.

4 Mr. Chairman, our first witness on this
5 panel is Dan Halstrom, with the U.S. Meat Export
6 Federation. Mr. Halstrom, you have five minutes.

7 MR. HALSTROM: There, is that better?
8 There we go. Good afternoon. I'm Dan Halstrom,
9 President and CEO of the USMEF based in Denver.

10 On behalf of USMEF, I appreciate the
11 opportunity to participate in this hearing and
12 offer our comments on the priorities of USMEF
13 regarding a potential US-Japan agreement.

14 USMEF was established in 1976 and we
15 opened our first office in Tokyo in 1977. And
16 our organization's deeply rooted in the Japanese
17 meat industry, and has a long and trusted history
18 working in the Japanese market.

19 Exports of U.S. beef and pork globally
20 will total about \$14.8 billion this year, which
21 represents approximately 13 and 26 percent of
22 total U.S. beef and pork production,

1 respectively.

2 One quarter, or about 3.7 billion, of
3 all U.S. beef and pork exports are bound for
4 Japan, the highest value international market for
5 U.S. red meat.

6 Japan is unique, however, as customers
7 there demand high-quality chilled U.S. beef and
8 pork, and the U.S. is uniquely positioned to meet
9 this demand.

10 While Japan has consistently been a top
11 market for U.S. beef and pork exports, demand
12 continues to grow.

13 Japanese consumers have a growing
14 appetite for imported red meat and are shifting
15 their consumption preference from seafood to beef
16 and pork.

17 In short, Japan is poised to continue
18 not only being a principal destination for U.S.
19 beef and pork products now, but an opportunity
20 for sustained export growth into the future.

21 This also coincides with Japan
22 aggressively finalizing trade pacts with many of

1 the US's red meat export competitors.

2 As Japan moves closer to implementation
3 of the CPTPP and the Japan EU EPA, it will
4 immediately place the U.S. at a tariff
5 disadvantage to the participant nations, in the
6 absence of a US-Japan trade agreement.

7 The EU, Australia, New Zealand, Canada,
8 Mexico and Chile will all benefit from additional
9 red meat access under these agreements, and it is
10 paramount that the US, at a minimum, keep pace
11 with its competition, from a duty standpoint.

12 USMEF cannot understate the urgency of
13 reaching agreement with Japan, and strongly
14 supports immediate and expeditious engagement by
15 the U.S. Government with the Japanese to reduce
16 tariffs on U.S. red meat exports, and return the
17 U.S. to a level playing field with its global red
18 meat competitors.

19 Additionally, when an agreement is
20 reached, it's critical the U.S. start at the same
21 tariff level as its competitors, regardless of
22 date of implementation, so as not to lag behind

1 on tariffs for years, until final implementation
2 is reached.

3 Given the huge opportunity of the
4 Japanese meat industry, these opportunities will
5 go to our competitors if we do not have an
6 agreement in very short term.

7 USMEF has published estimates of
8 potential loss opportunity the U.S. beef and pork
9 business if the CPTPP and Japan EU EPA both are
10 implemented prior to April 1, 2019, and the U.S.
11 does not have an agreement.

12 If the U.S. has a level playing field
13 with these competitors, it is estimated that the
14 U.S. beef exports increase by at least
15 \$551 million annually by 2023, and by
16 \$1.2 billion annually by 2028.

17 Under the same scenario, U.S. pork
18 exports could increase by at least \$612 million
19 five years from now, and a little over \$1 billion
20 annually by year ten.

21 But in the -- if the U.S. and Japan do
22 not expeditiously reach an agreement, these

1 opportunities will indeed become losses.

2 Beyond the farm sector, beef and pork
3 exports to Japan alone are estimated to directly
4 support more than four percent of the jobs in the
5 meat packing and processing industry.

6 According to initial research by World
7 Perspectives, and the potential loss of beef and
8 pork exports, sales to Japan in year ten without
9 a trade agreement is projected to result in more
10 than \$5.2 billion in direct economic losses, and
11 about 23,600 job losses to other business and
12 industries in the top 15 states where the meat
13 packing and processing industries are located.

14 Preserving the U.S. red meat industry's
15 competitive position, our most important market,
16 is critical for the long-term profitability of
17 our industry.

18 After decades spent as an exporter of
19 U.S. beef and pork, I've learned that it is easy
20 to lose customers that have been cultivated over
21 decades, but much more difficult to win them back
22 once they are lost.

1 Securing an agreement between the U.S.
2 and Japan as soon as possible will help U.S. beef
3 and pork exporters maintain their closer ties
4 with the Japanese customers, now and in the
5 future.

6 Thank you for the opportunity to speak
7 today, and USMEF looks forward to working closely
8 together as we move forward.

9 MR. BISHOP: Thank you, Mr. Halstrom.
10 Our next witness is Kevin Kester, with the
11 National Cattlemen's Beef Association.
12 Mr. Kester, you have five minutes.

13 MR. KESTER: Thank you and good
14 afternoon. My name is Kevin Kester. I'm a
15 rancher from Parkfield, California. I'm here
16 today on behalf of the National Cattlemen's Beef
17 Association, the oldest and largest association
18 of America's cattlemen and cattlegwomen.

19 I am honored to provide the Office of
20 the United States Trade Representative with our
21 perspective on the importance of timely
22 negotiations and implementation of a US-Japan

1 trade agreement and the opportunities it will
2 provide the U.S. beef industry.

3 As the largest segment of the U.S.
4 agriculture industry, the U.S. beef industry
5 consists of over 900,000 cattle operations, which
6 are primarily family-owned, with a national herd
7 size of 94 million head of cattle, accounting for
8 roughly \$64 billion in annual farm gate receipts.

9 It is estimated we export 13 percent of
10 overall U.S. beef production, and that will
11 amount to over \$8 billion in sales for 2018.
12 That equals more than \$320 per head attributed
13 solely to beef exports.

14 Japan is the top market for U.S. beef
15 exports in both volume and value, accounting for
16 roughly 25 percent of total beef export sales
17 through October, to the amount of \$1.8 billion.

18 Under our current terms of access to
19 Japan, U.S. beef faces a tariff rate of 38 and a
20 half percent, and a volume-based safeguard that
21 can trigger a 50 percent snapback tariff.

22 Unfortunately, the 50 percent tariff was

1 triggered last year, and remained in place from
2 August of 2017 to March of this year.

3 When asked about the safeguard tariff on
4 frozen beef, Japan's finance minister said,
5 quote, this measure would be abolished if the TPP
6 were implemented, but it remains because the U.S.
7 withdrew from TPP, end quote.

8 And on the non-tariff side, U.S. beef
9 exports to Japan are limited to cattle
10 slaughtered under 30 months of age. This
11 restriction is unjustified. U.S. beef is
12 considered some of the safest beef in the world,
13 and is designated by the OIE as having negligible
14 risk status for BSE.

15 Japan should lift the current age
16 restriction on U.S. beef soon, consistent with
17 the recommendations of the OIE.

18 We are concerned that any tariff or non-
19 tariff barrier that continues to restrict our
20 sales to Japan will have a negative impact on
21 America's ranching families and our Japanese
22 consumers.

1 NCBA opposes artificial barriers because
2 they unfairly distort the market and punish both
3 producers and consumers. Nobody wins in this
4 situation.

5 Our producers lose access and beef
6 becomes much more expensive for Japanese
7 consumers.

8 This is why NCBA supports the full
9 elimination of tariffs, quotas, and other trade
10 restrictive measures on U.S. beef exports to any
11 market, including Japan.

12 The NCBA supported the negotiated
13 compromise under the Trans-Pacific Partnership
14 because it reduced the massive tariff applied to
15 U.S. beef, diminished the likelihood of
16 triggering a snapback tariff, and established
17 strong, objective, and predictable SPS and other
18 rules-based trade standards.

19 We expect nothing less under a US-Japan
20 trade agreement. Unfortunately, our competitors,
21 like Australia, have a leg up on us in the
22 Japanese market.

1 The terms of the CPTPP and the EU-Japan
2 agreement creates a significant tariff rate
3 advantage for our competitors, and U.S. beef
4 producers will be at a tremendous disadvantage if
5 we do not take action immediately.

6 In many ways we have been fortunate. A
7 prolonged drought in Australia has made us more
8 competitive in Japan in recent years. But we're
9 living on borrowed time, and we know that
10 Australia's herd will recover.

11 And when they do, they will have a
12 significant advantage over us in our leading
13 export market. We must act soon and secure a
14 strong bilateral agreement with Japan.

15 The U.S. beef industry has invested
16 heavily in developing a strong consumer base in
17 Japan, and we cannot afford to jeopardize all we
18 have worked for by delaying negotiations or
19 accepting any terms that are less than those
20 negotiated in the TPP.

21 The National Cattlemen's Beef
22 Association supports USTR's efforts to secure a

1 strong bilateral agreement with Japan, and I look
2 forward to answering any questions. Thank you.

3 MR. BURCH: Thank you, Mr. Kester. Our
4 next panel witness is William Westman, with North
5 American Meat Institute. Mr. Westman, you have
6 five minutes.

7 MR. WESTMAN: Thank you. Good
8 afternoon. My name is William Westman. I'm
9 Senior Vice President of International Affairs at
10 the North American Meat Institute, based in
11 Washington, DC, and I thank you very much for
12 this opportunity to provide comments on the
13 negotiating objectives of the US-Japan trade
14 agreement.

15 Based on the arguments outlined in this
16 testimony and the competitive market situation we
17 face in Japan, it is imperative that the US-Japan
18 trade agreement negotiations be completed and the
19 resulting agreement approved by the legislatures
20 in both countries as soon as possible.

21 In 2017, U.S. exports of red meats and
22 poultry products to all markets totaled

1 \$18 billion, approximately 25 percent of U.S.
2 pork production, 16 percent of poultry production
3 and 13 percent of beef output.

4 U.S. exports of beef and pork products
5 to Japan totaled over \$3.5 billion, nearly
6 26 percent of total U.S. beef and pork exports.

7 Clearly, we must remain competitive in
8 our largest meat market, and NAMI and member
9 companies will be directly impacted by the
10 outcomes of the US-Japan trade agreement
11 negotiations.

12 A strong US-Japan trade agreement is
13 vital to the health and future growth of the U.S.
14 meat and poultry industry, will provide economic
15 benefits to producers, processors and workers in
16 the industry by making U.S. meat and poultry
17 products more competitive in one of the most
18 important markets in the Pacific region.

19 Furthermore, U.S. trade policy does not
20 operate in a vacuum. Many countries move forward
21 with bilateral and regional FTAs without any
22 regard to U.S. interests.

1 Examples include the Japan-EU and the
2 Japan-Australia trade agreements, as well as the
3 11-nation Comprehensive and Progressive Agreement
4 for Trans-Pacific Partnership, which will enter
5 into force on December 30th of this year.

6 U.S. beef and pork products exported to
7 Japan should at the very least receive the same
8 tariff benefits that its competitors will receive
9 under the CPTPP.

10 The agreement provides for a reduction
11 in tariffs from 38 and a half percent to 27 and a
12 half percent on beef imports when it enters into
13 force, and then a further reduction to
14 26.6 percent at the beginning of Japan's fiscal
15 year on April 1st of next year.

16 Tariff will continue to climb to nine
17 percent in year 16 of the agreement. These are
18 competitive disadvantages. The U.S. beef
19 industry cannot overcome unilaterally, and result
20 in lost exports and market share for U.S. firms
21 in the future.

22 In addition to reducing the tariff on

1 chilled and frozen beef, the negotiations should
2 seek to phase out Japan's tariffs on imports of
3 other commercially important beef products, some
4 of which are not widely consumed domestically in
5 the United States, such as variety meats --
6 notably, tongues, skirt meat -- to high-volume
7 export items to Japan and, as well as processed
8 beef products.

9 In addition to the tariff reductions,
10 Japan has also eliminated the quarterly safeguard
11 mechanism and progressively increased the
12 aggregate annual safeguard volume of imports of
13 beef originating from all CPTPP members, and
14 reduced the safeguard trigger duty.

15 In short, the U.S. is the only
16 significant beef supplier in Japan that remains
17 subject to the quarterly safeguard mechanism.
18 All other competitors are subject to relatively
19 large annual safeguards that are not likely to
20 trigger, and with snapback duties that are at or
21 below the normal rate charged on U.S. beef.

22 The U.S. pork industry's primary

1 objectives during the negotiations will be to
2 phase out import tariffs, eliminate the quarterly
3 safeguard mechanism, and return U.S. pork to a
4 level playing field upon implementation.

5 These changes will provide the U.S.
6 industry with new opportunities, and will make
7 sure of a flourishing market. Without urgent
8 agreement and implementation of a US-Japan trade
9 agreement, the U.S. pork industry will lose
10 significant market share in its top value market.

11 In addition to receiving the same tariff
12 benefits that its competitors will receive under
13 the CPTPP, the U.S. pork industry should receive
14 the same treatment as the European Union
15 competitors enjoy in the Japan-EU EPA.

16 A trade agreement with Japan will also
17 be economically beneficial to producers,
18 processors and exporters of meat industry
19 byproducts, such as hides and skins used to
20 manufacture leather.

21 Many of these byproducts are not
22 processed or consumed in huge volumes

1 domestically, so they must be exported to capture
2 higher value and returns for U.S. producers and
3 companies.

4 In fact, on average less than five
5 percent of U.S. cattle hides are processed
6 domestically into finished leather. Japan
7 represents a strong market for these products,
8 consistently ranking among the top six or seven
9 export destinations for each year.

10 Finally, the entire U.S. meat and
11 poultry animal products industry, and U.S.
12 agriculture generally, stand to benefit from
13 enhanced sanitary and phytosanitary measures
14 negotiated in a trade agreement with Japan.

15 Thank you very much for this opportunity
16 to testify.

17 MR. BURCH: Thank you, Mr. Westman. Our
18 next panel witness is Paul Drazek, with the
19 National Pork Producers Council. Mr. Drazek, you
20 have five minutes.

21 MR. DRAZEK: Thank you and good
22 afternoon. My name is Paul Drazek and I'm

1 representing the National Pork Producers Council.

2 I'm a consultant here in town with DTB

3 Associates.

4 NPPC staff and leadership are holding a
5 meeting of their trade advisory council away from
6 DC today and they, therefore, have asked me to
7 present their views on their behalf.

8 NPPC represents the federal and global
9 interests of 60,000 pork operations in 42 state
10 organizations. U.S. pork industry is a major
11 value-added component of the U.S. agricultural
12 economy, and a significant contributor to the
13 overall economy.

14 In 2017, the industry exported
15 \$6.5 billion in pork products to over 100
16 countries. Of those 100 nations, Japan ranks
17 number 1 in sales, valued at \$1.6 billion in
18 2017, and is clearly, therefore, an enormously
19 important market for the pork industry and
20 supporting sectors.

21 Pork exports to Japan alone support over
22 13,000 U.S. jobs. Given this, NPPC is an

1 enthusiastic supporter of upcoming U.S. trade
2 negotiations with Japan.

3 Achieving a significant improvement in
4 access to the Japanese market as quickly as
5 possible through these talks is of paramount
6 interest to the industry. Any extended
7 negotiation with Japan prevents the very real
8 threat of losing significant market share to our
9 biggest foreign competitors, suppliers that will
10 themselves be benefitting from free-trade
11 agreements with Japan in the very near future.

12 These are the impending implementation
13 of free-trade agreements between Japan and other
14 CPTPP members, and between Japan and the European
15 Union, in 2019.

16 Under the terms of the CPTPP agreement,
17 Japan will provide participating countries with
18 very large tariff reductions for pork, thus
19 putting the U.S. pork industry at a major
20 disadvantage with several of them in the Japanese
21 market. And based on our examination of the
22 relevant tariff schedules, these concessions are

1 virtually identical to those Japan negotiated
2 with the EU.

3 According to Iowa State professor Dermot
4 Hayes, these agreements pose the risk of massive
5 loss of U.S. sales to Japan, unless the U.S. is
6 able to at least match those deals in the
7 upcoming negotiations.

8 For these reasons, it is of vital
9 interest to the U.S. pork industry that U.S.
10 trade negotiations with Japan be successfully
11 completed on an expedited basis.

12 It is also extremely important that one,
13 Japan's tariff reductions on pork match those
14 provided to the CPTPP countries and the EU, and
15 two, once the US-Japan agreement is implemented,
16 Japan's tariff concessions to the United States
17 on pork be front-loaded in a way that
18 synchronizes these concessions with Japan's
19 tariff reduction schedules for both the CPTPP and
20 the EU.

21 This will allow the U.S. pork industry
22 to operate on a level playing field with other

1 pork suppliers in the Japanese market.

2 To conclude, it is of vital interest to
3 the U.S. pork industry that the U.S. trade
4 negotiations with Japan be successfully completed
5 on an expedited basis, and failure to achieve a
6 trade agreement with Japan would likely result in
7 a major loss of U.S. pork sales to Japan, which,
8 as I mentioned, is our most important export
9 market.

10 I appreciate the opportunity to present
11 these views, and I'm happy to answer any
12 questions you might have, either now or in
13 writing later. Thank you.

14 MR. BURCH: Thank you, Mr. Drazek. Our
15 next panel witness is Kevin Smith, with Seaboard
16 Foods. Mr. Smith, you have five minutes.

17 MR. SMITH: Thank you and good
18 afternoon. My name is Kevin Smith and I'm the
19 Vice President for International and for the
20 process of sales for Seaboard Foods.

21 On behalf of Seaboard, I appreciate the
22 opportunity to be here to provide our comments on

1 the objectives and priorities for a US-Japan
2 trade agreement.

3 Seaboard Foods is the third largest
4 producer of live pigs in the U.S. and the fourth
5 largest fresh pork processor in the US,
6 representing product from three of the largest --
7 newest large-scale processing plants in the
8 country.

9 Seaboard Foods also jointly owns Daily's
10 Bacon with Triumph Foods, which produces nearly
11 130 million pounds of bacon annually from three
12 different facilities.

13 Seaboard in total is employing a little
14 over 5,000 employees in 25 states and is a
15 division of Seaboard Corporation.

16 Seaboard Corporation employs more than
17 25,000 people worldwide and is number 41 on the
18 2017 Fortune 500 list, with net sales of over
19 \$5 billion annually.

20 Seaboard Foods is one of the largest
21 exporters of U.S. pork to Japan. Japan is an
22 extremely important export market for U.S. pork,

1 as you've already heard. It is the highest value
2 market for U.S. pork, as well as the second
3 largest volume market. And those trends also
4 apply to our company, as well.

