

(USTR) PROMOTING SUPPLY CHAIN RESILIENCE
Public Hearing on 05/14/2024

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
(USTR) PROMOTING SUPPLY CHAIN RESILIENCE
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Tuesday, May 14th, 2024, 10:00 a.m. CDT
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Minnesota Department of Employment and
Economic Development
Great Northern Building
180 East Fifth Street
Saint Paul, Minnesota 55101

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Reported by: Jonathan Wonnell, RMR

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

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

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

10 MR. BAN: On behalf of all of our
11 colleagues at USTR and our partners across the
12 interagency, I want first and foremost to welcome and
13 express our sincere gratitude to all of you. Thank
14 you for taking the time to participate in this public
15 hearing process and for sharing your views at this
16 important inflection point in the development of U.S.
17 trade policy.

18 For your awareness we are joined remotely
19 today by a few colleagues from USTR and from the
20 Department of Commerce, not members of the public,
21 online via Teams this morning.

22 I'll offer some brief opening remarks
23 before we get started. First, USTR's Federal
24 Register notice of March 7th provides an overview of
25 how USTR understands supply chain resilience and its

1 significance within a broader shift in U.S. trade and
2 investment policy away from a focus on short-term
3 cost efficiency and tariff liberalization.

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

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

17 Importantly, we don't want to limit this
18 hearing or the public comment process more generally
19 to USTR's existing trade policy strategies and
20 approaches. That's why our initial notice didn't
21 catalog USTR's many efforts in this space. We
22 certainly welcome any discussion of existing tools.
23 But USTR's invitation was more open-ended and we
24 welcome blue-sky thinking about possibilities for the
25 future. Thank you all for accepting that invitation

1 and for joining us here today.

2 That brings me to my last point. Amid all
3 of the heightened policy interest in supply chain
4 resilience it's crucially important that we as the
5 Federal Government recognize the fact that the actual
6 building of supply chains isn't the sole work of the
7 government. Rather, supply chains are born through
8 the collective efforts of workers, businesses large
9 and small, communities and civil society, enabled by
10 sound government policy.

11 We need your partnership and expertise to
12 develop thoughtful and durable policies and to help
13 all Americans prosper and thrive. In this spirit in
14 addition to the hearing held in DC two weeks ago and
15 here in St. Paul we'll have additional hearings later
16 this month in New York City and virtually.

17 Thank you, once again, for being here and
18 for working with us in this endeavor.

19 MR. GUNDERMANN: And then just a few
20 process points before we get underway. The agenda
21 for this hearing is posted on the USTR website and
22 you can go to ustr.gov under trade topics and you'll
23 see a tab for supply chain resilience and the agenda
24 is linked off of that page.

25 The run of show is that we will first

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1 receive all testimony from the three of you in
2 alphabetical order as shown on the agenda and that
3 will ensure that each witness can speak for the
4 allotted ten minutes before we move on to questions
5 afterwards.

6 In responding to the questions, we ask
7 that you please do try to be concise so that we can
8 proceed through all our questions to hear from every
9 witness. A word about the transcripts. As you can
10 see, we do have a court reporter with us today who
11 will prepare a transcript of today's hearing. USTR
12 intends to post this transcript on our website as
13 soon as possible after the conclusion of this hearing
14 and each public hearing to follow.

15 Given that we are preparing a transcript I
16 encourage everyone to speak clearly into the
17 microphone and before you begin your testimony please
18 do state your name and introduce yourself.

19 After the hearing our docket will remain
20 open through June 4th to receive post-hearing
21 comments. Note that as provided in our April 3rd
22 Federal Register notice, USTR will permit any person
23 to submit post-hearing comments so long as the
24 comments respond to testimony provided in any of the
25 four public hearings in this proceeding.

1 So any person includes not only the
2 testifying witnesses but anyone in the room who isn't
3 testifying. Anyone is welcome to submit comments if
4 you want to respond to anything stated during this
5 hearing or in future public hearings.

6 If any witnesses are asked questions that
7 require further research or factual information, it's
8 also acceptable to state that you will respond and
9 follow up in a post-hearing comment.

10 Lastly I want to acknowledge the
11 tremendous contributions of Laurence Reszetar,
12 Director of International Business Strategy at the
13 Minnesota Trade Office in the Department of
14 Employment and Economic Development. Thank you for
15 all of your support and your vision in making this
16 public hearing come together.

17 MR. BAN: Now with that let's proceed with
18 our panel. Mr. Malan, you have the floor.

19 MR. MALAN: Thank you very much. I'm Todd
20 Malan. I'm Chief External Affairs Officer and Head
21 of Climate Strategy for Talon Metals, a company based
22 here in Minnesota. And we're thrilled to have the
23 USTR here in the region for these field meetings. I
24 will submit my full testimony for the record, but I
25 just want to extend today for oral presentation and

1 summarize.

2 Talon Metals is a publicly traded mineral
3 resource company focused on discovery and development
4 of high-grade deposits that contain nickel, copper,
5 cobalt, and iron in the Lake Superior region of the
6 United States. Talon is presently conducting mineral
7 exploration activities in Minnesota and Michigan, is
8 proposing an underground nickel mine in central
9 Minnesota in the state's permitting system and is
10 starting the federal and state permitting process for
11 its proposed Battery Mineral Processing Facility in
12 Mercer County, North Dakota.

13 In 2023, Talon was selected for \$20.6
14 million in funding from the Department of Defense to
15 support its nickel exploration in the United States.
16 In addition, Talon was selected for \$114 million in
17 funding from the Department of Energy to build the
18 Battery Mineral Processing Facility in North Dakota
19 as part of the Bipartisan Infrastructure Law in 2022.

20 These public-private partnerships greatly
21 enhance America's ability to access its own mineral
22 wealth and allow the U.S. to be competitive in the
23 production of nickel. However, strong U.S. trade
24 policies are needed to combat unfair competition from
25 minerals produced at lower environmental and labor

1 standards.

2 Critical minerals are essential to our
3 clean energy economy and national security including
4 for batteries used for energy, transportation,
5 industrial, and defense applications. Minerals like
6 nickel are also key ingredients in major defense
7 programs. The HY 80 high-strength submarine
8 qualified steel that is required in a Virginia class
9 nuclear submarine is produced with nickel as a
10 strengthening alloy.

11 We appreciate the inclusion of critical
12 minerals as a sector of importance in the recent
13 Request for Comment published by USTR and are glad
14 that critical minerals' role in secure supply chains
15 is recognized in U.S. trade and competitiveness
16 policy.

17 President Biden has articulated a vision
18 for responsible mining of domestic critical minerals
19 that protects the environment, ensures good jobs for
20 working people, respects tribal sovereign governments
21 and reshores manufacturing and production to the
22 United States.

23 The Talon Metals team shares this vision
24 of responsible mineral production and has taken a
25 different approach to mining, extracting and

1 processing critical minerals in the United States to
2 meet these high standards. For example, in 2021 we
3 agreed to a neutrality agreement and workforce
4 training partnership with the United Steelworkers
5 Union. We have signed commitments to construct our
6 operations in the United States under project labor
7 agreements with the building trades unions in North
8 Dakota and Minnesota.

9 We have conducted information sharing with
10 proximate tribal sovereign governments and seek to
11 share economic benefits with tribal people in the
12 areas where we operate. We conduct quarterly
13 community meetings and have an open-door policy at
14 all our operations to answer community questions
15 about our plans.

16 We have shaped our initial mine proposal
17 to respond to some of the feedback that we have heard
18 from the community and will continue to do so as we
19 move through the various permitting processes in
20 Minnesota, North Dakota and Michigan.

21 One of the things I want to focus on today
22 is China's effort to achieve strategic dominance in
23 critical minerals. Over many decades, China has
24 strategically and systematically built up its
25 capability to produce critical minerals from mining

1 through to recycling. This strategic imperative of
2 the government involves obtaining access to raw
3 materials around the world, investing in refining
4 capability both in China and abroad and investment in
5 recycling systems.

6 In some elements China controls much of
7 the world's extraction and processing capacity.
8 Recent reports show that China controls 90 percent of
9 the entire world's ability to produce graphite. For
10 the element gallium, which is used in new
11 high-capacity semiconductors, China enjoys 100
12 percent control of production and supply.