5 But what's maybe more important than
6 that, is that even though it is the largest value
7 market, it is also a growing market, with much
8 more opportunity.

9 Another important piece that you've
10 already heard from some of the panel
11 participants, is that the product mix for Japan
12 is extremely critical, in that they do take high-
13 quality chilled as well as frozen pork, and that
14 mix of products is extremely complementary to
15 everything that we sell, both domestically, as
16 well as other destinations around the world.

17 Given the critical importance of the
18 Japan market to our company and U.S. pork
19 exports, maintaining competitiveness of U.S.
20 products is extremely important to Seaboard
21 Foods.

22 Beginning next year or early next year,

1 two of our primary competitors in the market in
2 the European Union, as well as Canada, will move
3 forward with trade agreements that will put them
4 into a much greater competitive atmosphere than
5 what we will be facing.

6 And what's probably more important than
7 that is our understanding is the beginning of
8 April, they'll move into year 2 of their
9 agreements, which will put us further behind in
10 terms of our competitive nature of the
11 environment to sell product there.

12 Our position and point is that it's
13 incredibly important for us to maintain a level
14 playing field and maintain an opportunity to
15 compete in the market.

16 Seaboard has developed strong
17 relationships with our partners in Japan for the
18 past 22 years. But in recent months, in my
19 meetings with our customers, those conversations
20 have been strained, as they're under pressure to
21 maintain profits and the health of their own
22 respective businesses.

1 They have to look at the most
2 advantageous and profitable business model for
3 importing and distributing pork in Japan. And
4 unfortunately, the way it looks as of April of
5 2019, our products simply won't be as
6 competitive.

7 We as a company are already seeing a
8 decline in sales due to diversification of supply
9 by our customers as they prepare themselves to be
10 able to take advantage of the tariff reduction
11 opportunities that will be in place as of April.

12 We as a company view this as a tipping
13 point for the future of our business in Japan,
14 and thus the health of our company. We're one of
15 the fastest-growing pork companies in the US.

16 In late 2017, we just finished a brand
17 new, state-of-the-art production establishment
18 that increased our product sales by over
19 50 percent over an 18-month period. That growth
20 isn't sustainable without export opportunities,
21 and Japan is one of the foundations of that
22 business model.

1 Our specific requests are that the U.S.
2 and Japan engage as quickly as possible the goal
3 to reach a conclusion to the agreement as soon as
4 possible, and that we as a company have an
5 opportunity to compete on a level playing field.

6 We cannot stress enough the importance
7 of the April deadline or April date, as this is
8 the point where our competitors will reach
9 essentially year 2 of their respective
10 agreements, and we become -- or we find ourselves
11 at a significant disadvantage in the marketplace.

12 We believe strongly that we can compete
13 and succeed if we have the same opportunities,
14 and if on a level playing field. But we cannot
15 face months, and potentially years, of an
16 environment that puts us at a competitive
17 disadvantage.

18 Once again, I cannot stress the
19 importance of Japan to the health of U.S. pork
20 production and to our business. The product mix
21 and value derived from the Japan pork business is
22 vital to our continued success.

1 It's important to note that we believe
2 Japan is an evolving market and a growing market,
3 as I mentioned before. But we view this as a
4 critical moment and opportunity to ensure that we
5 have an opportunity to participate in this
6 growth, instead of our competitors.

7 We believe if we don't act on this
8 opportunity right now, that we will pay for this
9 lack of urgency for many years to come.

10 Thank you so much for this opportunity.
11 I look forward to answering any questions here or
12 in writing.

13 MR. BURCH: Thank you, Mr. Smith. Our
14 next panel witness is Shawna Morris, with the
15 National Milk Producers Federation and U.S. Dairy
16 Export Council. Ms. Morris, you have five
17 minutes.

18 MS. MORRIS: Thank you. I'm happy to be
19 here today representing America's dairy farmers,
20 farmer-owned dairy cooperatives, processors, and
21 dairy exporters.

22 Times are difficult in dairy country

1 right now, with prices being low, economic
2 pressures mounting, and people going out of
3 business.

4 Trade is a key element to weathering the
5 storm and making dairy viable for future
6 generations. For dairy to remain a mainstay in
7 the rural economy, it's imperative that we open
8 foreign markets, root out protectionist policies
9 that put efficient U.S. businesses at a
10 disadvantage.

11 The dairy industry has welcomed the
12 advances made in the US-Mexico-Canada agreement,
13 and we hope that our negotiators will apply some
14 of the same principles found in USMCA to pending
15 trade negotiations with Japan.

16 Like Mexico, Japan is a vital market for
17 the U.S. dairy industry, accounting for roughly
18 \$300 million in dairy exports last year.

19 U.S. market share should be maintained
20 in upcoming discussions, and should be protected
21 from competitors looking to displace American
22 producers.

1 Despite current sales to Japan, much of
2 the market is still closed to dairy exporters,
3 and should be further liberated.

4 Opening Japan's market further is
5 particularly important right now, and that's
6 because dairy businesses in Europe, New Zealand
7 and Australia will soon begin benefitting from
8 completed trade agreements with Japan. Those
9 agreements, if not matched by our own, will not
10 only jeopardize future market growth for American
11 dairy interests, but also imperil our existing
12 market share.

13 We implore you to begin negotiations
14 with haste and secure ambitious results. In
15 doing so, we ask that you prioritize the
16 following during these negotiations.

17 First, don't limit the potential market
18 access gains that may be possible. We have
19 concerns about language contained in the joint
20 statement that the U.S. and Japan released in
21 September, and would urge that your office not
22 set a precedent of prematurely capping trade

1 benefits for American farmers and food
2 manufacturers before negotiations begin in
3 earnest.

4 Two, achieve greater market access for
5 America than what our foreign competitors have
6 secured in their own deals. And where needed,
7 expedite tariff phase-out periods in order to
8 ensure that U.S. exporters maintain an
9 advantageous market position.

10 Three, protect commonly used food names
11 in Japan by building upon the advances made under
12 USMCA, such as, for example, establishing a non-
13 exhaustive list of non-restricted cheese names,
14 and providing assurances that these names can be
15 used by all players in the supply chain, would be
16 a critical step forward, as would be
17 memorializing key due process procedures to
18 govern the consideration of geographical
19 indications.

20 And four, address non-tariff barriers
21 that can limit the sales of U.S. dairy products.
22 This includes creating a more transparent and

1 scientific system for Japan's sanitary and
2 phytosanitary rules, as well as ensuring that new
3 trade barriers do not limit access to the market.
4 Such as, for instance, Japan's contemplation of a
5 revised dairy health import certificate.

6 In closing, I would like to reiterate
7 our industry's appreciation of the
8 Administration's commitment to advancing freer
9 and fairer trade for America's farmers and food
10 manufacturers.

11 The Administration's tireless work
12 during the USMCA discussions will pay dividends
13 in North America, and we're excited about what
14 the future holds in Japan, and in markets
15 throughout Asia, as well.

16 The dairy industry believes that U.S.
17 trade negotiators have a real opportunity to
18 strike a deal with Japan, and that is even better
19 than what Japan has achieved in its past
20 treaties, and we stand ready to assist with your
21 efforts. Thank you.

22 MR. BURCH: Thank you, Ms. Morris.

1 Mr. Chairman, this concludes direct testimony
2 from this panel.

3 MR. WENTZEL: Good afternoon. My name
4 is Roger Wentzel. I'm with the USTR Office of
5 Agricultural Affairs. Thanks to all of you for
6 your testimony. I'd like to pose a question to
7 Mr. Drazek.

8 Mr. Drazek, in the NPPC submission,
9 increase to Japanese pork imports from Canada and
10 Spain were noted for recent years. And my
11 question is, do you expect those trends to
12 continue irrespective of any impact that might
13 accrue from the CPTPP or the EU-Japan agreements?
14 Thank you.

15 MR. DRAZEK: Thank you for the question.
16 Not being an expert on pork and representing an
17 industry that has very clear and fixed views on
18 various things, I think what I'll do is pose that
19 on to them to see if they have a different
20 reaction to what I'm going to say.

21 But my sense is that there is a
22 continuing concern about the potential for

1 erosion of our markets in Japan and our supply or
2 share of market in Japan as a result of policies
3 in those two countries.

4 But I don't think NPPC is prepared at
5 this point to express enough concern about those
6 that they would want that to become part of the
7 negotiations.

8 Their principal interest is clearly,
9 let's get this negotiation going with Japan. We
10 can deal with other issues down the road. If we
11 don't have an agreement with Japan, then we
12 clearly will see serious market erosion for our
13 products in Japan.

14 MR. WENTZEL: Thank you very much.

15 MR. WHITLEY: Good afternoon and thank
16 you all for being here and sharing this valuable
17 input with the Administration. We certainly
18 appreciate it.

19 I'm Daniel Whitley, with the USDA's
20 Foreign Agricultural Service. I have a few
21 questions I want to pose to the panel, but
22 Ms. Morris, I'd like to start with you.

1 You noted in your comments that Japan
2 has not provided sufficient market openings for
3 dairy products in any of its existing trade
4 agreements.

5 Can you briefly describe what you
6 consider to be the most significant shortcomings
7 for dairy access in these agreements, including
8 any information or details you have on specific
9 dairy products?

10 MS. MORRIS: Thank you for that. So, in
11 terms of the major dairy commodities, certainly
12 compared to what they've agreed in CPTPP and in
13 the EU agreement, we think that deeper and
14 swifter access expansion is possible for cheese,
15 in particular, as well as in the whey area, both
16 of which were negotiated previously by Japan in
17 quite complex ways.

18 But probably the biggest gaps in those
19 prior agreements are for milk powder and butter
20 fat.

21 Where Japan previously was very firm in
22 resisting providing more than effectively token

1 access for those products and, as such, have a
2 quantity -- the tariff rate quotas provide only
3 very tightly controlled new access under them.

4 That's certainly something that we hope
5 that these negotiations will be taking a fresher
6 look at. Thank you.

7 MR. WHITLEY: Thank you very much.

8 Mr. Smith, you noted in your comments that pork
9 production in the United States is at record high
10 levels, due in large part to strong demand in
11 many international markets, including Japan.

12 Can you elaborate on some of the reasons
13 driving this increased demand for U.S. pork in
14 these markets?

15 MR. SMITH: Yes. Thank you very much
16 for the question. To talk specifically about
17 Japan, there's a lot of things that are occurring
18 there that are driving greater consumption of
19 pork.

20 In particular, you've had rising seafood
21 prices, you've had a shift in terms of the
22 population, in terms of age dynamics there. The

1 shift away -- from a health perspective -- away
2 from potentially some more further processed
3 items into some of the more fresh items that
4 we're seeing. A retail and food service. You're
5 just seeing simply a trend there of greater
6 demand.

7 Globally, pork is a low-cost, highly
8 nutritious item. We were seeing a greater demand
9 there in areas where we actually have free-trade
10 agreements. Say, for example, like Colombia,
11 where we've seen huge success, even as a company
12 and as a country, primarily because of the
13 advantage that we have there from the trade
14 agreement that we have in place.

15 So, those would be just two examples I
16 can give where we were seeing this greater
17 demand. Mexico is another one where we're seeing
18 continued growth and demand around the world for
19 pork.

20 A lot of that is because of the access
21 that we've had in the past in terms of the zero-
22 duty. Obviously, that's been a change in the

1 last several months, but in general there's a lot
2 of factors for it, but we are seeing increased
3 demand.

4 MR. WHITLEY: Thank you, sir. That's
5 helpful. Mr. Halstrom, in your comments you
6 noted that the Japanese market is not only
7 booming, but in a transition phase, whereby
8 there's an increased demand for convenience items
9 and value-added products.

10 Can you elaborate on what you mean by
11 transition phase? In other words, what types of
12 items are you describing, and what does the U.S.
13 stand to lose in both the short-, as well as the
14 long-term, for these products in the absence of
15 any agreement?

16 MR. HALSTROM: Thank you for the
17 question. What we're seeing is, in some of the
18 more developed markets -- Korea and Japan would
19 be two that stand out -- we're seeing a real
20 drive with the middle-class and the upper-middle-
21 class in these countries wanting more convenient
22 items.

1 In other words, items that take less
2 time to prepare, for example. You might have
3 two -- a husband and wife both working and not a
4 lot of time to prepare a meal, so they want to go
5 into the retail store and pick up something that
6 might have all the ingredients in a package and
7 it takes 15 minutes or less to prepare.

8 The beauty of these sorts of products is
9 that these products -- the first concern is not
10 price. The first concern is quality, convenience
11 and feasibility of using them quickly. And price
12 becomes a second or third concern.

13 So, these tend to be -- call them -- you
14 could refer to them as value-added products.
15 They're not precooked -- some are precooked, a
16 lot are not. They're fresh and they have to be
17 warmed up.

18 But we're starting to see this trend
19 emerge in a lot of markets, and Japan and Korea,
20 in particular, the two that are leading it. So,
21 something that I think we'll continue to see more
22 of.

1 MR. WHITLEY: Thank you, sir.

2 Mr. Kester, the next question's for you. In
3 terms of product mix -- frozen versus fresh,
4 chilled, various cuts, low- versus high-value
5 cuts, value-added products -- to what extent does
6 CPTPP and/or EU countries compete head to head
7 with the United States in the Japanese market?

8 MR. KESTER: Well, in a limited way,
9 actually. For chilled products going to Japan,
10 that's a real value-added and highly-sought beef
11 products into Japan, and of course a lot of
12 chilled also, being that it's our number one
13 market destination.

14 EU has a lot of limitations for U.S.
15 beef for non-scientific, non-tariff trade
16 barriers, like hormone use and things like that,
17 and so, there's other countries around. China
18 would be another example of a potentially huge
19 market force that also has those same kind of
20 non-tariff trade restrictions.

21 So, there is not a lot of places to
22 where, if we were to be forced out of Japan

1 because of Australia removing our market share
2 because of their tariff advantages in the future,
3 potentially, we don't have any identified places
4 we could send product to, to replace the Japan
5 market.

6 MR. WHITLEY: Thank you very much. And
7 my final question is for Mr. Westman.

8 Mr. Westman, you noted a lot of insight into the
9 Japanese market in your testimony, but are there
10 particular market segments -- for example, a
11 specific beef or beef product -- where demand in
12 Japan has either increased or decreased?

13 And how does that trend compare to what
14 we have here in the United States? So, in other
15 words, are there particular market segments that
16 perform better in Japan than in the United States
17 for beef products?

18 MR. WESTMAN: Well, thank you very much
19 for that question. I think Dan's the best one to
20 answer that since he travels to Japan quite a bit
21 and spent a lot of time there. I think I'd like
22 to defer to Dan if he's willing to do that.

1 MR. HALSTROM: Okay.

2 MR. WHITLEY: It works.

3 MR. HALSTROM: I was just there last
4 week. Yes, there are quite a few segments that
5 are performing quite a bit better than the U.S.
6 side. We're in the middle of a meat boom, or
7 what we call the niku boom, a Japanese word for
8 meat, in Japan.

9 And we're seeing tremendous growth --
10 back to your earlier question on the home meal
11 replacement -- we're seeing a booming growth in
12 retail for things like convenience items for home
13 meal replacement type of things.

14 We're seeing a huge boom in the food
15 service side of the business in Japan, and
16 there's many different segments. I'll just give
17 you an example of a couple on the beef side.

18 One is the fast, casual dining. They
19 have these beef bowl restaurants, which is shaved
20 short-plate, marinated, cooked on a bed of rice,
21 for less than \$5.

22 This is a very good example where we

1 will become less competitive without something
2 equivalent to CPTPP, vis-a-vis Australia, in
3 particular.

4 You have the yakiniku industry is
5 another -- it's Korean barbeque on a Korean
6 grill, very popular with all demographics in
7 Japan, and that is booming, as well.

8 And once again, we run the risk of
9 becoming less competitive there. But U.S.
10 beef -- because it's chilled, because of the
11 quality and the texture of the grain feeding --
12 is preferred in a lot of these food service
13 segments, vis-a-vis our competition.

14 So, if we were on an even playing field
15 going forward, there's no doubt that we're
16 confident we could defend and expand our share,
17 without a doubt.

18 So, I think there are just a couple of
19 examples for you, to answer your question.

20 MR. WHITLEY: Thanks very much. I'm
21 definitely hungry now, so I'll pass it back to
22 the chair.

1 MR. BEEMAN: Well done. I just wanted
2 to ask a similar question that I asked the last
3 panel, which has to do with -- I mean, certainly
4 the message has come through loud and clear with
5 respect to market access and the issue of timing,
6 which is -- you've been very eloquent on how
7 important that is to all of you in moving that
8 forward as quickly as possible.

9 There were a couple of mentions of non-
10 market access, or non-straight, traditional
11 market access type issues, including SPS
12 provisions. GIs, I think, was mentioned in the
13 case of the dairy industry, and others.

14 Looking at -- just setting aside all the
15 important points that you've made with respect to
16 timing and market access, what other specific
17 aspects or elements of recent U.S. agreements --
18 you can look at USMCA or others, in areas of
19 rules of origin or SPS or TBT -- that you haven't
20 touched on here, that you also find to be of
21 critical importance in terms of securing the type
22 of market access that you would need, not only in

1 the short-term, but going forward to make sure
2 that non-tariff and/or other barriers don't cause
3 you headaches later, essentially?

4 Maybe it should just go to the panel.
5 Maybe we could start in the back and go forward.
6 Just shake it up a little bit, please. Thank
7 you.

8 MS. MORRIS: I'll be brief, because I
9 think I touched on mine. We saw the USMCA
10 provisions on the SPS agreement as particularly
11 helpful. We want to see those incorporated on
12 and built further here.

13 Likewise, in the geographical indication
14 space, both in the intellectual property chapter,
15 where there are a number of new elements, both
16 kind of incorporating some of the CPTPP
17 principles, and taking those yet a step further,
18 as well as in the side letters established with
19 Mexico, to provide greater assurances that we
20 won't see backsliding, in particular, on those
21 issues in the future.

22 We see that as also being critical here

1 in the Japanese context. Thank you.

2 MR. SMITH: I think, from my
3 perspective, for the most part, really we -- it
4 really boils down to just being able to compete.
5 And I know that that's not really the answer
6 you're looking for, because you're asking for
7 something in addition, but that's really the end
8 of the day.