13 This position of dominance is planned and
14 strategic. This is not a strategy to secure domestic
15 supply for China. The goal is to achieve global
16 dominance in a particular mineral in order to control
17 supply to ex-China customers. Export bans to
18 restrict supply or flooding global markets to drive
19 down global commodity prices and therefore undermine
20 the economic viability of alternative sources of
21 supply outside of China are the options that China
22 can leverage once a market-dominant position is
23 achieved.

24 In recent months, global commodity markets
25 for battery minerals such as cobalt, nickel and

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1 lithium have been swamped by oversupply from China or
2 Chinese companies operating in third countries like
3 Indonesia. Many experts observe that this is a
4 pattern of behavior that is squarely aimed at
5 undermining efforts to build up secure supply chains
6 in critical minerals currently dominated by this
7 Chinese production.

8 China uses its state-owned banks to
9 finance critical mineral production outside of China
10 with low to no cost loans and without regard to
11 domestic or global demand. China realizes its goal
12 of market dominance in certain mineral production
13 through this state financing mechanism, which is not
14 required to meet the conventional commercial return
15 expectations of private lenders.

16 We are witnessing in real time an effort
17 to undermine the security of supply for critical
18 minerals, particularly for those produced according
19 to the high standards set forth by the U.S. and
20 allied nations. This undermines the investments we
21 are making at home to create a secure critical
22 mineral supply chain for critical technologies and
23 creates dependency on China for these minerals that
24 greatly threatens our economic and national security.

25 USTR should consider using its trade

1 policy tools to blunt the effects of China's efforts
2 to dominate and control critical mineral supply
3 chains. I would note the announcement today under
4 Section 301, and we very much applaud those actions,
5 particularly the inclusion of critical minerals like
6 nickel and graphite.

7 In addition we urge the Administration to
8 undertake a new Section 301 study focused on critical
9 mineral supply chains, partnering with the Department
10 of Commerce to pursue Section 201 or Section 232
11 tariffs, or initiating a review of all HTS codes
12 associated with critical mineral supply chains to
13 ensure that all materials are receiving proper
14 scrutiny for tracking and reporting purposes.

15 U.S. manufacturers are also fortunate to
16 have access to not only domestically produced
17 critical minerals like nickel but also supply from
18 longstanding allies like Canada and Australia which
19 also have deep reserves of critical minerals in their
20 geology. The U.S. must work closely in collaboration
21 with allies like Australia and Canada to jointly
22 adopt policies that support development of secure
23 supply of critical minerals.

24 I would note in conclusion that the United
25 States has recently expanded its collaboration with

1 allies, introducing new critical minerals agreements
2 with nations that share our strong standards and
3 values. It has signed one CMA with Japan and has
4 entered negotiations with the European Union.

5 While a priority must be given to
6 initiatives that facilitate onshoring of critical
7 mineral supply chains, we encourage USTR to complete
8 CMA negotiations to only enter into those
9 negotiations with select U.S. allies. CMAs and
10 similarly structured free trade agreements with
11 allied countries help develop alternative supply
12 chains rooted in ethical trade practices and
13 international cooperation, providing a sustainable
14 alternative to Chinese producers operating in China
15 and third countries like Indonesia.

16 However, we understand the USTR has also
17 held talks with Indonesia bilaterally and as part of
18 the Indo-Pacific Economic Framework regarding
19 Indonesia's desire to begin negotiations with the
20 United States on a narrow free trade agreement
21 covering only minerals.

22 We share concerns raised by organized
23 labor, environmental NGOs and many Members of
24 Congress regarding Indonesia's standards for labor
25 rights, environmental protection, safety and overall

1 respect for human rights. Indonesia also has laws
2 restricting trade in critical minerals and Indonesian
3 officials recently proposed an OPEC-like cartel for
4 nickel-producing countries, policies that are clearly
5 antithetical to the common understanding of free
6 trade agreements.

7 Due to its decision to partner with China,
8 Indonesia is the world's largest producer of nickel.
9 But the rapid expansion of Sino-Indonesian nickel
10 production has exacerbated the negative environmental
11 impacts, worker safety risks, poor waste disposal
12 practices that impact ocean health, lack of community
13 engagement and significantly higher embedded CO2
14 footprint when compared to U.S., Australian, or
15 Canadian nickel production.

16 Each of these concerns are laid out in a
17 bipartisan Senate letter sent to USTR as well as the
18 Departments of Commerce, Treasury, and Energy last
19 year.

20 Aside from the dominance of the Indonesian
21 mineral industry by Chinese companies these other
22 issues remain unaddressed. For these reasons the
23 U.S. should not start negotiations with Indonesia on
24 a narrow critical minerals agreement. CMAs should be
25 reserved for countries that have in place strong

1 labor, human rights and environmental standards.

2 Given the size of the Indonesian market
3 and the many trade barriers faced by U.S. exports to
4 Indonesia, the U.S. should only engage in discussions
5 of a traditional comprehensive free trade agreement
6 that would also open Indonesian markets to U.S.
7 exporters in other sectors.

8 In sum, we urge USTR and other agencies to
9 continue to promote policies and guardrails that
10 incentivize purchasing materials produced using the
11 highest labor and environmental standards. These
12 materials are essential to our national and economic
13 security and USTR should pursue all available avenues
14 to ensure strong, secure, and resilient domestic and
15 allied critical mineral supply chains. Thank you.

16 MR. BAN: Thank you, Mr. Malan.
17 Mr. Weber, you have the floor. Excuse me. I think
18 we're going alphabetically. Excuse me.
19 Mr. Greenberg, you have the floor.

20 MR. GREENBERG: My name is Peter Greenberg
21 and I am a 24-year union member and I currently serve
22 as the Special Assistant to the International
23 President for Trade and Globalization at the
24 International Association of Machinists and Aerospace
25 Workers. I thank Ambassador Tai and USTR for the

1 opportunity to testify today.

2 Our union represents over 600,000 active
3 and retired members in the United States and Canada
4 across a variety of industries. We have some of our
5 members here today from Minnesota and I thank them
6 for their support. We have a large presence in
7 manufacturing, particularly in aerospace, and our
8 members have seen firsthand the effects of the
9 interruptions to our nation's supply chain, both as
10 consumers and as workers.

11 Indeed our members who made parts for
12 aerospace, auto and other manufacturing sectors were
13 the reliable U.S. supply chain for decades. The
14 off-shoring of this work to low-wage countries has
15 meant that our nation has lost the ability to make
16 these inputs, which is a significant contribution to
17 the brittle supply chains that we're currently
18 experiencing. Today our members' production work is
19 often interrupted because of a lack of parts now
20 supplied by only one or two producers halfway across
21 the world.

22 Here in Minnesota the IAM represents
23 several thousand members in diverse sectors such as
24 auto repair, manufacturing, pulp and paper, and
25 airlines. Among our largest employers here are

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1 Eaton, which makes electronic systems, Toro, which is
2 world renown for its snow equipment, headquartered
3 not too far away in Bloomington, Polar Tank, Boise
4 Paper and United Airlines.

5 Nearly all of these members have been
6 impacted by supply chain weaknesses in recent years.
7 A current example is the more than 500 members here
8 in St. Paul under collective bargaining agreements
9 with the St. Paul Automotive Dealers Association.
10 Our members are not able to complete repairs as
11 quickly due to an ongoing lack of parts as the
12 automotive sector struggles to recover from
13 pandemic-related supply chain failures.

14 These lead to complications in our work
15 sites including long turnaround times and customers
16 who do not have their vehicles to get to work and to
17 take care of their families. Amplify that across
18 sectors, including the sensitive military production
19 work that our members do, and it is clear why
20 improving U.S. supply chain resilience has been a
21 longstanding goal of the machinists union.

22 Our organization continues to be
23 encouraged by USTR's robust focus on the interests of
24 all Americans when it comes to the Biden
25 Administration's strategic trade and manufacturing

1 policies. These policies will help revitalizing the
2 communities nationwide hurt by decades of previous
3 presidents repeating the same failed trade policies.

4 The Administration's thoughtful approach
5 to building an economy that delivers for working
6 people is a critical aspect of strengthening supply
7 chain resilience. One very recent example of the
8 Administration's strategy in action is the
9 Section 301 investigation launched by USTR into
10 unfair shipbuilding practices by the People's
11 Republic of China.