9 With Japan, specifically, we're able to
10 have a lot of success just being able to compete
11 on a level playing field, and really just have an
12 opportunity there.

13 We haven't had tremendous challenges or
14 issues over the course of certainly my career the
15 last several years, and it's proven to be very
16 successful.

17 So, I don't have any specific
18 suggestions as to say, hey look, this could be a
19 lot better. I really just kind of want to stick
20 to my primary points of emphasis. But thank you.

21 MR. BEEMAN: Don't feel compelled, but
22 if you do have something to add, please. Thank

1 you.

2 MR. DRAZEK: Okay. No, I guess my sense
3 is the reason that at least the pork producers
4 didn't stress or spend much time talking about
5 anything other than the issue of timing and
6 balancing this agreement with Japan with those
7 Japan will have with others, is that I think they
8 saw what was accomplished in both the USMCA and
9 what is in -- was in TPP and will be in CPTPP,
10 were good outcomes.

11 I think for the pork producers the
12 number one priority in those negotiations was --
13 in non, sort of, market access areas -- was the
14 SPS part. It was a good agreement, and good
15 provisions in both those agreements.

16 And my sense is they probably assumed
17 that that's a baseline. That's where we will
18 get -- we must get at least that in the Japan
19 agreement.

20 So, they're content with that, and I
21 think that's why they think we need to focus and
22 have been focusing on access. Thank you.

1 MR. WESTMAN: Thank you for the
2 question. I'd like to note what is complete in
3 my testimony, but we'd like to see elaboration on
4 key provisions of the WTO SPS agreement to
5 include a recognizing regional conditions for
6 animal diseases, equivalents, science and risk
7 analysis, systems-based audits, etc.

8 But probably more importantly to us and
9 to set as an example or a model for future trade
10 agreements, this has to have a dispute settlement
11 mechanism for SPS issues.

12 I think this is something that, going
13 forward, if we can continue to encourage this
14 with the trade agreements that we're negotiating,
15 it's going to help us in the future. I mean, so
16 we can avoid a formal dispute settlement
17 mechanism and have something like a panel to
18 handle these things internally, and try to
19 resolve them as quickly as we can. Thank you.

20 MR. KESTER: And I would concur with
21 Mr. Westman's comments. In the beef sector, we
22 don't have any significant issues. But to follow

1 science-based WTO standards and dispute
2 settlement like Mr. Westman was saying, we would
3 go with that.

4 MR. HALSTROM: So, in conclusion, I
5 would agree with Mr. Westman as well. I would
6 just like to make one additional note that the --
7 my first trip to Japan was in 1987.

8 I've been there many, many times since
9 and I can say this, that once an agreement is
10 made in the previous TPP or CPTPP, for example,
11 Japan is one of the most dependable markets we
12 have in the world, and I think, once again, in
13 getting back to the speed is of the essence --
14 and we do greatly appreciate all your hard work
15 on the previous negotiations.

16 But I think speed is the most important
17 thing from our point-of-view here, and once we
18 have that, the dependence of the market will come
19 through with flying colors, in my opinion.

20 MR. BEEMAN: Thank you very much.
21 Speaking of speed, I think -- are there any
22 further questions? Are we in good shape? All

1 right, we are ahead of schedule, which I'm not
2 sure happens that often.

3 But nonetheless, we should -- I should
4 feel -- but thank you for being very succinct and
5 very focused in your testimonies, as well. Any
6 recommendations on how to proceed?

7 Maybe we should reconvene at 3:05, which
8 is a little in advance of the next panel, but in
9 case the panel is here, then we can seat them and
10 move on. Or, how do you suggest?

11 CHAIRMAN GRESSER: Yes, this is a
12 testimony to the forcefulness and precision of
13 American agriculture in making its case. Thank
14 you all very much, and yes, let us reconvene at
15 3:05.

16 (Whereupon, the above-entitled matter
17 went off the record at 2:42 p.m. and resumed at
18 3:09 p.m.)

19 MR. BURCH: Our first witness for this
20 panel is K.C. Swanson with the Telecommunications
21 Industry Association. Ms. Swanson, you have five
22 minutes.

1 MS. SWANSON: Thank you for the
2 opportunity to testify today. The Telecom
3 Industry Association represents some 250
4 manufacturers and suppliers of global
5 communications networks in the U.S. and around
6 the world. We're also an ANSI-accredited
7 standards development organization.

8 In considering negotiating objectives
9 for the proposed trade agreement with Japan, we
10 believe it would be beneficial to draw upon a
11 number of highly constructive provisions in the
12 recently negotiated U.S.-Mexico-Canada agreement.

13 In our view, the USMCA represents a
14 major advance in trade rules, institutionalizing
15 new norms that will facilitate expanded U.S.
16 trade. We hope the administration will leverage
17 key provisions in forthcoming negotiations with
18 Japan.

19 Given time constraints, I'll highlight
20 today only selected sections of my written
21 testimony.

22 Digital trade data flows, since TIA has

1 discussed in our written comments the value of
2 promoting cross border data flows, I will not
3 elaborate further here. However, on the data
4 flows issue, I would briefly highlight our
5 recommendation that the two parties consider
6 making permanent the prohibition on the
7 imposition of tariffs, duties and/or taxes on
8 cross border data flows in digital products.

9 IPR protections, the USMCA also offers
10 important new IPR protections that we hope will
11 be carried forward in future U.S. trade
12 agreements. Notably, this includes a ban on
13 government requirements for companies to disclose
14 source code or algorithms in exchange for market
15 access.

16 The agreement also forbids governments
17 from forcing companies to provide specific
18 information about cryptography in commercial
19 products as a condition for market access. In
20 addition, the agreement provides criminal
21 penalties for theft of trade secrets.

22 Promotion of risk-based cyber security

1 approaches, the USMCA sets out an expectation
2 that both partner countries and firms within
3 their borders should use risk-based approaches
4 based on consensus-based standards to deal with
5 an evolving constellation of global cyber
6 threats.

7 The new language represents a helpful
8 step forward in forging cyber norms. And this is
9 a timely development as more countries are
10 wielding the specter of cyber threats as cover to
11 undertake protectionist trade-restricting
12 policies.

13 We would also like to highlight a
14 chapter of the revised trade agreement that has
15 received less attention but is of great value to
16 the American ICT industry. The technical
17 barriers to trade chapter is both robust and very
18 comprehensive and introduces a number of
19 noteworthy precedents that we would urge USTR to
20 carry forward into future trade agreements.

21 A ban on requirements for in-country
22 testing certification, one especially important

1 provision bans localization requirements for
2 testing and certification. Government demands
3 that firms use only testing and certification
4 facilities on their home territory frequently
5 collide with the complexities of the ICT global
6 supply chain, posing a substantial commercial
7 burden to U.S. companies. The language marks an
8 important effort to craft new norms in the
9 commercially significant area of TBT.

10 Better disclosures on protection of IP
11 and conformity assessment, a second important
12 provision grants free trade partners the right to
13 ask how confidential business information will be
14 protected during conformity assessment procedures
15 by government bodies.

16 Amid a growing tendency of governments
17 around the world to enact requirements for cyber-
18 related testing, it is critical to provide better
19 protections for American IP. The new USMCA
20 language lays down an important marker in this
21 respect.

22 Non-discriminatory standard-setting,

1 worth highlighting, too, is the inclusion in
2 USMCA of the commitment to non-discriminatory
3 standard-setting. New language in the trade
4 agreement prohibits government preferences for
5 standards developed in a way that disadvantages
6 foreign standard-setting participants.

7 While this may sound like a technical
8 matter, the reality is that governments too often
9 use the standards process as a back door for
10 protectionist behavior that hurts U.S.
11 industries.

12 A requirement to allow e-labeling,
13 another beneficial provision in the USMCA
14 requires parties to allow regulatory information
15 to be displayed electronically rather than by
16 affixing physical labels to devices. This
17 represents a considerable savings of both money
18 and time for ICT companies.

19 While Japan allows e-labeling if it is
20 easily and clearly labeled, we believe it would
21 be helpful to affirm this in a free trade
22 agreement.

1 And finally, government procurement, in
2 some countries governments constitute the biggest
3 market for ICT products. Thus, we value language
4 in USMCA that maintains open, non-discriminatory
5 and transparent market access in government
6 procurement.

7 So to summarize, newly negotiated
8 provisions in the USMCA set important and
9 commercially significant new precedents that will
10 help make U.S. telecom equipment suppliers more
11 globally competitive. We hope the administration
12 will further leverage these advances in its
13 upcoming negotiations with Japan. Thank you.

14 MR. BURCH: Thank you, Ms. Swanson. Our
15 next panel witness is George York with the
16 Recording Industry Association of America. Mr.
17 York, you have five minutes.

18 MR. YORK: Good afternoon, members of
19 the TPSC panel. My name is George York, and I'm
20 with the Recording Industry Association of
21 America.

22 RIAA is a trade association that

1 supports and promotes the creative and financial
2 vitality of the major music companies. Our
3 membership includes several hundred companies,
4 many of which are small to medium-sized
5 enterprises distributed by larger record labels.

6 I'm grateful for this opportunity today
7 to provide our views to the TPSC with respect to
8 trade agreement negotiations between the United
9 States and Japan. I'm also grateful for your
10 stamina. I know it's late in the afternoon. And
11 I appreciate your indulgences.

12 My brief remarks this afternoon will
13 focus on three key issues, first, the
14 significance of the Japanese music market,
15 second, copyright protection and enforcement
16 priorities, and third, barriers to trade in
17 recorded music, including with respect to digital
18 trade.

19 Turning to the first, first to the
20 Japanese music market, Japan is a critical market
21 for the American recording industry. In fact, it
22 is the second largest music market in the world

1 after the United States.

2 Notably, it is the largest music market
3 for the sale of physical music products. In
4 fact, Japan accounts for 38 percent of global
5 physical music sales.

6 Regarding digital music, Japan ranks
7 third globally in terms of recording industry
8 revenues.

9 As for streaming, which has been
10 critical to our industry's growth and
11 contributions to the U.S. economy, Japan is the
12 15th largest market where streaming contributed
13 to the global recorded music market revenues.
14 Japan accounts for four percent of total global
15 streaming revenues for music.

16 Therefore, for all of these reasons,
17 Japan is a top priority for our industry in the
18 United States and globally.

19 As we work to maintain and grow this
20 market, we continue to rely on strong copyright
21 protections and enforcement, which fuels our
22 ability to license music on commercial terms to

1 legitimate platforms and make music widely
2 available to listeners.

3 Turning to our copyright protection and
4 enforcement priorities, I will highlight
5 exemplars today and will refer the TPSC to our
6 written comments submitted previously.

7 In addition to affirmative protections
8 such as the making available right and
9 technological protection measures, I wanted to
10 underscore the importance of Japan adopting a
11 public performance right. This remains a
12 significant gap in Japan's copyright system.

13 In addition, it is critical to recall
14 the extremely important work of USTR and the U.S.
15 IP interagency in helping to secure copyright
16 term in Japan commensurate with the global
17 consensus.

18 Moving on to copyright enforcement, a
19 strong copyright enforcement framework is
20 predicated upon a clear legal basis for
21 liability, including both primary and secondary
22 liability. These are critical features of U.S.

1 law and are the basis for U.S. creative
2 industry's efforts to enforce their rights.

3 Similarly, damages, including monetary,
4 statutory damages and website blocking are all
5 vital enforcement tools. In this respect, we
6 support the introduction in Japan of injunctive
7 relief to secure orders to online service
8 providers to deny access to infringing websites
9 that hide the identities of their operators or
10 are located in foreign countries.

11 Finally, members of the committee, I
12 will conclude by underscoring the need to
13 dismantle barriers to trade in music, including
14 with respect to disciplines for goods, services
15 and digital products.

16 Here, copyright loopholes rank among our
17 top concerns, whether they are overbroad safe
18 harbors or exceptions and limitations. While we
19 agree that effective safe harbors are necessary
20 for a legitimate online ecosystem, the proper
21 interpretation and application of those safe
22 harbors is highly complex with many different and

1 strongly held views on all sides.

2 International negotiations heighten the
3 potential that critical aspects of U.S. safe
4 harbor law get lost or modified in transposition.

5 On this highly technical issue, which is
6 undergoing constant legal and technological
7 change and is currently the subject of intensive
8 scrutiny both in the United States and around the
9 world, we look forward to working with the TPSC
10 on this issue intensively going forward.

11 Moving to exceptions and limitations
12 briefly, we very much support the
13 administration's position on copyright exceptions
14 in confirming the three-step test. Here we also
15 note our support for Japan's decision not to
16 introduce fair use into its own domestic system.

17 Additionally, platform accountability
18 should be a central feature of U.S. digital trade
19 policy and should feature prominently in the
20 U.S.-Japan trade agreement.

21 While the internet presents opportunity
22 for legitimate commerce, there are also

1 significant and copious challenges to such
2 commerce. Such challenges include illicit
3 content, whether copyright-infringing or other
4 illegal content, but is not limited only to such
5 content.

6 U.S. trade agreements should provide
7 affirmative digital trade disciplines with
8 respect to ensuring platform accountability.

9 To conclude, I want to thank the TPSC
10 again for this opportunity to present our
11 priorities with respect to a U.S.-Japan trade
12 agreement and look forward to both questions this
13 afternoon and to a continuous and close dialogue
14 with the TPSC going forward. Thank you.

15 MR. BURCH: Thank you, Mr. York. Our
16 next panel witness is Joseph Whitlock with BSA,
17 The Software Alliance. Mr. Whitlock, you have
18 five minutes.

19 MR. WHITLOCK: Thank you to the members
20 of the TPSC for the opportunity to testify at
21 today's hearing, and thank you for your time.

22 I'll discuss today the urgency of

1 including digital trade rules as part of an early
2 harvest in the U.S.-Japan trade negotiations,
3 building upon the strong digital trade outcomes
4 in the United States-Mexico-Canada Agreement and
5 the Trans-Pacific Partnership outcomes.

6 BSA is the leading advocate for the
7 global software industry in the United States and
8 around the world. Our members are at the
9 forefront of artificial intelligence, machine
10 learning, cloud-based analytics and Internet of
11 Things, powering U.S. innovation and economic
12 growth.

13 In 2016, software contributed 1.14
14 trillion of U.S. value-added GDP and over 10
15 million jobs, driving growth across all 50
16 states.

17 As the first and third largest economies
18 in the world, making up nearly one-third of
19 global GDP, the United States and Japan have an
20 opportunity to set a new global gold standard for
21 digital trade.

22 Robust digital trade outcomes will not

1 only benefit both countries' innovation
2 economies, but act as an invaluable counter-
3 narrative to rapidly emerging digital
4 protectionism in the Asia Pacific. Our two
5 countries should work together to ensure that our
6 technology and software sectors continue to lead
7 the world to our mutual long-term strategic and
8 economic benefit.

9 While ongoing discussions in
10 multilateral fora can prove beneficial through
11 the issuance of political statements and the
12 gradual building of consensus norms, it is
13 crucial that the United States and Japan take
14 proactive steps to safeguard their shared
15 economic and strategic interests through the
16 early negotiation of binding and enforceable
17 digital trade provisions.

18 These provisions should obligate parties
19 to permit cross border transfer of data while
20 protecting personal information, prohibit data
21 localization requirements and customs duties on
22 electronic transmissions, protect source code and

1 algorithms, recognize electronic signatures in
2 commercial transactions, protect intellectual
3 property while including appropriate exceptions
4 and safeguards, promote the use of innovative
5 technology in the public sector, support
6 encryption in commercial products, promote
7 interoperability with respect to artificial
8 intelligence and other emerging technologies and
9 prohibit preferential treatment for state-owned
10 enterprises.

11 We note, for example, that no FTA to
12 date contains any rule specifically relating to
13 AI, machine learning, IoT, or other emerging
14 technologies. Both of our countries have a
15 critical opportunity to fill this gap and we must
16 not fail to do so.

17 Other countries in the region are
18 advancing digitally protectionist policies that
19 favor local champions and undermine opportunities
20 for U.S. and Japanese manufacturers and
21 exporters.

22 Robust digital trade rules are paramount

1 to the future of our integrated digital economy
2 and should be prioritized at the early stages of
3 any U.S.-Japan negotiation.

4 In September 2018, USTR Lighthizer and
5 Japan's Minister of Economy, Trade and Industry
6 Seko agreed to cooperate in facilitating digital
7 trade and growth of the digital economy and to
8 enhance business environments with the promotion
9 of data security.

10 Additionally, in a January 22 speech
11 before the Diet, Prime Minister Abe emphasized in
12 relation to IoT and AI that, quote, if we are not
13 ahead of the wave of new productivity, the new
14 productivity revolution, Japan's economy has no
15 future. Prime Minister Abe emphasized Japan's
16 resolve to, quote, fully mobilize all possible
17 measures, close quote, to secure that future.

18 An early harvest digital trade outcome
19 with the United States should be a key component
20 of that plan.

21 Working with Japan to include core
22 digital trade objectives in an early agreement

1 sends a powerful message to those advancing
2 digital protectionism and isolationism in their
3 own markets and abroad.

4 In the last 18 months, the Asia Pacific
5 region has seen a proliferation of data
6 localization requirements, cross border data
7 restrictions, forced technology transfer and
8 other measures that exclude and deprive U.S. and
9 Japanese exporters of market opportunities around
10 the world.

11 Finally, digital trade is a critical
12 component of any goods-focused negotiation.
13 Software, AI, IoT, and other emerging
14 technologies, as well as the ability to transfer
15 data across borders, are all critically important
16 to U.S. and Japanese global competitiveness in
17 advanced manufacturing.

18 Without emerging technologies and the
19 ability to transfer data across borders, there
20 can be no 21st-century manufacturing. Simply
21 negotiating tariffs without protecting our shared
22 digital trade priorities leaves us exposed to

1 digital protectionism that closes foreign markets
2 to U.S. and Japanese exports.

3 We thank the U.S. government for its
4 leadership on digital trade and for considering
5 the inclusion of a robust digital trade outcome
6 in the early stages of the U.S.-Japan
7 negotiations. Thank you and I look forward to
8 your questions.

9 MR. BURCH: Thank you, Mr. Whitlock.
10 Our next panel witness is Harley Geiger with
11 Rapid7. Mr. Geiger, you have five minutes.

12 MR. GEIGER: Hello. And thank you very
13 much for having me here. I appreciate the
14 opportunity to testify. My name is Harley
15 Geiger. And I'm the Director of Public Policy at
16 Rapid7.

17 Rapid7 is a cyber security and data
18 analytics firm. We're headquartered in Boston,
19 Massachusetts. We have offices around the world.
20 And a head count of about 1200 people.

21 We will recommend that USTR seek the
22 following seven commitments largely focused on

1 cyber security.

2 First, we recommend that USTR include
3 cyber security in a digital trade chapter as a
4 reflection of the importance of cyber security to
5 the economies of both the U.S. and Japan.

6 Many business sectors in the United
7 States and around the world, such as
8 manufacturing, agricultural and healthcare all
9 depend on secure computers for their daily
10 operations in international trade.

11 The U.S.-Mexico-Canada Agreement, the
12 USMCA, includes an article on cyber security,
13 Article 19.15. And it explicitly recognizes that
14 cyber security threats undermine trust in digital
15 trade, digital goods and services. So we hope to
16 see that principle reflected throughout a U.S.-
17 Japan trade agreement.

18 Second, encourage interoperable cyber
19 security risk management frameworks. This would
20 be a commitment requiring the parties to develop
21 and to promote the implementation of
22 interoperable cyber security risk management

1 approaches across their public and private
2 sectors.

3 There is similar language now in USMCA
4 Article 19.15. But here the added emphasis would
5 be on interoperability so that the parties' cyber
6 security risk management approaches are generally
7 comparable across jurisdictions.

8 Third, build capabilities of national
9 cyber security entities. This would be a
10 commitment requiring the parties to build the
11 capabilities of national entities responsible for
12 cyber security incident response, as well as
13 national entities responsible for coordinated
14 vulnerability disclosure.

15 USMCA Article 19.15 includes language on
16 building national capabilities, or sorry,
17 building capabilities for national entities
18 responsible for incident response. But here the
19 added emphasis is on national entities
20 responsible for coordinated vulnerability
21 disclosure.

22 Coordinated vulnerability disclosure or

1 CVD is increasingly recognized as a core cyber
2 security practice. And we think that this
3 concept in the trade agreement should include
4 national entities that facilitate coordinated
5 disclosure of vulnerabilities between private
6 sector organizations, as well as non-public
7 vulnerabilities from the government disclosed to
8 the private sector.

9 Fourth, strengthen existing cyber
10 security collaboration mechanisms, so just
11 strengthening existing collaboration mechanisms
12 for sharing cyber threat information. This is
13 already in USMCA Article 19.15. We don't
14 recommend an addition to this existing language.

15 Fifth, identify regulatory restrictions
16 to defensive cyber security activity. This would
17 be a commitment that the parties endeavor to
18 review and identify regulations and policies that
19 inappropriately restrict legitimate defensive
20 cyber security activity.

21 Examples of such regulations and
22 policies that may be under review include export

1 controls and privacy restrictions.

2 This commitment does not need to require
3 the parties to revise their regulations but
4 rather merely focus on a regulatory review to
5 identify areas of potential improvement.

6 Sixth, encourage transparency of
7 consumer IoT security. This would be a
8 commitment that the parties facilitate voluntary
9 processes that enhance the transparency of
10 critical security features in consumer IoT
11 devices.

12 The goal of the process should be to
13 enable consumers to make informed purchasing
14 decisions based on the presence of critical
15 security features in IoT so that consumers are
16 able to look at two different IoT products and be
17 able to compare them based on their level of
18 security.

19 Currently, that process does not exist.
20 There is no well-established way to do it even
21 though it is called for frequently.

22 Most recently, this process gained

1 renewed momentum in the United States as DHS and
2 the Department of Commerce released their botnet
3 roadmap, which includes several workstreams
4 related to transparency and labeling programs for
5 consumer IoT, specifically for this reason: to
6 foster a robust market for trustworthy IoT and to
7 reduce the instance of automated attacks.

8 Seventh and last, to prohibit
9 requirements to weaken encryption. This would be
10 a commitment that the parties will not require as
11 a condition of market access manufacturers or
12 suppliers of products using cryptography to
13 weaken that cryptography in any way.

14 Of course, this exists also in USMCA in
15 Article 12.C.2. However, we do urge USTR to find
16 ways, if possible, to narrow some of the existing
17 broad exceptions to that article, to that general
18 prohibition.

19 Thank you. And I look forward to your
20 questions.

21 MR. BURCH: Thank you, Mr. Geiger. Our
22 next panel witness is Naomi Wilson with the

1 Information Technology Industry Council. Ms.
2 Wilson, you have five minutes.

3 MS. WILSON: Thank you, and good
4 afternoon. My name is Naomi Wilson. I am the
5 Director for China and Asia at ITI here in D.C.

6 I would like to thank the administration
7 first and foremost for continuing to forge a
8 strong partnership with Japan, which is an
9 important ally and trading partner in the region,
10 in particular with some of the trend lines
11 occurring in the region with respect to these
12 issues.

13 We also support the, many of the
14 provisions within the USMCA and would like to see
15 that strong language replicated within any
16 agreement with the Japanese government.

17 And I'll outline a few of those here.
18 But I also want to make sure that I address some
19 of the issues that we would like to see addressed
20 more concretely with respect to our trade
21 relationship with Japan.

22 The first issue that I'd like to

1 emphasize is how we would like to see services
2 addressed. First, in the context of protecting
3 digital content and platforms, ITI highly values
4 intermediary liability protections as they allow
5 online services and/or intermediaries to host
6 transactions without being held liable for vast
7 amounts of content surrounding each transaction
8 and reaching millions, if not billions, of
9 customers.

10 We request that USTR ensure that online
11 services are not automatically considered liable
12 for third-party content. Instead, we encourage
13 USTR and the administration to rely on the
14 established U.S. legal framework with respect to
15 copyright and liability. We refer to USMCA
16 Article 20.89 as a good guide for this type of
17 measure.

18 Second, we would like to ensure that the
19 U.S. government is clear with the Japanese
20 government on issues that may lead to
21 discrimination against U.S. online platforms.

22 The Japanese government is currently

1 considering some new and rather aggressive
2 platform regulation that would disproportionately
3 affect and may even target U.S. digital
4 intermediaries. So their essential goal is to
5 keep an eye on and control the growth of larger
6 companies with the very justifiable worry about
7 consumer protection of data and safeguards when
8 data breaches do occur.

9 However, we want to make sure that these
10 potential policies are not overly broad and,
11 therefore, would encourage the U.S. government to
12 address this issue with the Japanese government
13 directly in the context of the negotiations.

14 Thirdly, we would ask that you pay close
15 attention to device imports and associated
16 regulations. Currently, Japan does not allow for
17 the importation of any devices for the purposes
18 of testing that do not currently hold Japanese
19 regulatory authorizations.

20 This is important because companies rely
21 on temporary regulatory authorizations so that
22 they can import goods in limited quantities for

1 demonstration at industry trade shows, for
2 testing and evaluation to determine compliance
3 within the market itself and also to determine
4 suitability for the market and any adjustments
5 that need to be made.

6 Finally, we would ask that you look to
7 customs and duties within an agreement and
8 encourage USTR to seek elimination of customs and
9 taxes for physical goods, as well as an increase
10 in the de minimis threshold for tax and duty.

11 And in closing, I would just emphasize
12 what some of my colleagues have already pointed
13 to as very strong provisions within USMCA, such
14 as the free data flows and source code and IP
15 protection. These are important primarily in a
16 multilateral context given the trends that we're
17 seeing in the region and across the globe.

18 We are very much aligned with the
19 Japanese government on our views in both of these
20 areas but want to make sure that if language is
21 replicated in other agreements, it's strong
22 language which both of our governments support.

1 Thank you for your time.

2 MR. BURCH: Thank you, Ms. Wilson. Our
3 next panel witness is Brian Scarpelli with App
4 Association. Mr. Scarpelli, you have five
5 minutes.

6 MR. SCARPELLI: Thank you for this
7 opportunity to share views on the proposed U.S.-
8 Japan free trade agreement and specifically on
9 the interests of The App Association.

10 ACT/The App Association represents
11 thousands of small business software application
12 development companies and technology firms that
13 create the software apps used on mobile devices
14 and in enterprise systems around the globe.

15 Today, the ecosystem that The App
16 Association represents, which we call the app
17 economy, is valued at approximately \$950 billion
18 annual and is responsible for 4.7 million
19 American jobs.

20 Alongside the world's rapid embrace of
21 mobile technology, our members have been creating
22 innovative solutions that power the Internet of

1 Things across modalities and segments of the
2 economy. So the U.S. government's approach in
3 this trade agreement directly affects each of our
4 members.

5 While the global digital economy holds
6 great promise for App Association member
7 companies, our members face a diverse array of
8 challenges when entering new markets.

9 Commonly referred to as trade barriers,
10 these challenges are reflected in the laws,
11 regulations, policies or practices that protect
12 domestic goods and services from foreign
13 competition and artificially stimulate exports of
14 domestic, of particular domestic goods and
15 services or fail to provide adequate or effective
16 protection of intellectual property rights.

17 These barriers to us take many forms but
18 have the same net effect: impeding U.S. exports
19 and investment.

20 Generally, we advocate for bilateral and
21 multilateral agreements to address through
22 digital trade and other chapters barriers to U.S.

1 export of goods and services, foreign direct
2 investment and IP rights.

3 We're committed to working with the U.S.
4 government and other governments to reduce or
5 eliminate trade barriers that will inhibit the
6 growth of the app economy.

7 With respect to digital trade, the small
8 business innovators we represent prioritize the
9 following, not in any order of importance.

10 But, first, enabling cross border data
11 flows. The seamless flow of data between
12 economies and across borders is essential to the
13 functioning of the global digital economy. And
14 App Association members need to take advantage of
15 the internet's global nature to reach new
16 customers, including those outside of the United
17 States.

18 The tolling of data across borders with
19 the purpose of collecting custom duties directly
20 contributes to the Balkanization of the internet
21 and jeopardizes the efficiency of the internet
22 and effectively blocks innovative products and

1 services from market entry.

2 Two, prohibiting data localization
3 policies. Data localization requirements
4 seriously hinder imports and exports, reducing
5 economies' international competitiveness and
6 undermine domestic economic diversification.

7 Our members simply do not have the
8 resources to build or maintain unique
9 infrastructure in every country in which they do
10 business. And data localization requirements may
11 effectively exclude them from commerce there.

12 Three, ensuring market entry is not
13 contingent on source code transfer or disclosure.
14 Some governments have proposed or put into place
15 policies that require companies to transfer or
16 provide access to proprietary source code as a
17 requirement for legal market entry, which is
18 simply, again, a non-starter for App Association
19 members.

20 Four, preserving the ability to utilize
21 technical protection mechanisms to protect end
22 user privacy and security. Global digital trade

1 depends on the use of technical protection
2 mechanisms such as encryption to gain and
3 maintain the trust of its end users and is
4 essential for our members to grow and create more
5 jobs.

6 And five, securing intellectual property
7 protections. IP violations lead to customer data
8 loss, interruption of service, revenue loss and
9 reputational damage, each alone representing a
10 potential end of life scenario for a small app
11 development company. Strong protection of IP
12 for, including copyright, patent, trademark and
13 trade secrets is essential.

14 So, while we continue to evaluate on an
15 ongoing basis the impact of the USMCA, we do
16 believe that the completed agreement contains
17 numerous provisions that will enable the app
18 economy to expand and create jobs across North
19 America.

20 These provisions include prohibitions on
21 customs duties from being applied to digital
22 products, ensuring cross border data flows and

1 reducing the potential of data localization
2 requirements, preserving the ability to use
3 technical protection mechanism to secure the
4 integrity of data transmissions, limiting
5 government's ability to require the disclosure of
6 proprietary source code and providing for the
7 protection of the range of intellectual property
8 that small business innovators rely on to start
9 and grow their businesses.

10 To the extent possible, we urge that the
11 future U.S.-Japan FTA should leverage such
12 provisions in order to advance harmonized
13 policies across U.S. trading partners, enabling
14 the U.S. app economy to grow and create more
15 jobs.

16 There is also a broader impact that we
17 would like to note. In other key markets, in
18 Asia particularly, policies are being proposed
19 and finalized that would put into place barriers
20 to the flow of data through applying physical
21 good customs style approaches to the digital
22 economy. Indonesia, for example, has even

1 created new tariff codes for digital goods.

2 So now more than ever it is imperative
3 that the U.S. government hold Japan to its
4 promise made with the U.S. to cooperate in
5 facilitating digital trade and the growth of the
6 digital economy to enhance business environments
7 through the promotion of data security as a model
8 to other Asian region, Asia region U.S. trading
9 partners.

10 Doing so will advance the ability of
11 American small business innovators to grow into
12 new markets to create more American jobs.

13 The App Association appreciates the
14 opportunity to provide its views here today on
15 the potential U.S.-Japan FTA and its likely
16 impact on our community and the U.S. economy.
17 And we look forward to your questions. Thank
18 you.

19 MR. BURCH: Thank you, Mr. Scarpelli.
20 Our last and final panel witness is Karen
21 Grunstra with the UL. Ms. Grunstra, you have
22 five minutes.

1 MS. GRUNSTRA: Good afternoon. And
2 thank you for the opportunity to be here on
3 behalf of UL. My name is Karen Grunstra. And I
4 am on UL's global government affairs team.

5 As it's the holiday time of the year,
6 you may be decorating your home with festive
7 lights. And perhaps you notice a hologram
8 sticker. Hopefully, you notice a hologram
9 sticker with UL's logo somewhere on that string
10 of lights, and that sticker indicates to you that
11 those are safe lights for you to use.

12 Certainly, UL is well known and
13 respected around the world for our expertise in
14 electrical safety. We've been pioneers in that
15 field since our founding at the Chicago World's
16 Fair in 1894.

17 But today in a more complex, global
18 marketplace, our role as an ANSI-accredited
19 standards developer and testing, inspection and
20 certification organization is increasingly
21 important. We not only work to ensure products
22 and systems are safe but also secure and

1 sustainable.

2 Through our expansive service offerings,
3 we help our clients, who are manufacturers,
4 retailers and service providers, navigate complex
5 regulatory requirements and bring innovative
6 products to markets around the globe.

7 UL supports the administration's efforts
8 to open markets for exports of U.S. good and
9 services like ours. And we encourage productive,
10 substantive discussions with Japan.

11 With the benefit of having recently
12 completed successful negotiations with trading
13 partners in North America, we believe USTR should
14 begin discussions with Japan with a similar
15 tenacity and expect best-in-class commitments in
16 a number of areas.

17 Strong, robust commitments, particularly
18 in horizontal areas of the agreement such as
19 technical barriers to trade will help to advance
20 the interests of American companies like UL and
21 workers like me while driving innovation and
22 competitiveness in a global marketplace.

1 Specifically, I'm here today to provide
2 testimony that underscores the importance of
3 establishing ambitious horizontal provisions in
4 the technical barriers to trade and good
5 regulatory practices chapters. The U.S. and
6 Japan share similar practices, beliefs and
7 philosophies more or less in these areas.

8 For instance, Japan already accepts the
9 WTO process-oriented definition of international
10 standards and has, in fact, adopted UL standards
11 where appropriate. In addition, Japan's model of
12 conformity assessment is akin to that of the U.S.
13 in its reliance on the private sector to deliver
14 third-party conformity assessment services.

15 Given the similarities of the two
16 respective systems, USTR ought to use the
17 commitments attained in the recent USMCA
18 agreement as a guide for what would constitute an
19 attainable and acceptable set of outcomes with
20 Japan. Failure to reach these commitments would
21 be a missed opportunity for advancing U.S.
22 competitiveness.

1 Specifically, we'd like to see
2 commitments related to national treatment for
3 conformity assessment bodies, recognition and
4 reaffirmation of commitments on the WTO
5 definition of international standards and a
6 regulatory coherence chapter with binding
7 commitments.

8 Standards and conformity assessment,
9 which are near and dear to our hearts, are both
10 addressed in TBT, but they require best practices
11 and process in conjunction with them, processes
12 like consultation, transparency and public-
13 private partnerships.

14 Thus, it's imperative that a good
15 regulatory practices chapter be agreed to in
16 order to recognize the full potential of the
17 trading relationship between the U.S. and Japan.

18 In addition to strong horizontal
19 commitments such as those found in TBT and GRP
20 chapters, UL joins the others on this panel to
21 voice our ardent support for the inclusion of a
22 chapter on digital trade in the negotiations with

1 Japan.

2 With over 160 facilities and 75,000
3 clients around the world, we are deeply aware of
4 how government action related to all things
5 digital can support or constrain our operations
6 and our market access for our services.

7 In our comments, our written comments to
8 USTR submitted via the Federal Register, we also
9 underscore the importance of strong commitments
10 in IP protection, fair competition as it relates
11 to SOEs and commitments in labor and the
12 environment and happy to answer any questions on
13 those.

14 From my testimony today, however, I hope
15 to have underscored the importance of negotiating
16 comprehensive, ambitious horizontal commitments
17 in the TBT and GRP chapters with Japan. These
18 are not only important for a company like UL but
19 for industry, U.S. industry at large.

20 The disciplines related to standards,
21 conformity assessment and good regulatory
22 practices are part of the backbone of U.S.

1 competitiveness and help to ensure that U.S.
2 exports can compete on a fair basis while also
3 establishing critical norms in global trade.

4 Thank you again for the opportunity to
5 be here today. And we look forward to continuing
6 to support USTR in this important negotiation
7 with Japan.

8 MR. BURCH: Thank you, Ms. Grunstra.
9 Mr. Chairman, that concludes direct testimony
10 from this panel.

11 MR. BEEMAN: Thank you. Thank you very
12 much. Excuse me. And thank you, not only as I
13 mentioned to other panels, for your time taken
14 out to appear in person to have this discussion
15 and to testify, but also for all the preparation
16 that went into each of the submissions that were
17 made.

18 As I have assured other panels, we have
19 read them thoroughly. And so we have some very
20 specific questions for you if you don't mind.
21 But also to listen to your testimony as well
22 certainly reaffirms a number of the points that

1 you have made.

2 But I'd like to direct my first question
3 to Ms. Swanson, if I could. In the written
4 comments and also in the oral testimony you just
5 provided, certainly you were very clear in terms
6 of a, you know, a very, rather specific set of
7 priorities that you would like to see in the,
8 addressed in a U.S.-Japan trade agreement.