12 I'll also add of course yesterday's
13 actions as well to that. My testimony was already
14 typed by that point, but we thank you for that as
15 well.

16 As a union representing thousands of
17 members in commercial and military shipbuilding, we
18 are very aware of the specialized skills and
19 facilities required to undertake this work. We are
20 especially aware of the critical importance of having
21 a robust domestic shipbuilding industry to meet the
22 needs of America's consumers as well as to ensure our
23 nation is able to maintain a strong national defense.

24 For the many Americans who, unlike our
25 members, had not previously experienced the downsides

1 of corporate America's off-shoring, the COVID
2 pandemic was their first exposure to the lack of
3 crucial goods caused by outsourcing. All of America
4 learned that for a reliable supply chain, nothing
5 surpasses American workers making these products in
6 the United States and that nothing is riskier than
7 having key goods only produced in one or a few
8 distant locations by too few companies.

9 We are pleased to see USTR taking the
10 forefront to ensure a coordinated trade policy that
11 is a central part of the Administration's broader
12 strategy to create well-paying jobs, reliable access
13 to affordable goods for American consumers and
14 enhancements to our national security. The IAM is
15 also part of the Labor Advisory Committee that has
16 also submitted detailed written testimony to this
17 topic.

18 To summarize a few remaining points, the
19 Administration's effort to rebuild U.S. production
20 capacity is a key aspect of improved supply chain
21 resilience. We're seeing the highest level of
22 investment in factory construction here in the United
23 States in decades. This construction boom has been
24 triggered largely by the Biden Administration's
25 policies that are designed to further develop supply

1 chains at home. Key policies such as the Inflation
2 Reduction Act and the CHIPS Act will not only help
3 grow the number of good jobs available for American
4 workers, but will reduce our dependence on other
5 countries to reach our supply chain needs.

6 Properly focused industrial investment
7 also means providing the necessary financial support
8 for our industrial base. Another important link in
9 our investment policy is the Export-Import Bank which
10 is a key way for American firms to remain competitive
11 while building relationships with overseas partners.

12 Near-shoring is not a substitute for
13 domestic production capacity. We believe that while
14 having production located in countries that are more
15 closely allied with the United States is beneficial,
16 there is no substitute for having American workers
17 building the products that are needed in our supply
18 chain. Real supply chain resilience requires that as
19 a large country endowed with many natural resources
20 we rebuild production capacity in key sectors.

21 We must focus on beneficial ownership of
22 production facilities, not just location, when
23 setting rule of origin in trade policy. We are
24 concerned by growing moves by China moving into
25 Mexico using Mexico as an export platform to ship

1 goods into the United States under USMCA. In
2 determining what trade treatments certain goods
3 should be given we must consider not only where the
4 goods were produced, but also the origin of their
5 firms and their investors.

6 We are particularly concerned with Chinese
7 electric vehicles using Mexico as a production
8 location, undermining the growing U.S. EV industry as
9 well as attempting to circumvent U.S. tariffs on
10 goods made in China.

11 We must preserve strong defenses against
12 trade cheating. China's producers, particularly
13 again in the EV sector, and also in components, are
14 beginning to expand investment and production in
15 third country markets. We support a vigorous program
16 of tariffs on Chinese EVs with special attention to
17 trans-shipment and circumvention.

18 Any future trade agreements or critical
19 mineral agreements must include robust ILO
20 convention-based labor provisions that are enforced
21 both nation-to-nation and on a facility-specific
22 level to protect workers and to ensure that our
23 supply chain is free of forced labor. Supply chain
24 resilience requires workers to have a voice in their
25 workplaces. The USMCA set out specific enforcement

1 mechanisms such as the Rapid Response Labor Mechanism
2 which can directly penalize nations for
3 noncompliance.

4 The Rapid Response Mechanism has shown
5 benefits in the North American automotive supply
6 chain by allowing Mexican workers the freedom to
7 elect unions of their own choosing in their
8 workplaces. As the aerospace industry grows in
9 Mexico, we urge the Administration to use the Rapid
10 Response Mechanism under USMCA to secure the same
11 freedom of association for workers in international
12 aerospace firms.

13 A strong supply chain means ensuring that
14 American workers are kept safe and forced labor goods
15 are kept out. The de minimis rule allows packages
16 under \$800 in valuation to enter the United States
17 with minimal chance of inspection, and they're not
18 required to pay duty and taxes. Foreign producers,
19 particularly those in the People's Republic of China,
20 take advantage of this loophole to skirt Section 301
21 penalties as well as the ban on Uyghur forced labor
22 goods as well as to import dangerous and fake goods.

23 Shipments could include counterfeit
24 foreign-made parts that then enter our supply chains.
25 An even greater threat to American workers is the use

1 of this loophole to ship illegal drugs containing
2 fentanyl into the United States where it promptly
3 enters local communities and contributes to the
4 current opioid epidemic. Closing the de minimis
5 loophole would protect our supply chain by keeping
6 both counterfeit items and illegal drugs out of our
7 nation.

8 Strong Buy America policies are another
9 method to support a powerful supply chain at home.
10 We appreciate the Administration raising the domestic
11 content level for goods to qualify for Buy American
12 preferences, but the Administration must close the
13 trade agreement loophole to buy American. Otherwise
14 it waives the domestic content rules for all
15 contracts above a low threshold.

16 Finally, while the priority is creating
17 trade and manufacturing policies that create jobs, we
18 also must ensure that the U.S. strengthens its
19 program of trade adjustment assistance to provide
20 support to American workers who, through no fault of
21 their own, have seen their jobs disappear as a result
22 of years of misguided trade policies under previous
23 administrations. Having a strong program of aid to
24 retrain American workers means they will be ready to
25 move into new jobs created due to the Biden

1 Administration's efforts toward increasing domestic
2 production.

3 For too long American workers have been
4 the collateral damage for misguided trade policies.
5 Supply chains moved offshore to maximize corporate
6 profits, and these moves were enabled by
7 short-sighted trade policies. USTR has begun to lay
8 the groundwork for a trade policy which focuses on
9 the interests of all Americans. We appreciate the
10 worker-centered trade policy that will strengthen our
11 supply chains, create jobs and improve our national
12 security.

13 We thank you for the opportunity to
14 testify today.

15 MR. BAN: Thank you, Mr. Greenberg.
16 Mr. Weber?

17 MR. WEBER: Good morning. My name is
18 Jason Weber and I am the Vice President for
19 Operations and Government Affairs at the Aluminum
20 Extruders Council, a trade association dedicated to
21 servicing the needs of U.S. extruders. AEC members
22 account for 80 percent of U.S. aluminum extrusion
23 production and have over 80 extrusion operations
24 across 31 U.S. states.

25 In 2010 several AEC members formed the

1 AEFTC, an ad hoc coalition of U.S. aluminum
2 extrusions manufactures, to file antidumping and
3 countervailing duty petitions with the U.S.
4 Department of Commerce and the U.S. International
5 Trade Commission in order to curb dumped and/or
6 subsidized imports of aluminum extrusions from China
7 that were crippling our industry.

8 I would like to start by thanking the
9 Office of the United States Trade Representative for
10 the opportunity to speak today about the ways in
11 which U.S. trade agreements like the United
12 States-Mexico-Canada Agreement and the Dominican
13 Republic Central America Free Trade Agreement are
14 being used as back doors into the U.S. market by
15 non-market economies like China and Russia.

16 Not only does this backdoor access
17 completely undermine the much-needed protection of
18 trade remedies, it also provides means, motive, and
19 opportunity for producers in non-market economies
20 like China and Russia to target the U.S. industry at
21 increasing levels.

22 To illustrate how this is happening,
23 consider that the Government of China is providing
24 massive subsidies for Chinese investments in
25 production in countries like the Dominican Republic

1 and Mexico which have proximity to the United States
2 market and preferential access through free trade
3 agreements.

4 As can be seen in these pictures, which
5 the AEC will provide in its post-hearing submissions,
6 Chinese-owned companies like Kingtom Aluminio have
7 rapidly built up aluminum extrusion finishing and
8 fabrication operations in the Dominican Republic.
9 These operations are used to funnel Chinese-origin
10 aluminum extrusions into the U.S. market under the
11 umbrella of protection of CAFTA-DR.

12 In just three years, between 2016 and 2019
13 Kingtom built a combined 687,000 square foot
14 manufacturing site for finishing and fabricating
15 Chinese-origin extrusions at the location in the
16 Dominican Republic. These are in pictures 1 and then
17 2.

18 The company has continued to expand the
19 site over the years as can be seen in these pictures,
20 which would be number 3 and number 4, and as of
21 February 2024 the combined square footage of this
22 site has doubled to almost 1.5 million square feet,
23 pictured here in picture 5. You can see that the
24 construction is underway for an additional expansion.

25 During this time exports of aluminum

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1 extrusions to the United States from the Dominican
2 Republic have grown rapidly. These duty-free imports
3 under CAFTA-DR have been crushing the same U.S.
4 extruders that worked hard with the U.S. government
5 to secure relief from unfairly traded imports from
6 China, only to have those imports routed through the
7 Dominican Republic completely duty-free.

8 To make matters worse, the Dominican
9 Republic was recently left out of a fifteen country
10 AD/CVD investigation of imports of aluminum
11 extrusions because of the unique protections afforded
12 the Dominican Republic through CAFTA-DR. Chinese
13 producers are actively exploiting CAFTA-DR and they
14 will not stop unless the trade agreement is amended
15 to close the loopholes and end the perverse
16 incentives.

17 Similarly, Chinese companies are taking
18 full advantage of preferential import/export
19 treatment under the U.S.-Mexico-Canada Agreement to
20 target the U.S. market in several ways. For example,
21 Chinese companies are using Chinese aluminum to
22 assemble vehicles in Mexico and then export the
23 vehicles to the United States and investing in
24 extrusion presses in Mexico to bypass AD/CVD duties
25 on these Chinese extrusions, and are using highly

1 subsidized Chinese and Russian unwrought aluminum to
2 gain a price advantage when they export their
3 extrusions to the U.S. market.

4 In light of the numerous ways in which
5 U.S. trade agreements like CAFTA-DR and USMCA are
6 being exploited by non-market economies like China
7 and Russia, the AEC proposed four solutions in its
8 written comments to USTR. I will quickly highlight
9 two of those solutions this morning.

10 First, USTR should renegotiate aspects of
11 CAFTA-DR to close the loopholes that are being
12 actively exploited by non-market producers and to
13 impose restrictions that will prevent evasion of U.S.
14 trade remedies.

15 Under this agreement, the United States
16 currently treats the Dominican Republic as a
17 Caribbean Basin Economic Recovery Act beneficiary
18 country. This preferential status prevents the
19 International Trade Commission from cumulating
20 imports from the Dominican Republic with imports from
21 other countries when assessing injury by reason of
22 Dominican imports.

23 The upshot is that this provision makes it
24 substantially more difficult to successfully petition
25 for AD/CVD relief from unfairly traded imports from

1 the Dominican Republic even as the country's
2 producers ramp up production.

3 As I noted earlier, the Dominican Republic
4 was recently let out of a fifteen country AD/CVD
5 investigation of imports of aluminum extrusions
6 because of this unique protection afforded the
7 Dominican Republic through CAFTA-DR. USTR should
8 renegotiate this provision affecting the cumulation
9 of Dominican import volumes with other countries'
10 imports for the purposes of meeting the thresholds
11 required for petitioning for AD/CVD relief.

12 Furthermore, U.S. Customs and Border
13 Protection has found the Chinese-owned company
14 Kingtom with operations in the Dominican Republic we
15 saw pictured here to be evading the existing AD/CVD
16 on aluminum extrusions from China at least three
17 times. Customs found that Kingtom is a company owned
18 by Chinese nationals, located in the Dominican
19 Republic, run by Chinese workers, using Chinese
20 supplies, Chinese equipment, and Chinese raw
21 materials.

22 However, Customs and the courts have
23 recently reversed a number of those evasion findings,
24 and as a result, imports from the Dominican Republic
25 have steadily and significantly increased. CAFTA-DR

1 should be renegotiated to prevent this type of abuse.

2 Second, the USMCA automotive rules of
3 origin should be revised to include a North American
4 smelted and cast provision for aluminum. As part of
5 China's Belt and Road Initiative, Chinese companies
6 are making massive, unprecedented levels of
7 investment in Mexico. The Government of China
8 subsidizes these investments heavily to offload
9 Chinese excess capacity into other countries and
10 evade trade restrictions on Chinese-origin products.

11 For example, top Chinese electric vehicle
12 manufacturer BYD is setting up a new electric vehicle
13 factory in Mexico which will serve as an export hub
14 to the United States. Chinese companies like BYD
15 should not be able to use USMCA as a back door to
16 push unfairly traded Chinese aluminum into the U.S.
17 market and harm U.S. manufacturers. This
18 disadvantages both U.S. automotive manufacturers that
19 use aluminum that is smelted and cast in North
20 America as well as U.S. aluminum producers and
21 extruders.

22 Chinese companies have also moved
23 significant numbers of extrusion presses to Mexico to
24 target the U.S. market to avoid AD/CVD duties. For
25 example, Chinese company Minth Group established an

1 extrusion operation in Mexico through its subsidiary
2 Minth Mexico. Customs recently found that imports of
3 extruded aluminum automotive parts from Minth Mexico
4 included transshipped Chinese aluminum extrusions
5 that evaded AD/CVD duties. But Customs also found
6 that Minth Mexico did produce some aluminum
7 extrusions in Mexico.

8 This illustrates two aspects of the
9 problem. The U.S. aluminum extrusions industry is
10 harmed by both Chinese aluminum extrusions being
11 illegally transshipped through Mexico and by aluminum
12 extrusions produced in Mexico through massive Chinese
13 government subsidies.

14 Adding a requirement to the USMCA
15 automotive rules of origin that aluminum extrusion
16 parts and components for automobiles entering the
17 U.S. from Mexico must be both smelted and cast in
18 North America in order to receive preferential
19 treatment under the USMCA would help remedy both
20 aspects of this problem. In fact, the USMCA
21 automotive rules of origin already contains a
22 requirement that steel be melted and poured in North
23 America to avoid similar problems.

24 The lack of such a requirement for
25 aluminum allows Chinese companies to produce

1 automotive vehicles and parts in Mexico using
2 unfairly traded Chinese aluminum simply by processing
3 or assembling the parts in Mexico and then export to
4 the U.S. market with USMCA benefits. Adding a
5 requirement that the aluminum be smelted and cast in
6 North America would require new investments in Mexico
7 to use North American aluminum.

8 This would help level the playing field
9 and ensure that U.S. trade agreements like the USMCA
10 support the North American producers that it was
11 designed to benefit instead of the non-market economy
12 producers that are actively injuring the U.S.
13 industry through unfair trade practices.

14 In conclusion, the Chinese government and
15 other non-market economy countries like Russia are
16 leveraging U.S. trade agreements with other countries
17 against U.S. manufacturers. They are using countries
18 like Mexico and the Dominican Republic as a back door
19 to push unfairly traded products, including excess
20 Chinese aluminum capacity, into the U.S. market
21 duty-free. To fix this problem, U.S. trade policy
22 must be amended to counteract these efforts and close
23 backdoor access to U.S. markets.

24 The AEC once again thanks the Office of
25 the United States Trade Representative for

1 acknowledging and seeking to solve this critical
2 problem. Thank you for the opportunity to share our
3 industry perspective as a principal representative of
4 the U.S. aluminum extrusion industry upon which so
5 many U.S. supply chains depend.

6 I am happy to answer any questions you may
7 have.

8 MR. BAN: Thank you, Mr. Weber, for your
9 testimony and thank you, Mr. Malan, and Mr. Greenberg
10 as well. We will now proceed with questions and I'll
11 turn it over to Mr. Gundermann.

12 MR. GUNDERMANN: The first one to you,
13 Mr. Malan.

14 MR. MALAN: Sure.

15 MR. GUNDERMANN: Something that you all
16 touched on but we're very curious to hear you expand
17 upon, in our work at USTR a very important dimension
18 of what we have been pursuing with supply chain
19 resilience in the critical minerals sector
20 specifically is ensuring that our trade policy
21 supports the work that your company and other
22 domestic producers are doing to develop the U.S.
23 critical mineral resources and the industrial base.

24 What are your recommendations for how we
25 can do it better expanding on what you've already

1 mentioned and other ideas that you didn't mention in
2 your testimony?