9 What was a little less clear to us I
10 think, except for one specific issue relating to
11 e-labeling, it was unclear to us if there were
12 any, if the priorities you identified were
13 underlined by any specific barriers that you face
14 in Japan or if these were more, you know,
15 provisions that you wanted, perhaps as security
16 going forward for companies in the market,
17 however you see that.

18 I appreciate your response and any
19 specific Japan issues, if there are any, if you
20 can address those, I'd appreciate it. Thank you.

21 MS. SWANSON: Right, right. Well, I
22 would actually take this opportunity to call out

1 how closely aligned I think Japan and the U.S.
2 often are on digital trade issues.

3 Looking back at the internet economy
4 dialogue that the U.S. had with Japan in July,
5 the two agreed on the need to push back against
6 third-party restrictions on data flows,
7 requirements of transfer source code.

8 The U.S. and Japan I know have worked
9 closely in the WTO on digital trade issues.
10 Japan's also a member of the trilateral group
11 that's been pressuring, considering ways to try
12 to push China to change some of its unfair trade
13 practices.

14 So I would say that our concerns are --
15 we see this trade agreement as a way to leverage
16 provisions that would basically raise the bar.
17 And I would also briefly note that Japan has
18 already agreed to a number of these provisions to
19 some degree in softer form in CPTPP.

20 But briefly, just to mention a couple of
21 the areas where U.S. trade, provisions taken from
22 USMCA could be used as leverage in terms of

1 ongoing problems in China, the digital trade
2 language, banning data localization, source code
3 disclosure, the ban on requirements for in-
4 country testing, which is an ongoing problem in
5 China, IPR provisions on criminal penalties for
6 theft of trade secrets, also the SOE language,
7 which I didn't mention in my written testimony,
8 but we think is also very good and lays down a
9 helpful marker.

10 So the short answer to your question,
11 I've given a long one, is that while I wouldn't
12 call out a lot of specific problems other than we
13 could advance language on e-labeling, we do see
14 Japan as a really constructive and valuable
15 partner and just sort of raising the bar in the
16 region.

17 And also to the degree that we can work
18 with Japan, which is already a recognized partner
19 in helping the U.S. in the Indo-Pacific, in
20 building out the Indo-Pacific strategy, we see
21 this as a helpful way to go forward.

22 MR. BEEMAN: Thank you. Thanks for

1 your, that clarification. Just the second
2 question that I had, and we'll turn to other
3 panelists as well, of course, is for Mr. York.

4 In your written comments that were
5 submitted, you point out, quote, overbroad
6 application of copyright exceptions and
7 limitations, unquote, is a trade barrier in
8 Japan.

9 Can you -- actually, it's kind of a two-
10 part question. Could you provide some specific
11 examples of what those are?

12 And then secondly, it's also stated
13 there's an absence of adequate and effective IPR
14 enforcement tools and how those constitute
15 important impediments to digital music trade.
16 And so the second part is what are some examples
17 of the tools and standards from U.S. law that you
18 believe would be best replicated in Japan.

19 MR. YORK: Thank you for your questions.
20 And again, I very much appreciate this
21 opportunity and the time you spend to review our
22 various submissions.

1 So I should probably begin with the
2 threshold endeavor to bring more precision to our
3 own filing.

4 I think, similar to your previous
5 question, we identified a series of systemic
6 priorities that we have, and those were not
7 necessarily, unless we otherwise identified
8 specific concerns or specific areas of support,
9 necessarily identify those concerns with respect
10 to Japan.

11 So, just to be clear, we very much
12 support the decision which happened within the
13 past year by the government of Japan to not
14 implement a fair use system.

15 So, typically, fair use provisions, and
16 there are some in the CPTPP text with some best-
17 effort provisions that we do not support, Japan
18 took that on, but in its own domestic legislation
19 chose not to effectively implement that kind of
20 concerning trade barrier in our view.

21 You also asked a question about
22 enforcement measures. And so we've identified a

1 series. Again, it's at a systemic level.

2 Japan has in this regard a fairly strong
3 system and one that we do support. So, again,
4 similar to the previous speaker, we identified a
5 significant level of commonality but also shared
6 leadership in promoting strong copyright
7 protection and enforcement globally.

8 So Japan is a strong partner of the
9 United States in places like WIPO and in places
10 like the WTO and ensuring that any e-commerce,
11 for example, any e-commerce negotiations in the
12 World Trade Organization do not undermine
13 copyright protection, do not include copyright
14 protection, do not undermine the TRIPS agreement,
15 et cetera. So we count on Japan's support in
16 that regard.

17 We've identified damages, website
18 blocking, TPM protection and a variety of other
19 enforcement tools that we think are important
20 that both countries recognize in a bilateral
21 agreement.

22 I will say, specifically with Japan, as

1 a closing thought, that Japan is currently
2 reviewing various aspects of website blocking and
3 injunctive relief. And while we very much
4 support its initial decision with respect to
5 injunctions, we're also hopeful that it will
6 continue down that road with respect to website
7 blocking, which is a common practice throughout
8 many jurisdictions in the world to address
9 pervasive online piracy with respect to music
10 content and other content. Thank you.

11 MR. O'BYRNE: Good afternoon. My name
12 is Bryan O'Byrne from SBA's Office of
13 International Trade. This question is for Ms.
14 Grunstra.

15 One theme in many of the stakeholders'
16 submissions we have received is broad concern
17 with unique or special standards and testing
18 requirements in Japan and the enormous barriers
19 that these present.

20 Your organization's submission, however,
21 has a greater focus on the importance of broad
22 TBT rules as opposed to specific measures in

1 various sectors.

2 Can you give us an overview of what, if
3 any, TBTs that companies UL works with, your
4 clients, tend to face in Japan?

5 MS. GRUNSTRA: Yeah, thank you for the
6 question. So, admittedly, I don't have any
7 specific examples I can walk through right now.
8 But I'm happy to come back to you with some
9 reports on that.

10 But overall, our experience with Japan
11 has been that the regulatory regimes are
12 different but more similar than some of our other
13 trading partners. And as a U.S. conformity
14 assessment provider, we are able to operate and
15 issue certifications in the Japanese market.
16 That's not true in other countries around the
17 globe.

18 Additionally, though they are more --
19 there's a tendency to look to IEC and ISO
20 standards developed in Geneva. There is an
21 openness to standards developed here in the U.S.
22 like UL that fit the WTO process definition of

1 what constitutes an international standard.

2 Certainly, there are individual TBT
3 issues that impact companies, and we work with
4 our clients to address those.

5 But on the whole, this is a rather
6 similar system, and we should try to codify in
7 the language of the agreement the extent to which
8 we have those similarities for use, as my
9 colleagues here have said, in our future trade
10 agreements with countries where we do not have as
11 similar of systems.

12 MR. O'BYRNE: And one more question.

13 MS. GRUNSTRA: Yes.

14 MR. O'BYRNE: We're aware that UL may
15 rely on smaller specialty laboratories to serve
16 as subcontractors for certain products testing
17 and certification services. Are you aware of any
18 unnecessary obstacles to UL's family or other
19 subcontracting laboratories in the Japanese
20 verification market?

21 MS. GRUNSTRA: I'm not aware of any, but
22 I'm happy to reconfirm and follow up with you on

1 that, but that was not flagged.

2 MR. O'BYRNE: Thank you.

3 MS. LYNTON GROTZ: Good afternoon. My
4 name is Mirea Lynton Grotz with Treasury. My
5 question is for Ms. Wilson.

6 With respect to your written comments on
7 the inclusion of commitments on financial
8 services and electronic payment services in a
9 U.S.-Japan agreement, do you have any specific
10 concerns with the current U.S.-Japan trade and
11 investment relationship in these areas?

12 MS. WILSON: Sure. So it's not a
13 concern so much as a trend that we've seen.

14 So Japan continues to rely heavily on
15 cash and has had something of a resistance to
16 moving toward plastic. However, the Japanese
17 government as well as industry are interested in
18 moving towards digital payments.

19 So we want to ensure that, as they look
20 into that, that they're doing so in a way that
21 would create a level playing field for both
22 domestic and foreign-based suppliers of

1 electronic payment systems.

2 MS. LYNTON GROTZ: Thank you. I also
3 have a question for Mr. Whitlock.

4 So with regard to your written comments
5 on financial services, you state that generally
6 applicable rules that are also addressed in
7 separate chapters, such as cross border data
8 flows, must not contain any special rules.

9 Do you have any specific concerns with
10 the data provisions in the financial services
11 chapter in the USMCA?

12 MR. WHITLOCK: Thank you very much. The
13 USMCA we believe is a good model for application
14 of cross border data rules to the financial
15 sector.

16 MR. BARZDUKAS: Yes, good afternoon. My
17 name is Danius Barzdukas with the Japan desk at
18 the Department of Commerce. My question is for
19 Mr. Geiger.

20 In your testimony, you ask for us to set
21 a number of high standards on digital economy
22 with Japan. It is not clear whether any of your

1 requests are Japan-specific.

2 Has your company encountered any
3 problems in doing business with Japan that you
4 think the trade agreement could address, or do
5 you solely see this agreement as an opportunity
6 to set model standards?

7 MR. GEIGER: Thanks for the question.
8 So, like my colleagues, we're looking at this
9 less as an opportunity to overcome specific trade
10 barriers and more as an opportunity to strengthen
11 existing trade with Japan.

12 And we think that our recommendations do
13 that in several ways. One is by strengthening
14 the trust in digital products and services.

15 Another is by strengthening the systems
16 of non-digital products and services that, or
17 sorry, the products and services that non-digital
18 companies have. So, you know, it's difficult to
19 sell corn or beef if the machines that you rely
20 on in order to do that are victims of ransomware.

21 Third, as has been mentioned before, we
22 view this as an effort also to promote U.S. cyber

1 security norms in international trade, such as
2 flexible risk management in cyber security and
3 transparency rather than overregulation or
4 digital protectionism.

5 And then lastly, this is also a matter
6 of streamlining trade for the cyber security
7 industry itself. So, for example, in our
8 recommendation on interoperability of cyber
9 security risk management frameworks, that will
10 help customers and vendors talk about products
11 and services and compare them based on their
12 cyber security functions more easily if they're
13 doing it within compatible frameworks. Thank
14 you.

15 MR. BARZDUKAS: Thank you very much. My
16 next question is for Mr. Scarpelli.

17 You note in your comments that the
18 completed USMCA contains numerous provisions in
19 its digital trade chapter and others that will
20 allow the app economy to expand.

21 Are there any areas where you think we
22 can go further than USMCA or any areas where you

1 were not fully satisfied with the USMCA outcomes?
2 Have your members encountered any trade barriers
3 that are specific to Japan?

4 MR. SCARPELLI: Thank you for that
5 question, appreciate it.

6 I think generally the short answer is
7 probably to say generally no. No, we're, you
8 know, we're I guess sort of pragmatic about the
9 outcome of the USMCA.

10 You know, I think we always attach that
11 we continue to evaluate to, when we make
12 statements about the agreement because it is a
13 detailed and lengthy agreement. And we're still
14 getting feedback from our members constantly
15 about how it's impacting them in their day to
16 day.

17 But how could we go further? I guess
18 probably, there's probably maybe one example I
19 can give. And I think it was mentioned in
20 previous testimony.

21 But, you know, we're -- for example, I
22 mentioned in my opening statement the, how

1 important the use of technical protection
2 mechanisms like strong encryption are for our
3 members in gaining and maintaining customer
4 trust.

5 So, to the extent practicable, if
6 exceptions can be narrowed past what's in the
7 USMCA, we would be supportive of that. But, you
8 know, that's -- more broadly, it's probably a
9 great question for us as an association to take
10 back to our members.

11 The second question you asked about,
12 specific barriers, I too don't have any flagrant
13 trade barriers to raise for you that our members
14 have brought to us. So we also view the
15 agreement as really setting an example.

16 There's a lot of other markets, both
17 developed and emerging, that we would have a much
18 greater concern with.

19 And we believe that a strong U.S.-Japan
20 FTA can provide that template and hopefully push
21 back against what we think is an unfortunate,
22 some unfortunate trends such as attempts to

1 regulate so-called over the top services, et
2 cetera. Thank you.

3 MR. BARZDUKAS: Thank you.

4 MR. O'BYRNE: This question is for Mr.
5 York. Your submitted testimony highlights that
6 several hundred of RIAA's member companies
7 represent small and medium-sized firms.

8 Would you be able to identify any
9 specific challenges or restrictions that smaller-
10 sized record labels, producers and even
11 individual recording artists or groups face in
12 the Japanese market?

13 MR. YORK: Thank you so much for that
14 question. I was hoping you would ask it. Thank
15 you. Christmas comes early.

16 So, yes, indeed. So we represent
17 somewhere north of about 800 independent record
18 labels. And consistently they have identified a
19 theme to us and then communicated that on to
20 various government officials and others,
21 including in Congress.

22 And that has to do with the way content

1 is disseminated, music content is disseminated on
2 the internet. So it has given independent record
3 labels an exceptional opportunity but a profound
4 challenge.

5 The exceptional opportunity is to make
6 music available in markets as distant as Japan,
7 which is a vibrant market. It's our second
8 largest. And for SMEs, this isn't just for major
9 record labels. This is for small record labels.

10 And this is, by the way, for artists who
11 are themselves SMEs. Every single artist, even
12 those that we represent and have a relationship
13 with, are themselves SMEs. Some are very well
14 known but most are not. Most are barely able to
15 make rent or make their car payments or do the
16 basic things that everyone wants to do. And so
17 on the borderline between working at Starbucks
18 and being a musician is a fine line.

19 And while there's the opportunity to
20 make it big on the internet, the challenge that
21 often prevents that -- and this is really
22 critical. When we think about the music

1 industry, we don't just think about the big names
2 and the successful artists. We think about how
3 impossible it is for independent record labels to
4 use the notice and take down system.

5 Basically, according to our sister
6 organization, AAIM, American Association of
7 Independent Music, they've indicated that
8 somewhere around 80 percent of their members have
9 stopped using the notice and take down system.

10 The notice and take down system is a
11 feature that we have in U.S. law, which is widely
12 understood as ineffective. And there will likely
13 be a report from our copyright office and
14 certainly there's been reports from our PTO that
15 it's ineffective and non-functional even in this
16 market.

17 And that means that content is available
18 for free that's pirated. And that deprives these
19 independent musicians of any revenue. That
20 deprives independent record labels of significant
21 parts of what they would seek as revenue. And so
22 they can't survive. And so that's really

1 unfortunate.

2 And so, when we talk about our safe
3 harbor regime here in the United States, it's a
4 safe harbor for big internet platforms. But it
5 is rocky, rocky, stormy waters for SMEs.

6 And to the extent we're exporting that
7 to third-country markets, we're hoping to take
8 advantage of international digital trade and are
9 not permitted to because notice and take down
10 system doesn't work with respect to jurisdictions
11 outside of the United States.

12 Most internet platforms, many do, except
13 U.S. DMCA notices, those are the, that's the law
14 that underwrites this basic subsidy. But many
15 foreign companies based in Japan or otherwise who
16 have no jurisdictional nexus in the United States
17 don't have to accept notice and take down
18 requests.

19 And because we don't have website
20 blocking in the United States with respect to
21 infringing websites who are based outside of the
22 United States, these independent artists, these

1 independent record labels, who we represent, you
2 know, a fraction of, a sizable fraction but
3 certainly not comprehensively, are left dead in
4 the water as a result of these safe harbors.

5 So it's something critical to consider
6 as the U.S. begins to reflect on what the future
7 of digital trade should be for SMEs. Tremendous
8 opportunity, but as I've said, in many respects,
9 unrealized because of these overbroad safe
10 harbors and the lack of platform accountability
11 online.

12 MR. O'BYRNE: Thank you.

13 MR. BEEMAN: Thanks. Just a question
14 for Ms. Grunstra. And this was touched on in
15 some other presentations as well, but maybe -- in
16 the particular submission from UL, there's a
17 mention with respect to cyber security on a
18 recommendation to include provisions in an
19 agreement that, quote, establish risk-based
20 approaches on consensus-based standards, unquote,
21 to establish cyber norms.

22 Do you have any -- are there particular

1 trade agreement outcomes that you've seen that
2 are, you feel are kind of a model in this area?
3 Or is this -- can you speak to what kind of rule
4 you foresee that could achieve this?

5 MS. GRUNSTRA: Yeah, so I appreciate the
6 question. And I think actually my colleague
7 here, Mr. Geiger, answered a bit more in detail
8 than I might be able to.

9 Certainly we think this is an
10 opportunity to set sort of groundbreaking
11 language. I believe the USMCA language does
12 touch on it but in a very high-level way.

13 But there is substantive discussions
14 across U.S. government going on with METI in
15 Japan, very similar points of view. And I hope
16 that if we put on our creative thinking caps, we
17 might be able to come up with something pretty
18 advanced in this agreement for the same reasons
19 that my colleagues sitting around me have issued
20 and happy to work with you on that.

21 I don't have an answer right now. But
22 we're happy to work with you all as you negotiate

1 with your Japanese counterparts.

2 MR. BEEMAN: Great. Thank you. Did you
3 want to ask a question?

4 MR. BARZDUKAS: Yes, this is a question
5 for Ms. Wilson. You touched on this briefly
6 regarding that you seek to commit from Japan to
7 allow imported ICT devices that do not yet have
8 regulatory authorization into Japan for purposes
9 of testing, development and demonstration.

10 Have your members requested an exception
11 for these devices in the past from the Japanese
12 government? And if so, what was the government's
13 explanation for refusing?

14 MS. WILSON: That is a good question for
15 which I will have to get back to you with
16 specifics. However, our members have made clear
17 that it is a persistent problem.

18 Even if an exception process were
19 working smoothly, it is still a burden. And it
20 still puts our companies at a distinct
21 disadvantage to those Japanese companies
22 operating in the market who do not have to go

1 through that process.

2 So, even if they were to request an
3 exemption, for example, a Japanese company would
4 not necessarily have to do the same and would
5 therefore have time on their side.

6 MR. BARZDUKAS: Thank you. And, excuse
7 me, one more question for Ms. Swanson.

8 In your comments, you asked for USTR to
9 seek commitments that allow for unimpeded trade
10 in remanufactured and reused goods. What are the
11 import barriers for remanufactured goods between
12 the U.S. and Japan that are of concern to your
13 members?

14 MS. SWANSON: I think I -- let me check
15 with my members and get back to you with a more
16 specific answer on that, because it's a fairly
17 technical issue. I'd be happy to do that. Thank
18 you.