3 MR. MALAN: As I said in my testimony, I
4 think USTR has shown great care in terms of going out
5 of the agency's way in my experience to really
6 understand the complete supply chain and I think the
7 Administration is to be commended for in particular
8 really getting into the details of the critical
9 minerals supply chain because it is really the
10 beginning and the source of all of the manufacturing
11 capability of the United States.

12 You know, there's this famous mining
13 saying that if it's not grown it's mined. Everything
14 you look around you has got some context around
15 mining. And so I do think that the Administration
16 has put a lot of effort in USTR particularly into
17 understanding the unique aspects of this beginning
18 part of the supply chain. I think hearings like this
19 are a testament to that.

20 So more of the same I guess is my
21 recommendation. And certainly I've always had the
22 experience that whenever we wanted to talk about a
23 particular circumstance where we think we're doing
24 something that comports with the values of this
25 Administration, so we're doing it right in the U.S.

1 or we're doing it right in Canada or Australia, but
2 then there actually is production happening in lower
3 standards of protection for labor or lower standards
4 for protection of the environment.

5 I think USTR has always been welcome to
6 the industry to come in and talk about those
7 particular circumstances. I think it's particularly
8 pernicious, though, as I tried to point out in my
9 statement what we're seeing about China's strategy,
10 government-led strategy to dominate and control
11 particular elements that are critical, again, not
12 through this very prudent and natural instinct for
13 any nation to want to have security of supply, but to
14 go to this level of dominance and control that
15 affords them then the ability to have different
16 levers to control prices. Those prices then end up
17 undermining the viability of the projects that you're
18 funding. And so I think that's the major point we've
19 got.

20 I do think that this coordination with
21 countries like Canada and Australia -- I've read
22 about Deputy Prime Minister Freeland's comments
23 recently about coordination between the U.S., Canada,
24 Australia and others on critical minerals and that's
25 vitally important.

1 My view is you're doing a great job in
2 terms of listening to the industry, digging into the
3 details, coordinating with allies. And I commend you
4 for that effort.

5 MR. BAN: Thank you. So a follow-up to
6 you, Mr. Malan. We understand that in the critical
7 minerals supply chain one challenge to diversified
8 supply chains is that a lot of the knowledge and
9 knowhow and technology are concentrated not in the
10 United States. And I'm curious about what Talon is
11 thinking about that particular issue as you prepare
12 to build out your processing facility.

13 MR. MALAN: Yeah. That's not been our
14 experience. We're happy that we have this
15 partnership with the steel workers union. That's
16 really a strategic imperative for us in terms of
17 working with people that know how to mine and can
18 actually help us then to train and recruit American
19 workers who may be working in other types of mining
20 where they can be re-skilled for the underground
21 context that we plan to do in our underground mine
22 here in Minnesota.

23 And in terms of expertise in the
24 processing, I actually think this is a key area of
25 competitive advantage for the United States. We have

1 some of the best mechanisms of innovation in chemical
2 extraction, in metallurgical processing. Talon has
3 really tried to take advantage of that whether that's
4 participating with startups, whether it's working
5 with the national labs, whether it's working with
6 universities to try and find technologies that can be
7 deployed that allow us to maintain our competitive
8 position vis-a-vis China or even leapfrog over what
9 China is doing with legacy processes.

10 I'll give you an example. We recently --
11 Argonne National Lab, who we have a creative
12 partnership with, recently put out a press release
13 about work they're doing with us to not only try to
14 extract more nickel from the waste product that comes
15 out of our concentration process that will be done in
16 North Dakota, but also extract byproducts that also
17 have value.

18 So if you just keep the legacy process of
19 extracting nickel and copper from polymetallic ores,
20 you actually end up putting the iron compounds into
21 the waste product. So all of that iron then goes
22 just to the waste pile. We need iron in a different
23 type of battery chemistry. So LFP batteries, again,
24 where the Chinese have global leadership on LFP
25 battery production, there's only two proposed LFP

1 battery gigafactories in the United States.

2 But what we're hoping to do with Argonne
3 is actually be able to supply two battery chemistries
4 from the same ton of rock. And we think that that
5 efficiency of process and having an additional
6 revenue stream again is a way that you can harness
7 American innovation to stay competitive with Chinese
8 suppliers.

9 So I'm actually quite hopeful on that
10 front, both in terms of that we have the knowledge to
11 do the mining that needs to happen in the United
12 States and we have the knowledge to be able to do the
13 processing. In fact we probably have an advantage in
14 our universities and research labs to be able to do
15 that.

16 The biggest thing is how do we bring
17 products online without cutting corners in the
18 permitting process, but do it deliberately at pace.
19 That's the bigger snafu in terms of bringing things
20 on in a timely fashion. We don't want to cut corners
21 on permitting. We don't want to have the public feel
22 that their views are not heard in terms of concerns
23 about operations of any type. But we've got to be
24 able to do it in an efficient way.

25 MR. GUNDERMANN: And just to follow up on

1 the thing you mentioned earlier about your work force
2 re-skilling, your partnership with the USW, that's a
3 big area of priority for USTR. Are there any
4 policies you would recommend to advance the
5 development of the work force and developing a
6 suitable work force here in Minnesota and in the
7 United States to be employed in domestic extraction
8 and processing and recycling of critical minerals as
9 we scale up this industry?

10 MR. MALAN: I think there's a lot that the
11 Administration is doing. The Department of Labor,
12 the Department of Energy have a lot of support
13 programs out there for companies like ours that were
14 selected for grants. We are expected to do community
15 benefit agreements. We are expected to do project
16 labor agreements and those are things that we've
17 stepped up to.

18 But I think there needs to be a
19 recognition that that does come with a cost. So
20 producing materials at high standards in which work
21 force training is a key part of it and community
22 consultation and travel discussion are a key part of
23 it, that takes time and it does cost more.

24 So when we have minerals that we're
25 competing against produced by Chinese companies in

1 lower standard jurisdictions, that just really puts
2 the U.S. supply chain at risk in my view.

3 So it's not only this awareness of the
4 programs that the U.S. government is doing a good job
5 on to build up the work force, but an awareness of
6 what are we up against. And I think -- I know that
7 the steel workers union was just asked by the State
8 Department to travel to Indonesia and look at the
9 labor practices and environmental practices in
10 Indonesia. And I believe they have given the State
11 Department a briefing on that. I don't know whether
12 they've briefed the USTR about that yet.

13 But those are the kinds of things that I
14 think you also have to be aware of, not only what can
15 we do practically better in the United States to do
16 work force training, et cetera, but what are those
17 workers up against.

18 MR. BAN: Thank you very much. Mr. Weber.
19 A few questions for you. So I appreciate your
20 testimony about loopholes and rules of origin. So
21 sort of a two-part question to start. First, I
22 wanted to confirm that your concern about loopholes
23 isn't limited necessarily to the products that your
24 member companies make; it also includes concerns
25 about downstream products that may contain aluminum.

1 That's the first question.

2 The second one is about your proposal of
3 working in a smelt and cast requirement to certain
4 rules of origin. You mentioned USMCA as one example.
5 I think you also testified though about a concern
6 about ownership and control of production, and in
7 particular being traced to the PRC or PRC entities.
8 And I think Mr. Greenberg also mentioned some of
9 these issues around how the PRC entities are able to
10 take advantage of rules of origin.

11 And my question is whether smelt and pour
12 would really solve that because, as I understood your
13 testimony, you're just proposing a requirement that
14 the smelting and pouring happen -- excuse me -- the
15 smelting and casting happen in the territory, right,
16 in the agreement territory.

17 And so could you speak a bit to how that
18 proposal would intersect with your concern about sort
19 of the entity and its control of the funding?

20 MR. WEBER: Yeah. I think first of all we
21 saw just a matter of a couple weeks ago at the end of
22 April the Mexican government put a tariff on primary
23 aluminum coming into Mexico and just last week they
24 took it off because the domestic manufacturers in
25 Mexico claimed that there wasn't enough. But in

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1 North America there is enough. And I think but for
2 Mexico having access to the Russian and Chinese
3 material there's plenty of global supply of that
4 particular material.

5 So I don't know what to say to the
6 political reason why they did that. But what was a
7 concern of ours is that they first did what was a
8 good first step and then, again, they took it off.