19 MR. BARZDUKAS: Thank you.

20 MR. BURCH: Mr. Chairman, we release
21 this panel with our thanks.

22 MR. BEEMAN: Thank you. So we'll

1 reconvene at 4:20, 25, if all the panels are
2 here, maybe 4:20.

3 (Whereupon, the above-entitled matter
4 went off the record at 4:11 p.m. and resumed at
5 4:20 p.m.)

6 MR. BURCH: Would the room please come
7 to order?

8 CHAIRMAN GRESSER: Thank you all very
9 much for coming to present us with your views and
10 your insights on the U.S.-Japan agreement. This
11 is our final panel of the day. So we appreciate
12 your patience.

13 We'd also like to thank the U.S.
14 International Trade Commission very sincerely for
15 providing us with a venue and providing us with
16 all the support. It's been irreplaceable. And
17 on behalf of the TPSC, we're very grateful.

18 Let me now turn to our Deputy Assistant
19 USTR for Japan, David Boling.

20 MR. BOLING: So I would just like to
21 echo Ed's comments about thank you for
22 persevering to the very end here. And we're

1 looking forward to hearing this panel's comments.

2 And also, a deep thanks to the staff at
3 the ITC for all their help in preparation for
4 this and their help today. As Ed said, it's
5 really irreplaceable.

6 So, with that, we'll turn it over to
7 hear from the witnesses. Thank you.

8 MR. BURCH: Our first witness on the
9 last and final panel is Rich Harper with Outdoor
10 Industry Association. Mr. Harper, you have five
11 minutes.

12 MR. HARPER: Thank you, Mr. Chairman and
13 members of the committee.

14 On behalf of Outdoor Industry
15 Association, I'm honored to be here today to
16 testify on the priorities of the outdoor industry
17 for the negotiating objectives of the proposed
18 U.S.-Japan trade agreement.

19 OIA is the trade association for more
20 than 1,400 companies across the United States,
21 including suppliers, manufacturers, and retailers
22 of outdoor products.

1 The outdoor industry generates more than
2 \$887 billion in consumer spending and accounts
3 for 7.6 million American jobs in the United
4 States.

5 Our members produce some of the most
6 innovative products that reach all corners of the
7 globe, enriching people's lives by supporting
8 healthy and active lifestyles.

9 OIA promotes a balanced trade agenda,
10 representative of its diverse membership of
11 importers, domestic manufacturers, and retailers
12 of all sizes. Our balanced trade agenda seeks
13 the elimination of trade barriers, including
14 tariffs, on outdoor products that have no
15 commercially viable production in the U.S.

16 For those products that are manufactured
17 domestically, OIA supports federal policies that
18 aid U.S. manufacturers and help them transition
19 to competition in a global economy.

20 A U.S.-Japan trade agreement offers many
21 potential benefits for the outdoor industry. OIA
22 believes that reciprocal preferential market

1 access, specifically the mutual elimination of
2 import tariffs on most outdoor goods, will have a
3 positive economic effect on U.S.-based outdoor
4 businesses, foster the growth of American jobs in
5 our industry, and will promote the significant
6 economic contribution that the outdoor industry
7 makes to the U.S. economy.

8 In particular, Japan is one of the top
9 export and retail markets for U.S.-manufactured
10 products with prospects for significant growth in
11 some key areas.

12 Specifically, we encourage the
13 elimination of Japan's TRQ on leather footwear in
14 the U.S.-Japan trade agreement. Since 1952, U.S.
15 domestic leather footwear exports to Japan have
16 been severely restricted by a tariff rate quota
17 that only permits 12 million pairs annually
18 applied globally.

19 A 17 to 24 percent duty is applied to
20 leather footwear imports that fall within the
21 quota. However, a tariff of 4,300 yen or 30
22 percent, whichever is greater, is applied to

1 those pairs outside of the quota, equating to
2 about \$45 per shoe, per pair of shoes.

3 U.S. domestic leather footwear
4 manufacturers and their suppliers would greatly
5 benefit from elimination of this protectionist
6 practice.

7 To put this in perspective, the average
8 unit price of American-made leather footwear
9 exports to Japan in 2017 was \$43.72 per pair. A
10 tariff of \$45 per pair would be near equivalent
11 to its original value.

12 Japan's total import market for footwear
13 was 651 million pairs in 2017 valued at
14 approximately 594 billion yen. Approximately 35
15 million pairs were leather, accounting for 5.4
16 percent.

17 This equates to 0.3 pairs of imported
18 leather shoes per person in Japan. In
19 comparison, the United States imports 1.5 pairs
20 of leather shoes per person, 6 times more than
21 Japan.

22 Not only would enhanced market access in

1 Japan's leather footwear market result in more
2 balanced trade in footwear, but it would augment
3 U.S. production, export volumes, and other
4 purchases from domestic tanneries. Subsequently,
5 U.S. companies could add jobs to fill increased
6 demand.

7 Japan's TRQ has been identified in
8 USTR's annual national trade estimate on foreign
9 barriers to trade reports since the 1980s. It
10 was eliminated under the Trans-Pacific
11 Partnership. And we urge the administration to
12 support a similar result in the U.S.-Japan trade
13 agreement.

14 Achieving regulatory harmonization with
15 Japan is another priority for outdoor companies.
16 Harmonized testing standards for future
17 regulations and mutual acceptance of current
18 standards will be beneficial for the outdoor
19 industry and its consumers by lowering costs and
20 administrative burdens.

21 Finally, consistent with the U.S.-
22 Mexico-Canada Agreement, we strongly support the

1 inclusion of robust labor and environmental
2 provisions in the core text of the agreement that
3 match the highest international standards and are
4 fully enforceable under the same dispute
5 settlement provisions as the commercial
6 provisions.

7 OIA is grateful for the opportunity to
8 appear at this hearing. I thank you for your
9 attention to this important matter. And I look
10 forward to your questions.

11 MR. BURCH: Thank you, Mr. Harper. Our
12 next panel witness is Julia Hughes with the U.S.
13 Fashion Industry Association. Ms. Hughes, you
14 have five minutes.

15 MS. HUGHES: Thank you very much. Thank
16 you, Mr. Chairman. Thank you, members of the
17 committee, for the opportunity to join you today
18 and talk about what our association's views are
19 on the negotiating objectives for a U.S.-Japan
20 agreement.

21 The U.S. Fashion Industry Association
22 represents fashion brands, retailers, importers,

1 and wholesalers doing business in the United
2 States and doing business globally, many of the
3 companies you and your families wear on a daily
4 basis.

5 Our mission is to eliminate barriers to
6 trade and to open markets. So USFIA member
7 companies strongly support the negotiation of a
8 trade agreement with Japan, the third largest
9 consumer market in the world after the European
10 Union and the United States.

11 Japan is an important trading partner
12 for retail, as well as for sourcing high quality
13 textiles increasingly demanded by consumers.

14 With average per capita income of almost
15 \$30,000 per year, Japanese consumers are
16 incredibly important for American brands and
17 retailers. And Japan serves as a trendsetter for
18 Asia as a whole when it comes to fashion. So
19 increasing sales in Japan opens the door for
20 brands and retailers to increase sales in other
21 markets as well.

22 While tariffs are not that important for

1 many sectors, textiles and apparel still face
2 very high tariffs on imported products. And
3 that's why we support immediate duty-free
4 treatment for apparel and home textiles.

5 According to the Commerce Department
6 statistics, Japan's tariffs on imported apparel
7 can reach 12.8 percent. Meanwhile, we know that
8 here in the U.S. tariffs on apparel can run as
9 high as 32 percent.

10 These tariffs lead to higher prices for
11 American consumers and impede the ability of
12 American companies to create high quality design,
13 manufacturing, and retail jobs here in the United
14 States.

15 The U.S. textile sector does not need
16 special protection in these negotiations. So we
17 urge you to consider a flexible, simplified, 21st
18 century rule of origin. This will allow American
19 businesses to source and develop products based
20 on consumer demand and existing global value
21 chains and create more high quality, high paying
22 jobs in the U.S.

1 In turn, fashion brands and retailers
2 will be able to utilize the U.S.-Japan trade
3 agreement and create new business relationships
4 with this important trading partner and bolster
5 our influence in the region and, indeed, serve
6 the administration's broader trade objectives.

7 And let's be honest, we've been saying
8 this in all of our testimony. If the
9 administration wants to encourage companies to
10 move sourcing out of China and create more high
11 quality jobs in the U.S., it makes sense to make
12 it easier, not harder, for companies to do
13 business with our trade agreement partners such
14 as, in this case, Japan.

15 I'd like to just briefly touch on non-
16 tariff barriers. We encourage you to harmonize
17 and streamline customs procedures between the
18 U.S. and Japan and implement account-based
19 processing to facilitate the flow of goods and
20 harmonize rules and regulations governing issues
21 like product safety and labeling.

22 As American fashion brands and retailers

1 and all companies in the United States are
2 seeking opportunities to reach new consumers,
3 grow their businesses, and create jobs, it's
4 important to make it easier to trade and do
5 business with lucrative markets like Japan.

6 An effective 21st century U.S.-Japan
7 trade agreement would be flexible, recognize the
8 commercial reality that companies rely on global
9 value chains to produce and to sell products.
10 Such an agreement would provide the U.S. with the
11 best economic benefits for U.S. companies, U.S.
12 workers, and U.S. consumers.

13 We thank you for the opportunity to
14 appear today and look forward to answering any
15 questions. Thank you.

16 MR. BURCH: Thank you, Ms. Hughes. Our
17 next panel witness is Stephen Lamar with the
18 American Apparel and Footwear Association. Mr.
19 Lamar, you have five minutes.

20 MR. LAMAR: Thank you, Mr. Chairman and
21 members of the committee.

22 As you mentioned, my name is Steve

1 Lamar. I'm with the American Apparel and
2 Footwear Association. We're the national trade
3 association representing apparel, footwear, and
4 other sewn products, companies, and their
5 suppliers. And you're going to hear a lot
6 similar from what my co-panelist just talked
7 about.

8 Through the power of global value
9 chains, our members employ millions of Americans
10 in such diverse areas as design, manufacturing,
11 compliance, logistics, and retail. Their
12 products, be they clothes, shoes, fashion
13 accessories and materials from which those
14 products are made, are designed, made, and sold
15 in nearly every country around the world,
16 including the United States and Japan.

17 While international trade has enabled
18 our members to serve an ever-growing market, the
19 persistence of high trade barriers, either in the
20 form of tariffs, onerous customs requirements, or
21 burdensome regulations, continue to inject
22 unnecessary costs into our supply chains.

1 Trade agreements are opportunities to
2 reduce these costs and to expand the U.S. jobs
3 our global value chains support. It is through
4 this lens that we view the U.S.-Japan trade
5 agreement.

6 An overarching goal of the negotiations
7 should be to craft an agreement that expands
8 trade between the United States and Japan while
9 reducing regulatory and market access costs
10 currently associated with those trade links.

11 Growing both sides of the trade equation
12 with Japan will translate directly into growth at
13 home and our ability to sustain and grow the
14 millions of U.S. jobs created and supported by
15 trade.

16 At the same time, we want to make sure
17 that trade, that this trade is expanded
18 responsibly by facilitating legitimate trade for
19 these activities and recognizing domestic
20 sensitivities. We've got six recommendations to
21 achieve this goal.

22 The first is to eliminate duties. We

1 support the immediate and reciprocal elimination
2 of the high duties that both countries maintain
3 on textiles, travel goods, footwear, and apparel,
4 especially since most of these duties were
5 targeted for early elimination during the Trans-
6 Pacific Partnership talks and will start to be
7 phased out for countries taking part in the
8 successor of the TPP at the end of this month.

9 Similarly, as Rich mentioned, we request
10 the immediate elimination of the Japan leather
11 footwear TRQ. This is a restrictive practice
12 that Japan has maintained since 1952, and as Rich
13 pointed out, was removed immediately in the TPP,
14 which we're currently not party to.

15 Number two, we'd like to see flexible
16 rules of origin. We support high usage of this
17 agreement by making sure the rules of origin
18 reflect the realities of the industry today. The
19 yarn-forward rule of origin, which is what we
20 typically use in free trade agreements, can be
21 burdensome and stifle trade.

22 We need to incorporate sufficient

1 flexibilities into those rules so that different
2 supply chains and the U.S. jobs they support can
3 take advantage of the agreement. There are lots
4 of precedents in past agreement, including cut
5 and sew provisions, tariff preference levels, and
6 cumulation that all can be incorporated here.

7 We'd like to see the inclusion of smart
8 customs provisions. We can promote usage of this
9 agreement by including facilitative customs
10 procedures, such as those that draw upon the
11 trade facilitation agreement, to speed legitimate
12 goods across borders and provide predictability
13 and transparency to regulations, rulings, and
14 border operations.

15 While we strongly support measures to
16 ensure proper enforcement of the agreement, such
17 provisions should treat trusted traders as
18 partners and focus enforcement activities on
19 traders who are more likely to present risks.

20 And as Julia mentioned, we further urge
21 that customs provisions apply to the whole
22 agreement and not single out one industry. We'd

1 like to see regulatory harmonization for our
2 industry.

3 Japan and the U.S. both maintain an
4 extensive array of product safety, chemical
5 management, and labeling requirements regarding
6 apparel, footwear, textiles, and travel goods.
7 In many cases, these are intended to achieve the
8 same goal, yet they often contain different
9 requirements, such as testing or certification,
10 that greatly add compliance costs.

11 We believe the U.S.-Japan trade
12 agreement presents an important opportunity to
13 achieve harmonization or alignment for these
14 regulations and recommend incorporation of a
15 process to help us achieve this.

16 Fifth, we support strong intellectual
17 property rights. The U.S. and Japan have a
18 shared commitment to the protection of IP, which
19 are critically important for our industry.

20 We support provisions in the U.S.-Japan
21 agreement that reflect this shared commitment,
22 clearly articulated requirements to easily record

1 and register IP, commitments to enforce against
2 counterfeiting, including through third-party
3 marketplaces, and cooperation on international
4 efforts to thwart IP rights theft.

5 Sixth, our final point is we support the
6 Berry Amendment. Like all our recent trade
7 agreement, including the TPP and the USMCA, the
8 U.S.-Japan trade agreement should reflect the
9 current U.S. law that requires all clothing,
10 textiles, and footwear purchased by the Defense
11 Department to be made in the U.S. in a manner
12 consistent with our international trade
13 obligations.

14 Thank you, again, for providing us this
15 opportunity to testify. And I look forward to
16 answering any questions.

17 MR. BURCH: Thank you, Mr. Lamar. Our
18 next panel witness is Falan Yinug with
19 Semiconductor Industry Association. Mr. Yinug,
20 you have five minutes.

21 MR. YINUG: Thank you. Good afternoon.
22 My name is Falan Yinug, Director of Industry

1 Statistics and Economic Policy at the
2 Semiconductor Industry Association. On behalf of
3 SIA, thank you for the opportunity to testify
4 today.

5 SIA welcomes the opportunity to provide
6 comments on negotiating objectives for a U.S.-
7 Japan trade agreement. SIA is the voice of the
8 U.S. semiconductor industry, one of America's top
9 export industries and a key driver of America's
10 economic strength, national security, and global
11 competitiveness.

12 Semiconductors and its value chain are
13 the bedrock of the modern American economy,
14 powering virtually everything digital from cell
15 phones and cars to supercomputers and military
16 systems.

17 International trade is vital to the U.S.
18 semiconductor industry. And thus, we welcome the
19 administration's decision to enter into
20 negotiations for a U.S.-Japan trade agreement.

21 SIA strongly encourages the U.S.
22 government to prioritize negotiating objectives

1 that strengthen digital trade and combat the
2 rising trend of digital nationalism in third
3 countries.

4 We encourage the U.S. government to
5 pursue the following five product-specific
6 negotiating objectives.

7 One, ensure access to global markets for
8 innovative encryption products. SIA is concerned
9 about encryption related practices and
10 regulations in some regions that act as non-
11 tariff barriers, such as regulations that
12 directly or indirectly favor specific
13 technologies, block companies from using the
14 strongest available security technologies in the
15 marketplace, or force disclosure of sensitive
16 information.

17 We recommend that all U.S. trade
18 agreements contain specific commitments
19 preventing parties from placing discriminatory
20 restrictions on commercial foreign products with
21 encryption, such as those incorporated into the
22 comprehensive and progressive agreement for Trade

1 Pacific Partnership, CPTPP, and the U.S.-Mexico-
2 Canada agreement or USMCA.

3 Two, ensure that state-owned enterprises
4 or SOEs compete fairly and transparently based on
5 market considerations and without undue
6 government advantage.

7 SOE activity guided or aided by
8 government influence rather than by commercial
9 considerations can cause harmful market and
10 investment distortions. The inclusion of strong
11 SOE and government assistance disciplines in a
12 future U.S.-Japan agreement will send an
13 important message to our other trading partners
14 with large SOEs in the electronics sector that
15 governments cannot use SOEs to discriminate
16 against U.S. companies.

17 SIA encourages the administration to
18 prioritize the inclusion of SOE and government
19 assistance disciplines that align with the U.S.,
20 Japan, EU trilateral work to strengthen WTO
21 subsidy rules and the Government and Authorities
22 Meetings on Semiconductors, or GAMS, guidelines

1 and best practices for regional support. More
2 detailed recommendations are included in our
3 written comments.

4 Three, strengthen trade secret
5 protections. Trade secrets represent core
6 business assets for semiconductor companies. Yet
7 despite their tremendous importance, trade
8 secrets remain extremely vulnerable, especially
9 in jurisdictions with weak laws and/or
10 enforcement practices.

11 More problematic is the misappropriation
12 of trade secrets enabled or encouraged as a
13 result of government industrial policy.

14 We applaud the strong trade secrets
15 disciplines in the USMCA. And we call on the
16 administration to maintain a strong focus on the
17 misappropriation of trade secrets by including
18 strong protections in the U.S.-Japan trade
19 agreement.

20 Four, prevent forced localization of
21 digital infrastructure and technology transfer.
22 Governments are increasingly using, quote, forced

1 localization tactics to advantage domestic
2 companies and/or force foreign investors to use
3 domestic technology, transfer their own
4 technology, localize data storage and processing,
5 or build expensive infrastructure in a region as
6 a condition of market access.

7 These rules raise costs, distort
8 markets, reduce global interoperability, and
9 increase the risk of unauthorized disclosure or
10 theft of IP.