9 Because that also comes back to the import
10 monitoring that the USTR is doing which has been
11 something that at least from the domestic industry
12 we've been pushing for. It is part of the USMCA
13 agreement that they monitor those imports that are
14 coming in and then report them. However, they're
15 not.

16 Now, that also goes along with the fact
17 that, okay, so you report them, then what. Right?
18 If there's no -- kind of the carrot and stick
19 approach. If there's no penalty for not living up to
20 your end of the agreement then we really don't have I
21 would say an agreement.

22 So I think that's three parts, or three
23 answers to your question, which is, one, there is
24 enough supply, two, we have to monitor it and, three,
25 there needs to be a penalty when you don't live up to

1 that agreement.

2 MR. GUNDERMANN: Do you have a follow-up?

3 MR. BAN: I think I just wanted to
4 clarify. So the proposal then would be for the
5 location of smelting and cast, but not necessarily in
6 that particular part of the proposal not necessarily
7 solving for the entity that may be doing the smelting
8 and casting? Is that correct?

9 MR. WEBER: The entity.

10 MR. BAN: So I think you testified about a
11 concern about PRC entities, right?

12 MR. WEBER: Mm-hmm.

13 MR. BAN: Locating within trade agreement
14 regions to take advantage of rules of origin. And I
15 just want to confirm my understanding that the smelt
16 and cast part of the proposal may not solve for that
17 particular concern. Now, there may be other tools
18 that we can discuss, but I just wanted to understand
19 whether the smelt and cast idea was intended to solve
20 for that particular concern of entity control that's
21 able to in your view create this back door.

22 MR. WEBER: Probably not directly, no. It
23 wouldn't be our intention that the PRC set up
24 smelters in Mexico, although obviously that could
25 happen too. And I would think at the end of the day

1 that would be -- that would be fine.

2 To the example, that maybe the bauxite or
3 the end feed products are not subsidized materials
4 coming from China, but I think we all can understand
5 that Mexico itself has no primary smelting capacity.
6 That is in Canada, some in the U.S., but primary in
7 Canada.

8 MR. BAN: Thank you.

9 MR. GUNDERMANN: And then switching a
10 little bit to a more offensive question, where do
11 your companies -- where do they export to, where
12 would they like to export to, where should the
13 U.S. -- where should we prioritize promoting exports
14 domestically for your goods, into which markets?

15 MR. WEBER: So our member companies can
16 export all over the world, but primarily it would be
17 to Mexico and/or Canada, but primary Mexico. And I
18 think as we've seen over the last several years, that
19 the Mexican market has been basically -- it hasn't
20 been closed, but it's become extremely competitive
21 because of what's going on with China between Mexico
22 and China whereas a lot of those extrusions that
23 would have been shipped to Mexico and then come back
24 in finished products from Mexico would have
25 originated in the United States.

1 MR. GUNDERMANN: So it's mostly North
2 America USMCA, covered by USMCA?

3 MR. GREENBERG: Yes, correct.

4 MR. GUNDERMANN: Okay. Thank you.

5 MR. BAN: So Mr. Weber, you testified a
6 little bit about the evasion of AD/CVD trade remedies
7 and I'm curious as to whether your members have a
8 view of recent regulatory developments where the
9 Commerce Department is now permitting trade remedy
10 actions against transnational subsidization.

11 I'm just curious. If you don't have a
12 view -- you didn't testify on that, but related
13 somewhat to your concerns about entities that
14 probably benefit from overseas subsidies issues.

15 MR. WEBER: I don't have any I guess
16 comment on that. We can definitely cover that in our
17 post-hearing submission.

18 MR. BAN: Thank you. And relatedly,
19 beyond the proposals you testified about, are there
20 any ideas that your members may have beyond existing
21 trade tools to address global nonmarket excess
22 capacity in the sector?

23 MR. WEBER: So, obviously, we're currently
24 working to the extent that our global arrangement
25 negotiations are still going on -- we're certainly

1 all aware of the 332 investigation that is going on
2 right now at the ITC. So we're definitely supporting
3 those particular activities and engaging with those
4 folks as needed.

5 As an industry right now we're very much
6 involved in completing the ITC survey for 332 and
7 providing our information as far as the greenhouse
8 gas intensities around the production here in the
9 United States.

10 MR. BAN: Thank you. Mr. Gundermann?

11 MR. GUNDERMANN: And Mr. Greenberg I'm
12 excited to hear you talk about the RRM.

13 MR. GREENBERG: Yes.

14 MR. GUNDERMANN: We are big fans of the
15 RRM.

16 MR. GREENBERG: As are we.

17 MR. GUNDERMANN: And especially Ambassador
18 Tai. So thank you for mentioning that and we view it
19 as a really unique model for instead of a trade
20 agreement driving trade to the lowest common
21 denominator, you can raise the floor. So the first
22 question to you -- and I'm personally also very
23 interested to hear your answer to this -- is what
24 other ideas do you have that we can put in potential
25 trade agreements to promote a virtuous cycle, race to

1 the top on both labor and environment? What would
2 you like to see in addition going forward?

3 MR. GREENBERG: And I think the RRM is
4 like a starting point.

5 MR. GUNDERMANN: Yeah.

6 MR. GREENBERG: I think we would be
7 happier with even more detailed systems that address
8 worker issues. Mexico is a unique example because we
9 had the issue of company unions or government-allied
10 unions that were not properly representing workers.
11 In other places I think we would perhaps have an
12 opportunity to build structures from the very
13 beginning.

14 Like imagine if RRM or other things had
15 been included in the original NAFTA 30 years ago. We
16 might be in a very different position, especially
17 those Mexican workers who might have enjoyed decades
18 of enhanced or more full rights at work.

19 So I think starting and thinking, okay,
20 what kind of a model do we want to see going forward.
21 And I think certain organizations like the Solidarity
22 Center, for example, help to build trade union
23 capacity in other countries. And not specifically
24 citing like let's put them in a trade agreement, but
25 to have participation of NGOs or even American unions

1 to help develop relationships.

2 For example, we brought some Mexican union
3 organizers to the States to take our organizing
4 training. So things like that, again, having deep
5 relationships would be a good starting point.

6 In terms of specific action, I think, you
7 know, I want to say more penalties, but that we
8 obviously know that's not always feasible. But I
9 think sending a clear message to American businesses
10 that as part of a free trade agreement you are
11 welcome to invest in this other country, whatever
12 country it might be, but that the workers should be
13 treated similarly to how you treat your workers in
14 North America.

15 MR. GUNDERMANN: So just as a follow-up,
16 RRM or something like it in future trade
17 arrangements, if you have any other ideas about other
18 structures we'd be very curious about it.

19 MR. GREENBERG: Yes.

20 MR. GUNDERMANN: And then also I know
21 environment -- I know you're not in environment,
22 that's not your focus, but anything you have to say
23 on the environmental side.

24 MR. GREENBERG: And definitely I will
25 reach out to some other people who are more involved

1 in the international, you know, boots on the ground
2 type of things, who probably do have suggestions on
3 what they would like in the RRM or something similar
4 in the future.

5 The environmental honestly is something
6 that we wrestle with as a union because our members
7 do a lot of production involving a lot of metals and
8 things that can be challenging. And we in fact
9 passed a resolution at our last union convention in
10 2022 that we were going to come up with climate
11 change statements that we want to advance.

12 I do think the Administration is moving in
13 a good direction because we are saying, all right, we
14 want good jobs, but we also want green jobs here at
15 home. And it is trying to find the right balance.
16 And extractive industries also many times have
17 environmental consequences, but also provide a lot of
18 well-paying middle class jobs.

19 And I was refreshed to hear a metal
20 company talking about their partnership with the
21 steel workers unions. And I think working together
22 in those environments we can put our heads together
23 and say, all right, how do we come up with a
24 manufacturing strategy that also has an environmental
25 focus.

1 MR. GUNDERMANN: Great. Thank you.

2 MR. GREENBERG: Sure.

3 MR. BAN: Thank you, Mr. Greenberg. You
4 testified earlier about the construction boom that
5 you see happening across the U.S. and you also
6 mentioned the importance of strengthening TAA. So
7 could you speak a bit to the re-skilling or work
8 force development landscape you see? Do you see TAA
9 sort of as needing to be focused more on that
10 buildout of the public work force as opposed to
11 necessarily re-skilling or changing the skill set of
12 workers? We'd love to hear your thoughts on that.