11 SIA applauds the strong digital trade
12 outcomes incorporated in the USMCA to counter
13 these measures and encourages the administration
14 to prioritize similar disciplines in the U.S.-
15 Japan negotiations and all future U.S. trade
16 agreements to protect and strengthen digital
17 trade.

18 And finally, permanently eliminate
19 duties on electronic transmissions of data, data
20 flows, or digital downloads. Some governments
21 are challenging the WTO e-commerce moratorium
22 banning customs duties on electronic

1 transmissions, a ban that has been in effect on a
2 rolling two-year basis since 1998.

3 Noting the effort by some governments to
4 let this moratorium expire and establish duty
5 tariff mechanisms on data flows, we encourage the
6 U.S. and Japan governments to establish a clear,
7 unified position supporting duty-free treatment
8 for digital goods, i.e., apps, e-books, music, by
9 including a permanent commitment to not impose
10 customs, duties, or fees on trade in electronic
11 transmissions and digital products in a U.S.-
12 Japan agreement.

13 In conclusion, we urge the
14 administration to pursue these and other strong
15 digital trade outcomes as described in The
16 Semiconductor Seven: SIA's Top Priorities for
17 Trade Agreements on SIA's website in the U.S.-
18 Japan negotiations.

19 Firmly establishing digital trade rules
20 will help counter growing restrictions on U.S.
21 trade and set examples for other countries
22 developing their own digital trade rules. SIA

1 looks forward to working with the administration
2 on these important issues.

3 MR. BURCH: Thank you, Mr. Yinug. Our
4 next panel witness is Jay Chittooran with SEMI.
5 Mr. Chittooran, you have five minutes.

6 MR. CHITTOORAN: Thank you very much for
7 the opportunity to present testimony on the
8 negotiating objectives for a U.S.-Japan trade
9 agreement.

10 My name is Jay Chittooran. And I'm a
11 public policy manager at SEMI, the global
12 electronics manufacturing industry association.

13 With more than 2,100 member companies
14 worldwide, that's including 430 in the U.S. and
15 another 350 based in Japan, we represent
16 designers, equipment makers and materials
17 producers, chip makers, and, of course, end use
18 consumer electronics companies.

19 Our member companies are the foundation
20 of the \$2 trillion electronics industry. And
21 SEMI members support about 350,000 high scale and
22 high wage jobs here in the U.S.

1 Semiconductors are essentially the
2 brains of all electronics, making possible
3 countless products on which we rely for business,
4 transportation, communication, entertainment, and
5 virtually all activities of modern human
6 endeavor. These products have boosted economic
7 growth, enhanced productivity, and driven
8 innovation.

9 This industry, of course, operates
10 across the global economy relying heavily on
11 trade and a vast network of supply chains. Last
12 year, for example, more than 90 percent of
13 semiconductor equipment produced here in the
14 United States was exported.

15 And as we've heard, Japan is a very
16 important market to this industry. It's the
17 fourth largest export market for U.S.
18 semiconductor equipment companies. And to
19 contextualize that, U.S.-Japan bilateral trade
20 volume just in equipment represented about a
21 fifth of all U.S. total trade in this segment.

22 In fact, right now as we speak, SEMICON

1 Japan, one of SEMI's seven annual expos, is
2 taking place in Tokyo bringing together 30,000
3 attendees, underscoring the importance of this
4 bilateral relationship.

5 Reducing tariffs, eliminating regulatory
6 barriers, and ensuring a level playing field
7 exists would benefit both U.S. and Japanese
8 semiconductor companies, the industry writ large,
9 and the global economy. It's because of this
10 that SEMI supports the administration's
11 willingness to open bilateral trade talks with
12 Japan.

13 SEMI has included ten guiding principles
14 in our written comments, which include language
15 on SOEs, development of market-oriented
16 standards, and, of course, provisions on non-
17 discrimination. I'd like to focus on four
18 specific ones.

19 Maintaining strong respect for IP and
20 trade secrets through robust safeguards and
21 significant penalties for violations. As
22 companies in our industry invest about 15 percent

1 of revenues into R&D every year, protection of
2 this valuable IP is paramount.

3 SEMI supports robust copyright
4 standards, strong patent protections, and
5 regulations that safeguard industrial design. We
6 also support strong rules that enhance trade
7 secret protection, including establishing
8 criminal procedures and penalties for theft.

9 Two, remove tariffs and end technical
10 barriers on semiconductor and related products.
11 Of course, ICT tariffs have largely been removed.
12 SEMI believes this should extend to all products
13 that rely on chips and all products that are used
14 in the chip making process. This also includes
15 establishing permanent duty-free treatment of all
16 digital transmissions.

17 Removing tariffs and technical barriers
18 is crucial for all businesses and especially the
19 small and medium-sized businesses, especially the
20 85 percent of SEMI membership, which is the small
21 and medium-sized business, in penetrating new
22 markets.

1 Three, enabling free flow of cross
2 border data and combating any attempts of forced
3 tech transfer. All industries, including the
4 semiconductor industry, rely on data. Countries
5 should refrain from putting those -- putting in
6 place unjustifiable regulations that limit the
7 free flow of info and that includes data
8 localization measures.

9 To this end, we support the creation of
10 clear and firm rules that prohibit countries from
11 acquiring the transfer of any proprietary
12 information.

13 Fourth, establishing protections that
14 balance security with privacy. Any trade deal
15 should have firm consumer protections but should
16 not forego security. Key to this is the use of
17 encryption products.

18 We also believe that parties should work
19 to advance efforts on cyber security through
20 self-assessment, declaration of conformity,
21 increased cooperation, and information sharing,
22 all of which we believe would help prevent

1 cyberattacks and stop the diffusion of malware.

2 In closing, SEMI strongly supports a
3 bilateral deal between the United States and
4 Japan. And we urge negotiators to include high
5 standards in this agreement. This will, of
6 course, further growth in this microelectronics
7 industry and, of course, fuel each country's
8 broader economy.

9 I look forward to answering any
10 questions you have. Thank you very much for the
11 opportunity.

12 MR. BURCH: Thank you, Mr. Chittooran.
13 Our next panel witness is Ed Brzytwa with
14 American Chemistry Council. Mr. Brzytwa, you
15 have five minutes.

16 MR. BRZYTWA: The American Chemistry
17 Council appreciates the opportunity to testify in
18 the U.S. chemical industry's priorities for a
19 potential trade agreement with Japan.

20 The success of the U.S. chemicals
21 industry hinges on our ability to engage with
22 global markets. U.S. chemicals exports last year

1 reached \$130 billion, accounting for 10 percent
2 of all U.S. exports and 9 percent of all global
3 chemicals exports.

4 Thirty percent of our workforce is in
5 export-dependent jobs. And even more are
6 dependent on imported inputs and intermediate
7 goods.

8 A trade agreement between the United
9 States and Japan could precipitate a larger
10 package of U.S. trade agreements with the EU, UK,
11 and other markets and could provide substantial
12 benefits to U.S. chemical manufacturers.

13 We would ask that the administration
14 open markets through its trade agreement program
15 to facilitate the export of U.S.-made chemicals
16 around the world.

17 To that end, ACC and our members have
18 identified eight priorities for a beneficial
19 trade agreement with Japan. I will summarize
20 them briefly for you today, while a more detailed
21 account can be found in our public comments.

22 In several instances, ACC recommends

1 that the U.S. and Japan draw inspiration from the
2 newly inked U.S.-Mexico-Canada agreement, USMCA,
3 while avoiding some of the pitfalls of that
4 agreement.

5 The first priority for ACC and our
6 members is the immediate elimination of tariffs
7 on all chemicals trade between the United States
8 and Japan.

9 With nearly \$12 billion in total
10 chemicals trade between the U.S. and Japan
11 annually, a significant portion of which is
12 between related parties, U.S. chemicals
13 manufacturers stand to benefit from additional
14 duty savings.

15 Our second priority for the trade
16 negotiations is enhancing regulatory cooperation
17 and implementing good regulatory practices for
18 chemicals.

19 The U.S. and Japan both recognize the
20 value of a science and risk-based chemical
21 regulatory system. The sharing of chemical
22 safety data and information can help create

1 greater efficiencies for both regulators and the
2 regulated community while continuing to ensure
3 that human health and the environment are
4 protected.

5 We recommend that the two countries draw
6 from the sectoral annex on chemical substances in
7 the proposed USMCA as a model for this provision.

8 Our third priority is optimizing the
9 rules of origin for chemical substances. Again,
10 we recommend that the U.S. look to the rules of
11 origin outcomes of the USMCA as a starting point
12 for a potential trade agreement with Japan.

13 Trade facilitation is the fourth area of
14 concern for ACC and its members. We recommend
15 that the U.S. and Japan pursue a WTO trade
16 facilitation agreement plus approach to customs
17 and trade facilitation efforts.

18 In the same vein as, excuse me, in the
19 same vein as trade facilitation, our fifth
20 priority is facilitating digital trade. To both
21 facilitate and protect digital trade, ACC
22 recommends that the U.S. and Japan start with the

1 digital trade outcomes of the USMCA, building
2 upon and strengthening them where possible.

3 Our sixth priority is for the U.S. and
4 Japan to agree on binding and enforceable dispute
5 settlement procedures. We urge both parties to
6 accept investor-state dispute settlement
7 provisions for all sectors without limitations on
8 the claims that investors can make on specific
9 investment protections. We would expect these
10 protections to be the highest standard of
11 protections in the world.

12 Our seventh priority is agreeing to a
13 trade agreement that can stand the test of time.
14 Chemical manufacturers and our investors thrive
15 under conditions of maximum predictability and
16 certainty.

17 We support making improvements to a
18 U.S.-Japan agreement as international trade
19 evolves. But we would strongly urge against
20 provisions regarding early termination or
21 sunseting.

22 Finally, ACC recommends that a U.S.-

1 Japan trade agreement include provisions to
2 address the ongoing issue of plastic waste in our
3 oceans. There's a global need to support
4 infrastructure development to collect, sort, and
5 process used plastics.

6 We recommend that the U.S. and Japan use
7 a potential trade agreement as a way to build on
8 the marine litter language in the USMCA
9 environment chapter. We also recommend that the
10 U.S. and Japan use the agreement to promote
11 global and regional cooperation in facilitating
12 trade in used plastics.

13 We look forward to working with USTR and
14 interagency staff across all eight priorities as
15 you prepare for the negotiations ahead. Thank
16 you, again, for the opportunity to provide input
17 on behalf of ACC members and the business of
18 chemistry in the United States.

19 MR. BURCH: Thank you, Mr. Brzytwa. Our
20 next panel witness is Stephen Flippin with CSX
21 Transportation. Mr. Flippin, you have five
22 minutes.

1 MR. FLIPPIN: Good afternoon. And thank
2 you for the opportunity to share CSX
3 Transportation's concerns.

4 CSX applauds the Trump administration's
5 plan to negotiate a bilateral trade agreement
6 with Japan. As a removal of barriers to trade,
7 it will strengthen the U.S. economy and increase
8 bilateral trade with a key U.S. ally.

9 During these discussions with Japan, CSX
10 asks you to consider the impact that continued
11 Section 232 tariffs on key premium rail imports
12 could have on the U.S. economy, public safety,
13 national security, and transportation
14 infrastructure.

15 CSX is the largest class 1 railroad on
16 the east coast with a network that encompasses
17 21,000 route miles of track in 23 states, the
18 District of Columbia, and two Canadian provinces.

19 CSX employs more than 24,000 people and
20 provides safe, economical, and reliable freight
21 transportation services for businesses across the
22 eastern United States, making us a critical

1 partner in the success of U.S. manufacturers and
2 farmers.

3 We serve major consumption markets with
4 nearly two-thirds of Americans living within our
5 service territory and have access to over 70
6 ocean, river, and lake port terminals.

7 CSX is the largest hauler, outside the
8 military itself, of U.S. military equipment and
9 munitions. We transport two-thirds of all
10 automobiles manufactured in the United States,
11 carry for UPS everything shipped three days or
12 longer.

13 And we safely haul hazardous materials,
14 such as ammonia and chlorine, essential to
15 fertilizers and clean water, as well as
16 pharmaceuticals.

17 Reliable access to premium Japanese rail
18 is critical to CSX's development and maintenance
19 of a safe freight rail system in the eastern
20 United States.

21 CSX deploys in locations with heavy
22 tonnage, steep grade, and high curvature sections

1 of track because its failure rate is much lower
2 than that of U.S.-produced rail. This rail is
3 produced from steel created in a blast furnace,
4 meeting specific chemical specifications in 480-
5 foot lengths.

6 The superior performance in the Japanese
7 steel is due to higher purity and superior
8 strengthness characteristics. Domestic rail uses
9 scrap as a base material. And Japanese rail is
10 rolled into longer lengths prior to being cut,
11 which leads to its superior strengthness and
12 ability to hold a weld. These characteristics
13 create a highly weldable rail needed for high-
14 stress applications, which is the most critical
15 location for failure.

16 Based on data collected over the last
17 ten years, the Japanese rail, which is used in
18 far more stressful locations of track, produced a
19 failure rate of just 12 percent, while domestic
20 suppliers used in less stressful locations
21 accounted for 52 percent of total rail defects.

22 Rail defects are the primary cause of

1 rail breaks, which can lead to dangerous
2 derailments and costly downtime on the rail
3 system.

4 CSX is actively reducing the risk of
5 derailments in many ways, one of which is the use
6 of Japanese premium rail in areas of high
7 curvature, high grade, and heavy tonnage.

8 As you consider the objectives for these
9 negotiations, CSX urges USTR to seek a resolution
10 of the Section 232 steel tariffs currently
11 imposed on imports of high performance rail
12 products from Japan.

13 In the short-term, we remain hopeful
14 that Commerce will grant CSX a similar exemption
15 of the one it granted Union Pacific in August
16 regarding high performance Japanese rail.

17 Longer term, the continued application
18 of 25 percent duties on imports of premium rail
19 from Japan is an important trade barrier to a key
20 product, America's freight rail transportation
21 system, and impacts the economy, public safety,
22 and national security. Thank you.

1 MR. BURCH: Thank you, Mr. Flippin. Our
2 last and final panel witness for the day is Tariq
3 Albazzaz, individual entrepreneur. Mr. Albazzaz,
4 you have five minutes.

5 MR. ALBAZZAZ: I first want to thank the
6 USTR for allowing me to speak and also being very
7 responsive to my comments.

8 Being in Japan was a very eye-opening
9 experience. And it was one that I felt should be
10 addressed for the benefit of not only large
11 industries such as that represented here today,
12 but also for those like myself conducting small
13 business in Japan.

14 As an individual, you need an investor
15 visa. For this, a Japanese bank account is
16 required. I visited branches of SMBC, Mizuho,
17 MUFJ, Shinsei, and others. I visited probably at
18 least 15 different branches and was told I could
19 not open an account for different reasons by
20 different branches even within the same banking
21 companies.

22 I tried to get help from the JETRO

1 offices, who recently set up a program to help
2 foreign entrepreneurs setting up companies in
3 Japan. They simply told me to keep trying.

4 Another requirement is setting up a
5 company. Unlike in the U.S. where you can simply
6 pay a fee online and have an LLC registered
7 quickly and painlessly, in Japan the fees for a
8 legal professional to do this are several times
9 more expensive, even though I later found that
10 the process was not sufficiently more complicated
11 than that required in the U.S.

12 I did successfully set up a company with
13 help from Japanese friends. And together we
14 filed the appropriate documents.

15 After my visa application was approved,
16 I bought property and began the rental business
17 as stated in the business plan on my application,
18 as well as looking into other opportunities.

19 One of the other things I looked into
20 was opening a Japanese language school. Japan
21 has had an issue of labor shortage, especially in
22 many retail businesses. Many Southeast Asian

1 students have been coming over on student visas.
2 And this had resulted in more and more schools
3 opening and more and more visas being issued.

4 My idea was to rent a small space and
5 hire Japanese people I knew who could speak both
6 English and Japanese unlike many of the teachers
7 that I had seen in schools that I had gone to and
8 attended classes.

9 However, the law requires that to do
10 this you have to either own the building of the
11 school or own 50 percent of the equity in the
12 building. You have to get written contracts from
13 a headmaster with relevant certification. So I
14 couldn't hire just any Japanese person that I
15 wanted to even if I felt they were more
16 qualified.

17 And it also required getting a permit
18 from the immigration bureau. You can only apply
19 for this permit in April or October. And the
20 process takes at least one year.

21 So, for me, this meant tying up a large
22 amount of capital in a property in Tokyo and then

1 probably being at least one and a half to two
2 years before I could start cash flowing.

3 I started to find similar problems in
4 other things I looked into, like setting up a
5 small capacity wind farm or running Airbnb home
6 stays. The regulatory processes were
7 bureaucratic and slow with rules many times not
8 even easily identifiable.

9 Instead of setting up a new company, I
10 decided it may be better to purchase one.
11 Japanese newspapers like the Nikkei had been
12 running articles on a business succession crisis
13 whereby old owners of mostly manual labor
14 businesses, such as job shops, could not find
15 successors and were having to shut down their
16 companies.

17 I contacted several business brokerages
18 and was even told explicitly that because I was a
19 foreigner it wouldn't be possible. I even had
20 Japanese friends try to do the same. And they
21 ran into other problems.

22 This crisis was supposedly so bad that

1 the chambers of commerce in Tokyo and around
2 Japan had set up programs to connect buyers and
3 sellers. Here I was told the same thing and was
4 even simply refused access to listings. Even in
5 things like housing I was told openly that
6 because I was a foreigner I couldn't rent this
7 apartment or that apartment.

8 And all of this is completely and
9 totally legal. You can even find Japanese-only
10 signs on the doors of bars in Tokyo. What I
11 learned over time was that in Japan social
12 cohesion rather than economics is common sense.

13 I started reading complaints by other
14 companies, many of which were addressed in the
15 1980s. I couldn't help but notice the
16 similarities, American contractors denied to bid
17 on the Kansai International Airport's foundation
18 because the ground was special, foreign-made skis
19 banned because Japanese snow was unique, and
20 foreign beef restricted because the intestines of
21 Japanese people are different.

22 All the meanwhile, Japan had supposedly

1 embraced free trade, and news headlines were
2 saying the U.S.'s actions were protectionism.

3 I felt that I needed to say something
4 about my experience. It may be that of a very
5 small player in the market. But this was,
6 nonetheless, the basis of the United States. We
7 embrace risk and tell people to go out and try.
8 And we celebrate those people who both fail and
9 succeed.