13 MR. GREENBERG: Yeah. I mean, I think the
14 trade adjustment assistance is a valuable tool to
15 attempt to re-skill workers, but what we're seeing
16 is, you know, there might be a bit of a mismatch as
17 to where the workers losing their jobs are versus
18 where some of this industrial development is going
19 on.

20 Particularly a lot of the green jobs focus
21 is happening in the South, electric vehicle supply
22 chain and battery manufacturing is largely being
23 concentrated in Georgia, Alabama, those areas. I
24 think one reason is we're seeing particularly
25 investment from South Korean companies who have auto

1 manufacturing in those areas.

2 And I think that goes into a whole
3 different argument about labor mobility and people
4 being tied to their homes and unable to go to areas
5 where there are good jobs or growing industries.
6 However, I do think that structural mismatch can be
7 overcome because I do think there are chips plants
8 going into places like Upstate New York which has
9 been historically an economically disadvantaged area
10 lately.

11 So to try and get to the heart of your
12 question, I think for some people unfortunately it
13 might be too late to participate in this profound
14 economic transformation. I think people who are baby
15 boomers who might have left employment during the
16 COVID pandemic or decided, you know, this place
17 closed where I worked and I have enough to retire,
18 I'll be okay.

19 So that might be a time where we focus
20 energies on making sure that the next generation of
21 workers is trained. And I think -- you'd asked a
22 question of Mr. Weber here about the work force and
23 how did he envision things going there. And I think
24 we still believe very strongly in apprenticeships to
25 develop the capacity to fill jobs.

1 And we have thousands of aerospace jobs
2 where we don't have people with the right skill set
3 to fill them. And I think TAA, if we could get the
4 right training programs out there, might be a tool to
5 say, hey, there's a great job for you in Wichita,
6 Kansas, in a union aerospace factory. You might have
7 to pack up and move but these are secure jobs with
8 good pay and benefits and we want to make sure that
9 there are skilled workers out there to fill those.

10 MR. BAN: Thank you, Mr. Greenberg. More
11 generally do you have any additional suggestions for
12 how the U.S. Government can better incorporate worker
13 voices and community voices into its supply chain
14 policies? I know that you mentioned your involvement
15 with the LAC and your contribution there through our
16 public process, but I'm also curious about any
17 suggestions you have for a more inclusive approach to
18 worker input?

19 MR. GREENBERG: I think what is really
20 interesting is our members live these supply chain
21 difficulties in their work places, but they don't
22 necessarily understand why they're going on. They
23 just know that the company is waiting on a part
24 coming from South America or some other part of the
25 world. So I think some education would be really

1 useful.

2 Some of it -- we do have various training
3 programs where we talk about labor history and
4 international affairs to our members. And I would
5 like to see more of that and I will have to talk to
6 some of our training department folks to see if we
7 can get some fair trade worked into there because I
8 do think there is not as much understanding as I
9 would like of the supply chain amongst the American
10 public in general.

11 And that was why in my testimony I
12 mentioned COVID was the first time that people in
13 this country went into the store and the shelves were
14 bare or they could not get what they wanted because
15 the product couldn't come from another country when
16 those supply chains were shut down.

17 So I think education we as a union
18 certainly I think really do feel involved thanks to
19 the efforts of the current Administration, Ambassador
20 Tai, the USTR staff right now, at a level that we
21 have not seen in the past. And I think that is
22 really beneficial to let workers voices be amplified
23 in your area and I think we have to do our part as
24 worker organizations, be it the AFL-CIO, other
25 unions, to inform our members of all that's going on.

1 MR. MALAN: I actually have one suggestion
2 that is responsive to that question, if it's okay.

3 MR. BAN: Of course.

4 MR. MALAN: So I think one of the things
5 that we think is one way for the voice of the worker
6 or the community that have benefited by high
7 standards of production in which they have a seat at
8 the table in permitting, et cetera, is some sort of
9 mechanism in which the government adopts a
10 preference.

11 The steel workers have led a very
12 innovative campaign around buy clean government
13 procurement policies in which particular inputs that
14 are manufactured at low CO2 levels are favored in
15 government procurement. We're seeing a little bit at
16 the federal level, but really at the state level.

17 And as I think about things like the IRA
18 Section 30D requirements around the minerals that are
19 in eligible batteries, that had basically the U.S.
20 Government, Congress, Administration setting a
21 preference around minerals or a part of the supply
22 chain that are produced or assured to be produced at
23 high standards.

24 And I think continuing that thought
25 through into other parts where the U.S. Government

1 makes major purchases, particularly the Department of
2 Defense, where you had some sort of structure of
3 privilege, preference, or buy secure -- I mentioned
4 it in my testimony. I didn't have a chance to fit it
5 into the ten minutes -- but that could be an area
6 where, again, you would see the workers who benefit
7 from high standards benefiting from a preference
8 scheme in which the U.S. Government is using and
9 leveraging its purchasing power to favor minerals
10 produced at high standards.

11 MR. BAN: Thank you for that suggestion,
12 Mr. Malan.

13 MR. WEBER: Could I add just a couple
14 things?

15 MR. BAN: Sure.

16 MR. WEBER: I think just from the
17 association perspective coming along with the
18 training we have an active membership program for
19 apprenticeships within our industry, because as you
20 were questioning before about kind of the brain leak
21 of what's going on right now as far as with baby
22 boomers retiring and all of that, is that is a big
23 push for us from the industry perspective, is to
24 train, not only the next production workers, but also
25 the next leaders for these companies.

1 Because there's no doubt that it's the
2 draining of the work force right now that's really
3 one of the things that we're concerned about as we
4 move forward. So we're very active in doing that and
5 taking those actions to ensure sustainability along
6 the way.

7 And going a little bit more into what Todd
8 was just talking about in changing kind of U.S.
9 policy, one of the things we've seen, again from the
10 association perspective, is when IRA, when that was
11 passed, once it gets down to the departmental levels
12 there are preferential U.S. products, but once it
13 gets down to kind of that subcomponent level for
14 extrusions, we're not -- we're in this building,
15 right?

16 We're on the windows, we're the conduit
17 that's running through the walls, different things
18 that you don't necessarily see. At that point that
19 U.S. production preference gets eliminated.

20 And that's one of the things that we've
21 also been working hard at from the association level
22 is to kind of push that agenda forward, is that
23 those -- they're not high tech -- it's not high tech
24 production, but these are the pieces and parts that
25 go in your cars, that go in your trailers, that take

1 the goods from the port to the store and that are in
2 the buildings.

3 And it's not more important than the other
4 things, but it's part of the sum and the whole and
5 being able to incentivize that production is very
6 important.

7 MR. BAN: Just a few follow-ups for
8 Mr. Malan specifically about the plant facility in
9 North Dakota. Do you expect that the processed
10 material produced there would be mostly consumed
11 domestically or would a portion be exported? Can you
12 speak to that?

13 MR. MALAN: Yeah. We're fortunate enough
14 to have an off-take agreement with Tesla. So Tesla
15 will be the primary customer or foundation customer
16 for about 75 percent of the estimated production of
17 both the mine and the processing facility in North
18 Dakota. And so our agreement with Tesla is that we
19 will be providing them 75,000 metric tons of nickel
20 in concentrate. That's the product that comes out of
21 that facility.

22 Now, there's also copper with these other
23 byproducts I mentioned earlier. Those are not yet
24 contracted. But our assumption is that we will be
25 sending the copper concentrate to one of the two

1 smelters in the United States and then any of the
2 other byproducts that are extracted. The goal is to
3 put that into the U.S. supply chain. But we don't
4 have contracts in place for those yet.

5 MR. BAN: Thank you. And then another
6 follow-up, I noted that the plant facility in North
7 Dakota is some distance from the mine in Minnesota,
8 and we're wondering generally within the industry if
9 you could speak to the factors that play into
10 location of the processing operations.

11 MR. MALAN: Yeah. I think I mentioned in
12 my testimony that we've done quite a bit of community
13 engagement. We have an open door policy and we have
14 quarterly meetings with community, regular
15 information-sharing level meetings with tribal
16 sovereign governments in our area.

17 So the area where we discovered the high
18 grade nickel deposit is in central Minnesota about an
19 hour west of Duluth in the town of Tamarack and in
20 the county of Becker Country so in central Minnesota
21 and in the Mississippi River watershed. That area is
22 very water rich and basically the deposit is the old
23 plumbing system of an ancient volcano that has been
24 worn down over time. Very flat up there now.

25 But you can't help where Mother Nature

1 puts the deposits. But we did hear from the
2 community and from tribal sovereign governments that
3 they're highly concerned about the type of deposit --
4 and not to get too far into a geology lesson here,
5 but the type of deposit we're in is a sulfide ore.
6 And the great thing about sulfide ores is that they
7 are very high grade.

8 So we have grades as high as 9 percent
9 nickel and 16 percent copper. Globally you would say
10 1 percent would be high grade. So what's great about
11 this is you can do a very discrete surgical mining
12 operation. The problem is that sulfide ores do have
13 risk that when they're exposed for a long period of
14 time to oxygen and water they can create acid through
15 a natural reaction. And so people do worry about
16 acid rock drainage.

17 And so because the community was concerned
18 about that we decided that we would do the processing
19 and waste management in a drier environment. And so
20 the decision to locate in North Dakota -- and we were
21 fortunate enough to -- we did a search of over 18
22 different sites both in Minnesota and in North Dakota
23 and we found a really good site that is an industrial
24 site, a former coal mine site. We're repurposing
25 that sort of coal country context industrial site and

1 bringing what we would say is clean energy jobs to
2 coal country which we see as a benefit.

3 But ultimately it really didn't add that
4 much cost to our plans over -- the only operating
5 nickel mine in the United States is the Eagle Mine in
6 the Upper Peninsula of Michigan. Their concentrating
7 facility is about 75 miles away from the mine and so
8 they had to truck their material. So it's about the
9 same cost basis.

10 But that's what I meant when I said
11 earlier that we're taking a different approach to
12 mining. If you just took the mine operation plan
13 book off the shelf you would want to locate things as
14 proximate to the mine as you possibly could. In this
15 case there were significant community concerns and we
16 tried to be responsive.

17 MR. BAN: Thank you for that context,
18 Mr. Malan. I'll turn to Mr. Gundermann for the last
19 question.

20 MR. GUNDERMANN: And this is one of
21 Ambassador Tai's questions to wrap up the meetings
22 with too, so it's directed to you both. We're just
23 curious what lessons you have learned or your
24 companies have learned about how to survive COVID
25 supply chain issues. What did they take away from

1 that, what did they integrate going forward, how has
2 that changed your thinking?

3 MR. MALAN: You know, it's the old don't
4 let a crisis go to waste lesson. We ended up --
5 we're primarily focused on mineral exploration. That
6 requires people to go out in drill rigs and
7 geophysicists and actually do drilling that helps you
8 discover what's in the ground. During COVID a lot of
9 outside contracting firms that would normally do that
10 drilling shut down for a variety of different
11 reasons.

12 We decided that we were going to actually
13 buy some of the those drill rigs, bring that activity
14 in-house. And what we learned from that activity of
15 bringing it in-house is that we dramatically improved
16 our rate of drilling, our latency of timing between
17 understanding what was in the ore body and what was
18 coming back from the lab improved dramatically.

19 So not every crisis is -- you can be
20 forced into some decisions that are actually quite
21 positive. And we've ended up bringing that -- we
22 have our own in-house drill rigs and teams so our
23 employment now is up to about 100 people. Many of
24 those are in drilling.

25 And so, yeah, not all crises are negative

1 experiences.

2 MR. GUNDERMANN: That's great.

3 MR. WEBER: I think for us within the
4 aluminum extrusion industry it was flexibility which
5 comes along with training. Also automation in the
6 production facilities themselves. I mean, although
7 there's only a certain level of automation we can do
8 just because of the nature of the process, that was a
9 big part of what our members implemented, was being
10 able to automate their processes as far as possible,
11 not just to reduce the amount of labor, but to
12 basically be able to continue to operate through
13 COVID and come out of basically the lock-downs and
14 everything and just be able to have a facility that
15 would run on a day-to-day basis.

16 So from the association level, again,
17 that's where we've come up with a lot of member
18 programs that we have in training and apprenticeship
19 programs to make sure that we're helping them
20 building robust operations.

21 MR. BAN: Thank you. Mr. Greenberg did
22 you want to have the last word?

23 MR. GREENBERG: Well, I will say from a
24 union perspective we also had to take a different
25 focus on things as a result of the pandemic where we

1 had our two largest sectors are aerospace
2 manufacturing and airlines. So we had thousands of
3 our members out of work.

4 We had Boeing aircraft stacked on runways,
5 both new ones that the airlines did not want to take
6 delivery of, as well as the existing fleets of
7 airplanes just parked everywhere. And we had it
8 brought into sharp relief, okay, where are we going
9 as an organization and how are we going to get to the
10 other side, and when we do, what do we want to look
11 like.

12 And some of the things I think that have
13 been mentioned through the testimony today have been
14 strategies used by various organizations. Like, for
15 example, I've mentioned we do training for our
16 members and I would like to have more discussion of
17 trade. Our training used to be done in a central
18 location. Now training is delivered to the members
19 across the country.

20 Our instructors travel across the U.S. and
21 Canada to meet with our members. That didn't happen
22 before. So they can take advantage of learning
23 opportunities. We have -- also we have more remote
24 work forces now which as a union has been a challenge
25 because if you're a remote worker, you don't see your

1 union representative or your steward every day and
2 don't have an opportunity to interact or build some
3 of the solidarity that we are fond of as a union.

4 So we've had to take on new challenges in
5 social media and outreach to our members and also in
6 the organizations that we partner with, NGOs, other
7 unions, government agencies. And again the Biden
8 Administration was clear in its goals to support
9 American workers during that time, not specifically
10 in a trade capacity, but ensuring that we were able
11 to get through it.

12 And I think on the trade level we also see
13 now more worker-centered trade policy and I hope that
14 that will continue going forward.

15 MR. BAN: Thank you all very much for the
16 robust discussion. This concludes today's hearing.
17 As a reminder to all, our regulations.gov docket will
18 remain open through June the 4th to receive
19 post-hearing comments as provided in our April 3rd
20 Federal Register Notice.

21 Before we adjourn the hearing I want to
22 offer some very brief closing remarks. First and
23 foremost on behalf of USTR and all of our interagency
24 partners I once again want to thank all of our
25 witnesses for taking the time to be here.

1 Supply chain resilience is a challenging
2 and wide-ranging area of trade policy activity and
3 inquiry. And as I mentioned in my open remarks we as
4 the Federal Government can't go it alone. Thank you
5 for sharing your stories, your concerns and your
6 expertise.

7 Over the coming days and weeks, I expect
8 that we'll all begin to reflect on this hearing and
9 the insights and questions that it may have raised.
10 As we begin this process I first invite you to
11 consider the proposition that supply chain resilience
12 represents a new paradigm in trade and investment
13 policy.

14 The U.S. and other like-minded trading
15 partners around the world are increasingly interested
16 in understanding where and how goods are produced for
17 a wide range of policy regions. Within this new
18 paradigm we then need to confront and rethink
19 important questions. How can trade policy complement
20 our domestic economic policy? How can the U.S. and
21 its like-minded partners deepen and evolve our trade
22 and investment linkages? How can we imagine new ways
23 of expanding not only the quantity of trade, but also
24 the quality of that trade?

25 These aren't fundamentally new questions

1 to be sure, but when viewed through the lens of
2 supply chain resilience it may call for new answers.
3 How best to promote supply chain resilience isn't an
4 easy question to tackle. Solutions may vary by
5 sector or even by product and will take time to
6 formulate.

7 But by convening here and participating in
8 this hearing today, we've all demonstrated our common
9 commitment to those basic questions themselves and to
10 better serving all parts of the American economy.

11 USTR and our interagency partners look
12 forward to continued engagement with all of you.
13 Thank you, once again.

14 MR. MALAN: Thank you.

15 MR. WEBER: Thank you.

16 MR. GREENBERG: Thank you.

17 MR. BAN: And that concludes our hearing.
18 I think we're now off the record.

19 (Whereupon, at 11:26 a.m. CDT the public
20 hearing concluded.)

21 * * * * *

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