10 In Japan, failure is a huge
11 embarrassment. And those who make mistakes are
12 shunned.

13 Our economy operates much more strongly
14 on commerce. If you have money, there is always
15 someone willing to take it and be on the other
16 side of that trade. A risk taken is a reward
17 captured.

18 In Japan, having money is not what's so
19 important, but rather knowing the right people
20 and following the traditions and rules set out by
21 the people before you.

22 I realized over time I was trying to

1 take risk in an inherently risk-averse society.
2 The administration is not wrong. They are
3 absolutely right.

4 A famous Japanese phrase I repeatedly
5 heard was sho ga nai or shikata ga nai, which
6 means it cannot be helped. The implication is
7 that people should simply accept the way that
8 things are and nothing can be done about them.

9 I disagree with that. We can change
10 things and it can be helped. We can't change the
11 past, but we can do everything in our power to
12 build a more free, fair, and reciprocal tomorrow.
13 Thank you.

14 MR. BURCH: Thank you, Mr. Albazzaz.
15 And, Mr. Chairman, that concludes the direct
16 testimony from this panel.

17 MR. BARZDUKAS: Hello, I'm Danius
18 Barzdukas from the Japan desk at the Department
19 of Commerce. My first question is for Mr.
20 Harper.

21 In your written comments, you note that
22 regulatory harmonization with Japan could greatly

1 benefit outdoor companies.

2 Could you please provide additional
3 information on some of the regulations and
4 testing standards where harmonization would
5 benefit trade, particularly those where U.S.
6 exports are most impacted?

7 MR. HARPER: I'd be happy to. We are
8 pinging our membership to get additional details
9 that we can share with you.

10 Previously, we had an issue with U.S.-
11 made camp stoves getting into Japan. That is an
12 issue that has since been resolved. But we are
13 pinging our membership to provide additional
14 details. I'll be happy to share those with you.

15 MR. BARZDUKAS: Thank you very much. My
16 next question is for Ms. Hughes.

17 Somewhat similar, in your written
18 comments you say that an objective of the
19 negotiations with Japan should be to harmonize
20 rules and regulations such as those related to
21 product safety.

22 Could you please provide specific

1 examples of product safety rules and regulations
2 that should be reviewed for possible
3 harmonization?

4 MS. HUGHES: We'll definitely provide
5 those in follow-up statement.

6 What I've heard from members, a lot of
7 the things that have complained about are mainly
8 that the, there are slight differences between
9 what standard might need to be proven or what
10 test might need to be run on a garment that's
11 going into Japan versus what might be needed to
12 import to the United States.

13 So what we're really looking for is can
14 we have some kind of mutual recognition,
15 understanding that many companies have different
16 standards, but the end goal is the same. You
17 don't want the garment to be flammable. You
18 don't want the buttons to have lead in them, that
19 kind of thing.

20 So we'll provide more details in our
21 follow-up statement.

22 MR. BARZDUKAS: Thank you very much.

1 MR. BOLING: So my question is for Mr.
2 Yinug and Mr. Chittooran. In both of your
3 testimonies, you spoke about what I'll describe
4 as sort of broad, general rules, trade secret
5 protection, strong intellectual property rules,
6 bans on forced localization, things of that sort.

7 I would like to give you this
8 opportunity to identify any Japan-specific
9 problems that you may be encountering with Japan.

10 MR. CHITTOORAN: Thank you very much for
11 the question. So, as noted by the previous
12 panelist actually, a lot of the differences we
13 face are in terms of standards small and kind of
14 different measurements or different tools that
15 are being used. So there's slight differences
16 that encumber the process.

17 And I want to point out that in the
18 manufacturing process for chips this is not
19 something that easily is, another widget can kind
20 of be replaced, can be entered into the process.
21 For an equipment, for leading-edge semiconductor
22 chip making technology, it's an 18-month process

1 to get the piece all the way certified, all the
2 way qualified, from sending it to the customer,
3 getting it approved, getting both parties on
4 board, signing off, and then getting it fully
5 into a FAT.

6 So I would say that while that's a
7 specific example, I would look at the U.S.-Japan
8 trade agreement as more of a, as a way to codify
9 additional global trade rules that we see as
10 being something to aspire to.

11 So there's no certainly, no broader and
12 wholly egregious issues with Japan right now.
13 But that's not to say that there's not areas for
14 improvement.

15 MR. YINUG: Yeah, I would just like to
16 underscore that on an industry basis the U.S. and
17 Japanese semiconductor industries I think
18 probably have a pretty strong understanding of
19 the importance of free trade and have operated as
20 such.

21 You know, the semiconductor industry is
22 pretty global. I think I mentioned that, you

1 know, global supply chains are very important.

2 And so there is I think more -- my
3 testimony tried to emphasize that these were,
4 this could be a very good model for future trade
5 agreements and certainly for codifying good
6 practices in this agreement for future
7 agreements.

8 But I don't think there are any Japan-
9 specific issues with regard to kind of created
10 with the, in the semiconductor industry that I
11 can think of now. But I'd be happy to provide
12 any other thoughts in the post-hearing.

13 MR. LOWE: Hello, my name is Erik Lowe.
14 I'm with the Office of Trade Policy at DHS. And
15 my question is for Mr. Yinug with SIA.

16 SIA recommends that any trade agreement
17 contain commitments preventing parties from
18 discriminating against foreign products with
19 encryption.

20 Do you have any examples of maybe some
21 measures that you've seen and any examples of the
22 type of commitments that SIA is proposing? Thank

1 you.

2 MR. YINUG: Thank you for that question.
3 I don't have any examples right now. But I'd be
4 happy to provide anything in a future post-
5 hearing comment.

6 MR. BOLING: I have a question for Mr.
7 Lamar. In your association's written comments,
8 you noted the need for reducing regulatory and
9 market access costs associated with trade in
10 apparel and footwear. I think also during your
11 testimony you talked about regulatory
12 harmonization issues.

13 So could you provide more specific
14 examples about these regulatory costs and things
15 that you would identify for regulatory
16 harmonization, as well as these market access
17 costs, which I expect are associated with TRQ and
18 other things?

19 MR. LAMAR: Right. Well, for the market
20 access costs, I mean, I think we're looking more
21 at the regulatory issues. The TRQ is entirely a
22 separate animal that's unique and, you know, is

1 an extra tariff associated with the export of
2 certain products, primarily leather products.

3 The regulatory costs that we're talking
4 to are ones that relate primarily to different
5 requirements that exist in the U.S. for the
6 Japanese market to achieve the same outcome.

7 So, for example, we both have care
8 labeling requirements. The care labeling
9 requirements, in fact, try to get beyond the
10 problem associated with the different language,
11 the language barriers by allowing us to use
12 symbols. So that sounds like a great idea except
13 when you realize the symbols are slightly
14 different.

15 So we now have a system where we've got
16 slightly different symbols and the infrastructure
17 behind the symbols is slightly different. The
18 testing requirements to establish whether you can
19 put a particular symbol on might be different in
20 the United States versus Japan.

21 And this isn't a problem that's just
22 unique to the U.S. and Japan. This is really

1 sort of a global issue.

2 But one of the things we can do with the
3 U.S.-Japan agreement and, of course, with the
4 U.S.-European agreement is to try to tackle that
5 and have a more common system in place or to at
6 least have some alignment where we can recognize
7 each other's care labels and systems so you can
8 pick which one you want to use and then use it.
9 They basically accomplish the same goal.

10 We have similar things in product
11 safety, chemical testing, chemical management
12 issues.

13 MR. BOLING: My next question is for Mr.
14 Brzytwa. In your written comments and in your
15 testimony today, you recommended that the U.S.
16 and Japan build on and strengthen the sectoral
17 annex on chemical substances and then also the
18 good regulatory practices chapter of USMCA.

19 Could you give more details on what you
20 would like to see added there?

21 MR. BRZYTWA: Well, certainly I think
22 when you look at any new negotiated text you can

1 find issues that maybe could be improved upon. I
2 mean, I think we would want some of the language
3 to be tightened up in the sectoral language, you
4 know, annex, so some shoulds becoming some
5 shalls.

6 There might be issues that arise with
7 respect to the regulatory systems of U.S. and
8 Japan that lead to other ideas about how to
9 pursue a regulatory cooperation approach in an
10 annex.

11 So I think we're still kind of looking
12 at that relationship. And we're also talking
13 with Japanese industry on what they might want in
14 a regulatory cooperation annex.

15 So, at some point in the future, similar
16 to our approach in the USMCA, we will put forward
17 our joint ideas for what we would want in a
18 regulatory cooperation annex.

19 And I think when it comes to the good
20 regulatory practices chapter, look, in my view
21 what was accomplished in the USMCA was, it's
22 probably state-of-the-art.

1 You know, negotiating similar provisions
2 with Japan might be a different animal. But
3 certainly we want USMCA to be the starting point,
4 particularly when it comes to, you know, public
5 consultations, regulatory impact assessment,
6 anything that improves the process of regulation,
7 which I think Japan also has an interest in
8 promoting in other parts of the world. So
9 there's a good focal point for cooperation there
10 as well.

11 MR. BARZDUKAS: I have a question for
12 Mr. Flippin. Your testimony has focused on
13 issues related to Section 232 tariffs on steel
14 rail imports.

15 Are there any other areas or issues you
16 would like to see addressed in an agreement that
17 are focused on securing better access for yours
18 or other transportation companies in Japan?

19 MR. FLIPPIN: That's the one that we're
20 here to discuss today. We haven't really looked
21 at other issues other than watching what the
22 trade negotiations do, because again, we've

1 benefit both ways with the transport of goods
2 both from Japan and from the U.S. So --

3 MR. BARZDUKAS: Thank you.

4 MS. BONNER: This question is for Mr.
5 Albazzaz. Thank you so much for making the time
6 to share your experiences with us. And we
7 appreciate the effort that you put into your
8 submission.

9 It sounded like a lot of the issues and
10 perceived complex challenges you faced as an
11 individual foreign investor and entrepreneur may
12 not, or we're not sure if they're based in
13 regulation or law.

14 It would be very helpful if you could
15 help identify either today or in writing later
16 any ideas, tools, mechanisms that could be put
17 into a trade agreement that would have helped
18 you. If you have thoughts now, we'd love to hear
19 from you.

20 MR. ALBAZZAZ: Sure. You know,
21 personally, I am of the opinion that the issue
22 with Japan and what I was really trying to get

1 across in what I said in my testimony is that the
2 fundamental issue is a cultural difference. And
3 I don't think if you try to attack that from a
4 specific legal perspective that you're really
5 going to remedy that problem.

6 I read over a lot of the materials from
7 the negotiations in the '80s. And after the '80s
8 and after the Plaza Accord and all that, there
9 was only a small blip where the deficit decreased
10 and then came back.

11 So I really think that what the U.S.
12 should do is actually form a working body and
13 look at what is it that we can produce in the
14 United States or elsewhere. For example,
15 consumer electronics is one of the big things
16 that they export, autos, integrated service, and
17 stuff like that. But there's a lot of consumer
18 electronics there.

19 I remember I read in a book about how
20 for military applications we did not have the
21 capacity to procure the digital equipment that we
22 would need if we were to not be able to import

1 from abroad.

2 So I believe that the U.S. has an upper
3 hand in that, well, number one, we run a deficit.
4 But I think that the U.S. should really focus on
5 making them reform from the inside, because I
6 really do not think that if you just try to get
7 it from a legal standpoint and tell them that,
8 you know, well, change this rule, change that
9 rule, I don't think that's something that's
10 really going to end up with the desired result.

11 So I really think that what the USTR and
12 the Commerce Department should do is really play
13 their hand on automotives.

14 And, you know, even I was listening to
15 the guys earlier on panel I think it was 4 or 5
16 who were talking about agriculture. You know, I
17 grew up in, and right now I'm staying in a very
18 small town in Georgia. And, you know, those
19 people can't really come up here. They don't
20 have the, you know, wherewithal to speak here.
21 But agriculture is a very important industry for
22 us.

1 And, you know, I was hearing these guys
2 talk about how in the CPTPP there would be, you
3 know, a different preferential tariff for the EU
4 and the other TPP parties. And, you know, it's
5 kind of scary, because I heard about the rust
6 belt emptying out and now I look at Moultrie
7 where I'm from. If you take agriculture out of
8 Moultrie, Moultrie will cease to exist.

9 And I really think that the U.S. should
10 look at managing their trade balance. I mean,
11 this has been talked about for years. And now
12 because of the president we have, I think people
13 tend to not look at it objectively anymore.

14 Warren Buffett did Thriftville and
15 Squanderville. Mr. Lighthizer has talked about
16 that. You know, Ben Bernanke, the ex-Fed
17 chairman, has talked about how Germany's trade
18 surplus is toxic within the Eurozone and how it
19 depletes wealth and doesn't work very well.

20 But somehow when the U.S. starts talking
21 about trade deficits, you know, somehow they're
22 bonkers for saying that. And I think that's kind

1 of ridiculous.

2 And I really think that the U.S. should
3 look at protecting its markets, because just like
4 that town that I'm staying at, Moultrie, and grew
5 up in, that's the story of broader America.

6 You know, we don't have a Google office
7 down there. And those people can't retrain
8 because there's no jobs for that there and they
9 already have roots there. And Google is not
10 going to put an office there. So our whole life
11 is based around agriculture and these kind of
12 bread-and-butter industries.

13 And so, I don't know, that was a very
14 long answer to your question. But that is really
15 what I think the U.S. government should do.

16 I think that we hold the cards at the
17 table. And I honestly think that tough love is
18 the best way to go about it, because I do not
19 think that the Japanese are going to change if we
20 just, you know, try to get something down in
21 writing, because that's not how they do things.
22 They don't do it like that. And they have more

1 of a word is my bond type of system.

2 So I hope that answers your question.

3 MS. BONNER: Mr. Harper, we understand
4 that a great many of your member companies
5 represent small firms. Would you please comment
6 on the impact of both the tariff and non-tariff
7 or regulatory obstacles faced by this key group
8 within your membership that's exporting to Japan?

9 MR. HARPER: Well, I mean, we have a
10 number of members that -- as I mentioned, Japan
11 is a growing market for U.S.-made manufacturers.
12 And a lot of these are small and medium-sized
13 businesses, and so looking for additional
14 opportunities to explore made-in-the-USA
15 products. And they're impacted by the barriers
16 on products such as ski bindings and ski
17 accessories and ski poles.

18 And so there are a number of smaller
19 outdoor companies that are looking to expand, you
20 know, their export opportunities. And Japan is a
21 thriving, growing market.

22 And even for on the leather footwear

1 issue and Japan's TRQ on leather footwear,
2 they're all small and medium-sized businesses
3 that are looking to expand their opportunities in
4 that market. And that TRQ is a very restrictive
5 quota and tariff on U.S.-made products.

6 But likewise, we also have a number of
7 small and medium-sized businesses that are
8 looking for new sourcing opportunities on the
9 import side and looking to diversify their supply
10 chains, looking to diversify their sourcing
11 options, and so looking at Japan as a possibility
12 for things like bikes, shoes, for things like
13 apparel and high-performance outerwear.

14 And lowering tariffs or eliminating
15 tariffs on those products will help these small
16 and medium-sized businesses based in the U.S.
17 create new jobs in design, development, testing,
18 marketing, supply chain management. So this is a
19 new opportunity for companies to find new
20 sourcing options.

21 So it's not just the bigger brands and
22 the global recognized brands. It's the small and

1 medium-sized businesses as well that are looking
2 to diversify their supply chains and find new
3 opportunities. And Japan is a key opportunity.

4 MR. BARZDUKAS: I have a question for
5 Mr. Chittooran. Okay. I understand that SEMI
6 represents companies throughout the semiconductor
7 production chain, including semiconductor
8 manufacturing equipment, materials, semiconductor
9 packaging, semiconductor design, micro-
10 electromagnetic systems, and sensors.

11 When your submission refers to the
12 semiconductor industry, do you mean the entire
13 SEMI coverage or just semiconductors? And if
14 it's broader, can you elaborate a bit on the
15 interests of the broader industry?

16 MR. CHITTOORAN: So, when I refer to the
17 semiconductor industry, I refer to the entire
18 industry. Because we have members from each part
19 of the segment, as you rightfully noted, we refer
20 to the whole membership, all 2,110 members.

21 Thanks.

22 MR. BARZDUKAS: Okay. Thank you.

1 CHAIRMAN GRESSER: I think that exhausts
2 our questions. Does anyone, since we have two or
3 three minutes left in our session, have any last
4 thoughts or observations?

5 MR. BRZYTWA: Thank you. One thing that
6 we did not include in our public comments, but I
7 think it's important to address since my
8 colleague at CSX raise this, is the Section 232
9 tariffs. I think we've been fairly vocal in
10 saying that for our allies that these tariffs
11 shouldn't exist.

12 You know, Japan has not published a
13 retaliation list yet. But chemicals so far have
14 featured very prominently in the retaliation
15 lists from Canada, the EU, Turkey, and India.

16 So, you know, if this negotiation is
17 going to really be of value, this issue has got
18 to be taken off the table from our perspective.
19 So, you know, we'd be happy to talk about that
20 further.

21 CHAIRMAN GRESSER: Okay. Mr. Lamar?

22 MR. LAMAR: And we would like to align

1 ourselves with those remarks.

2 In addition, we have members that have
3 reported that through the higher costs of steel
4 and aluminum, whether they import or whether they
5 buy domestically, that's impacted their
6 operations as well.

7 So, although there's no retaliation on
8 the Japan side, there is in other places that
9 affects our products. So should there be a Japan
10 retaliation list, you know, we'd be worried that
11 we would be on that list.

12 But even in the absence of retaliation,
13 the mere fact that we're charging tariffs on
14 steel and aluminum not only raises the cost of
15 imported steel and aluminum, but it raises the
16 cost of domestically-produced steel and aluminum,
17 which then has an impact on our members' supply
18 chains, whether it's the girders they use for
19 their distribution centers or the steel they use
20 for the buttons and snaps that they make in the
21 United States.

22 CHAIRMAN GRESSER: Okay. With those

1 taken on board, again, thank you all to our
2 witnesses. And thanks to the U.S. International
3 Trade Commission. And this hearing is adjourned.

4 (Whereupon, the above-entitled matter
5 went off the record at 5:19 p.m.)

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In the matter of: US-Japan Trade Agreement

Before: USTR

Date: 12-10-18

Place: Washington, DC

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